

*Standing Committee on Environment and Public Affairs — Fifty-eighth Report —
Overview of petitions 2 June 2021 to 2 December 2021 — Motion*

Resumed from 22 March on the following motion moved by Hon Peter Foster —

That the report be noted.

Hon DARREN WEST: I rise to make a brief statement on the outstanding fifty-eighth report of the Standing Committee on Environment and Public Affairs, which looked at petitions from 2 June 2021 to 2 December 2021. Members might want to think back to that time; there was quite a bit going on in the world in the second half of 2021. This committee toiled away through the issues of the day, which included the many petitions that had been presented to it. At the time of this inquiry Hon Peter Foster MLC was the chair of the committee, and remains so; other members included Hon Sophia Moermond, Hon Stephen Pratt, Hon Tjorn Sibma and Hon Shelley Payne. I also note that at that time, Kristina Crichton was the research officer and Geoffrey States was the committee clerk. The career of Laura Hutchinson, the then legal advisory officer, has since taken off to new heights. She is now the advisory officer on the Standing Committee on Public Administration, which is also an outstanding committee that does magnificent work for the Parliament. Well done, Laura, on your escalation.

I will have a bit of a run through the petitions in this report, because they are interesting. The first part of the report talks about the committee, but the second part talks about finalised petitions. I have noticed a theme running through this report, which members will probably work out as I run through the petitions. The first petition was about the Pinjarra alumina refinery and it was tabled on 5 May 2021 with 1 038 signatures. The principal petitioner was Sharon Parker-Brown and the tabling member was Hon Colin Holt. Members will remember Hon Colin Holt's time in this chamber. He was a longstanding member of the Legislative Council and member for South West Region. I always used to say that you never saw Hon Colin Holt and the member for Mandurah in the same room at the same time! I always wondered whether they were not one and the same person; they were uncannily alike!

Hon Colin Holt actually grew up in Goomalling and I can tell members that he was a fine member and an absolutely decent fellow. At one point—I have forgotten the year because we are all ticking along a little, but I think it may have been in the early 1980s—Hon Colin Holt was no less than dux of Goomalling District High School in his graduating year. He was highly educated and obviously had a sharp mind to have had such a prestigious honour bestowed upon him at such a young age. He was the tabling member; the committee deliberated on that petition and finalised its inquiries on the basis that the matter was subject to ongoing statutory processes. That was great work by the committee, and I am sure it was thorough in its investigations.

Coincidentally, the second petition was also tabled on 5 May 2021, with 548 signatures, the principal petitioner being Fiona Moriarty. That petition was on the Dardanup waste precinct and landfill. In my new capacity as Parliamentary Secretary to the Minister for Environment, we have a great interest in waste precincts and landfills. However, I note—also coincidentally; this is quite stunning—the tabling member for this petition was also none other than Hon Colin Holt, the hardworking former member for South West Region, who clearly was running around furiously at that time, gathering signatures and helping petitioners table their petitions. The committee details the extensive efforts that it went to in following up this fine petition and concluded its inquiries on the basis that the application was subject to statutory processes over which the committee had minimal influence. We cannot blame Hon Colin Holt for trying; he was clearly a dedicated and hardworking member at that time.

The third petition relates to the speed limit on Bussell Highway. Amazingly, it also was tabled on 5 May, 2021—a third petition on the same day. There is also a reference to the date 1 September 2021, so I presume it was maybe an e-petition; I did not go quite that deeply into my research! It had 950 signatures and the principal petitioner was Anthonia Steinbrenner; I am sorry if I have pronounced Anthonia's surname wrong! Members, there was Hon Colin Holt again, this time co-tabling with James Hayward, who was here at that time. Again, the then member for South West Region, the Goomalling-raised Hon Colin Holt, was punching well above his weight when it came to petitions. In fact, he tabled a hat-trick of petitions all on 5 May 2021. Finally, after long deliberations, the committee resolved to finalise the petition on the basis that the project was underway to improve Bussell Highway through the construction of an additional 17 kilometres of dual carriageway. Once the works were completed, further traffic data would be collected by Main Roads Western Australia and a decision made about whether any change to traffic conditions were required. I do not think anyone can doubt it was probably Hon Colin Holt's hard work that resulted in the McGowan and now Cook government's continued significant investment into regional roads, particularly down in those growth corridor areas of the south west. That is how it should be. Our roads are more dangerous in the regions. It is through people like Hon Colin Holt who get in there, roll up their sleeves and help get these petitions brought before this fine Standing Committee on Environment and Public Affairs that these issues found in the regions are addressed.

Petition number 4, the biosecurity levy imposed on the residents of Bridgetown–Greenbushes was also tabled on 5 May 2021. Remember the date! This is now the fourth petition.

Hon Dr Sally Talbot: It was busy that day.

Hon DARREN WEST: It was a busy day, as the member would well know. I am sure her inbox was flooded on that day. On 5 May 2021, petition 4 contained 280 signatures and Michelle Humphreys was the principal petitioner. Would members like to guess who was the tabling member of petition number 4, biosecurity levy imposed on the residents of Bridgetown–Greenbushes? Could members perhaps guess who that might have been? Lost for words? Surely, it could not be Hon Colin Holt with a fourth petition? But members, it was Hon Colin Holt with a fourth petition on 5 May 2021. I know everyone was so surprised. No-one thought it would be the case that one member could be so prolific when tabling petitions in the Legislative Council. The committee found on that basis, the BAM Act was to be reviewed and stakeholder consultation occur in relation to the declared pest rate. As part of the review, the committee resolved to finalise its worries. One could say Hon Colin Holt was ahead of his time. He prompted the government to rush to action and that review was duly completed.

Petition 5—the chair of the committee will know the date—on the allocation of a primary school site was tabled on 5 May 2021. It had 70 petitioners, and the principal petitioner was Roland Sharpe. Would any members like to have a stab at who the tabling member of this petition might have been? It will shock all members to know that it was not Colin Holt this time. It was Hon Aaron Stonehouse. I made the link to Hon Colin Holt because, as I affirmed earlier, he was the dux of Goomalling District High School, and therefore allocation of a primary school site is right in his remit. I am sure he had his fingers on this somewhere. Given the decision that the location of the primary school site was deferred by the commission, and the planning decisions were made by reference to an established decision-making process over which the committee had minimal influence, the committee decided to conclude its inquiries into the position.

I think there is a little trick in this report, members. It took all of my efforts to find it, but there is no petition 6. Maybe it is an ongoing petition; we will have to find out more about that with subsequent speakers. I am sure there will be further debate on this, but so far I have gleaned that Hon Colin Holt was a particularly prolific petitioner. He generated some great subjects for this fine committee to work on, and made a positive difference to the people of Western Australia through his work, in conjunction with the hardworking petitioners who organise these petitions and get voices heard, in not only the Legislative Council, but also, of course the Standing Committee on Environment and Public Affairs.

Hon NICK GOIRAN: Petition 33 was an ongoing matter of inquiry with the standing committee at the time that this report was authored. It is providential that we have the opportunity this afternoon to consider petition 33, dealing with the release of the Coroner’s Court recommendation. Members may be aware that in 2011, the then Labor member, Hon Ed Dermer, asked question on notice 3211. He asked for the number of live child births as a result of an abortion procedure since the enactment of the Act Amendment (Abortion) Act 1998. The specific genesis of the petition itself was from 10 April 2018 in response to question on notice 651 that I asked about signs of life after such procedures. At that time, we were told that as of 19 May 2017, 27 cases of abortion procedures resulting in the live birth of a child had been reported between July 1999 and December 2016. Interestingly, at the time that this petition was formulated, the number was changed to 26, in answer to subsequent question on notice 2060, answered on 14 May 2019.

We have heard in recent days, when examining one of the pieces of legislation under the Orders of the Day, that there has been some explanation by the government as to why the numbers of reported live births changed. The point was made to the Standing Committee on Environment and Public Affairs inquiring into this particular petition. I authored a submission dated 15 November 2021. The point made at that time was that significant concern was raised about this particular matter. On 18 September 2018, the government confirmed in this chamber that advice from the State Solicitor’s Office stated that these deaths were reportable deaths, but as at that date, they had not been reported to the State Coroner. This was confirmed again as recently as the last few sitting days. I subsequently wrote to the coroner to report those deaths the following day, 19 September 2018.

This was, as I say, as far back as 2018. Here we are now in 2023, almost five years later. Again, it is providential to note that this sequence of events happened five years ago this week. Yesterday, five years ago, I reported these matters to the coroner. We know from answers provided by the government over the course of this week that the Department of Health finally responded to the coroner and provided information to her. I asked the Attorney General, Hon John Quigley, for copies of the recommendations made by the coroner.

On 17 June 2020, the Attorney General replied to a question without notice in the following way —

The Coroner’s Court recommendation to amend the Health (Miscellaneous Provisions) Act 1911 was prepared for the Attorney General’s discussion with the Minister for Health and ultimately the cabinet. These discussions are yet to take place. The Attorney General is not in a position to disclose these recommendations until such discussions with his cabinet colleagues have taken place.

The implication by the Attorney General to Parliament at that time was evidently that the recommendation of the coroner could be provided after the discussions had taken place. I quote again the answer from the Attorney General —

The Attorney General is not in a position to disclose these recommendations until such discussions with his cabinet colleagues have taken place.

What would be the point of answering the question in that fashion if the answer is actually that the recommendation can never be disclosed? He would say so at first instance. He would not say that he could not disclose it until such time as the discussions have taken place. A year later, on 13 May 2021, the Attorney General answered another question without notice from me about this matter —

The Attorney General has not yet discussed the matter with the full cabinet. Given the Coroner's Court recommendation to amend the Health (Miscellaneous Provisions) Act 2011 was prepared for the ultimate deliberation of the cabinet, the Attorney General is not in a position to expand on the recommendation. He can, however, confirm that there was only one recommendation from the Coroner's Court, and the Department of Justice and the Department of Health are working together to progress the matter at a departmental level

In 2018, it became clear that these matters can be reported to the coroner. They were, indeed, reported to the coroner by me five years ago, as at yesterday. Some 18 months or nearly two years later, I followed the matter up with the Attorney General, only to be told that the coroner had made a recommendation, but the recommendation was secret at that time. This was in 2020. I followed it up again in May 2021, and the matter continued to be secret. Now, the Parliament has legislation before it and the Coroner's Court recommendation remains secret.

A subsequent report from the standing committee deals with this matter and notes that the Attorney General indicated —

the State Coroner's recommendation to amend the *Health (Miscellaneous Provisions) Act 2011* (WA) was prepared for the ultimate deliberation of Cabinet. Because this Cabinet deliberation is yet to take place, the Government has not been in a position to make the recommendation public to date.

Again, the Attorney General's implication to the standing committee was that the blockage is because there has not been the deliberation. There was no suggestion at any point during this chronology that it will never be possible for the Attorney General to release the Coroner's Court recommendation, yet that was the implication in 2020, 2021 and in a letter of 2022 to the standing committee in response to its inquiries. The three pieces of evidence are two answers to questions in Parliament in 2020 and 2021, and a response by the Attorney General to this standing committee in 2022. All of this evidence implies and gives the impression that this recommendation can ultimately be made public, but it cannot be made public at this moment in time. Yet, as we know, in the mix of the orders of the day, the priority bill at this point in time deals with this specific issue.

After I have pursued this matter for more than three years, the question then becomes: Will the recommendation ever be known? Will the lawmakers of Western Australia be in a position to know what this recommendation was? It is only about the significant issue of Western Australia babies being born alive after an abortion procedure. It is regrettable that Hansard cannot record my sarcasm at this point. It is quite extraordinary to me that something as significant as this could be about to be voted on imminently, yet the final group of legislators—that is this house of review—does not have at its disposal a piece of evidence that plainly exists. There is no dispute; the government has conceded on multiple occasions that the recommendation exists. On multiple occasions, the Attorney General has said that the information cannot presently be disclosed, and we now find out that it will never be disclosed.

We wonder why some petitioners would bother to pursue a petition in these circumstances. I note that the committee ultimately resolved to finalise its consideration into the petition prematurely—perhaps one might say in the circumstances. With the benefit of hindsight, perhaps further inquiries ought to have been pursued at that time, and perhaps even a summons ought to have been issued for this information.

Hon MARTIN PRITCHARD: I want to make some remarks about the Standing Committee on Environment and Public Affairs' fifty-eighth report. It is a very hardworking committee. I presume that with these petitions, a lot more work will come members' way.

I particularly address my remarks to petition 15 about sound mitigation on the Mitchell Freeway. I make a couple of comments on it in light of comments made by Hon Neil Thomson about listening to the community. I had quite a lot to do with this petition; indeed, I was the tabling member. I have a confession: it affects the area in which I live.

Some upgrades to the southbound Mitchell Freeway are occurring in the Duncraig area, and a petition was brought to me to bring to this chamber. I am always happy to table in the chamber any petition that comes to me; that is part of listening and giving voice to our constituency.

I will make a couple of comments about this. First of all, it was brought by 56 members of my community, who have every right to have a particular view, but their concerns about noise had an impact on a lot more than 56 people in the community. We always talk about the silent majority. I did not join the petition, but I feel that the silent majority does not have a concern with the noise from both the freeway and the rail line that runs between the freeway.

The principal petitioner sought to have some noise mitigation enacted on the northbound side of the Mitchell Freeway. It was quite an interesting case because of the response from the minister. There are guidelines about noise mitigation and sound testing and such, and the minister's response was basically that the upgrades were on the southbound side, and so they only did sound testing 300 metres from the southbound side of the freeway. The principal petitioner had a view that some members of the community on the other side of the freeway would be within the 300-metre band. The minister's response was that it would be impossible to mitigate sound for all the freeway system in Western Australia, given the cost, and indeed, some people in the community would not want that sound mitigation. If people are not bothered by the sound, then the sight of the sound-mitigating walls is not that attractive.

I looked into it a bit further because quite a lot of vegetation growth is on the northbound side of the freeway where the upgrades are occurring. I would have thought that it might mitigate some of the sound. There are also some embankments. Living in that area, I do not hear the noise from the freeway or the train line unless the wind is blowing in a particular direction. When I do hear it, it is not that unattractive; I do not mind the sound of trains. The minister indicated that it would be impossible to mitigate all the sound in the area, and I thought that the embankments, greenery and trees that line the freeway would mitigate the sound in their own right, but, apparently, that is not the case. I presume that most of the trees grown along the freeway are for visual pleasure rather than for any sound they might mitigate.

I will go back to a previous member's comments. The main petitioner did a lot of work to try to get support for the petition and spent a lot of time trying to get signatures for it. It was not an e-petition, but he did have a website and was very active on it trying it to get people involved. He managed to get 56 signatures, which is not an insignificant number—56 is still 56, and they still have a right to a voice—but I wonder what the views were of the other couple of thousand people, I would guess, and whether they would prefer to strip the greenery and put up a wall for something that they possibly do not find as offensive as the petitioners. By that I mean the sounds from the freeway or the train line.

Petitions are very important. I have used petitions in the past, including a petition with one signature that raised an issue that I am continuing to try to get a resolution on. Petitions are valuable and a key way of raising issues. The committee does some particularly good investigative work. Often, once it receives a response from the relevant minister, it ends any further investigation. Obviously, that is appropriate. Petitions provide a forum for people to raise matters and have them investigated by the committee or to at least get a response. However, in this case, I am just not sure whether only a partial view of the community that is being affected has been listened to. People can draw conclusions about how the situation needs to be treated by the fact that a lot of other people in that community have not expressed a view. The myth is that a minority expresses a view and it can be taken that the majority has also expressed a view, but we are just not aware of what the majority is saying.

The CHAIR: Time for consideration of committee reports has expired.

Consideration of report postponed, pursuant to standing orders.

Progress reported and leave granted to sit again, pursuant to standing orders.