



THIRTY-NINTH PARLIAMENT

REPORT 43

**STANDING COMMITTEE ON ENVIRONMENT AND
PUBLIC AFFAIRS**

OVERVIEW OF PETITIONS

1 JULY 2014 TO 30 JUNE 2015

Presented by Hon Simon O'Brien MLC (Chairman)

November 2015

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:

“2. Environment and Public Affairs Committee

- 2.1 An *Environment and Public Affairs Committee* is established.
- 2.2 The Committee consists of 5 Members.
- 2.3 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 Council; and
 - (c) petitions.
- 2.4 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.
- 2.5 The Committee may refer a petition to another Committee where the subject matter of the petition is within the competence of that Committee.
- 2.6 In this order “**environment**” has the meaning assigned to it under section 3(1), (2) of the *Environmental Protection Act 1986*.”

Members:

Hon Simon O'Brien MLC (Chairman)

Hon Stephen Dawson MLC (Deputy Chair)

Hon Brian Ellis MLC

Hon Paul Brown MLC

Hon Samantha Rowe MLC

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Glossary

AER	Annual environmental report
Auditor General's report	<i>Ensuring Compliance with Conditions on Mining, 2011</i>
CCC	Corruption and Crime Commission
Chevron	Chevron Australia Pty Ltd
CMO	Chief Medical Officer (Department of Health)
Committee	Standing Committee on Environment and Public Affairs
CPSU	Community and Public Sector Union
DAA	Department of Aboriginal Affairs
DAP	Development Assessment Panel
DER	Department of Environment Regulation
DLGC	Department of Local Government and Communities
DMP	Department of Mines and Petroleum
DOC	Department of Commerce
DOH	Department of Housing
DOP	Department of Planning
DOT	Department of Transport
DOTAG	Department of the Attorney General
DSD	Department of State Development
DSC	Disability Services Commission
EPA	Environmental Protection Authority
FPC	Forest Products Commission
FMP	Forest Management Plan 2014–23
JDAP	Joint Development Assessment Panel
JP	Justice of the Peace
MRA	Metropolitan Redevelopment Authority
MRS	Metropolitan Region Scheme
NGOs	Non-government organisations
OGRA	Ocean Gardens Residents Association
OSH Act	<i>Occupational Safety and Health Act 1984</i>
PD Act	<i>Planning and Development Act 2005</i>

RER	Reforming Environmental Regulation program
RAJWA	Royal Association of Justices of Western Australia
SAT	State Administrative Tribunal
TAFE	Technical and Further Education
TWU	Transport Workers Union
the reporting period	1 July 2014 to 30 June 2015
WALGA	Western Australian Local Government Association
WAPC	Western Australian Planning Commission

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EXECUTIVE SUMMARY

- 1 This report provides an overview of the petitions finalised by the Standing Committee on Environment and Public Affairs (Committee) from 1 July 2014 to 30 June 2015 (the reporting period).
- 2 Petitions remain a popular method of informing Members of Parliament about issues that affect the community and the Committee's inquiries enhance the transparency of government policy and decisions.
- 3 During the reporting period, 42 new petitions were tabled in the Legislative Council and the Committee concluded its inquiries in relation to 50 petitions. The Committee also tabled separate reports into three petitions during the reporting period.
- 4 Copies of public evidence relating to petitions, including submissions and government responses, are available on the Committee's website at www.parliament.wa.gov.au/env.

CHAPTER 1

INTRODUCTION

HISTORY AND FUNCTIONS OF THE COMMITTEE

- 1.1 The Standing Committee on Environment and Public Affairs (Committee) was appointed by the Legislative Council on 17 August 2005.
- 1.2 The functions of the Committee are outlined in the Committee's Terms of Reference in Schedule 1 of the Legislative Council Standing Orders:
 - 2.3 *The functions of the Committee are to inquire 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 Council; and*
 - (c) *petitions.*

PETITIONS

- 1.3 A petition is a formal request for action from individuals or groups. The petitions process, through which the general public can bring issues of concern to the attention of the Parliament, provides a fundamental link between the community and the Parliament.
- 1.4 All conforming petitions tabled in the Legislative Council by a Member of the Legislative Council, except those raising a matter of privilege, are referred to the Committee. While a petition only needs one signature to be tabled, most petitions contain many signatures.
- 1.5 The Committee's consideration of petitions serves to enhance transparency and to inform the Parliament and public about current issues of concern to the community. A petition will not always bring about a change of policy by the Government or achieve the specific objectives desired by petitioners, however the Committee's inquiries ensure that petitioners are provided with an explanation for government decisions or actions.

Petitions process

- 1.6 The nature and extent of inquiries relating to each petition will vary depending on the nature of the issues raised, however in most cases the Committee will request a submission from the principal petitioner and tabling Member. These submissions enable the Committee to better understand the issues involved and the action, if any, already undertaken by the petitioner/s to resolve the matter.
- 1.7 Once submissions are received, the Committee will usually request a response to the petition from the relevant government Minister. The Committee may also seek responses from other organisations (such as local governments) and carry out other investigations as required.
- 1.8 In many instances, the Minister's response to the petition will provide an explanation for the government policy or action in question, although sometimes the Committee will need more information to clarify the issues. These inquiries may take the form of further correspondence with the relevant parties or a hearing to obtain more detailed evidence. On occasion, the Committee will resolve to conduct a formal inquiry into the matter.

Committee website

- 1.9 The Committee's website at <http://www.parliament.wa.gov.au/env> is a central source of information about petitions tabled in the Legislative Council and contains copies of public documents including the terms of each petition, submissions, government responses and transcripts of evidence. Hard copies are made available on request.

Overview of petitions

- 1.10 This report provides an overview of the petitions considered and finalised by the Committee from 1 July 2014 to 30 June 2015 (the reporting period).

Separate reports on certain petitions and inquiries

- 1.11 The Committee tabled separate reports in relation to three of the petitions finalised during the reporting period. These reports related to Petitions 17, 23 and 54. The details of these reports are noted under the headings for each of the relevant petitions outlined in Chapters 2 and 3.

CHAPTER 2

PETITIONS FINALISED BETWEEN JULY AND DECEMBER 2014

- 2.1 The Committee finalised 25 petitions between 1 July 2014 and 31 December 2014 and an overview of these petitions is provided in this Chapter.

Petition 17—Opposing fee for 457 visa holders

- 2.2 Refer to Committee Report 39, *Petition Number 17—Opposing Fee for 457 Visa Holders*, 2 December 2014.

Petition 19—Disposal of metropolitan waste in rural areas

- 2.3 This petition was tabled by Hon Paul Brown MLC on 22 October 2013 and contained 4256 signatures. The petitioners were opposed to the establishment of landfill sites in rural areas to dispose of waste from metropolitan areas. The petition sought an inquiry into waste management planning for the metropolitan area.¹
- 2.4 The Committee received submissions from the principal petitioner and tabling Member. The submission from the principal petitioner, Ms Alice Bernal, stated that the purpose of the petition related to proposed landfills at the Opal Vale site in Toodyay and the Allawuna Farm site in York.² The principal petitioner was critical of the Environmental Protection Authority's (EPA) environmental impact assessment process, particularly the lack of a site visit to verify information provided by the developer. Ms Bernal argued that both sites are unsuitable for landfill due to the geological nature of the sites and environmental, transport, infrastructure and planning concerns.³
- 2.5 During its consideration of the petition, the Committee understood that the proposed facility in York was before the State Administrative Tribunal (SAT) and the works approval for the Toodyay site was being considered by the Department of Environment Regulation (DER). A response to the petition from the Minister for Environment explained that:

When assessing applications for works approvals and licences, DER considers all potential emissions and discharges from proposed

¹ Tabled Paper 893, Legislative Council, 22 October 2013.

² Submission from Ms Alice Bernal, principal petitioner, undated, p 1.

³ *ibid.*, p 2.

*premises including discharges to land, water and air, and specifically, in the case of landfills, odour, noise and dust.*⁴

- 2.6 In relation to the broader issues of waste minimisation, landfill location and waste management planning for the metropolitan area, the Minister advised that:
- the Waste Authority's Strategic Waste Infrastructure Planning Project is investigating the infrastructure needs to meet the landfill diversion targets outlined in the Western Australian Waste Strategy
 - a statutory review of the *Waste Avoidance and Recovery Act 2007* will be undertaken in the near future.⁵
- 2.7 In October 2014, the Minister further advised that the Strategic Waste Infrastructure Planning Project Report and the review of the Act were being considered by the Government.⁶ The Committee resolved to finalise the petition on 22 October 2014.

Petition 20—Opposing proposed sand mines at Wellard

- 2.8 This petition was tabled by Hon Phil Edman MLC on 20 November 2013 and contained 491 signatures. The petition opposed two proposed sand mines on Banksia Road, Wellard, due to the negative environmental impact of clearing the land as well as the impact of dust, noise and heavy traffic on residents.⁷
- 2.9 The eastern site is private freehold land in the local government district of the Shire of Serpentine Jarrahdale.⁸ The occupier of this site, Rocla Pty Ltd, applied to the Shire for an extractive industry licence and development approval.⁹ The western site (Mining Lease 70/915) is located on recreational reserves and a former shooting range vested in the City of Kwinana. The western site has been classified as '*Possibly contaminated – investigation required*' by the DER under the *Contaminated Sites Act 2003* due to the presence of lead and clay fragments. As both of the sites are now controlled by Rocla Pty Ltd, the company will propose to develop both sites as sand mines in an integrated operation.¹⁰
- 2.10 A submission from the principal petitioner opposed the clearing of more than 30 hectares of banksia woodland for the proposed sand mines. The petitioner pointed

⁴ Hon Albert Jacob MLA, Minister for Environment, letter, 19 March 2014, p 2.

⁵ *ibid.*, pp 2-3.

⁶ Hon Albert Jacob MLA, Minister for Environment, letter, 16 October 2014, p 1.

⁷ Tabled Paper 1021, Legislative Council, 20 November 2013.

⁸ Hon Bill Marmion MLA, Minister for Mines and Petroleum, letter, 18 March 2014, p 1.

⁹ Louise Hughes, Manager Statutory Planning, Shire of Serpentine Jarrahdale, letter, 1 August 2014, p 1; Hon Bill Marmion MLA, Minister for Mines and Petroleum, letter, 18 March 2014, Enclosure 1, p 1.

¹⁰ Hon Bill Marmion MLA, Minister for Mines and Petroleum, letter, 18 March 2014, Enclosure 1, p1.

out that the cumulative effect of clearing of native bushland in the area had significantly impacted flora and fauna by ‘*damaging ecological linkages and feeding habitat for many bird species, including Carnaby’s Cockatoo.*’¹¹

- 2.11 The Minister for Mines and Petroleum explained that, although there was a mining lease in place for the western site, the Department of Mines and Petroleum (DMP) had not received a proposal for sand extraction. In relation to the eastern site, Rocla Pty Ltd had referred the determination of its applications to the SAT after the Shire failed to make its decisions within the statutory timeframe.¹² If the SAT application was successful, mining proposals would need to be lodged and assessed by the DMP:

*in accordance with normal procedures, including the proposed management of all related impacts including dust, noise and end-of-mining land condition.*¹³

- 2.12 In addition to the above, the Minister explained that the proposed sand mines would need to satisfy other requirements, including assessment by the Department of Water, an application for a permit to clear native vegetation and scrutiny by the Commonwealth Department of Environment in relation to clearing of vegetation that is habitat for the Carnaby Cockatoo. That is:

*A number of processes will be required to be applied before consideration of any proposal to extract sand can occur on these sites. Approval will only be given if DMP is confident that any potential environmental and social impacts are adequately mitigated.*¹⁴

- 2.13 According to the Minister, the City of Kwinana intends to rezone the recreation reserves on the western site to enable the development of housing, however remediation of the contamination on site will be extremely costly and:

*The appropriateness of leaving the site contaminated has to be questioned as housing becomes more developed around the area.*¹⁵

- 2.14 The Minister explained that the following were key grounds for supporting the mining proposal:

- the site could provide 2.5 million tonnes of concrete quality sand into the Perth southern region, where sand supplies are becoming depleted; and

¹¹ Submission from Mr Stephen Sturgeon, principal petitioner, 16 December 2013, p 2.

¹² Hon Bill Marmion MLA, Minister for Mines and Petroleum, letter, 18 March 2014, p 1.

¹³ *ibid.*, p 2.

¹⁴ *ibid.*

¹⁵ Hon Bill Marmion MLA, Minister for Mines and Petroleum, letter, 18 March 2014, Enclosure 1, p 2.

- the presence of lead contamination in the soils means the site needs remediation to reduce the future effects of heavy metals and polycyclic aromatic hydrocarbon pollution. Sand extraction could generate the wealth needed to offset the cost of the remediation by including that activity in the extraction process.¹⁶
- 2.15 The City of Kwinana expressed strong opposition to the proposed sand mines due to the adverse impact they will have on the adjoining Special Rural Area from noise, dust and heavy traffic.¹⁷ The Shire of Serpentine Jarrahdale explained that it had approved Rocla Pty Ltd's applications in relation to the eastern site (following referral to the SAT). However, Rocla Pty Ltd was seeking a further review by the SAT of the conditions attached to the development approval.¹⁸
- 2.16 The submission from Rocla Pty Ltd pointed out that it:
- is required to obtain a number of statutory approvals from various agencies before the proposed sand extraction can be undertaken. Those statutory approval processes (at local, State and Commonwealth Government levels) requires consideration of the very issues that are raised by the petitioner and the City of Kwinana.*¹⁹
- 2.17 Taking into account that a number of statutory processes and environmental assessments were still required before the proposed sand mines could be developed, the Committee concluded its inquiries into the petition on 13 August 2014.

Petition 25—Opposing use of pesticides on public land and open spaces

- 2.18 This petition was tabled on 5 December 2013 by Hon Lynn MacLaren MLC and contained 251 signatures. The petition opposed the use of pesticides on public land and open spaces in urban areas.²⁰ The submission from the principal petitioner called for an investigation into:

the apparent systemic failure to control the use of pesticides on public land and open spaces in W.A., and in to the conflict of interest that exists in Local Governments, some of the biggest users of pesticides in urban areas, advocating the continued use of pesticides based only on

¹⁶ *ibid.*

¹⁷ Joanne Abbiss, Chief Executive Officer, City of Kwinana, letter, 5 May 2014, p 1.

¹⁸ Louise Hughes, Manager Statutory Planning, Shire of Serpentine Jarrahdale, letter, 1 August 2014, p 2. See also, Submission from Rocla Pty Ltd, 30 June 2014, p 1.

¹⁹ Submission from Rocla Pty Ltd, 30 June 2014, p 2.

²⁰ Tabled Paper 1098, Legislative Council, 5 December 2013.

*direct cost rather than evidence of the likely and unintended impact on human and environmental health.*²¹

- 2.19 The Minister for Local Government explained that individual local governments are responsible for the management of public land and open spaces within their jurisdiction:

*Neither I, as Minister, nor my Department of Local Government and Communities, have the legislative authority to direct local governments in these matters.*²²

- 2.20 The Western Australian Local Government Association's (WALGA) long-held view is that it:

will support Local Government to promote best management practices for herbicide and pesticide use.

*In line with community expectations, Local Governments use herbicides and pesticides in streetscapes and public open spaces to manage pest plants and invertebrates and promote aesthetically acceptable environments. Chemical use is the dominant management option, with limited alternatives available.*²³

- 2.21 The Minister for Health explained that pesticides are registered nationally by the Commonwealth Australian Pesticides and Veterinary Medicines Authority following rigorous assessment:

- *to ensure the safety of the user, the public and the environment, when used according to the directions on the label.*
- *The...[authority]...regulates the manufacture, importation, labelling and registration approval of pesticides to the point of retail sale of the pesticide. The registration and labelling of a pesticide product entails the risk assessment of the efficacy of the product, as well as human health and environmental harm. Relevant overseas research data and use experience are always important components of the assessment.*²⁴

²¹ Submission from Ms Alexandra Jones, principal petitioner, 31 December 2013, p 1.

²² Hon Tony Simpson MLA, Minister for Local Government, letter, 17 March 2014.

²³ Mr Wayne Scheggia, Acting Chief Executive Officer, Western Australian Local Government Association, letter, 2 May 2014, p 1.

²⁴ Hon Dr Kim Hames MLA, Minister for Health, letter, 13 August 2014, p 1.

2.22 States and Territories are responsible for control of the appropriate use of pesticides. Consequently, regulations stipulate when and where pesticides can be used and notification and signage requirements. Guidance documents by the Department of Health on the use of pesticides have been adopted by many local governments.²⁵ The Minister expressed the view that these guidance documents significantly contributed to the safety of pesticide use in Western Australia, as demonstrated by ‘*very few reports and complaints of pesticide misuse.*’²⁶

2.23 The Committee concluded its inquiries into this matter on 22 October 2014.

Petition 34—Review life sentences of women imprisoned for domestic homicide

2.24 This petition was tabled on 9 April 2014 by Hon Alanna Clohesy MLC and contained 900 signatures.²⁷

2.25 The petition asked the Government to review the imprisonment of women who are currently serving life sentences for murder and to enact legislative change to ensure fairness and justice in cases of domestic homicide where there has been a history of violence. The submission from the principal petitioner and other members of the Social Justice Alliance advocated for a consideration of parole for two women incarcerated in Bandyup Women’s Prison.²⁸

2.26 The Attorney General’s response to the petition explained that changes to *The Criminal Code* following the Law Reform Commission’s *Review of the Law of Homicide*²⁹, ‘*significantly improved outcomes for women who have suffered domestic abuse.*’³⁰ The reforms included the consolidation of wilful murder and murder into one crime (murder), the simplification of defences to murder (including self-defence) and increased flexibility in sentencing.³¹

2.27 The Attorney General also pointed out that the Government reviews matters ‘*if and when petitioned, on a case by case basis, in the exercise of the Royal Prerogative of Mercy.*’³² In relation to the two cases the subject of this petition, the Attorney General advised that:

²⁵ *ibid.*, pp 1-2.

²⁶ Hon Dr Kim Hames MLA, Minister for Health, letter, 16 October 2014.

²⁷ Tabled Paper 1384, Legislative Council, 9 April 2014.

²⁸ Submission from the Social Justice Alliance, 30 May 2014.

²⁹ Law Reform Commission of Western Australia, *Final Report: Review of the Law of Homicide – Project 97*, Government of Western Australia, September 2007.

³⁰ Hon Michael Mischin MLC, Attorney General, letter, 18 August 2014, p 1.

³¹ *ibid.*

³² *ibid.*

I can confirm that I have previously undertaken a comprehensive review in relation to the conviction and sentence of each of these women, and found after careful consideration that there was no compelling case for the exercise of the Royal Prerogative of Mercy or any of the statutory discretions set out in the Sentencing Act 1995.³³

2.28 The Committee concluded its inquiries on 10 September 2014.

Petition 35—Metro Central Joint Development Assessment Panel

2.29 This petition was tabled by Hon Sue Ellery MLC on 10 April 2014 and contained 3619 signatures.³⁴

2.30 The petition opposed a decision made by the Metro Central Joint Development Assessment Panel (JDAP) to approve a development at 94 Kitchener Road, Alfred Cove. The petitioners sought an investigation of the JDAP's decision, as well as an inquiry into the DAP process in general. The petitioners were particularly disappointed that the use of discretionary powers by the JDAP allowed a high density development to be built on a medium density site:

We accept that discretionary powers should exist, since there may, at times, be good reason for granting variations. However, if these go unregulated, so that variations can be so grossly out of kilter with normal expectations, as has happened in this case, then there is a serious loophole in the system making it highly vulnerable to abuse.³⁵

2.31 The Minister for Planning confirmed that he was committed to the Development Assessment Panel (DAP) process, which:

offers a balance between local knowledge and planning expertise to ensure challenging and complex planning decisions are determined in an independent manner that best promotes transparency, consistency and reliability.³⁶

2.32 The Minister explained that, like a local government authority (or the 'responsible authority'), a DAP must determine development proposals within the existing planning framework:

Importantly, the DAP is still bound by the existing legal and planning framework as the responsible authority ordinarily would be.

³³ *ibid.*, p 2.

³⁴ Tabled Paper 1396, Legislative Council, 10 April 2014.

³⁵ Submission from Geoff Pearson and Marina Hansen, principal petitioners, 5 June 2014, p 2.

³⁶ Hon John Day MLA, Minister for Planning, letter, 16 July 2014, p 1.

*Therefore, the DAP must consider and apply the local government's scheme requirements, as if the DAP were the local government. The DAP otherwise has no discretion to act beyond the jurisdictional scope of the local government.*³⁷

- 2.33 In order to understand the planning framework and how it related to the development in question, the Committee conducted hearings with the City of Melville and the Presiding Member of the Metropolitan Central JDAP, Mr Charles Johnson. The City of Melville explained to the Committee that there is always a degree of subjectivity in planning decisions:

*It is a grey area...You can have the officers exercise judgement. Councillors might have a different view of that judgement. The DAP might have a different view of that judgement. SAT might have a different view of that judgement. It is all about judgement.*³⁸

- 2.34 Mr Johnson told the Committee that the planning legislation required a development application to be considered on its merits, not pre-judging the application, and using appropriate discretion.³⁹ Mr Johnson emphasised the importance of establishing the correct policy framework, one which reflected the collective aspirations of the community:

*I believe that it is up to the local governments and the communities to set up their policy frameworks and planning provisions to relate to their community. The fact is that most schemes in Western Australia, particularly in the metro area, are quite out of date and not oriented to really deal with the challenge of multi-unit development.*⁴⁰

- 2.35 Mr Johnson offered the following views on the development which prompted this petition:

Hindsight is a wonderful thing. For the council, when it was rezoning this, looking at the scale of the site, if I was advising them, I would have said to them, "Don't just produce some concept ideas to show how this could be developed; produce some guidelines, produce some provisions which will deal with the context of this site, and make it

³⁷ *ibid.*, p 5.

³⁸ Dr Shayne Silcox, Chief Executive Officer, City of Melville, *Transcript of Evidence*, 15 October 2014, p 9.

³⁹ Charles Johnson, Presiding Member, Metro Central Joint Development Assessment Panel, *Transcript of Evidence*, 27 October 2014, p 6.

⁴⁰ *ibid.*, p 10.

clear to the applicant—the owner of the land—what the expectations of the council are”...⁴¹

- 2.36 Contemporaneously with the Committee’s inquiries, the Standing Committee on Uniform Legislation and Statutes Review began a review of the Planning and Development (Development Assessment Panels) Regulations 2011 pursuant to section 171F of the *Planning and Development Act 2005* (PD Act).⁴² In order to the inform that review, the Committee resolved to provide the Uniform Legislation and Statutes Review Committee with relevant evidence obtained in relation to this petition, including transcripts of evidence.
- 2.37 The Committee concluded its inquiries on 19 November 2014.

Petition 36—Crime prevention Greater Geraldton

- 2.38 This petition, which contained 1636 signatures and was tabled by Hon Darren West MLC, called for more police resources for the City of Greater Geraldton and an inquiry into juvenile crime and antisocial behaviour in the region.⁴³ The submission from the principal petitioner described an increase in crime in the Geraldton region resulting in increasing fear among the community.⁴⁴
- 2.39 The Committee obtained responses to the petition from the City of Greater Geraldton and the Minister for Police. The City outlined a number of programmes and initiatives being implemented to help prevent crime⁴⁵ and the Minister for Police provided the Committee with information about police operations targeting crime in Geraldton. Operation Nighthawk in early 2014 targeted burglary and motor vehicle theft and Operation Telepathic in June 2014 focused on local offenders linked to volume crime. Police also met with the officials from the City to discuss crime prevention strategies.⁴⁶
- 2.40 The Committee concluded its inquiries into the petition on 10 September 2014.

Petition 38—Opposing changes to *Swan Valley Planning Act 1995*

- 2.41 This petition was tabled on 13 May 2014 by Hon Alyssa Hayden MLC and contained two signatures. The petition requested that the Legislative Council oppose any

⁴¹ *ibid.*, p 11.

⁴² Legislative Council, Standing Committee on Uniform Legislation and Statutes Review, 8 September 2015. Available at: <http://bit.ly/1LuXBBh>. Viewed on 26 August 2015.

⁴³ Tabled Paper 1431, Legislative Council, 6 May 2014.

⁴⁴ Submission from Rosemary Langridge, principal petitioner, undated, p 1.

⁴⁵ Andrea Selvey, Acting Chief Executive Officer, City of Greater Geraldton, letter, 18 July 2014, p 2.

⁴⁶ Hon Liza Harvey MLA, Minister for Police, letter, 15 August 2014, pp 1–2.

amendments to the *Swan Valley Planning Act 1995* relating to the subdivision of land in the Swan Valley and involving a reduction of minimum lot sizes.⁴⁷

- 2.42 The principal petitioner's submission explained that the motivation for the petition was a concern that some members of the Swan Valley community had sought to either reduce the area of land regulated by the Act or remove the legislative requirement for minimum lot sizes within that area. The principal petitioner, writing as the President of the Swan Valley and Regional Winemakers Association, argued that any changes of this nature would damage the '*Swan Valley's cultural, agricultural, rural lifestyle and visitor appeal*'.⁴⁸
- 2.43 In response to the petition, the Minister for Planning and the City of Swan drew the Committee's attention to a Department of Planning (DOP) report.⁴⁹ The City of Swan advised that, as a result of the recommendations made in that report, the DOP was working in consultation with the City and the Swan Valley Planning Committee to develop new laws and planning instruments to:

*strengthen the current legislative and governance framework for the Swan Valley which will enable informed and consistent decisions to be made regarding future land use and development...the specific issue of subdivision would be considered as part of the review.*⁵⁰

- 2.44 The Minister indicated that there will be further opportunities for stakeholders, such as the principal petitioner's association, to provide their input into the development of the new framework. The Minister also informed that Committee that:

*the Government does not support the further subdivision of productive agricultural land in the Swan Valley and expects that this will be made absolutely clear in the new legislation.*⁵¹

- 2.45 The Committee finalised the petition on 13 August 2014.

Petition 39—Licensing of strata/caravan park managers

- 2.46 This petition, containing one signature, was tabled on 14 May 2014 by Hon Dr Sally Talbot MLC. The petition requested that the Legislative Council consider introducing laws:

⁴⁷ Tabled Paper 1465, Legislative Council, 13 May 2014.

⁴⁸ Submission from the Swan Valley and Regional Winemakers Association, 28 May 2014, p 1.

⁴⁹ Department of Planning, *The Way Forward – Swan Valley Land Use and Management*, December 2013: referred to in Hon John Day MLA, Minister for Planning, letter, 9 July 2014 and MJ Foley, Chief Executive Officer, City of Swan, letter, 7 July 2014, p 1.

⁵⁰ MJ Foley, Chief Executive Officer, City of Swan, letter, 7 July 2014, p 2.

⁵¹ Hon John Day MLA, Minister for Planning, letter, 9 July 2014.

- for the mandatory licensing of strata managers and caravan park managers in Western Australia
 - to require strata companies, when lodging their documents with Landgate, to verify these documents by providing minutes of their annual general meetings.⁵²
- 2.47 The principal petitioner, Ms Maria Gawor, made submissions to the Committee in support of her petition. The Committee received these submissions as private evidence.
- 2.48 With respect to the licensing of strata managers, the Minister for Commerce explained to the Committee that the Department of Commerce (DOC) and Landgate were collaborating to address issues which have been identified in previous Government consultations.⁵³ In relation to the licensing of caravan park managers, the Minister for Commerce advised that a review of the *Caravan Parks and Camping Grounds Act 1995*⁵⁴ was being conducted by the Department of Local Government and Communities (DLGC).⁵⁵
- 2.49 As to the issue of verifying strata company documents lodged at Landgate, the Committee noted the following advice of the Minister for Lands:
- The strata company, not the Registrar, is responsible for ensuring that the strata company's internal procedures are complied with (eg. relevant meetings, resolutions etc.) before a document is lodged at Landgate. Neither the Registrar nor Landgate has been made aware of any substantial abuse by strata companies in respect of documents lodged at Landgate that would cause the Registrar or Landgate to review the process by which strata companies lodge documents.*⁵⁶
- 2.50 The Committee finalised the petition on 13 August 2014.

⁵² Tabled Paper 1471, Legislative Council, 14 May 2014.

⁵³ Hon Michael Mischin MLC, Minister for Commerce, letter, 31 July 2014, p 2. See in particular, Department of Commerce, *Consultation: Regulatory Impact Statement and Discussion Paper – Licensing of Strata Managers in Western Australia*, October 2011.

⁵⁴ Available at Department of Local Government and Communities website: <http://dlg.wa.gov.au/Content/Legislation/UnderReview/CaravanCampingLegislation/CaravanCampingAct.aspx> Viewed 26 August 2015.

⁵⁵ Hon Michael Mischin MLC, Minister for Commerce, letter, 31 July 2014, p 2.

⁵⁶ Hon Terry Redman MLA, Minister for Lands, letter, 21 July 2014, p 1.

Petition 40—Stolen wages reparation scheme Western Australia

2.51 This petition was tabled on three occasions by Hon Robin Chapple MLC and contained 540 signatures in total.⁵⁷ The petition requested that the Legislative Council establish a review of the operation, effectiveness and outcomes of the 2012 Western Australian Stolen Wages Reparation Scheme and investigate the creation of a new scheme to address any issues identified in that review.

2.52 Some of the petitioners' concerns about the 2012 scheme included the following:

- How it related to the experiences and expectations of Aboriginal people. For example, Hon Robin Chapple submitted that the Government should apologise to Aboriginal people who lost their wages and entitlements as a result of government control over their lives.⁵⁸ The principal petitioner, Ms Elizabeth O'Brien, Director of Kimberley Community Legal Services, submitted that the '*overwhelming reaction*' to the scheme, which was the Government's response to the Stolen Wages Taskforce report⁵⁹ was '*sadness, frustration and anger*.'⁶⁰
- Whether the scheme was adequately promoted.
- The effects of limiting the scheme to those who were born before 1958 and who were still alive.⁶¹
- The effects of limiting the scheme to Aboriginal people who resided at selected missions and hostels and excluding reserves, pastoral stations and other locations where income was withheld. For example:

*Aboriginal station workers, who typically received rations but no wages, were excluded. Applications to the Scheme by about 700 former station workers, many of whom included personal accounts of their life and work on stations, were refused out of hand.*⁶²

⁵⁷ Tabled Paper 1516, 17 June 2014, Tabled Paper 1890, 17 September 2014 and Tabled Paper 2451, 17 February 2015.

⁵⁸ Submission from Hon Robin Chapple MLC, tabling Member, 16 July 2014, p 2. See also Submission from Kimberley Community Legal Services Inc, 23 July 2014, p 3.

⁵⁹ Stolen Wages Taskforce, Department of Indigenous Affairs, *Reconciling the Past: Government control of Aboriginal monies in Western Australia, 1905-1972*, June 2008.

⁶⁰ Submission from Kimberley Community Legal Services Inc, 23 July 2014, p 2.

⁶¹ *ibid.*, p 3.

⁶² *ibid.*

- Whether the maximum payment of \$2000 was adequate. The principal petitioner noted that this figure was not recommended by the Stolen Wages Taskforce.⁶³
- Whether the duration of the scheme, which was available between 6 March 2012 and 30 November 2012, was adequate.⁶⁴
- Whether the scheme achieved justice and resolution. For example, the principal petitioner submitted that the scheme denied people access to information.⁶⁵

2.53 The Minister for Aboriginal Affairs advised the Committee that the purpose of the *ex gratia* payment was not to reimburse wages; rather, it was ‘*an acknowledgement that the practice of stolen wages occurred.*’⁶⁶ The Minister confirmed that application to the scheme did not affect the legal rights of any applicant in pursuing other courses of action.⁶⁷

2.54 The Minister contended that:

- the eligibility criteria for the scheme, which he detailed, were ‘*reasonable and clear*’, and ‘*were applied consistently in assessing each application.*’⁶⁸ The Committee noted the Minister’s advice that applicants who did not meet the eligibility criteria were provided with an opportunity to apply for a review of their application by an independent panel⁶⁹
- the scheme was advertised extensively, through print media in September 2012 and an email campaign to approximately 150 Aboriginal Corporations. In early November 2012, a separate media campaign sought to remind stakeholders of the impending closure of the scheme.⁷⁰

2.55 The Committee finalised the petition on 10 September 2014.

⁶³ *ibid.*

⁶⁴ See for example submission from Hon Robin Chapple MLC, tabling Member, 16 July 2014, p 2.

⁶⁵ Submission from Kimberley Community Legal Services Inc, 23 July 2014, pp 3-4.

⁶⁶ Hon Peter Collier MLC, Minister for Aboriginal Affairs, letter, 8 September 2014, p 1.

⁶⁷ *ibid.*

⁶⁸ *ibid.*, p 2.

⁶⁹ *ibid.*

⁷⁰ *ibid.*, p 3.

Petition 41—Casuarina boat harbour (Bunbury) recreational pens

- 2.56 This petition was tabled on 17 June 2014 by Hon Adele Farina MLC and contained 159 signatures. The petition requested that the Legislative Council recommend that the Government construct an additional 152 recreational pens at the Casuarina Boat Harbour, Bunbury, as a matter of priority.⁷¹
- 2.57 Submissions from the principal petitioner, Mr Noel Seymour, and the tabling Member indicate that, despite previous plans to enhance the Casuarina Boat Harbour, there remains an unmet local need for public recreational pens.⁷² Mr Seymour was also concerned that, without the additional pens and an upgrade to the boat ramp facilities, tourists and visitors travelling by boat would bypass the Bunbury region.⁷³
- 2.58 The Minister for Transport explained to the Committee that further development of the Casuarina Boat Harbour is not possible until a new sheltering breakwater is constructed to provide wave protection. Engineering and environmental studies are required before the project can progress and the Bunbury Marine Facilities Steering Committee has sought funding for these studies.⁷⁴ The Minister provided assurance that the Department of Transport (DOT) is:

*actively working to ensure its priorities for Casuarina Boat Harbour...are recognised and reflected in the overall planning for improved facilities in Koombana Bay.*⁷⁵

- 2.59 The City of Bunbury ‘fully supports’ the work of the steering committee and will continue to work with the State Government to develop the ‘much-needed marine facilities.’⁷⁶
- 2.60 The Committee concluded its inquiries into the petition on 15 October 2014.

Petition 44—Oppose rezoning of Rosehill golf course

- 2.61 This petition was tabled on 24 June 2015 by Hon Alyssa Hayden MLC and contained 59 signatures.⁷⁷ The petition requested that the Legislative Council establish a committee to investigate the then proposed Metropolitan Region Scheme (MRS)

⁷¹ Tabled Paper 1517, Legislative Council, 17 June 2014.

⁷² Submission from Noel Seymour, principal petitioner, 24 June 2014 and Submission from Hon Adele Farina MLC, tabling Member, 25 July 2014.

⁷³ Submission from Noel Seymour, principal petitioner, 24 June 2014.

⁷⁴ Hon Dean Nalder MLA, Minister for Transport, letter, 18 September 2014, p 2.

⁷⁵ *ibid.*, p 1.

⁷⁶ Andrew Brien, Chief Executive Officer, City of Bunbury, letter, 1 September 2014, p 2.

⁷⁷ Tabled Paper 1612, Legislative Council, 24 June 2014.

Amendment 1266/57, otherwise known as the Rosehill Golf Course Redevelopment in South Guildford.

2.62 The Rosehill Golf Course was a private recreational facility which was due to be closed on 31 July 2014.⁷⁸ The purpose of the proposed MRS amendment was to rezone the 46.05 hectares of land at the golf course from ‘rural’ to ‘urban’, allowing for future residential development of that land, following a local planning scheme amendment, structure planning and subdivision approval. Perth Airport is approximately 1.7 kilometres south-east of the land.⁷⁹

2.63 The petitioners alleged that:

- the proposed MRS amendment was incorrectly classed as a ‘minor’ amendment and that classification amounted to an attempt to bypass the Parliament
- until the time the petition was tabled, no affected landholder or member of the public had been notified or consulted about the proposed amendment
- in initiating the proposed MRS amendment, the Western Australian Planning Commission (WAPC) had overlooked the issue of adverse noise impacts for future residents, disregarded the Western Australian State Aviation Strategy, the National Airport Safeguarding Framework, the review of *Australian Standard 2021: Acoustics - Aircraft noise intrusion - Building siting and construction* and Perth Airport’s objections
- in compiling its MRS amendment report, the WAPC relied on an obsolete noise contour report for Perth Airport.⁸⁰

2.64 The Committee received responses to the petition from the Minister for Planning and the City of Swan. The proposed developer of the golf course also provided a submission. These parties explained that the decision to classify the proposed MRS amendment as ‘minor’ rested with the WAPC, not the proponent of the development, and the criteria for the classification are set out in *Development Control Policy 1.9 – Amendment to Region Schemes*.⁸¹

⁷⁸ Submission from Noahs Rosehill Waters Pty Ltd, 28 July 2014, p 2.

⁷⁹ Western Australian Planning Commission, *Metropolitan Region Scheme Amendment 1266/57 (Minor Amendment): Rosehill Golf Course Redevelopment – Amendment Report*, May 2014, p 1.

⁸⁰ Submission from John Squire, South Guildford Action Committee, 10 July 2014, pp 1–2.

⁸¹ Hon John Day MLA, Minister for Planning, letter, 8 September 2014, Enclosure, p 2.

- 2.65 The Minister assured the Committee that all proper legislative processes, WAPC policies and departmental practices had been followed in the proposed MRS amendment.⁸²
- 2.66 That assurance also applied to the specific issue of public consultation on the proposed MRS amendment, consultation which is regulated by the PD Act.⁸³ As summarised by the City of Swan:

*In this case until the WAPC determined to initiate the said MRS Amendment 1266/57 there is no requirement for any public consultation. The process followed is consistent with the Act and Regulations.*⁸⁴

- 2.67 Although the proposed developer of the golf course was not obliged to consult with the community, it had:

*initiated its own consultation process to inform and engage with the community on the development of the subject land.*⁸⁵

- 2.68 On the issue of noise emanating from aircraft, the Minister advised that:

*The WAPC will take into account the most up to date and appropriate noise impact information and policy documentation related to Perth Airport when considering the amendment for a final recommendation to me. This will be documented in the final report on the proposed amendment. This aspect of the assessment of the proposal has been and will remain public knowledge.*⁸⁶

- 2.69 The Committee concluded its inquiries into the petition on 17 September 2014.

Petition 45—Report by the Chief Medical Officer on a death

- 2.70 This petition was tabled on 25 June 2014 by Hon Darren West MLC and contained 160 signatures. The petition requested that the Legislative Council investigate the Chief Medical Officer's (CMO) report on the death of Mrs Janice Saulys, particularly with respect to the CMO's conclusions on the impact of the medical treatment Mrs Saulys received immediately prior to her death.⁸⁷

⁸² *ibid.*, p 7.

⁸³ *ibid.*, pp 3-4.

⁸⁴ MJ Foley, Chief Executive Officer, City of Swan, letter, 25 August 2014, p 2.

⁸⁵ Hon John Day MLA, Minister for Planning, letter, 8 September 2014, p 3.

⁸⁶ *ibid.*, p 7.

⁸⁷ Tabled Paper 1637, Legislative Council, 25 June 2014.

2.71 The Minister for Health advised that:

- the CMO's report was primarily focused on the practices employed at the Northam Hospital Emergency Department, not Mrs Saulys' death specifically
- the Australian Health Practitioner Regulation Agency was already investigating a complaint from the principal petitioner, Mr Edmund Saulys
- the Coroner would be inquiring into Mrs Saulys' death.⁸⁸

2.72 The Committee was of the view that it would not be appropriate, or useful, for it to embark on its own inquiry when other investigations and inquiries were on foot. Therefore, the Committee's work on the petition was finalised on 24 September 2014.

Petition 47—Amend Mental Health Bill 2013

2.73 This petition was tabled on 24 June 2014 by Hon Stephen Dawson MLC and contained three signatures. The petition requested that the Legislative Council amend the short title of the Mental Health Bill 2013 by inserting the following phrase:

- to provide for the protection of rights of people who do NOT have a mental illness and who for one reason or another find themselves subject to the provisions of this legislation in error.⁸⁹

2.74 The Committee received two submissions in support of the petition.⁹⁰ As the issues raised in the petition, including the proposed amendment to the bill, had been brought to the Parliament's attention through the reading of the petition in the Legislative Council, the Committee concluded its inquiries into the petition on 13 August 2014.

Petition 48—Amend Mental Health Bill 2013 objects clause

2.75 This petition was tabled on 25 June 2014 by Hon Stephen Dawson MLC and contained 19 signatures. The petition requested that the Legislative Council amend the objects clause of the Mental Health Bill 2013 by inserting the following phrase:

- (g) *to reduce the incidence of misdiagnosis to a minimum and to provide a framework that will encourage continual vigilance regarding identifying situations where misdiagnosis has*

⁸⁸ Hon Dr Kim Hames MLA, Minister for Health, letter, 11 September 2014, p 2.

⁸⁹ Tabled Paper 1611, Legislative Council, 24 June 2014.

⁹⁰ Submission from Douglas Humphries, principal petitioner, 11 August 2014 and Submission from International Commission of Jurists, Western Australia Branch, 12 August 2014.

*occurred thus ensuring that the freedom of citizens is protected.*⁹¹

2.76 The Committee received two submissions in support of the petition.⁹² As the issues raised in the petition, including the proposed amendment to the bill, had been brought to the Parliament's attention through the reading of the petition in the Legislative Council, the Committee concluded its inquiries into the petition on 13 August 2014.

Petition 49—Hedland Health Campus maternity ward staff levels

2.77 This petition was tabled on 12 August 2014 by Hon Stephen Dawson MLC and contained 64 signatures. The petition requested that the Legislative Council support, among other things, the '*active recruitment*' of additional staff in the maternity ward at the Hedland Health Campus to achieve '*adequate staffing levels*.'⁹³

2.78 The Committee did not receive a supporting submission and the petition was finalised on 24 September 2014.

Petition 50—Upgrade of Gnangara Road

2.79 This petition, tabled by Hon Ken Travers MLC, contained 342 signatures.⁹⁴ The petition requested that the Legislative Council seek:

- a '*firm commitment and timetable from Government*' for the upgrade of Gnangara Road, between Alexander Drive and Pinaster Parade
- to expedite all of the decisions and processes required to enable the work to commence.

2.80 The principal petitioner, Mr Rodney Wahl, expressed his and, in his submission, the local community's concerns about the delays in the upgrade of that section of road from a single to a dual carriageway. After acknowledging that some progress had been made since the tabling of the petition, Mr Wahl suggested that Gnangara Road:

- should be designated as a 'State Road' rather than an 'Other Regional Road', given the growth in population in surrounding areas and the consequential increase in traffic
- was in need of advance warning flashing signals.⁹⁵

⁹¹ Tabled Paper 1636, Legislative Council, 25 June 2014.

⁹² Submission from Douglas Humphries, principal petitioner, 11 August 2014 and Submission from International Commission of Jurists, Western Australia Branch, 12 August 2014.

⁹³ Tabled Paper 1678, Legislative Council, 12 August 2014.

⁹⁴ Tabled Paper 1679, Legislative Council, 12 August 2014.

2.81 The Minister for Transport explained that:

- although Gnangara Road is ‘*entirely under the care and control of the City of Swan*’, its ‘*strategic regional importance*’ has led the State Government to provide substantial funding assistance for its upgrade
- Main Roads would consider the reclassification of Gnangara Road as a ‘State Road’ under the MRS during its usual periodical assessment process
- the reclassification of the road would not be required for the installation of advance warning flashing signals ‘*if they are deemed necessary for reasons of road safety.*’⁹⁶

2.82 The Committee concluded its inquiries into this matter on 19 November 2014.

Petition 51—Rosehill golf course re-zoning to urban

2.83 This petition, tabled by Hon Alyssa Hayden MLC, contained 63 signatures.⁹⁷ The petition requested that the Legislative Council support the MRS rezoning of the Rosehill Golf Course in South Guildford from ‘rural’ to ‘urban’, in apparent opposition to Petition No 44 (paragraphs 2.61 to 2.69). As such, the background to this petition has already been discussed in those paragraphs.

2.84 The Committee finalised both petitions on 17 September 2014.

Petition 52—Telecommunication service Barrow Island

2.85 This petition was tabled on 19 August 2014 by Hon Stephen Dawson MLC and contained 908 signatures.⁹⁸ The petition requested that the Legislative Council investigate the ‘*poor telecommunication services on Barrow Island.*’ It claimed that, while on the island, workers for the Gorgon Project are often either unable to contact their family and loved ones via mobile telephones and the internet or are interrupted while doing so. A submission from the principal petitioner, Mr Jordan Sanger, reiterated these concerns.⁹⁹

2.86 The Committee requested and received a response to the petition from Chevron Australia Pty Ltd (Chevron), the operator of the Gorgon Project. Chevron outlined the

⁹⁵ Submission from Rodney Wahl, principal petitioner, 10 September 2014, p 2.

⁹⁶ Hon Dean Nalder MLA, Minister for Transport, letter, undated.

⁹⁷ Tabled Paper 1754, Legislative Council, 13 August 2014.

⁹⁸ Tabled Paper 1780, Legislative Council, 19 August 2014.

⁹⁹ Submission from Jordan Sanger, principal petitioner, 7 September 2014.

range of telecommunication services available on Barrow Island¹⁰⁰ and explained that a recent upgrade had improved capacity by almost 50 per cent.¹⁰¹ The company conceded that congestion is experienced at peak times and it is exploring:

*practical ways to improve regional telecommunication services on Barrow Island during the remaining period of peak construction.*¹⁰²

2.87 At the time of the Committee's work on this petition, the Legislative Assembly's Education and Health Standing Committee was conducting an inquiry into the mental health impacts of fly-in, fly-out work arrangements. Therefore, the Committee forwarded a copy of this petition and Mr Sanger's submission to that committee.

2.88 The petition was finalised on 22 October 2014.

Petition 53—Recycling and composting in Western Australia

2.89 This petition was tabled on 20 August 2014 by Hon Amber-Jade Sanderson MLC and contained 152 signatures.¹⁰³ The petitioners sought an improvement in recycling and composting infrastructure and a higher level of recycling and composting in Western Australia. The petition requested that the Legislative Council refer an inquiry to this Committee into:

the availability, operations and effectiveness or otherwise of recycling and composting industries and any impediments or barriers to their successful operations in WA.

2.90 The principal petitioner, Ms Jane Bremmer, was of the view that:

*the issue of waste management in WA is at a critical crossroads and therefore deserving of an independent parliamentary inquiry.*¹⁰⁴

2.91 The Minister for Environment conceded that '*recycling rates in WA are generally lower than most other Australian jurisdictions.*'¹⁰⁵ The Minister outlined the efforts being undertaken, particularly through the Waste Strategy, to improve recycling rates in Western Australia. The Minister advised of a number of significant initiatives (then in the early or planning stages) expected to assist in boosting recycling rates,¹⁰⁶ while

¹⁰⁰ Peter Fairclough, General Manager Policy, Government and Public Affairs, Chevron Australia Pty Ltd, letter, 15 October 2014, pp 1–2.

¹⁰¹ *ibid.*, p 1.

¹⁰² *ibid.*, p 2.

¹⁰³ Tabled Paper 1790, Legislative Council, 20 August 2014.

¹⁰⁴ Submission from Jane Bremmer, principal petitioner, 15 September 2014, p 1.

¹⁰⁵ Hon Albert Jacob MLA, Minister for Environment, letter, 16 October 2014, p 1.

¹⁰⁶ *ibid.*, p 2.

waste planning has been recognised in the State Planning Strategy, alongside other important physical infrastructure such as water, telecommunications and energy.¹⁰⁷ In relation to future planning:

*An initiative of the Waste Strategy is the long-term planning for waste and recycling processing in the Perth and Peel regions. The aim of this planning process is to provide advice on the waste and recycling infrastructure that may be needed in the region to achieve the Waste Strategy targets and to inform ongoing reform in the waste management sector.*¹⁰⁸

2.92 The Committee concluded its inquiries into this matter on 22 October 2014.

Petition 54—Gidgegannup urban precinct

2.93 Refer to Committee Report 38, *Petition No 54—Gidgegannup Urban Precinct*, 27 November 2014.

Petition 55—Water fluoridation in Western Australia

2.94 This petition was tabled on 9 September 2014 by Hon Mark Lewis MLC and contained 314 signatures.¹⁰⁹ The petitioners opposed the fluoridation of public water supplies in Perth and requested that the Legislative Council investigate:

- the practice of water fluoridation in this state, keeping in mind the ‘precautionary principle’
- the need to repeal the *Fluoridation of Public Water Supplies Act 1966*.

2.95 The principal petitioner, Mr James Fairbairn, President of Fluoride Free WA, submitted, among other things, that the ingestion of fluoride is harmful and is, therefore, best given individually and topically, in the form of toothpaste, rather than through the community water supply.¹¹⁰

2.96 The Minister for Health provided detailed information in regard to the fluoridation of community water supplies in Western Australia. The Minister outlined the role of the Fluoridation of Public Water Supplies Advisory Committee and noted that fluoridation is supported by authoritative health research agencies and government bodies.¹¹¹

¹⁰⁷ *ibid.*, p 3.

¹⁰⁸ *ibid.*, p 4.

¹⁰⁹ Tabled Paper 1827, Legislative Council, 9 September 2014.

¹¹⁰ Submission from Fluoride Free WA, 7 October 2014, pp 2-3.

¹¹¹ Hon Dr Kim Hames, Minister for Health, letter, 21 November 2014, p2.

2.97 The Minister informed the Committee that the National Health and Medical Research Council had reviewed water fluoridation in 2007 and:

*That review affirms that water fluoridation remains the most effective and socially equitable means of achieving community wide exposure to the caries prevention effects of fluoride.*¹¹²

2.98 At the time of the Committee's inquiries into this petition, the National Health and Medical Research Council was conducting an update of its review of fluoridation.

2.99 The Minister emphasised that:

*no epidemiological data or peer reviewed scientific paper published in a recognised scientific journal has drawn a link between adverse health effects and fluoridation of drinking water, nor does any reputable science or public health body oppose community water fluoridation.*¹¹³

2.100 The Committee concluded its inquiries into this matter and finalised the petition on 26 November 2014.

Petition 58—Waste-to-energy incinerators

2.101 This petition, tabled by Hon Lynn MacLaren MLC, contained 545 signatures.¹¹⁴ The petitioners opposed the construction of 'waste-to-energy' incinerators and requested that the State Government:

- impose the mandatory regulation of dioxins and furans
- investigate and monitor the air quality in the 'Kwinana strip'
- support an inquiry by this Committee into:

the availability, operations and effectiveness or otherwise of recycling and composting industries and any impediments or barriers to their successful operations in WA.

2.102 The motivation for the petition was the proposed construction of two waste-to-energy incinerators in the south west metropolitan area: one in East Rockingham and one in Kwinana.¹¹⁵

¹¹² *ibid.*, p 2.

¹¹³ *ibid.*

¹¹⁴ Tabled Paper 1843, Legislative Council, 11 September 2014.

¹¹⁵ Submission from Hon Lynn MacLaren, tabling Member, 13 October 2014, p 1.

2.103 Hon Lynn MacLaren submitted that more must be done in Western Australia to avoid waste creation.¹¹⁶ The principal petitioner, Mr James Mumme, claimed that overwhelmingly, informed local residents did not want their waste burnt.¹¹⁷ Instead, the ‘*abysmally low level of recycling*’ in this state requires examination ‘*before we rush to burning*.’¹¹⁸ Mr Mumme also submitted that the EPA and the Department of Health had failed to conduct sufficiently thorough investigations into waste-to-energy incinerators.¹¹⁹

2.104 The Minister for Environment informed the Committee that the EPA and the Waste Authority were commissioned in 2011 to investigate the health and environmental implications of waste-to-energy incinerators.¹²⁰ The investigation found that:

*subject to conditions and matching suitable technologies to types of waste input and appropriate plant scale, waste to energy plants employing best practice can be operated with acceptable impacts to our community.*¹²¹

2.105 In relation to air monitoring, the Minister advised that the DER already operates three air monitoring stations in the Kwinana region, with a further three sites maintained by the Kwinana Industries Council.¹²²

2.106 The Committee finalised this petition on 3 December 2014.

Petition 60—Ocean Gardens Retirement Village

2.107 This petition was tabled on 16 September 2014 by Hon Kate Doust MLC and contained 554 signatures. The petition requested that the Legislative Council oppose the repeal of the *Ocean Gardens (Inc.) Act 2004* and conduct an inquiry into whether the requirements of the Act had been observed. The petitioners also requested that the proposed developments for the Ocean Gardens Retirement Village in City Beach be ceased until the governance concerns are resolved by the inquiry.¹²³

¹¹⁶ *ibid.*, p 2.

¹¹⁷ Submission from James Mumme, principal petitioner, 20 October 2014, p 1.

¹¹⁸ *ibid.*, p 2.

¹¹⁹ *ibid.*, p 1.

¹²⁰ Hon Albert Jacob MLA, Minister for Environment, letter, 26 November 2014, p 1.

¹²¹ Environmental Protection Authority, Report 1468, *Environmental and health performance of waste to energy technologies: Advice of the Environmental Protection Authority to the Minister for Environment under Section 16(e) of the Environmental Protection Act 1986*, April 2013, p i. Available at: <http://www.epa.wa.gov.au/EIA/EPARports/Pages/1468-EnvironmentalandhealthperformanceofwastetoenergytechnologiesS16e.aspx>. Viewed 14 September 2015.

¹²² Hon Albert Jacob MLA, Minister for Environment, letter, 26 November 2014, p 2.

¹²³ Tabled Paper 1861, Legislative Council, 16 September 2014.

2.108 The *Ocean Gardens (Inc.) Act 2004* was repealed on 4 December 2014 by the *Statutes (Repeals) Act 2014*.¹²⁴ The purpose of the *Statutes (Repeals) Act 2014* was, among other things, to repeal ‘*various obsolete Acts*.’¹²⁵ The *Ocean Gardens (Inc.) Act 2004* was passed to implement the recommendations made by the Ombudsman in a 2001 report,¹²⁶ the main intent being:

*to return the Constitution [of the Ocean Gardens Retirement Village] to a controlling membership of nominees from the Town of Cambridge.*¹²⁷

2.109 The principal petitioner, representing the Ocean Gardens Residents Association (OGRA), and the tabling Member claimed that, since the commencement of the *Ocean Gardens (Inc.) Act 2004*, the village’s constitution had been changed significantly. The petitioners were particularly concerned about the following changes:

- The nature of individuals selected for the Board of the village.¹²⁸ The Act had required six Board members, three of whom were to be Town of Cambridge nominees, with one of those nominees being the Chairman with a casting vote. The remaining three nominees were to be from the OGRA.¹²⁹
- The gradual removal of the residents’ capacity to participate, or have representation, on the Board.¹³⁰ According to the OGRA, by October 2014, the Board consisted of 5 members, being the Town of Cambridge’s Mayor and four of his nominees. Representation from the OGRA had apparently ceased in 2009, although provision was made for three community members.¹³¹

2.110 The OGRA was concerned that these changes resulted in Board membership which no longer reflected the spirit of the Act and had allowed the village to be managed in:

¹²⁴ *Statutes (Repeals) Act 2014*, s 3 and Schedule 1, cl 19. The *Statutes (Repeals) Bill 2013* was introduced into the Parliament on 20 November 2013 and passed on 25 November 2014.

¹²⁵ Explanatory Memorandum for the *Statutes (Repeals) Bill 2013*, p 1.

¹²⁶ Ombudsman Western Australia, *Report on an investigation into a complaint by the Town of Cambridge concerning the City Of Perth*, September 2001.

¹²⁷ Explanatory Memorandum for the *Ocean Gardens (Inc.) Bill 2003*, p 1. See also *Ocean Gardens (Inc.) Act 2004*, s 4 and Schedule 1, cll 10, 11 and 15.

¹²⁸ Submission from Ocean Gardens Residents Association (Inc.), 3 October 2014, pp 1-2 and Submission from Hon Kate Doust MLC, tabling Member, 6 October 2014.

¹²⁹ Explanatory Memorandum for the *Ocean Gardens (Inc.) Bill 2003*, p 1.

¹³⁰ Submission from Ocean Gardens Residents Association (Inc.), 3 October 2014, p 1 and Submission from Hon Kate Doust MLC, tabling Member, 6 October 2014.

¹³¹ Submission from Ocean Gardens Residents Association (Inc.), 3 October 2014, p 1.

*secrecy, lack of transparency, lack of consultation and taking no notice what-so-ever of the residents' wishes or opinions.*¹³²

2.111 The OGRA also explained that the residents did not oppose further development at the village *per se* but had concerns with the location and size of the proposed expansion.¹³³

2.112 The Town of Cambridge explained that the Act:

was enacted as an intermediary piece of legislation to correct actions taken by the City of Perth in 1995 to reduce the Town of Cambridge's representation on the Ocean Gardens Board from three elected members with one being the chairman to two elected members of the six member Board. This occurred during the split of the former City of Perth...

*After the Board was established the purpose of the Act had been fulfilled and it serves no further purpose in governing Ocean Gardens (Inc).*¹³⁴

2.113 While changes to the constitution have changed the way that directors, as they are now known, are appointed to the Board, the Town has maintained an oversight role: new appointments are made based on skills and experience, and '*at the **absolute discretion** of the Town.*'¹³⁵ The Town also pointed out that the Board '*is responsible for decisions related to how future development will occur on the land owned by the Ocean Gardens (Inc)*' and the development application for the village expansion was assessed in accordance with the Town's planning controls.¹³⁶

2.114 The Minister for Commerce advised that the DOC's Consumer Protection Division had investigated the residents' concerns about inadequate consultation and had found:

*no evidence of misrepresentation, poor financial management or breaches of residents' contracts. The Department suggested that the Board continue to work with the Residents Association to manage their concerns but no further action was proposed by the investigating officers.*¹³⁷

¹³² *ibid.*

¹³³ Submission from Ocean Gardens Residents Association (Inc.), 3 October 2014, p 2 and JDS Hill, Secretary, Ocean Gardens Residents Association (Inc.), letter, 20 October 2014, p 2.

¹³⁴ Jason Buckley, Chief Executive Officer, Town of Cambridge, letter, 11 November 2014, p 1.

¹³⁵ *ibid.*, p 2.

¹³⁶ *ibid.*

¹³⁷ Hon Michael Mischin MLC, Minister for Commerce, letter, 13 November 2014, p 1.

2.115 It appeared to the Minister that the Board:

*is properly constituted, has engaged in levels of consultation with its residents and has taken a decision to manage the development of the village.*¹³⁸

2.116 The Committee was also aware that the Statutes (Repeals) Bill 2013 had been considered and passed by the Parliament on 25 November 2014 and this meant that the *Ocean Gardens (Inc.) Act 2004* would soon be repealed.¹³⁹

2.117 The petition was finalised on 26 November 2014.

Petition 62—Motor vehicle examination fees

2.118 This petition was tabled on 24 September 2014 by Hon Stephen Dawson MLC and contained 81 signatures. The petitioners were opposed to the abolition of a universal tariff for motor vehicle examination fees in Western Australia and claimed that the introduction of different fees for different regions would be discriminatory. The petition requested that the Legislative Council disallow the regulations which introduced the new fees.¹⁴⁰

2.119 The Committee did not receive a supporting submission and the petition was finalised on 19 November 2014.

¹³⁸ *ibid.*, p 2.

¹³⁹ Refer to paragraph 2.108.

¹⁴⁰ Tabled Paper 1997, Legislative Council, 24 September 2014.

CHAPTER 3

PETITIONS FINALISED BETWEEN JANUARY AND JUNE 2015

- 3.1 The Committee finalised 25 petitions between 1 January 2015 and 30 June 2015 and an overview of these petitions is provided in this Chapter.

Petition 7—The environmental legacy of mining in Western Australia

- 3.2 This petition contained two signatures and was tabled by Hon Robin Chapple MLC on 22 May 2013.¹⁴¹ The petition is identical to Petition 143 which was tabled in the Thirty Eighth Parliament and lapsed at prorogation before the conclusion of the previous Committee’s inquiries.¹⁴² This Committee’s inquiries have taken into account submissions and evidence obtained in relation to Petition 143.
- 3.3 The petitioners express concern about the environmental legacy of mining in Western Australia and a lack of transparency that inhibits a true assessment of the adequacy of the regulatory framework. The petition refers to the Western Australian Auditor General’s 2011 report, *Ensuring Compliance with Conditions on Mining* (Auditor General’s report) which was particularly critical of the Department of Mining and Petroleum’s (DMP) approach to its regulatory activities in monitoring and enforcing compliance with conditions on mining operations:

*We found serious weaknesses in the monitoring of compliance with environmental conditions. As a result, we cannot give assurance that agencies are adequately aware of non-compliance or if environmental conditions are delivering the desired outcomes.*¹⁴³

- 3.4 The Conservation Council of Western Australia (Conservation Council) provided the previous Committee with a submission that described how its investigation into the environmental condition of mined land in Western Australia had been frustrated by a lack of transparency by DMP.¹⁴⁴

Key documents and records including program of works (exploration), mining plans (pre-2006), annual environmental and

¹⁴¹ Tabled Paper 274, Legislative Council, 22 May 2013.

¹⁴² Tabled Paper 4062, Legislative Council, 9 November 2011.

¹⁴³ Office of the Auditor General Western Australia, *Ensuring Compliance with Conditions on Mining*, Report 8, September 2011, p 24.

¹⁴⁴ Submission from Conservation Council of Western Australia (in relation to Petition No 143), 27 November 2011, p 1.

*monitoring reports and inspection reports were all deemed commercial in confidence and access was refused.*¹⁴⁵

- 3.5 The previous Committee received a written response to the petition from the former Minister for Mines and Petroleum, Hon Norman Moore MLC, in January 2012. Further responses to questions were provided by the Minister in May and October 2012.
- 3.6 The Committee's inquiries focused on DMP's regulatory activities and the outcomes and transparency of those activities. The DMP commenced a reform process following the Auditor General's report and the Committee was updated on the progress of the reforms at hearings with DMP in August and November 2013.

Monitoring and enforcement of environmental conditions

- 3.7 The Auditor General found that '*DMP's capacity to monitor and ensure compliance with reporting conditions is undermined by poor records management.*'¹⁴⁶
- 3.8 Commencing in mid-2012, the DMP's '*Reforming Environmental Regulation*' program (RER) introduced a risk- and outcome-based approach to the Department's regulatory functions.¹⁴⁷ The Department also made improvements to its records management and introduced a new information system that was gradually expanded to include compliance data.¹⁴⁸

Annual environmental reports

- 3.9 Annual environmental reports (AERs) are a condition for most mines, but according to the Auditor General, many operators did not submit AERs and the Department rarely took action to follow up late reports, nor did it have a central record of AERs received.¹⁴⁹
- 3.10 The previous Committee's correspondence with the DMP throughout 2012 indicated that the Department was working towards online lodgement of AERs and a risk-based approach for reviewing the environmental reports.¹⁵⁰ In August 2013, the DMP confirmed that a system was in place that enabled a modified, more concise form of

¹⁴⁵ *ibid.*

¹⁴⁶ Office of the Auditor General Western Australia, *Ensuring Compliance with Conditions on Mining*, Report 8, September 2011, p 25.

¹⁴⁷ Ministerial Advisory Panel, *Reforming Environmental Regulation in the WA Resources Industry*, December 2012, pp 17–19.

¹⁴⁸ Hon Norman Moore MLC, Minister for Mines and Petroleum, letter, 30 April 2012, p 2.

¹⁴⁹ Office of the Auditor General Western Australia, *Ensuring Compliance with Conditions on Mining*, Report 8, September 2011, pp 24–25.

¹⁵⁰ Hon Norman Moore MLC, Minister for Mines and Petroleum, letter, 22 October 2012, p 3 of Attachment 1.

AERs to be lodged online. Through the online facility, DMP can track lodgement of reports and screen for non-compliance with conditions that would trigger action by the Department.¹⁵¹

Mine closure plans

- 3.11 Following amendments to the *Mining Act 1978* in 2010, mining proposal applications (received after 30 June 2011) must include a Mine Closure Plan¹⁵² and these will be publicly available on the DMP website.¹⁵³

Offsets

- 3.12 The Auditor General was critical of the management of environmental offsets:

*There are numerous examples of where the state has agreed to offset arrangements in response to significant environmental impacts arising from particular mining projects. However, the establishment of offsets is ad-hoc, and there is limited transparency and reporting of what offset arrangements exist and why and whether they have been delivered.*¹⁵⁴

- 3.13 Following the Auditor General's report, a State-wide policy for offsets was developed. An offset will be considered in situations where the environmental approval process concludes that there will be a significant environmental impact that is not manageable through normal activity.¹⁵⁵
- 3.14 The Western Australian Government's environmental offsets policy, released in September 2011, explains that offsets will be used '*to compensate for residual environmental impacts [of a development or activity] and be designed to achieve long-term outcomes.*'¹⁵⁶ All offset agreements will be publicly recorded in an offsets register.¹⁵⁷

¹⁵¹ Dr Phil Gorey, Executive Director Environment, Department of Mines and Petroleum, *Transcript of Evidence*, 21 August 2013, p 10.

¹⁵² Department of Mines and Petroleum, *Guidelines for Preparing Mine Closure Plans*, June 2011, p 6.

¹⁵³ Hon Norman Moore MLC, Minister for Mines and Petroleum, letter, 11 January 2012, p 2.

¹⁵⁴ Office of the Auditor General Western Australia, *Ensuring Compliance with Conditions on Mining*, Report 8, September 2011, p 19.

¹⁵⁵ Richard Sellers, Director General, Department of Mines and Petroleum, *Transcript of Evidence*, 21 August 2013, p 4.

¹⁵⁶ Department of Environment Regulation, WA Environmental Offsets Policy, September 2011, p 1. Available at: <http://www.der.wa.gov.au/your-environment/offsets>. Viewed 19 March 2015.

¹⁵⁷ *ibid.*, p 4.

Historical mine sites

- 3.15 The Department's inventory of approximately 11 000 historical mine sites in Western Australia consists of mostly small sites such as costeans, old shafts and small pits. Large mines adjacent to new mining activities are covered by the owners of the current mining lease and are therefore not included in the inventory.¹⁵⁸
- 3.16 The Department informed the Committee that the rehabilitation of historical sites had been restricted to addressing immediate human or environmental issues 'in small ways' with limited resources¹⁵⁹ however it was envisioned that the interest generated on the Mine Rehabilitation Fund will enable further rehabilitation work to be done:

*With the commencement of that fund on 1 July this year, and compulsory from 1 July next year, that amount in the fund will rapidly build up over the next seven to 10 years to reach somewhere between \$500 million and \$700 million, which is roughly the environmental risk at the peak of the worst sort of mine we might have here if it had no rehabilitation continually done on it. The interest that is generated in that can be used to ameliorate some of these legacy sites.*¹⁶⁰

- 3.17 The DMP confirmed that the data on the abandoned mine sites map is available on its website.¹⁶¹

Transparency

- 3.18 In November 2013, the DMP advised the Committee that Programmes of Work (PoW) applications were not publicly available however accessibility of these and other documents was being considered:

At the moment we are preparing to go out for consultation on what might appear in the draft regulations. The basis of that consultation is that the following documents would be made publicly available, and that includes approved exploration applications, what we call programs of work, and they are currently not made publicly available at all; all approved mining proposals; all approved mine closure plans; and consolidating where we can the annual environmental

¹⁵⁸ Richard Sellers, Director General, Department of Mines and Petroleum, *Transcript of Evidence*, 21 August 2013, p 13.

¹⁵⁹ *ibid.*

¹⁶⁰ *ibid.*

¹⁶¹ Dr Phil Gorey, Executive Director Environment, Department of Mines and Petroleum, *Transcript of Evidence*, 21 August 2013, p 14.

*reports...About a year ago we actually introduced public reporting of annual environmental reports.*¹⁶²

- 3.19 Approved mining proposals and mine closure plans are available on the Department's website.¹⁶³ It is not expected that commercial confidentiality will significantly restrict public access to mining proposals since most do not require the disclosure of confidential financial information:

*If it is a reasonably straightforward mining operation where they are not doing processing, then the chances of there being commercially sensitive information is limited. The fact that a company proposes to mine, and they are mining a particular ore, in our view, is not commercially sensitive information. How they might process a particular ore through their processing plant might be.*¹⁶⁴

- 3.20 AERs are now also available to the public on the Department's website:

*Getting the annual environmental reports online for people to read shows what a company is doing: if there has been an incident; how they have reacted to it; what we have done in terms of responding; and what they have agreed to do to work it out over the next period of time. People can track that through the annual lodgement of those documents.*¹⁶⁵

The Auditor General's follow-up report

- 3.21 In November 2014, the Auditor General's follow-up report on ensuring compliance with mining conditions commended the introduction of the Mining Rehabilitation Fund and noted a number of improvements to the Department's compliance activities, its transparency and accountability.¹⁶⁶
- 3.22 The Committee concluded its inquiries on 25 March 2015.

¹⁶² Dr Phil Gorey, Executive Director Environment, Department of Mines and Petroleum, *Transcript of Evidence*, 27 November 2013, p 3.

¹⁶³ *ibid.*, p 6.

¹⁶⁴ *ibid.*

¹⁶⁵ Richard Sellers, Director General, Department of Mines and Petroleum, *Transcript of Evidence*, 21 August 2013, p 3.

¹⁶⁶ Office of the Auditor General Western Australia, *Ensuring Compliance with Conditions on Mining – Follow-up*, Report 20, November 2014, p 4.

Petition 23—Increase number of mental health beds in new Perth Children’s Hospital

- 3.23 Refer to Committee Report 40, *Petition Number 23—Increase Number of Mental Health Beds in New Perth Children’s Hospital*, 26 March 2015.

Petition 31—Traffic crash barriers, Merriwa

- 3.24 This petition was tabled on 27 February 2014 by Hon Amber-Jade Sanderson MLC and contained 672 signatures. The petition requested that the Legislative Council inquire into and recommend to the Government that traffic crash barriers be erected on the verges and median strip along Hester Avenue, Merriwa, between Baltimore Parade and Connolly Drive.¹⁶⁷
- 3.25 The impetus for the petition was a concern for the safety of local residents, brought to light by the tragic death of eight-month old Nate Dunbar on 25 January 2013. Nate was killed when a drunk driver, travelling along the relevant stretch of road, crashed her car into his family’s home. Nate’s mother and principal petitioner, Mrs Stacy Dunbar, was of the view that the traffic crash barriers would provide an effective and economical method of protection for residents living close to Hester Avenue and road users, while maintaining adequate traffic flow.¹⁶⁸
- 3.26 Members of the Committee were very concerned with the circumstances that gave rise to this petition and conveyed their sympathy for the Dunbar family’s loss.
- 3.27 The Committee made inquiries with the Ministers for Transport and Police and the City of Wanneroo regarding the concerns raised by the petition. The Committee was also briefed on the *Interagency Report on the Safe System Review of the Dunbar Crash* by the Office of Road Safety.
- 3.28 The information received by the Committee indicated that the planting of trees and soft vegetation in the area of the crash site will be a safer and more effective option than traffic crash barriers. In addition, the City of Wanneroo will continue to monitor the average traffic speed along Hester Avenue and Western Australia Police will strategically target speeding and drink driving in the area.¹⁶⁹
- 3.29 The Committee is aware that the recommendations of the interagency report were discussed with the Dunbar family and that the family was satisfied with the measures adopted by the authorities in response to the tragic event. Accordingly, the Committee concluded its inquiries into the petition on 25 March 2015.

¹⁶⁷ Tabled Paper 1257, Legislative Council, 27 February 2014.

¹⁶⁸ Submission from Stacy Dunbar, principal petitioner, 27 March 2014, p 2.

¹⁶⁹ Hon John Day MLA, Acting Minister for Police and Road Safety, letter, 14 October 2014, p 2.

Petition 37—Initiate judicial inquiry into the Shire of Carnarvon

3.30 This petition, tabled on 8 May 2014 by Hon Stephen Dawson MLC, contained 212 signatures. The petition requested that the Legislative Council inquire into and recommend the establishment of a judicial inquiry into the ‘*affairs of the Shire of Carnarvon*.’¹⁷⁰ The motivation for the petition was allegations of corruption, serious misconduct and deficient processes at the Shire. These allegations centred on construction projects, tendering, purchasing and general administrative matters.¹⁷¹

3.31 The Minister for Local Government advised the Committee that the issues raised in the petition had been investigated by three separate government agencies, the Department of Regional Development, the then Department of Local Government and the Corruption and Crime Commission (CCC), and:

*Each of these agencies has independently come to the determination that, while there have been examples of poor practice at the Shire, there were no matters that should reasonably be the subject of any prosecution or indeed findings or opinions of misconduct, or serious misconduct, by councillors or Shire employees.*¹⁷²

3.32 The Committee’s inquiries indicated that one of the principal petitioners, Mr Lino Paggi, had also made complaints to the Ombudsman, Western Australia Police and the Public Sector Commissioner, among others.¹⁷³

3.33 The Committee was of the view that the appropriate authorities had investigated Mr Paggi’s complaints about the Shire. Consequently, the Committee resolved to conclude its inquiries on 25 February 2015 and the petition was finalised on that date.

Petition 46—Disability Services Commission accommodation services

3.34 This petition was tabled on 26 June 2014 by Hon Stephen Dawson MLC and contained 2775 signatures.¹⁷⁴

3.35 The petition opposed the outsourcing of Disability Services Commission (DSC) group homes to private providers and warned that the proposed accommodation changes were causing distress to the intellectually disabled residents, their families and DSC employees.

¹⁷⁰ Tabled Paper 1454, Legislative Council, 8 May 2015.

¹⁷¹ Hon Tony Simpson MLA, Minister for Local Government, letter, 21 July 2014, p 1.

¹⁷² *ibid.*

¹⁷³ Lino Paggi, principal petitioner, email, 8 December 2014, p 1.

¹⁷⁴ Tabled Paper 1648, 26 June 2014.

3.36 In addition to submissions from the principal petitioner—the Community and Public Sector Union (CPSU) and the tabling Member—the Committee received many submissions from the families of residents of DSC accommodation services.

3.37 The submission from the CPSU asserted that the proposed changes limited the choices available to DSC clients and removed the (preferred) choice of those who wished to stay in a DSC group home. Families were concerned about the impact of the changes on their relatives living in group homes, many of whom had developed close, long term relationships with fellow residents and staff.¹⁷⁵

3.38 The tabling Member, Hon Stephen Dawson MLC, explained that:

*This decision is causing immense heartache to many of the families involved who are now faced with great uncertainty and the need to resettle their loved ones in new homes with new staff and new housemates.*¹⁷⁶

3.39 The Committee was moved by the many submissions received from families of residents and the heartfelt concern expressed for the well-being of their loved ones. The Committee extends its gratitude to all those who provided submissions. Some extracts are provided below:

*The residents of Melento are very high care people most cannot talk to communicate so having a well known carer and a very familiar face to see every day is very important for them.*¹⁷⁷

*I am very concerned about the lack of Duty of Care being shown by the Department and the anxiety it is causing families. Many of the parents of the residents are quite elderly and where they were very comfortable with the care their children or family members were receiving this has been taken away and created a situation that many are unable to cope with.*¹⁷⁸

These are people who do not marry, they depend on family contact and the friendship of housemates and staff for their emotional security. Change is very difficult for them to cope with. Yet long-term family-like relationships with housemates and with DSC staff are now

¹⁷⁵ Submission from Toni Walkington, Community & Public Sector Union, principal petitioner, July 2014, pp 1–2. 30

¹⁷⁶ Submission from Hon Stephen Dawson MLC, tabling Member, 30 July 2014, pp 1–2.

¹⁷⁷ Submission from Ron and Barri Petricevich, 27 July 2014.

¹⁷⁸ Submission from Maxine Longbottom, 8 August 2014.

*under threat. Companions may be separated if placed with different providers. It can take years for trust in new staff to develop.*¹⁷⁹

*I have received lots of information, treating the transition process as a given and causing me a lot of heartache. Then the time frame or process changes and there is a new scenario, which creates a tense atmosphere of uncertainty. I don't know why this is happening as Jeff is perfectly happy and well supported where he is.*¹⁸⁰

*We are told Shane is being given better choices but in fact he has no choice, because if he had a choice it would be for everything to stay the way it is now.*¹⁸¹

*Up to date I cannot say we have been given a real valid reason for this, except to be told it is for a much better choice. This I cannot believe, if that is the case the choice would be for no change as the present arrangements work well and they are very happy.*¹⁸²

None of us would be 'bucking the proposal' if we did not have real, serious concerns.

*It is not fear of change per se, but the problems and negative impact that Transition will have on our group's children.*¹⁸³

- 3.40 The Minister for Disability Services, Hon Helen Morton MLC, pointed out that in Western Australia, the non-government sector currently provides 85 per cent of accommodation support for people with a disability.¹⁸⁴
- 3.41 Approximately 60 per cent of DSC's accommodation service will be transitioned to the non-government sector and this will enable clients to access additional options to a group home, such as smaller shared living arrangements and supported individual accommodation.¹⁸⁵
- 3.42 The government consulted peak bodies (including consumer representative groups) and non-government organisations (NGOs) about the initial decision to commence the transition process, and further consultation occurred regarding how individuals will be

¹⁷⁹ Submission from Terry and Jo Donnellan, 11 August 2014, p 3.

¹⁸⁰ Submission from Dr Wendy Naunton, 2 August 2014.

¹⁸¹ Submission from Gail Russell and Sharon Salmon, dated 8 August 2014, p 2.

¹⁸² Submission from Pamela Bell, 14 August 2014.

¹⁸³ Submission from Lyrebird Parent Group, 7 August 2014, p 2.

¹⁸⁴ Hon Helen Morton MLC, Minister for Disability Services, letter, 8 September 2014, p 2.

¹⁸⁵ *ibid.*

prioritised. An information officer position was funded by the government and the DSC provided regular updates and information sessions on the process.¹⁸⁶

- 3.43 The Minister emphasised that the transition for each individual would be carefully planned and suited to the individual's needs, with no set time frames:

*Families and advocates will be closely involved in how the change-over of supports happens, and the planning of the broader transition process. Staged, slow changes of staff with hand-over periods and the potential for secondments of Government staff to non-government organisations are all available.*¹⁸⁷

- 3.44 The Minister confirmed that there would not be a reduction in service standards, lower staff-to-client ratios or changes to the level of training and support for staff.¹⁸⁸

- 3.45 The Committee conducted separate hearings with the DSC and with a group of non-government service providers.

- 3.46 The DSC outlined the changes that have occurred in accommodation services for people with disabilities over the last few decades, including the growth of the non-government sector. The Committee was told that while changes to living arrangements tend to cause initial anxiety for clients and their families, their concerns are usually short-lived and families are reassured when they see the quality of care given by the new service providers.¹⁸⁹

- 3.47 The DSC explained that accommodation services for people with disabilities have never been totally static—there will always be some degree of change:

*We are in a constant state of movement in our accommodation service. This is another perception that is there that we have this fixed arrangement with 100 group homes and everyone has been there for years or decades and there is no change. We have a constant movement, and we also have a constant movement of staff in those group homes. Change happens now. People move around to different group homes. Some people pass away, they age, and we are constantly reconfiguring where people are living within that group home environment. It will be no different to that.*¹⁹⁰

¹⁸⁶ *ibid.*, p 3.

¹⁸⁷ *ibid.*, p 4.

¹⁸⁸ *ibid.*

¹⁸⁹ Dr Ronald Chalmers, Director General, Disability Services Commission, *Transcript of Evidence*, 15 October 2014, p 2.

¹⁹⁰ *ibid.*, p 4.

- 3.48 The DSC decided that the transition process would be managed with individual clients, in a gradual way. Consequently, detailed information was not provided to all DSC clients and their families, since it would not necessarily be applicable to their situation:

*The moment you commit to that [individual] approach, you have to tailor your information flow and your communication to match that person-by-person approach. People are now saying, “We just don’t know about all of the detail of how this is going to concern me and my loved one”, but it might well be that that person and that loved one will not be moving, so why would you want to shower an individual or a family with a whole heap of detailed information, which may, in fact, not be needed by them? So we committed to information at a point where the individual, the family would be needing that information.*¹⁹¹

- 3.49 The transition process will be gradual and individual in nature and it will ‘take as long as it takes, tailored on the needs of the individuals for transition.’¹⁹²
- 3.50 The Committee was assured that quality of care would not be compromised and that the DSC’s quality assurance system was also applied to NGOs with the same level of rigour.¹⁹³
- 3.51 A hearing with a selection of NGOs involved in the transition process—Rocky Bay, Activ Foundation and Nulsen Disability Services—provided the Committee with practical, first-hand information about the progress of the transition process to date. Each of the organisations reported that the process was proceeding smoothly:

*It has gone really smoothly from our point of view and I think also the families from their feedback...We are not aware at the beginning of how long the transition will take. It really does depend upon how well the individuals who live in the accommodation actually manage with that transition process. The transition could take two weeks to six or eight weeks—who knows? There is no definitive on that.*¹⁹⁴

- 3.52 Nulsen Disability Services provided the Committee with two testimonials from families that have experienced the transition process. Wayne and Linda Johnson are the parents of two men with intellectual disabilities, both of whom were in DSC group homes until recently, and Nola Barrett’s brother was in one of the first DSC homes to

¹⁹¹ *ibid.*, p 6.

¹⁹² *ibid.*, p 7.

¹⁹³ *ibid.*, p 9.

¹⁹⁴ Jane Edmond, Director, Rocky Bay, *Transcript of Evidence*, 18 March 2015, p 2.

undergo the transition process. For both families, the initial anxiety and fear regarding the transition has been replaced with relief and satisfaction with the care that their loved ones are receiving:

*we are confident of a happy and well cared for future for our boys.*¹⁹⁵
(Wayne and Linda Johnson)

*Not only is Kevin a part of this great Family, but we all feel part of this wonderful Nulsen Family. Our whole family feel like they are going to Kevin's family home, not just the place where he lives.*¹⁹⁶
(Nola Barrett)

3.53 The NGOs confirmed that they have the experience and capability to deal with clients with a range of needs:

*for us these people have a range of complex disabilities which fits our mandate, so there is no difference. We have people with challenging behaviour and people with high medical health needs/supports, or a variant of both, it is just the same.*¹⁹⁷

3.54 Some of the submissions from family members expressed concern about the long-term care of their relatives, particularly in relation to the effect of aging or illness on their residential care needs and their level of dependency. The NGOs that appeared before the Committee assured Members that a commitment is made to their clients:

- Nulsen Disability Services:

*In Nulsen's constitution there is a governing principle that says that we make a commitment to people for the term of their life or for as long as they want to receive the services of Nulsen. There is another governing principle which actually relates and directs the organisation to change the service mix and service model in order to cater for that changed need. So there are two particular governing principles, which mean that we need to stand by the people.*¹⁹⁸

- Rocky Bay:

we have an 80-year history of transitioning people and ageing in place, so it has been very much a part of our make-up and

¹⁹⁵ Wayne and Linda Johnson, testimonial, 17 March 2015.

¹⁹⁶ Nola Barrett, to Nulsen Disability Services, email, 16 March 2015.

¹⁹⁷ Gordon Trewern, Chief Executive Officer, Nulsen Disability Services, *Transcript of Evidence*, 18 March 2015, p 6.

¹⁹⁸ *ibid.*, pp 7–8.

*particularly where for probably 25 or 30 years we were the go-to charity for neuromuscular and neurological conditions where degeneration and premature death is very likely.*¹⁹⁹

- Activ Foundation:

*We have not abandoned anybody in our 63 years, and we would not do that.*²⁰⁰

3.55 The Committee concluded its inquiries on 6 May 2015.

Petition 57—Gorgon project

3.56 This petition was tabled by Hon Kate Doust MLC and contained 4790 signatures. The petition requested that the Legislative Council investigate and report on the performance of Chevron and its contractors in complying with clause 15 of the Gorgon Gas Processing and Infrastructure Project Agreement:

*which requires Australian labour and local suppliers to be given preference in the construction and operation of the Gorgon project.*²⁰¹

3.57 The Committee received responses to the petition from the Premier and the Minister for Commerce and obtained information about the Gorgon Local Content Steering Committee from the Department of State Development (DSD).

3.58 The Premier explained that the DSD is responsible for ensuring Gorgon Joint Venturers comply with their obligations under the terms of the project agreement:

The primary mechanism by which the Department monitors the GJV's [Gorgon Joint Venturers] compliance is an assessment of the Clause 15(3) Quarterly Local Reports and the Gorgon Australian Industry Participation Annual Summary Report, in conjunction with the Gorgon Local Content Steering Committee (GLCSC).

*The reports are evaluated against the GJV's commitments in their development proposals under the Agreement.*²⁰²

3.59 The Premier's response also addresses the concerns expressed about a lack of transparency in reporting details of local content:

¹⁹⁹ Michael Tait, Chief Executive Officer, Rocky Bay, *Transcript of Evidence*, 18 March 2015, p 8.

²⁰⁰ Tony Vis, Chief Executive Officer, Active Foundation, *Transcript of Evidence*, 18 March 2015, p 8.

²⁰¹ Tabled Paper 1836, Legislative Council, 10 September 2014.

²⁰² Hon Colin Barnett MLA, Premier and Minister for State Development, letter, 17 November 2015, Enclosure, p 1.

Business information exchanged between Government and industry in respect to State Agreement matters has traditionally been dealt with confidentially as it contains current commercial data.

*The GLCSC operates under a [sic] Terms of Reference negotiated with the GJV to ensure the confidentiality of the local content reports and the information provided during meetings. The information includes costings of contracts awarded and forecasts for procurement and contract requirements, for the purpose of confirming the GJV's compliance with the clause 15 requirements.*²⁰³

- 3.60 Quarterly Local Reports are reviewed by the DOC and aggregate data from these reports are tabled in Parliament by the Minister for Commerce on a six-monthly basis. Primarily, these Quarterly Local Reports assist the DOC in monitoring trends in the construction and operation of projects and benchmarking local content for particular commodity sectors.²⁰⁴ The Premier further explained that:

The criteria used by DoC for determining the proportion of local content is consistent with the Australian Industry Participation National Framework. Companies or businesses holding an ACN or ABN are Australian companies and the work that they undertake and the people that they employ within Western Australia constitute local content.

*Additionally, the fabrication of steel products by local manufacturing businesses using imported steel may also be considered local content.*²⁰⁵

- 3.61 Finally, the Premier's advice to the Committee was that the Gorgon Joint Venturers are in compliance with their clause 15 obligations.²⁰⁶

- 3.62 The Minister for Commerce stated that the DOC and the DSD:

*have been extremely active in their advocacy of the importance of supporting local industry in onshore based LNG processing projects like Gorgon and Wheatstone.*²⁰⁷

- 3.63 The Committee finalised its inquiries on 25 March 2015. However, the Committee provided the Auditor General with a copy of the petition, submissions and government

²⁰³ *ibid.*, p 3.

²⁰⁴ *ibid.*, p 2.

²⁰⁵ *ibid.*, p 3.

²⁰⁶ *ibid.*, p 4.

²⁰⁷ Hon Michael Misichin MLC, Minister for Commerce, letter, 11 November 2015, p 3.

responses on the basis that the adequacy of government reporting and monitoring of compliance with the local content requirements of State Agreements may warrant further investigation by his office.

Petition 61—Housing conditions Warralong community

3.64 This petition was tabled by Hon Stephen Dawson MLC and contained 51 signatures.²⁰⁸ The petition requested that the Legislative Council support the provision of urgent government assistance and attention in rectifying the housing conditions at the Warralong Community. More specifically, the petitioners sought a working relationship between the Department of Housing, via a dedicated officer, and the Warralong Community Committee in addressing the following issues:

- failure to provide a clean and safe living environment for community residents
- overcrowding of occupancy in each house
- basic housing maintenance issues
- the lack of regular tenancy housekeeping development sessions
- the absence of general weekly rubbish removal and clean up of community before cyclone season
- lack of planning to expand the community.

3.65 The principal petitioner, Mr Kevin Fred, Chairperson of the Karntimarta Aboriginal Corporation, submitted that residents in the community are concerned that:

*a number of agencies are getting funding to provide services at Warralong that...[they]...don't believe are being delivered.*²⁰⁹

3.66 The Committee received responses to the petition from the Ministers for Aboriginal Affairs and Housing. The Minister for Housing advised that the Department of Housing (DOH) is satisfied that Pilbara Meta Maya, which is contracted by the DOH to provide housing management and tenancy support services to 11 of the 16 properties in the community, is meeting its contractual responsibilities and obligations.²¹⁰

3.67 The Minister outlined the action taken by the DOH to address residents' concerns since the petition was tabled in the Parliament:

²⁰⁸ Tabled Paper 1996, Legislative Council, 24 September 2014.

²⁰⁹ Submission from Kevin Fred, principal petitioner, 30 October 2014, p1.

²¹⁰ Hon Colin Holt MLC, Minister for Housing, letter, 24 March 2015, p 1.

*The Department of Housing and PMM have met with the Warralong community on several occasions since the protest day [20 September 2014]. All of their basic housing concerns are being addressed and an undertaking was given by the Department to continue consultation with the community.*²¹¹

- 3.68 Pilbara Meta Maya is also currently funded by the Commonwealth Government to deliver municipal and essential services, including a fortnightly rubbish collection. The Minister for Housing advised that Pilbara Meta Maya is exceeding its contractual obligations in this regard.²¹² However, Pilbara Meta Maya has reported to the Department of Aboriginal Affairs (DAA) that it has experienced difficulties in obtaining cooperation from members of the community in relation to arranging pre-cyclone clean-ups.²¹³
- 3.69 With respect to overcrowding and the expansion of the community, the Committee was advised that there are no plans for additional houses to be built in 2015–2016. However, any future investment in remote communities across Western Australia will involve consultation with their residents. Such consultation was due to commence in the months after the Minister for Housing’s letter.²¹⁴
- 3.70 The petition was finalised on 6 May 2015.

Petition 63—Police taskforce Port Hedland

- 3.71 This petition was tabled on 14 October 2014 by Hon Stephen Dawson MLC and contained 644 signatures. The petition requested that the Legislative Council support the assignment of a special police taskforce to Port Hedland to investigate claims of recently increased criminal activity and antisocial behaviour in the town, with a particular emphasis on drug-related crime.²¹⁵
- 3.72 The principal petitioner, Mr Christopher Turland, advised that the petition had been arranged in response to the ‘*public outcry*’ on social media against crimes in the area and consistent newspaper reports about drug-related crime.²¹⁶
- 3.73 The Minister for Police informed the Committee that extra police resources had been provided to Port Hedland to tackle the increase in crime, and ongoing police operations are targeting the sale and use of drugs. At the time, the Minister considered

²¹¹ *ibid.*

²¹² *ibid.*, p 2.

²¹³ Hon Peter Collier MLC, Minister for Aboriginal Affairs, letter, 13 January 2015, p 1.

²¹⁴ Hon Colin Holt MLC, Minister for Housing, letter, 24 March 2015, p 2.

²¹⁵ Tabled Paper 2110, Legislative Council, 14 October 2014.

²¹⁶ Submission from Christopher Turland, principal petitioner, 6 November 2014, p1.

that a police taskforce was unnecessary. The Minister also advised that a senior police officer had contacted Mr Turland to discuss his concerns and brief him on the police response to these issues.²¹⁷

3.74 The Committee concluded its inquiries into the petition on 16 February 2015.

Petition 64—Canal estate developments

3.75 This petition, tabled by Hon Lynn MacLaren MLC, contained 460 signatures.²¹⁸ The petition opposed the construction of proposed canal estate developments at Point Peron and Ocean Reef on the basis of environmental risks, ‘*inevitable*’ damage from extreme weather events, insurance difficulties for nearby property owners and economic costs. The petitioners requested that the Legislative Council:

- legislate to ban canal estate developments in Western Australia in line with New South Wales and Victoria
- recommend that the State Government ensure the construction of marinas to address any shortfall in boat pens.

3.76 The petition related specifically to the proposed development of the Mangles Bay Marina in Rockingham and the redevelopment of the Ocean Reef Marina. In addition to a submission from the principal petitioner, Ms Leisha Jack, the Committee received supportive submissions from five members of the public.

3.77 The Committee noted that both developments are subject to planning and environmental assessment processes, which are outlined in detail in the government responses to the petition from the Ministers for Environment, Transport and Planning and the Cities of Joondalup and Rockingham. In addition, the WAPC’s *Development Control Policy 1.8: Canal Estates and Artificial Waterway Developments* provides a framework for assessing and managing the impacts of these types of developments on the marine and coastal environments.

3.78 In relation to the Ocean Reef Marina redevelopment, the government responses noted that the proposal is not considered to be a canal estate.²¹⁹ Importantly, the assessment and approval processes, which include public consultation, were not yet complete. The City of Joondalup submitted that, consistent with the petition’s second request, the

²¹⁷ Hon Liza Harvey MLA, Minister for Police, letter, 31 December 2014.

²¹⁸ Tabled Paper 2111, Legislative Council, 14 October 2014.

²¹⁹ Garry Hunt, Chief Executive Officer, City of Joondalup, letter, 9 December 2014, p 2, Hon Dean Nalder MLA, Minister for Transport, letter, 23 December 2014, p 1 and Hon John Day MLA, Minister for Planning, letter, 11 December 2014, p 1.

completion of the Ocean Reef Marina will assist the State Government in delivering a long-term supply of boat pens.²²⁰

- 3.79 With respect to the proposed Mangles Bay Marina, the EPA had completed its environmental impact assessment and submitted its recommendations to the Minister for Environment. In giving environmental approval for the proposal, the Minister advised that he had ‘*strengthened*’ some of the conditions recommended by the EPA.²²¹ The Committee noted that the City of Rockingham’s response to the petition addressed Ms Jack’s concern about the burden of canal developments on local government,²²² as follows:

*Until (and if) the City is satisfied that the management of the marina will not expose the City to inappropriate financial risk, and all the elements of the management are fully understood, it will not enter into the requisite Deed of Agreement [with the proponent]. The City has stated its position to the proponent.*²²³

- 3.80 The Minister for Planning explained that both developments require a major amendment to the MRS. Such amendments include a statutory consultation period in which the public may make comment and the amendments will also be considered by the Parliament.²²⁴

- 3.81 The Committee finalised its consideration of this petition on 16 February 2015.

Petition 65—Metropolitan local councils

- 3.82 This petition was tabled on 16 October 2014 by Hon Simon O’Brien MLC and contained 1751 signatures. The petition requested that the Legislative Council urgently instigate an inquiry into the proposal to:

*abolish and completely restructure the existing, well founded community-based system of local government in the Perth Metropolitan area.*²²⁵

- 3.83 The principal petitioner, Professor Martyn Webb, submitted that any local government reform should have been implemented through a bill, thereby allowing the Parliament an opportunity to debate the proposal. The planned reforms should only have been put

²²⁰ Garry Hunt, Chief Executive Officer, City of Joondalup, letter, 9 December 2014, p 3.

²²¹ Hon Albert Jacob MLA, Minister for Environment, letter, 17 December 2014, p 1.

²²² Submission from Leisha Jack, principal petitioner, 14 November 2014, p 1.

²²³ Andrew Hammond, Chief Executive Officer, City of Rockingham, letter, 3 December 2014, p 1.

²²⁴ Garry Hunt, Chief Executive Officer, City of Joondalup, letter, 9 December 2014, p 2.

²²⁵ Tabled Paper 2162, Legislative Council, 16 October 2014.

forth after sufficient public consultation and research, including evaluating the current local government system and comparing it to those in other jurisdictions.²²⁶

3.84 The Minister for Local Government advised the Committee of:

- the ‘*extensive and detailed studies*’ which have been conducted on this issue over many years—in particular, and most recently, the independent Local Government Advisory Board’s Metropolitan Local Government District Inquiries;²²⁷ and
- the Supreme Court’s 25 November 2014 dismissal of two challenges to the legality of the local government reform process.²²⁸

3.85 Soon after considering the Minister’s response, the Committee became aware that the Government had put its plans for local government reform on hold and boundary adjustments would only proceed with the support of the affected councils. Any Governor’s orders for mergers which are not supported would be revoked.²²⁹ In light of these developments, the Committee resolved to conclude its inquiries into this matter and finalise the petition on 25 February 2015.

Petition 66—Lamp Inc

3.86 This petition, tabled by Hon Adele Farina MLC, contained 1029 signatures and requested that the Legislative Council support the continuation of government funding for Lamp Inc, a:

*provider of high quality support services to people with mental illness, their families and carers in the lower South West, including early intervention and preventative programs.*²³⁰

3.87 The petitioners also requested an inquiry into the impact of:

- the removal of ‘*block funding*’²³¹ for not-for-profit service providers, their clients and the community

²²⁶ Submission from Professor Martyn Webb, principal petitioner, 18 November 2014, pp 1 and 2.

²²⁷ Hon Tony Simpson MLA, Minister for Local Government, letter, 18 December 2014, p 2.

²²⁸ *ibid.*

²²⁹ Hon Colin Barnett MLA, Premier, and Hon Tony Simpson MLA, Minister for Local Government, *Media Statement: Future of LG reform now rests with councils*, 17 February 2015.

²³⁰ Tabled Paper 2163, Legislative Council, 16 October 2014.

²³¹ Defined as: ‘*where a government or contracted service provider is funded to provide a defined disability support type to a defined number of people or as many people as they can*’: Australian Government, Department of Families, Housing, Community Services and Indigenous Affairs, *Occasional Paper No. 29: Effectiveness of individual funding approaches for disability support*, 2010, p 7.

- the current implementation of the National Disability Insurance Scheme on the long-term sustainability of not-for-profit mental health service providers.
- 3.88 The principal petitioner, Ms Lorrae Loud, Chief Executive Officer of Lamp Inc, advised the Committee that the organisation's Commonwealth funding was being reduced and its sources of government funding were changing.
- 3.89 After Lamp Inc was included in the National Disability Insurance Scheme 'My Way' trial,²³² it was told that its Commonwealth Department of Social Services block funding would cease after December 2014:

*In real terms this equates to the closure of the entire Warren-Blackwood Centre/services, one third of the Augusta/Margaret River services and the entire Youth and Indigenous Youth and Family Connect programs.*²³³

- 3.90 Lamp Inc informed the Committee that the Indigenous Youth and Family Connect Program, along with the Youth in School and Community Outreach Program, was one of the services in highest demand.²³⁴
- 3.91 In addition, Lamp Inc understood that the majority of people with a mental illness, and their families, who currently engage and receive services from government-funded organisations are not eligible for the National Disability Insurance Scheme. If the government block funding for these organisations ceased, these people would have few, or no alternative, options for accessing mental health services.²³⁵
- 3.92 Hon Adele Farina advised the Committee that the funding model for the National Disability Insurance Scheme is shifting from block funding to individualised, client-based funding. The Member cited statistics showing that relatively few people with a mental illness will be eligible for scheme funding. This means that more and more people with a mental illness will require assistance from block-funded service providers if the scheme continues to shift to an individualised funding model. However, the Member argued that a simultaneous fall in the level of block funding in this industry will result in a dramatic overall reduction in publicly-funded mental health services.²³⁶

²³² Australian Government, Disability Services Commission, *My Way – the history*. Available at: <http://www.disability.wa.gov.au/wa-ndis-my-way/wa-ndis-my-way/my-way--the-history/>. Viewed 20 October 2015.

²³³ Submission from Lamp Inc, 12 November 2014, p 2.

²³⁴ *ibid.*, p 1.

²³⁵ *ibid.*, p 2.

²³⁶ Submission from Hon Adele Farina MLC, tabling Member, undated, p 2.

- 3.93 In relation to a National Disability Insurance Scheme ‘My Way’ trial in the lower south west, Hon Adele Farina informed the Committee that:

less than 2% of trial participants are seeking mental health services. If funding is only delivered on a per client basis, the number of participants is not enough to sustain even one mental health service provider. Without block funding to complement the client focussed funding model, many services will cease to exist.

Longer running NDIS trials elsewhere in the country show the number of eligible participants with a mental health illness is unlikely to ever reach a critical mass that is adequate to support the ongoing sustainability of mental health services without additional block funding.²³⁷

- 3.94 The Minister for Mental Health explained that the State Government continues to fund mental health services in the South West and provided details of the funding given to Lamp Inc until June 2016.²³⁸ The Minister also addressed the broader issues of Commonwealth block funding and the National Disability Insurance Scheme, saying that:

It would also be premature to inquire into the short or long term impact of cashing out mental health programs to fund the NDIS, as it is unclear which, if any, of the Commonwealth-funded programs will be cashed out in Western Australia in 2015/16.²³⁹

- 3.95 The petition was finalised on 16 February 2015.

Petition 67—Kwinana bushland

- 3.96 This petition was tabled on 23 October 2014 by Hon Lynn MacLaren MLC and contained 373 signatures. The petition requested that the Legislative Council recommend to the Government that residential development on bushland surrounded by Gilmore, Challenger and Meares Avenues and Wellard Road, Kwinana, be ceased and for this bushland to be declared a nature reserve.²⁴⁰
- 3.97 The Committee did not receive a supporting submission and the petition was finalised on 16 February 2015.

²³⁷ *ibid.*

²³⁸ Hon Helen Morton MLC, Minister for Mental Health, letter, 14 January 2015, Enclosure, p 1.

²³⁹ *ibid.*, p 2.

²⁴⁰ Tabled Paper 2194, Legislative Council, 23 October 2015.

Petition 68—Royal Association of Justices of WA (Inc)

3.98 This petition, tabled by Hon Ljiljanna Ravlich MLC, contained 1813 signatures. It requested that the Legislative Council recommend that the State Government reinstate the financial support which had been given to the Royal Association of Justices of WA (RAJWA).²⁴¹

3.99 The RAJWA submitted that it requires annual funding of \$50 000 to maintain an adequate level of support and training for its members.²⁴² It is one of the voluntary membership associations available to Justices of the Peace (JP) in Western Australia, assisting its members with:

*the performance of their important and highly regarded voluntary community service. This is achieved by the provision of ongoing education and professional development...and support at individual, local and collegiate levels.*²⁴³

3.100 A JP is a voluntary and statutory position. Holders of the position can perform court and/or judicial functions (such as presiding in court and bail applications) and community functions (for example, issuing search warrants and witnessing documents such as affidavits and statutory declarations).²⁴⁴

3.101 The Attorney General advised the Committee that the Department of the Attorney General (DOTAG) is the agency responsible, through its Justice of the Peace Branch, for the appointment and coordination of the training of JPs throughout the State.²⁴⁵ In response to the 2009 State Coroner's inquest into the death of Mr Ward, the DOTAG has improved its provision of training to JPs, particularly those who perform judicial and/or court functions:

*Formal training delivered to JPs across the State is now managed by a JP Training Committee. Its role is to identify and communicate JP training needs and to facilitate and monitor the effective delivery of JP training in WA. The committee is comprised of the Deputy Chief Magistrate, JP Branch staff, DotAG senior managers, Central Institute of Technology (CIT), a representative from RAJWA and a JP from a country location.*²⁴⁶

²⁴¹ Tabled Paper 2250, Legislative Council, 18 November 2014.

²⁴² Submission from the Royal Association of Justices of Western Australia (Inc), 9 December 2014, p 2.

²⁴³ *ibid.*, p 1.

²⁴⁴ Hon Michael Mischin MLC, Attorney General, letter, 1 April 2015, p 1.

²⁴⁵ *ibid.*

²⁴⁶ *ibid.*, p 2.

3.102 The Attorney General detailed the types of JP training provided by the DOTAG, noting that the department's website is the '*central source of relevant and accurate information and training material for JPs.*'²⁴⁷ In November 2014, the Auditor General reported that:

*Comprehensive training is provided to all applicants **before** they are appointed as a JP and JPs presiding in Court are trained annually.*
[Committee emphasis]²⁴⁸

3.103 However, while all existing JPs are provided with the opportunity to receive training, JPs performing community functions are not required to receive ongoing training after they are appointed. In fact:

*a random sample of 100 JPs found that 58 had not done any voluntary training in the past three years.*²⁴⁹

3.104 The Attorney General advised that a DOTAG project had been established to implement those recommendations of the Auditor General's report which have been endorsed by the State Government.²⁵⁰

3.105 While the RAJWA receives government support for accommodation, communications and facilities, the Attorney General explained that, from 2014, the DOTAG:

*will only consider applications for financial support of up to \$10,000 for specific projects that further the training and development outcomes for JPs and that a business case to secure funds should be submitted.*²⁵¹

3.106 DOTAG advised the RAJWA of this support in February 2014. It was also notified that up to \$10 000 had been provisionally authorised as a contribution to its centenary celebrations in March 2017, subject to the provision of a business case. As at the date of the Attorney General's letter, the RAJWA had not provided that business case.²⁵²

3.107 The Committee finalised the petition on 22 April 2015.

²⁴⁷ *ibid.*

²⁴⁸ Office of the Auditor General Western Australia, Report 21, *Training and Support for Justices of the Peace*, November 2014, p 14.

²⁴⁹ *ibid.*, p 12.

²⁵⁰ Hon Michael Mischin MLC, Attorney General, letter, 1 April 2015, p 3.

²⁵¹ *ibid.*, p 4.

²⁵² *ibid.*, p 4.

Petition 70—WA truck drivers' workplace safety

3.108 This petition was tabled on 25 November 2014 by Hon Kate Doust MLC and contained 1005 signatures.²⁵³

3.109 The petition expressed concern about the number of truck driver deaths per year and called for better working conditions including adequate rest stop facilities on major freight routes. According to the submission from the Transport Workers Union (TWU):

*The number of Truck driver fatalities on roads each year are increasing. I believe that this is an appropriate time to investigate some of the causes behind these truck driver fatalities, such as fatigue, rosters, shift periods, the spacing of rest breaks and access to appropriate rest break facilities, as well as placement of the rest break facilities around the state.*²⁵⁴

3.110 The petitioners believe that accidents involving truck drivers should be recorded as workplace accidents (rather than simply a road traffic statistic) and investigated by WorkSafe Western Australia (WorkSafe):

*Under the present system, there is little capacity for the industry as a whole to determine causes of workers' fatalities, and to identify solutions that may make the work safer, and reduce or prevent driver deaths on the roads.*²⁵⁵

3.111 The Minister for Police advised the Committee that when a truck is involved in a traffic accident, WorkSafe is able to request access to the police investigation files to assist its inquiries.²⁵⁶ Additionally, further assistance from the WA Police is available if required:

*If Worksafe WA determines that it wishes to increase investigations into fatal and serious truck collisions that occur on roads then WA Police will work with them to facilitate a mechanism to notify the regulator when an investigation is being conducted that may meet their criteria.*²⁵⁷

²⁵³ Tabled Paper 2303, Legislative Council, 25 November 2014.

²⁵⁴ Submission from Tim Dawson, Secretary, Transport Workers Union of Australia, 22 December 2014, p 1.

²⁵⁵ *ibid.*, p 2.

²⁵⁶ Hon Liza Harvey MLA, Minister for Police, letter, 20 March 2015, p 1.

²⁵⁷ *ibid.*

- 3.112 The Minister for Commerce explained that truck driver fatalities are not recorded as workplace deaths because they may be the result of factors beyond the employer's control:

*Making improvements to a public road or modifying the behaviour of other road users are outside an employer's control—it is not practicable for an employer to implement control measures for matters of public safety. If a control measure is not practicable, an employer cannot be held accountable for failing to implement it and WorkSafe has no statutory power to take action against them.*²⁵⁸

- 3.113 The inclusion of all road statistics in workplace statistics would also have unhelpful consequences:

*The inclusion of all on-duty injuries or deaths of truck drivers as work-related would inflate the statistics for work-related deaths and injuries when there is no practicable means for workplace participants to address or mitigate the causes. Inflated figures may result in a misallocation of government resources to deal with hazards that lie outside the scope of the OSH Act.*²⁵⁹

- 3.114 In relation to roadside facilities, the Minister for Transport informed the Committee that under the Heavy Vehicle Safety and Productivity Program, funds are being provided to improve roadside facilities including building new rest stops and upgrading existing ones, and the construction of new layover bays. Main Roads WA is also working with commercial operators to encourage more investment in roadhouse facilities.²⁶⁰

- 3.115 The Committee concluded its inquiries into the petition on 6 May 2015.

Petition 71—Proposed Wellington Street bus tunnel

- 3.116 This petition was tabled on 25 November 2015 by Hon Ken Travers MLC and contained 6 signatures.²⁶¹

- 3.117 The petition opposes the construction of the Wellington Street bus tunnel entrance in front of a vehicle entrance to Raine Square. The petitioners claim that the commercial operators in Raine Square will be adversely affected and they request that the Legislative Council recommends to the government that the proposed development application be rejected and other options considered.

²⁵⁸ Hon Michael Mischin MLC, Minister for Commerce, letter, 16 March 2015, p 1

²⁵⁹ *ibid.*, pp 1–2.

²⁶⁰ Hon Dean Nalder MLA, Minister for Transport, letter, 26 March 2015, pp 1–2.

²⁶¹ Tabled Paper 2304, Legislative Council, 25 November 2014.

- 3.118 The submission from Mr Alf Wilson, the Director of Parkwise public car park, outlines a number of direct and indirect impacts the proposed tunnel entrance will have on business operators, particularly a redirection of traffic through a circuitous loop that will discourage the public from using the Raine Square car park. The petitioners are disappointed that business operators in Raine Square were not consulted about the proposed development.²⁶²
- 3.119 The Minister for Transport advised that the matter was the subject of legal proceedings brought against the Public Transport Authority by the principal petitioner.
- 3.120 Following consideration of the information obtained, and given the ongoing legal proceedings, the Committee concluded its inquiries into the petition on 6 May 2015.

Petition 73—Regional transport services

- 3.121 This petition was tabled on 25 November 2014 by Hon Darren West MLC and contained 198 signatures.²⁶³
- 3.122 The petition opposes the closure of the Tier 3 rail lines and requests the Legislative Council investigate the decision and reinstate all recently withdrawn country transport systems.
- 3.123 The closure of Tier 3 rail lines has been the subject of inquiry by this Committee (Report 26, *Petition No 145—Closure of Tier 3 Rail Lines in the Central Wheatbelt*) and others, including most recently, the Legislative Assembly's Economics and Industry Standing Committee.²⁶⁴
- 3.124 The Minister for Transport, Hon Dean Nalder MLA, explained that:

*The operation and investment in the rail network is primarily a commercial matter between Brookfield Rail and its customers. This was the original purpose of leasing the rail network. Tier 3 rail lines could be recommissioned, should demand justify the required investment. However, neither Brookfield rail (Brookfield) nor Cooperative Bulk Handling (CBH) have indicated they are willing to make the necessary investment.*²⁶⁵

- 3.125 The Minister indicated that the government was willing to discuss the possible re-commissioning of Tier 3 lines:

²⁶² Submission from Alf Wilson, Director, Parkwise, 28 January 2015, pp 1–3.

²⁶³ Tabled Paper 2306, Legislative Council, 25 November 2014.

²⁶⁴ Western Australia, Legislative Assembly, Economics and Industry Standing Committee, Report 3, *The Management of Western Australia's Freight Rail Network*, 16 October 2014.

²⁶⁵ Hon Dean Nalder MLA, Minister for Transport, letter, 7 April 2015, p 1.

*The Government has communicated its willingness to engage in discussion to determine whether a viable business case for recommissioning the Tier 3 lines can be developed, or alternatively consider an industry proposal that adheres to Treasury requirements. To date the Government has not received a proposal that meets these requirements. A proposal for further public investment in the lease rail network will need to be assessed against other budget, Royalties for Regions and public priorities.*²⁶⁶

3.126 The Committee concluded its inquiries into the petition on 22 April 2015.

Petition 74—Mowen Forest logging

3.127 This petition was tabled on 26 November 2014 by Hon Lynn MacLaren MLC and contained 7285 signatures.²⁶⁷

3.128 The petition opposes the Forest Products Commission's (FPC) plans to log 1610 hectares of the forest and requests that the Legislative Council support the protection of Mowen Forest from all logging operations.

3.129 A submission from the principal petitioner contends that logging should not occur in Mowen Forest because:

- it is home to a number of threatened species
- logging has a known effect on climate change and water
- a comprehensive Aboriginal heritage survey has not been conducted
- logging provides inadequate returns to justify the potential damage to the forest.²⁶⁸

3.130 The Minister for Forestry explained that the FPC only carries out logging in areas identified by the Forest Management Plan 2014–2023 (FMP). The FMP was developed over a period of two years and involved consultation and input by government agencies, independent experts and stakeholders, including conservation groups:²⁶⁹

The decision to make areas of forest available for timber harvesting is done through the FMP. Once the Minister for Environment signs off

²⁶⁶ *ibid.*, p 2.

²⁶⁷ Tabled Paper 2335, Legislative Council, 27 November 2014.

²⁶⁸ Submission from Naomi Godden, Save Mowen Forest, 29 December 2015, pp 1–2.

²⁶⁹ Hon Mia Davies MLA, Minister for Forestry, letter, 26 March 2015, p 1.

the FMP it is a legal document that governs forest management. The FPC enters into contracts on the basis of being able to access the forest that is available for timber harvesting.

*The FPC is undertaking timber harvesting in the Mowen Coupes as permitted under the FMP. While some community members would prefer this did not occur, the area being harvested has been assessed as available after consideration of many factors.*²⁷⁰

3.131 The Office of the Appeals Convenor investigated appeals in relation to the FMP and the resulting report to the Minister for Environment considered many of the issues raised in the petition at length.²⁷¹ The Minister for Environment's Appeal Determination of 21 November 2013, which allowed the appeals in part, added further conditions to the implementation statement related to management activities.²⁷²

3.132 The Minister for Forestry informed the Committee that strict policies and procedures govern logging activities and a detailed review of forest values (such as the presence of threatened species) must be conducted before logging commences:

*Harvesting is managed to preserve important habitat elements including mature trees with hollows (habitat trees and potential habitat trees), hollow logs, and secondary storey plants.*²⁷³

3.133 The Committee concluded its inquiries on 6 May 2015.

Petition 75—Pilbara Institute (TAFE) funding cuts

3.134 This petition was tabled on 2 December 2014 by Hon Stephen Dawson MLC and contained 43 signatures.²⁷⁴

3.135 The petition opposes a reduction in the budget of the Pilbara Institute (TAFE) on the basis that it will adversely impact on the courses and support services offered to students in the Pilbara. The petitioners request the Legislative Council investigate the impact of the funding cuts and make recommendations to the government on measures that will enhance learning opportunities in the Pilbara.

²⁷⁰ *ibid.*, pp 4–5.

²⁷¹ Appeals Convenor, *Report to the Minister for Environment, Appeals in Objection to the Report and Recommendations of the Environmental Protection Authority, Proposed Forest Management Plan 2014–2023, EPA Report 1483 (Assessment 1921)*, September 2013.

²⁷² Hon Albert Jacob MLA, Minister for Environment, *Minister's Appeal Determination, Appeals Against Report and Recommendations Proposed Forest Management Plan 2014–2023*, 21 November 2013, p 2.

²⁷³ Hon Mia Davies MLA, Minister for Forestry, letter, 26 March 2015, p 2.

²⁷⁴ Tabled Paper 2353, Legislative Council, 2 December 2014.

- 3.136 The principal petitioner, the Community and Public Sector Union (CPSU), emphasised the significance of regional TAFE colleges for the development of the economy and for social cohesion:

*The Pilbara Institute (PI) in particular is a key community asset and is integral to the ongoing development of the Pilbara region into a vibrant, inclusive, diverse and sustainable community. With a slowdown in the mining/construction industry, it is only logical that TAFE should be playing a key role in supporting the community to transition to jobs that can be maintained during a slowdown in mining activity.*²⁷⁵

- 3.137 The Minister for Training and Workforce Development, advised that TAFE colleges receive government funding through Delivery and Performance Agreement grants based on the projected level of training delivered. With the downturn in the mining industry in the Pilbara, there was a decline in demand for training in 2014.²⁷⁶
- 3.138 The Minister explained that the \$6.7 million referred to by the petitioners is not a funding cut but a forecast deficit based on anticipated training demand.²⁷⁷
- 3.139 The government compensates for the challenges of providing training in regional areas by providing additional support through a regional loading that is factored into the grants funding.²⁷⁸ Further support is also being offered:

*Pilbara Institute is currently adjusting its activities to meet the current level of training demand. I have requested that the Department of Training and Workforce Development support the Institute through this process.*²⁷⁹

- 3.140 The Committee concluded its inquiries into the petition on 6 May 2015.

Petition 76—Aboriginal Heritage Act 1972

- 3.141 This petition was tabled on 17 February 2015 by Hon Robin Chapple MLC and contained 20 signatures.²⁸⁰ The petition opposed the amendments to the *Aboriginal Heritage Act 1972* as proposed by the Aboriginal Heritage Amendment Bill 2014 on the basis that they are discriminatory and would detrimentally affect Aboriginal

²⁷⁵ Submission from Rob Sheehy, Community & Public Sector Union, 19 December 2014, p 2.

²⁷⁶ Hon Liza Harvey MLA, Minister for Training and Workforce Development, letter, 20 March 2015, p 1.

²⁷⁷ *ibid.*

²⁷⁸ *ibid.*, p 2.

²⁷⁹ *ibid.*

²⁸⁰ Tabled Paper 2450, Legislative Council, 17 February 2015.

heritage. The petitioners requested that the Legislative Council inquire into various matters, such as:

- whether the protections afforded to Aboriginal heritage in Western Australia are consistent with those in other parts of Australia
- whether these protections are consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* and other international standards
- the nature and extent of consultation with Traditional Owners when formulating the bill
- a proposed consultation framework for the development of legislation to replace the Act
- whether the amendments proposed by the bill will strengthen or weaken Aboriginal involvement in the administration of the Act
- whether the DAA has been carrying out its work appropriately.

3.142 The principal petitioner, the Kimberley Land Council, submitted that the amendments proposed by the bill would ‘*erode the rights of Indigenous people to protect their cultural heritage.*’²⁸¹ It claimed that the bill had attracted ‘*near-universal condemnation*’ from Traditional Owners.²⁸²

3.143 As this petition and Petition 80 raised very similar issues, the Committee sought a combined response from the Minister for Aboriginal Affairs in relation to both petitions. That Ministerial response and this petition is discussed further at paragraphs 3.153 to 3.156.

Petition 77—Fracking Gascoyne region

3.144 This petition was tabled on 17 February 2015 by Hon Robin Chapple MLC and contained 515 signatures.²⁸³ The petition requested that the Legislative Council recommend the prohibition of all unconventional gas extraction activities, including hydraulic fracturing, in the Gascoyne region, because of:

the unacceptable risk this activity poses to the community, environment and industry in this region.

²⁸¹ Submission from Kimberley Land Council, principal petitioner, 24 April 2015, p 1.

²⁸² *ibid.*, p 2.

²⁸³ Tabled Paper 2452, Legislative Council, 17 February 2015.

3.145 At the time, the Committee's inquiry into the Implications for Western Australia of Hydraulic Fracturing for Unconventional Gas was still on foot.²⁸⁴ Consequently, the Committee wrote to the principal petitioner, Mr Sonny Waker, and Hon Robin Chapple advising them of the inquiry and finalised the petition on 25 February 2015.

Petition 78—Taxation Legislation Amendment Bill

3.146 This petition, tabled on 17 February 2015 by Hon Michael Mischin MLC, contained two signatures. It requested that the Legislative Council amend the Taxation Legislation Amendment Bill (No. 2) 2014 in various ways to allow for land tax exemptions for land owners who lease property to, or 'share-farm' property with, third parties for '*legitimate qualifying primary production business purposes*'.²⁸⁵

3.147 At the petition's tabling date, the bill had already been considered and passed by the Parliament. Royal Assent was given on 25 February 2015.

3.148 As the bill had already been debated by the Parliament, the Committee resolved not to conduct further inquiries and the petition was finalised on 25 March 2015. However, the Committee forwarded the petition and the principal petitioner's submission to the Minister for Finance to advise him of the issues raised.

Petition 80—Aboriginal Heritage Act Amendment Bill 2014

3.149 This petition was tabled on three occasions by Hon Robin Chapple MLC and contained a total of 183 signatures.²⁸⁶ The petition opposed the Aboriginal Heritage Amendment Bill 2014 on the basis that its proposed amendments to the *Aboriginal Heritage Act 1972*:

- are '*mostly aimed at speeding up approval processes for industry*'
- will '*undermine Aboriginal heritage protection*'
- will further marginalise Aboriginal people from decisions about their heritage.

3.150 The petitioners requested that the Legislative Council withdraw the bill, establish an inquiry into the DAA's management of Aboriginal heritage in this state and form a select committee to develop a proper framework to reform the Act by:

²⁸⁴ Refer to Parliament of Western Australia, Legislative Council, Standing Committee on Environment and Public Affairs, Report 42, *Inquiry into the Implications for Western Australia of Hydraulic Fracturing for Unconventional Gas*, 17 November 2015.

²⁸⁵ Tabled Paper 2453, Legislative Council, 17 February 2015.

²⁸⁶ Tabled Papers 2592, 2706 and 3064, Legislative Council, 25 February 2015, 25 March 2015 and 11 August 2015, respectively.

- involving Aboriginal people in meaningful ways as custodians of Aboriginal heritage, not mere stakeholders
- by drawing from suggestions made by the ‘1995 Senior Review’, ‘1996 Evatt Review’ and ‘1997 Casey Review.’

3.151 The principal petitioner, Mr Clayton Lewis, highlighted the bill’s proposed reduction and/or exclusion of the participation of Aboriginal people and other Aboriginal heritage experts in the process that has been legislated for protecting Aboriginal heritage.²⁸⁷ Mr Lewis’ submission enclosed an opinion from Mr RI Viner AO QC, who described the bill as:

*truly bad legislation. The Bill is not only offensive to aboriginal heritage but to the modern international approach to the protection and preservation of indigenous heritage and the cultural traditions of indigenous peoples for the benefit of the whole of a national society.*²⁸⁸

3.152 Hon Robin Chapple’s submission was consistent with that of Mr Lewis. In addition, the Member drew the Committee’s attention to various fundamental legislative issues in the bill, such as:

- leaving ‘*central concerns*’ to be dealt with by subsidiary legislation²⁸⁹
- the insufficient review of decisions²⁹⁰
- increased difficulty in enforcing offences related to unregistered sites and objects.²⁹¹

3.153 Petition 76 (see paragraph 3.141) and this petition raised very similar issues. Accordingly, the Committee sought, and received, a combined response from the Minister for Aboriginal Affairs in relation to both petitions. The Minister described the amendments proposed by the bill as ‘*a series of modest changes*’ designed to ‘*improve the efficiency and effectiveness in managing Aboriginal heritage in Western Australia.*’²⁹²

3.154 The Minister refuted the claim that the bill would weaken the level of protection afforded to Aboriginal heritage, adding that when developing the bill, the Government

²⁸⁷ Submission from the Aboriginal Heritage Action Alliance, 27 March 2015, p 2.

²⁸⁸ RI Viner AO QC to the Aboriginal Heritage Action Alliance, letter, 20 March 2015, p 5.

²⁸⁹ Submission from Hon Robin Chapple MLC, tabling Member, 27 March 2015, pp 1-2.

²⁹⁰ *ibid.*, pp 2-3.

²⁹¹ *ibid.*, p 3.

²⁹² Hon Peter Collier MLC, Minister for Aboriginal Affairs, letter, 9 June 2015, p 1.

did consider the heritage protection regimes in other jurisdictions.²⁹³ On the issue of consultation with Aboriginal people during the development of the bill, the Minister gave an account of the people who, and organisations which, were consulted and advised the Committee that several amendments were made as a result of the feedback received.²⁹⁴

- 3.155 Contrary to the petitioners' claims, the Minister contended that the bill would encourage *'the early engagement between proponents and relevant Aboriginal people.'*²⁹⁵ The bill ensured that, when assessing a possible Aboriginal heritage site, the DAA Chief Executive Officer's primary considerations are:

*the associated sacred beliefs and ritual or ceremonial usage of the place. This information can only come from Aboriginal people with knowledge of the place.*²⁹⁶

- 3.156 The Committee noted that the bill was before the Legislative Assembly and, in due course, would be introduced and debated by Members of the Legislative Council. To inform that debate, the Committee posted a copy of the petitions, submissions and the Government's response on its petitions webpage. Both petitions were finalised on 17 June 2015.

Petition 83—State Administrative Tribunal register of proceedings 2011

- 3.157 This petition was tabled on 19 March 2015 by Hon Kate Doust MLC and contained two signatures. The petition requested that the Legislative Council support the amendment of the SAT's Register of Proceedings to correct what the principal petitioner, Mr Colin Joyce, considered to be an error.²⁹⁷
- 3.158 After making preliminary inquiries with the SAT, the Committee came to the view that it would be inappropriate for the Committee to be involved in this legal matter. Accordingly, the Committee finalised the petition on 22 April 2015 and wrote to Mr Joyce and Hon Kate Doust advising them of this and the possibility of Mr Joyce making a written complaint to the SAT directly.

Petition 86—St John Ambulance employee deaths by suicide

- 3.159 This petition, tabled by Hon Adele Farina MLC, contained one signature. It requested that the Legislative Council conduct an inquiry into St John Ambulance, focusing on the culture of the organisation and whether it is a contributing factor to the suicide

²⁹³ *ibid.*, p 2.

²⁹⁴ *ibid.*, p 3.

²⁹⁵ *ibid.*

²⁹⁶ *ibid.*

²⁹⁷ Tabled Paper 2667, Legislative Council, 19 March 2015.

deaths of serving and former employees and associates. A list of proposed terms of reference for the inquiry is set out in the petition.²⁹⁸

3.160 Hon Adele Farina advised the Committee that she had received a:

*growing number of representations from current and past St John ambulance employees, paramedics and volunteers...*²⁹⁹

3.161 The Member had been informed of a ‘*culture of fear and intimidation*’ within St John Ambulance. This, and a systemic failure to properly manage and resolve conflicts, often resulted in individuals feeling isolated and targeted.³⁰⁰ Hon Adele Farina also claimed that a range of organisational and administrative deficiencies warranted close investigation.³⁰¹ The Member was of the view that the Chief Psychiatrist’s investigation of the suspected suicides of five St John Ambulance paramedics and ambulance volunteers, announced on 30 March 2015,³⁰² would be too narrow to address the matters which have been raised with her and in the petition.³⁰³

3.162 In addition to the Chief Psychiatrist’s investigation, which may consider ‘*individual, cohort or systemic factors*’³⁰⁴, St John Ambulance also:

- engaged the Australian Centre for Post Traumatic Mental Health to ‘*evaluate its existing staff support services*’³⁰⁵
- established an independent oversight panel to ‘*examine its management, workplace culture and the well-being of staff and volunteers*’.³⁰⁶ This panel would provide independent oversight of the other two review and receive written and verbal submissions on areas not covered by the other reviews, such as ‘*broader issues associated with employee relations and support and volunteer membership services and support*’.³⁰⁷

²⁹⁸ Tabled Paper 2848, Legislative Council, 6 May 2015.

²⁹⁹ Submission from Hon Adele Farina MLC, tabling Member, 8 June 2015, p 1.

³⁰⁰ *ibid.*, p 2.

³⁰¹ *ibid.*, p 1.

³⁰² ABC News, *St John Ambulance says linking paramedics’ jobs to suicide rates ‘harmful’*, 31 March 2015. Available at: <http://www.abc.net.au/news/2015-03-31/st-johns-ambulance-suicides-review/6361422>. Viewed 14 May 2015.

³⁰³ Submission from Hon Adele Farina MLC, tabling Member, 8 June 2015, p 2.

³⁰⁴ Hon Dr Kim Hames MLA, Minister for Health, letter, 9 June 2015, Enclosure, p 3.

³⁰⁵ *ibid.*, p 2. See also Tony Ahern, St John Ambulance Western Australia Ltd, letter, 4 June 2015, p 3.

³⁰⁶ Hon Dr Kim Hames MLA, Minister for Health, letter, 9 June 2015, p 1.

³⁰⁷ Tony Ahern, Chief Executive Officer, St John Ambulance Western Australia Ltd, letter, 4 June 2015, pp 3-4.

3.163 Given that three independent inquiries examining a broad range of issues were already underway, the Committee concluded its work on this matter on 17 June 2015.

Petition 87—Guildford Hotel restoration

3.164 This petition was tabled on 21 May 2015 by Hon Alyssa Hayden MLC and contained 166 signatures. The petition requested that the Legislative Council support the restoration of the Guildford Hotel and the proposed development of a viable mixed-used building to the rear of the site.³⁰⁸

3.165 The principal petitioner, Mr Luke Martino, co-owner of the Guildford Hotel and a representative of Guildford Activate, submitted that the economic viability of the hotel, due to re-open in October or November 2015, was dependent on the proposed development.³⁰⁹ The owners of the hotel were seeking to develop an ‘*apartment style, multiple [unit] dwelling with commercial space.*’³¹⁰

3.166 Hon Alyssa Hayden advised the Committee that the general desire of the local community was to see the hotel site restored and the majority of the community and business owners in the area were supportive of the restoration and development plans. However, there was a small group of people who were opposed to the height of the proposed development. Some people within this group would rather not see the hotel restored than support the restoration and development plans as a whole.³¹¹

3.167 The supporting submissions highlighted the following perceived benefits of the restoration and development plans:

- An increase in the population of the Town of Guildford, which would help to ‘*reinvigorate this important Town Centre*’,³¹² support local businesses and sustain the use of the nearby Guildford Train Station.³¹³
- The proposed development would provide more varied and affordable housing options for the local community.³¹⁴

³⁰⁸ Tabled Paper 2915, Legislative Council, 21 May 2015.

³⁰⁹ Submission from Guildford Activate, 28 May 2015, p 1.

³¹⁰ Submission from Hon Alyssa Hayden, tabling Member, 3 June 2015, p 1.

³¹¹ *ibid.*, pp 1-2.

³¹² Submission from Guildford Activate, 28 May 2015, p 1.

³¹³ *ibid.* and Submission from Hon Alyssa Hayden, tabling Member, 3 June 2015, p 2.

³¹⁴ Submission from Guildford Activate, 28 May 2015, pp 1-2.

- The plans were consistent with the State-level planning direction, which is to increase the density of dwellings in and around town centres and transport hubs.³¹⁵
- 3.168 The Committee noted that the petition sought to address the ‘*minority negative sentiment*’ regarding the proposed development ‘*by indicating to government the level of support*’ for it.
- 3.169 In the Committee’s view, the aim of the petition was achieved by the tabling of the petition in the Legislative Council and the publication of the supporting submissions of Guildford Activate and Hon Alyssa Hayden on the Committee’s petition webpage. Accordingly, the petition was finalised on 17 June 2015.



Hon Simon O’Brien MLC
Chairman

26 November 2015

³¹⁵ *ibid.* and Submission from Hon Alyssa Hayden, tabling Member, 3 June 2015, p 2.