



**THIRTY-EIGHTH PARLIAMENT**

**REPORT 22**  
**STANDING COMMITTEE ON ENVIRONMENT AND**  
**PUBLIC AFFAIRS**  
**OVERVIEW OF PETITIONS**

Presented by Hon Brian Ellis MLC (Chair)

July 2011

## STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

### Date first appointed:

17 August 2005

### Terms of Reference:

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

**“1. Environment and Public Affairs Committee**

- 1.1 An *Environment and Public Affairs Committee* is established.
- 1.2 The Committee consists of 5 members.
- 1.3 The functions of the Committee are to inquire into and report on -
  - (a) any public or private policy, practice, scheme, arrangement, or project whose implementation, or intended implementation, within the limits of the State is affecting, or may affect, the environment;
  - (b) any bill referred by the House; and
  - (c) petitions.
- 1.4 The Committee, where relevant and appropriate, is to assess the merit of matters or issues arising from an inquiry in accordance with the principles of ecologically sustainable development and the minimisation of harm to the environment.
- 1.5 The Committee may refer a petition to another committee where the subject matter of the petition is within the competence of that committee.
- 1.6 In this order **“environment”** has the meaning assigned to it under section 3(1), (2) of the *Environmental Protection Act 1986*.”

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**Note**

**The Twenty-Second Report of the Standing Committee on Environment and Public Affairs consists of a Report of the Committee and a Minority Report of Hon Lynn MacLaren MLC**





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## **List of Acronyms**

ACCC	Australian Competition and Consumer Commission
APS	Australian Psychological Society
ASC	Anglican Schools Commission
BRL	Bauxite Resources Ltd
DAF	Department of Agriculture and Food
DEC	Department of Environment and Conservation
DOH	Department of Health
EACS	Esperance Anglican Community School
EPA	Environmental Protection Authority
FHZ	Fauna Habitat Zones
FMP	Forest Management Plan
FPC	Forest Products Commission
GBRS	Greater Bunbury Region Scheme
GCSP	Gingin Coast Structure Plan
GM	Genetically Modified
MRC	Moore River Company
ODP	Outline Development Plan
OGTR	Office of the Gene Technology Regulator
RKDO	Rockingham-Kwinana Development Office
SAT	State Administrative Tribunal
TPS	Town Planning Scheme
WAPC	Western Australian Planning Commission
WAMIA	Western Australian Meat Industry Authority



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## EXECUTIVE SUMMARY

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### EXECUTIVE SUMMARY

- 1 This report provides an overview of the petitions considered by the Legislative Council Standing Committee on Environment and Public Affairs (**Committee**) from 1 January 2010 to 30 June 2010 (**the reporting period**).
- 2 This is the tenth *Overview of Petitions* report tabled by the Committee and it includes a review of petitions finalised by the Committee during the reporting period.
- 3 During the reporting period, 33 new petitions were tabled in the Legislative Council and referred to the Committee.
- 4 Petitions remain a popular method of informing Members of Parliament of a wide range of issues and concerns. The petitions considered by the Committee dealt with a number of matters including environmental, planning and development, transport, agricultural and social issues.
- 5 The Committee's inquiries into petitions provides Parliament with the assurance that petitions tabled in the Legislative Council are being scrutinised and enhances the transparency and accountability of decisions made by State and local governments.



# CHAPTER 1

## INTRODUCTION

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### HISTORY AND FUNCTIONS OF THE COMMITTEE

- 1.1 The Committee was appointed by the Legislative Council on 17 August 2005.
- 1.2 The functions of the Committee, as provided by terms of reference 1.3(a) and 1.3(b), are to inquire into and report on any public or private policy, practice, scheme, arrangement or project in Western Australia whose implementation, or intended implementation, affects or may affect the environment, and to inquire into and report on any bill referred by the Legislation Council.
- 1.3 A further function of the Committee, provided by term of reference 1.3(c), is to inquire into and report on petitions. The Committee's petition function occupies a significant part of the Committee's work.

### PETITIONS

- 1.4 This report provides an overview of the petitions considered by the Committee during the reporting period 1 January 2010 to 30 June 2010.
- 1.5 A petition is a request for action by the Legislative Council from a citizen or resident or a group of citizens or residents.
- 1.6 The Committee considers petitions that have been tabled by a Member of the Legislative Council on behalf of a person or groups within the community.
- 1.7 The issues raised in petitions are considered by Members of Parliament through the Committee's processes and the Committee's Overview of Petitions report brings petitioners' concerns to the attention of the Legislative Council and the public.
- 1.8 All conforming petitions tabled in the Legislative Council, except those raising a matter of privilege, are referred to the Committee.
- 1.9 It is important that the formal requirements for the tabling of petitions, set out in Legislative Council Standing Orders 133 and 134, are followed. If a petition does not conform to the Standing Orders it will not be certified by the Clerk of the Legislative Council. A non-conforming petition may only be tabled if the Legislative Council grants leave.
- 1.10 A petition only needs one signature to be tabled however most petitions contain many signatures.

- 1.11 Certain issues or matters raised in a petition may come under the Parliamentary Commissioner for Administrative Investigation's (**Ombudsman**) jurisdiction as set out in the *Parliamentary Commissioner Act 1971*. The Committee may liaise with the Ombudsman's office in order to ascertain whether a matter raised in a petition has been previously investigated or is currently under consideration by that office.

## **CHAPTER 2**

### **PETITIONS CONSIDERED BY THE COMMITTEE**

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#### **REPORTING PERIOD DATA**

- 2.1 Thirty three new petitions were referred to the Committee between 1 January 2010 and 30 June 2010 and the Committee finalised 23 petitions during this period.
- 2.2 The above number does not include 'repeat petitions' which are simply copies of petitions already tabled. For example, a petition may be distributed to a number of locations for petitioners to sign and occasionally some of the signed copies will be tabled in the Legislative Council at different times.

#### **PETITIONS FINALISED BETWEEN 1 JANUARY 2010 – 30 JUNE 2010**

- 2.3 The Committee finalised the following petitions during the reporting period:<sup>1</sup>
- Petition No 13 Meat Industry, inquiry into the shortage of abattoir capacity in the State – Request the Legislative Council support. Petition tabled by Hon Brian Ellis MLC on 25 November 2009 (Tabled Paper No 364).
- Petition No 29 Blair Street and Koombana Drive, Lots 707, 681, and 723 – Retain as a Parks and Recreation Reserve – Request the Legislative Council support. Petition tabled by Hon Paul Llewellyn MLC on 13 May 2009 (Tabled Paper No 763).
- Petition No 38 Uranium Mining in Western Australia – Request the Legislative Council oppose. Petition tabled by Hon Alison Xamon MLC on 13 August 2009 (Tabled Paper No 1036).
- Petition No 40 Mundlimup Forest, Jarrahdale logging – Request the Legislative Council oppose. Petition tabled by Hon Alison Xamon MLC on 8 September 2009 (Tabled Paper No 1082).
- Petition No 44 Route 344 Bus Service – South Ballajura Community Centre – Request the Legislative Council support the enhanced Route 344 service. Petition tabled by Hon Alyssa Hayden MLC on 16 September 2009 (Tabled Paper No 1166).

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<sup>1</sup> These petitions are reviewed in Chapter 3 of this report.

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- Petition No 45 Esperance Anglican Community School, registration for years 11 and 12 – Request the Legislative Council support. Petition tabled by Hon Wendy Duncan MLC (Tabled Paper No 1345).
- Petition No 46 Land clearing in the Rockingham National Park – Request the Legislative Council oppose. Petition tabled by Hon Sue Ellery MLC (Tabled Paper No 764).
- Petition No 47 Boorara Road Bridge – replace the current bridge – Request the Legislative Council support. Petition tabled by Hon Robyn McSweeney MLC (Tabled Paper No 1399).
- Petition No 48 Mining products and hazardous materials – Inquiry into the safe transportation, management, handling and export - Request the Legislative Council support. Petition tabled by Hon Robin Chapple MLC (Tabled Paper No 1400).
- Petition No 49 Moore River Development – Request the Legislative Council oppose. Petition tabled by Hon Giz Watson MLC (Tabled Paper No 1401).
- Petition No 51 Voluntary Euthanasia – Request the Legislative Council oppose. Petition tabled by Hon Nick Goiran MLC (Tabled Paper No 1500).
- Petition No 52 Praying for Relief (Mr Dominic Manganaro). Petition tabled by Hon Nigel Hallett MLC (Tabled Paper No 1511).
- Petition No 53 Redress WA Scheme – Request the Legislative Council support. Petition tabled by Hon Sue Ellery MLC (Tabled Paper No 1563).
- Petition No 55 Strawberry Packaging Shed on a Rural Resource Property – Approval granted – Request the Legislative Council oppose. Petition tabled by Hon Michael Mischin MLC (Tabled Paper No 1768).
- Petition No 56 Derby/West Kimberley Shire – Oppose the withdrawal of health services. Petition tabled by Hon Ken Baston MLC on 3 March 2010 (Tabled Paper No 1769).
- Petition No 57 Bauxite Mining in the Shire of Chittering and Darling Range, oppose – Request Legislative Council support. Petition tabled by Hon Sally Talbot MLC (Tabled Paper No 1771).
- Petition No 58 To maintain W.A. as a Genetically Modified (GM) Free Zone – Request the Legislative Council support. Petition tabled by Hon Matt Benson-Lidholm MLC (Tabled Paper No 1778).
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- Petition No 59 Breast Feeding Legislation – Request the Legislative Council support. Petition tabled by Hon Adele Farina MLC (Tabled Paper No 1781).
- Petition No 61 Cannabis Law Reform Bill 2009 – Banning of cannabis smoking implements – Request the Legislative Council to oppose. Petition tabled by Hon Sue Ellery MLC (Tabled Paper No 1824).
- Petition No 62 Broome Boating Facilities Development – Request the Legislative Council support. Petition tabled by Hon Ken Baston MLC (Tabled Paper No 1830).
- Petition No 66 Proposed Limestone Quarry and Batching Plant at Lot 1 Nowergup Road, Nowergup. Petition tabled by Hon Giz Watson MLC (Tabled Paper No 1975).
- Petition No 72 Plastic Shopping Bags. Petition tabled by Hon Sally Talbot MLC on 25 May 2010 (Tabled Paper No 2067).
- Petition No 74 Establishment of a specialist Psychologists Registration Board. Petition tabled by Hon Alison Xamon MLC on 27 May 2010. (Tabled Paper No 2080).



## CHAPTER 3

### REVIEW OF PETITIONS FINALISED

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- 3.1 This Chapter provides an overview of the Committee's inquiries into petitions finalised between 1 January 2010 and 30 June 2010. The purpose of the report is to provide a snapshot of the petitions and issues considered by the Committee and will not necessarily include a summary of every piece of correspondence or other evidence received or considered by the Committee.
- 3.2 A copy of documents referred to in this Chapter, granted a public status by the Committee, may be obtained from Committee staff. Transcripts of public hearings are also available from the Committee's website at <http://www.parliament.wa.gov.au/parliament/commit.nsf/all/2B46B4A84B575E404825706C0020F638?opendocument&tab=tab4>.

#### **PETITION NO 13— MEAT INDUSTRY, INQUIRY INTO THE SHORTAGE OF ABATTOIR CAPACITY IN THE STATE**

- 3.3 The petition, which was tabled by Hon Brian Ellis MLC and contained 6 signatures, made the following request:

*We the undersigned residents of Western Australia are concerned at the prices received for livestock in WA.*

*Your petitioners therefore respectfully request the Legislative Council to support an inquiry into the shortage of abattoir capacity in this State and determine any reason Western Australian Livestock Producers receive substantially less than their counterparts elsewhere in Australia.<sup>2</sup>*

- 3.4 A submission from the tabling Member, Hon Brian Ellis MLC, informed the Committee that:

*there are no state or industry labour agreements for abattoirs, and and there is increased competition for workers from the mining industry. WA abattoirs are operating at 70% of their beef processing capacity and the Wyndham cattleyards will close this year. Processors are not only faced with perennial labour shortages, but*

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<sup>2</sup> Legislative Council, Tabled paper No 364, 25 November 2008.

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*also urban encroachment and the increasing costs and standards associated with licensing.*<sup>3</sup>

- 3.5 A submission from Mr Brian Mayfield, the principal petitioner, outlined some of the difficulties facing the livestock industry with a major concern being the lower prices received by livestock producers in Western Australia for their product than producers in Eastern Australia.<sup>4</sup>
- 3.6 The petitioner directed the Committee's attention to the number of abattoirs that were closing in Western Australia:

*Currently there are no export abattoirs operating above Geraldton in the Northern part of WA. In the past there were abattoirs in Wyndam, Derby, Broome and Carnarvon, and with these facilities now closed, it leaves pastoralists very dependent upon the live export trade which is under threat from a number of fronts.*<sup>5</sup>

- 3.7 The Pastoralists and Graziers Association of Western Australia provided the Committee with a copy of an earlier submission to the Australian Competition and Consumer Commission (ACCC) retail competitiveness enquiry in April 2008. The submission raised the issue of consistency of supply as a key issue:<sup>6</sup>

*What can be deduced is that an inconsistency of supply of product and labour resources, has seen a rapid decline of processors from the 60+ abattoirs during the 1980s and early 1990s. The situation now is that W.A. has been restructuring its processing sector to the point now where consistent supply of beef is absolutely critical to ensure the year-round viability of processors.*

*An inconsistent supply of cattle and sheep are linked to the issue with feedlotters and their ability (or lack of) to provide a year-round consistent supply of animals for slaughter.*<sup>7</sup>

- 3.8 The then Minister for Agriculture and Food, Hon Kim Chance MLC, advised the Committee that there had been some periodic delays in getting livestock slaughtered:

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<sup>3</sup> Submission from Hon Brian Ellis MLC, 3 June 2008, p2.

<sup>4</sup> Submission from Mr Brian Mayfield, undated, received 5 June 2010, p1.

<sup>5</sup> Ibid, p2.

<sup>6</sup> Submission from WA Red Meat Industry to the ACCC, *Supply chain analysis for retail competitiveness*, April 2008 included with the submission from Alex Burbury, Policy Director, Pastoralists and Grazier's Association of WA Inc, received 9 June 2008.

<sup>7</sup> Submission from WA Red Meat Industry to the ACCC, *Supply chain analysis for retail competitiveness*, April 2008, p14.

*Utilization rates of abattoirs which are calculated on an annual basis mask the seasonal nature of livestock turnoff. It is at times of high seasonal turnoff that producers experience delays in obtaining slaughtering allocations.*

*Feedlotting can spread turnoff more evenly over the year, however, the sharp rise in grain prices reduced the profitability of feedlot operations in 2007, and some producers decided not to feedlot stock or to reduce the number of stock that they would normally feed.*

*The June 2005 review identified recent fundamental changes in the processing industry. The industry is less flexible in its ability to significantly vary production volumes for seasonal or other reasons. Most abattoirs, for financial and other reasons, have developed strategies to maintain a constant production throughout the year.*

*As with other sectors of the economy, the meat processing sector is being seriously affected by severe labour shortages. This has the effect of reducing throughput levels below those that the plants could otherwise achieve.<sup>8</sup>*

3.9 The Committee considered the Department of Agriculture's *Cattle and Sheep Meat Processing Review* (2005) which pointed out that a number of changes had occurred within the industry since the 1970's (including the closure of government abattoirs) and the factors that brought about those changes continued to resonate within the industry.<sup>9</sup>

3.10 The report noted that consumer demand had compelled changes to the beef industry including:

*Enhanced hygiene and food safety requirements, increased further processing (value-adding), grain feeding, Meat Standards Australia (MSA) programs, National Livestock Identification Scheme (NLIS) traceability system, consistent supply and the development of alliances and supply chains.<sup>10</sup>*

3.11 Shortages of skilled labour were identified as the "greatest constraint on throughput in the industry."<sup>11</sup>

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<sup>8</sup> Letter from Hon Kim Chance MLC, Minister for Agriculture and Food, 6 June 2008, p1.

<sup>9</sup> Wim Burggraaf and Ashley Manners, *Cattle and Sheep Meat Processing Review*, Department of Agriculture, Western Australia, 2005, pp4-5.

<sup>10</sup> Ibid, p6.

<sup>11</sup> Ibid, p7.

- 3.12 While processing utilisation had been “*volatile and relatively low*” with an average 69% capacity in 2002,<sup>12</sup> determining capacity was not a simple exercise:

*Determining capacity in the industry today is quite difficult in that so many factors now determine capacity. We have the traditional physical constraints like chillers, etc but we now see many new factors affecting capacity, including the practicality of obtaining labour for short term work. In many cases capacity is also limited by boning and processing ability, rather than slaughtering capability.*<sup>13</sup>

- 3.13 A further factor was the lack of flexibility in the processing sector:

*What is very clear is that the industry is much less flexible in the ability and/or desire to significantly vary production volumes for seasonal or other reasons. Most abattoirs have a definite policy to develop strategies to maintain a constant production volume throughout the year. This means encouraging out of season production and avoiding increased production in season. There is obviously still some capacity to react to normal seasonal variation but very little capacity to dramatically increase kill in the event of an emergency.*<sup>14</sup>

- 3.14 The authors were of the opinion that only one major beef processor is essential for Western Australia:

*The State needs at least one major processor and experts would agree a kill of somewhere in the vicinity of 300,000 head pa is necessary to compete with the most efficient processors on the east coast. Unfortunately cattle numbers in Western Australia would not support another large abattoir and therefore the issue of market dominance has to be managed carefully by the industry and EG Green and Sons management. The efficiency and profitability of this abattoir is critical if the state is to remain competitive in world beef markets.*<sup>15</sup>

- 3.15 The report concludes that changes within the industry were inevitable and necessary:

*The catalyst for these changes has not been entirely internal to the industry but has been a combination of economic circumstances ... Increased regulation, customer demand, increased further processing*

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<sup>12</sup> Ibid, p7.

<sup>13</sup> Ibid, p8.

<sup>14</sup> Ibid, p9.

<sup>15</sup> Ibid, p10.

*(value-adding), lack of capital, ageing facilities, economics of volume, and more recently severe labour shortages have all combined to force change on the industry.<sup>16</sup>*

- 3.16 A comparison of Western Australian livestock prices with those of other States found that sale-yard prices were consistently below those of the eastern states (ES) but the underlying cause was not clear:

*It is not easy to prioritise the causes of the price differential between WA and AU price series. It could be the greater dominance of the domestic market in the ES with its less price elastic demand response (compared to major export markets); or is it the economies of size associated with ES feedlots and abattoirs? Perhaps ES producers have better integrated supply chains and logistics? Do ES producers have a more climatically diverse catchment of animals that provide greater continuity of supply? Australia as a whole over a period of six years (2000/01 to 2005/06) lot fed an average 30 per cent of cattle turned off per year. In contrast WA's lot feeding percentage over the same period was 17 percent. Is it a greater use of lot feeding that yields a more consistent and better quality of animal in the ES, compared to WA? Maybe WA processors and/or retailers lack competition compared to the ES?<sup>17</sup>*

- 3.17 The Minister for Agriculture and Food, Hon Terry Redman MLA, advised the Committee that the Western Australian Meat Industry Authority (WAMIA) was “not aware of any significant shortage of slaughtering capacity”.<sup>18</sup> However the Minister recognized that profitability for cattle producers had been low in mid-2008 due to increases in fertilizer and fuel costs, continuing high labour costs and low cattle prices. Additionally, the high cost of grain impacted on feedlotters.<sup>19</sup>
- 3.18 The Minister explained that an industry committee had been formed to undertake a ‘Beef Stocktake’ to scrutinize the Western Australian beef industry. The resulting Beef Stocktake Report found that there was not a shortage of abattoir capacity in Western Australia and the lower prices received by Western Australian livestock producers may be due to a number of reasons including:

(i) *the industry's relatively small size compared to those in the eastern states;*

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<sup>16</sup> Ibid, p4.

<sup>17</sup> Wim Burggraaf, *Comparison of Western Australian and Australian Livestock Prices March 2003 to September 2006*, Department of Agriculture and Food, Western Australia, 2006, p10.

<sup>18</sup> Letter from Hon Terry Redman MLA, Minister for Agriculture and Food, 18 March 2009, p1.

<sup>19</sup> Ibid, p2.

- (ii) *its heavy reliance on the domestic market;*
- (iii) *the smaller-sized cattle supplied to processors;*
- (iv) *the lack of a sizable feedlotting sector and forward contracts;*
- (v) *inefficiencies within the processing sector and competition from more efficient interstate processors (that commonly operate multiple shifts in larger facilities);*
- (vi) *the lack of competition in the WA retail sector; and*
- (vii) *the traditional oversupply of cattle in spring and autumn/winter shortages.*<sup>20</sup>

3.19 Addressing these issues will, according to the Minister, require a “*coordinated, collaborative approach across the whole supply chain and the Report proposes a number of actions to address this situation.*”<sup>21</sup> He believed that the recommendations of the Beef Stocktake report would effectively address both the issue of abattoir capacity and prices paid to producers.<sup>22</sup>

3.20 The Committee sought comment from key stakeholders regarding the Beef Stocktake report and the Red Meat Action Group expressed their concern about the burden of government regulation on abattoirs. The group pointed out that despite many closures, no new abattoirs had opened in recent years. Significantly, the remaining abattoirs were older facilities that required significant investment in infrastructure.<sup>23</sup>

3.21 The Group believed there was

*a critical lack of processing space during spring and summer (the time of the peak turn off) ... This has and continues to cause acute bottlenecks for farmers trying to sell their livestock and the processors use this situation to exploit farmers through them paying prices equivalent to 1984-5 prices.*<sup>24</sup>

3.22 The Committee also considered the Government response to the Western Australian Beef Industry Stocktake Report which announced the following actions:

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<sup>20</sup> Letter from Hon Terry Redman MLA, Minister for Agriculture and Food, 4 December 2009, p1.

<sup>21</sup> Ibid, p2.

<sup>22</sup> Ibid.

<sup>23</sup> Submission from the Red Meat Action Group, 7 December 2009.

<sup>24</sup> Ibid.

- The creation of a WA Beef Council (Council) and Producers' Round Table which would represent the whole beef supply chain.
- Investment attraction including a reduction in red tape and consideration by Government of planning and precinct issues, including land acquisition as needed.
- National Best Practice Saleyards.<sup>25</sup>

3.23 Other Government action included:

- Realignment of the Department of Agriculture and Food's Beef Industry Program.
- Support for research and development.
- Support for the development of the cattle industry through initiatives relating to freight and logistics, diversification, assessment of northern processing potential.
- Support for Meat and Livestock Australia.<sup>26</sup>

3.24 The Committee reviewed numerous reports, submissions and other evidence in relation to the petition and noted that studies revealed that Western Australian abattoirs were not working to full capacity. Several factors may be contributing to concerns by producers about an apparent lack of capacity including:

- the single shift approach adopted by WA processors;
- a significant staff shortage, considered to be a major constraint, and
- limited flexibility to respond to changes in demand.

3.25 The Beef Stocktake report and the Minister's response to it, provides a strategy to deal with issues facing the industry with the establishment of a WA Beef Council and a Producers' Roundtable as central to the strategy. The Committee acknowledges the Minister's support for an annual implementation review of the Beef Stocktake program.

3.26 The Committee concluded that the Beef Stocktake report, combined with other recent inquiries and reports, provided a thorough investigation of the issues facing the

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<sup>25</sup> Government response to the Western Australian Beef Industry Stocktake Report, February 2010 at [http://www.agric.wa.gov.au/objtwr/imported\\_assets/content/aap/bc/wa\\_beef\\_industry\\_stocktake.pdf](http://www.agric.wa.gov.au/objtwr/imported_assets/content/aap/bc/wa_beef_industry_stocktake.pdf) (viewed on 18 February 2010).

<sup>26</sup> Ibid.

livestock industry in Western Australia. The Government response to those reports had resulted in strategies to address the issues identified. On that basis, the Committee finalized the petition on 3 March 2010.

**PETITION NO 29—BLAIR STREET AND KOOMBANA DRIVE, LOTS 707, 681, AND 723 –  
RETAIN AS A PARKS AND RECREATION RESERVE RESERVE**

3.27 The petition was tabled by Hon Paul Llewellyn MLC on 13 May 2009 and contained 2,195 signatures.

3.28 The petition states in part:

*We the undersigned residents of Western Australia are in support to retain*

*Blair St. and Koombana Drive lots 707, 681, 723 currently zoned as Parks and Recreation Reserve be developed within the Parks and Recreation Reserve guidelines. This area includes land and water within the inlet.*

*Your petitioners therefore respectfully request the Legislative Council to support in retaining this request ...*<sup>27</sup>

3.29 A submission on behalf of the petitioners expressed concern that the land on the Bunbury foreshore was being considered for development, leaving little open space for public use.

*This land is seriously underutilized due the lack of amenities such as toilets, seating and eating areas. We support development and activation of this area in a manner that fits under the current zoning of 'Parks and Recreation Reserve'.*<sup>28</sup>

3.30 Further:

*We strongly feel that commercial, residential, retail and hospitality space should be kept away from these land lots, which includes a small part of Koombana Bay and part of the Leschenault Inlet foreshore.*<sup>29</sup>

3.31 The Minister for Planning, Hon John Day MLA, advised the Committee that a Taskforce had been established to consider the proposed Bunbury Waterfront

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<sup>27</sup> Legislative Council, Tabled Paper No 763, 13 May 2009.

<sup>28</sup> Submission from Amanda Doust, undated, p1.

<sup>29</sup> Ibid.

(Eastside) development. The land was currently reserved as Regional Open Space under the provisions of the Greater Bunbury Region Scheme (GBRS).<sup>30</sup>

*If the findings of the Taskforce recommend that development could be permitted on the abovementioned land, other than that which could be considered appropriate in Regional Open Space, an amendment to the GBRS will be required and the document will be referred to the Environmental Protection Authority for assessment, and will also be available for public comment.*<sup>31</sup>

3.32 The Committee reviewed minutes of the City of Bunbury council meetings which provided background to the project. The ‘Eastside’ plan was part of the Bunbury Waterfront Project by Landcorp “to secure future redevelopment over areas of Crown land along the coastal foreshore west of the Bunbury Inner Harbour up to and including the Outer Harbour.”<sup>32</sup>

3.33 Currently the land is

*principally reserved for “Regional Open Space and Railways” under the Greater Bunbury Region Scheme and as “Parks and Recreation and Railways” under Town Planning Scheme No 7. Accordingly, a series of amendments are required in order to progress the project.*<sup>33</sup>

3.34 In March 2008 the Council decided to initiate amendments to the City of Bunbury Town Planning Scheme No 7 in order to change certain lots from “Parks and Recreation Reserve” to “Special Use Zones”.<sup>34</sup>

3.35 Public consultation about the amendments generated 881 submissions with the following results:

- 42% of submissions supported retaining all existing Open Space.
- 41% of submissions preferred no high rise buildings.
- 32% of submissions supported more landscaping, public facilities, playgrounds, toilets, barbeques and shelters.

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<sup>30</sup> Letter from Hon John Day MLA, Minister for Planning, 28 July 2010, p1.

<sup>31</sup> Ibid, p2.

<sup>32</sup> Extract from Minutes of Council Meeting held 16 December 2008 — Item 11.12 Bunbury Waterfront Project – Assessment of Eastside Precinct Structure Plan, p2.

<sup>33</sup> Ibid, p2.

<sup>34</sup> Ibid, p3.

- 27% of submissions supported the protection of estuary waterways and expressed concern about the impact of development on water quality.
- 20% of submissions supported development of café and restaurant facilities.
- 19 % of submissions supported the Landcorp proposal.<sup>35</sup>

3.36 The Committee learnt that Landcorp conducted a telephone survey to ascertain community views regarding the development. The Council minutes note that the telephone survey was not part of the formal statutory advertising process and its results had “*limited consideration as part of a formal advertising process*”<sup>36</sup> However, the minutes also note that the survey provided general information “*relevant for Council’s consideration of the proposal*” and could be considered as a submission from the proponent.<sup>37</sup>

3.37 The telephone survey was a random dial telephone survey conducted by Patterson Market Research from 25 July to 31 July 2008. The results were that 60% of residents surveyed and 71% of business respondents supported or strongly supported the project. Conversely, 28% of residents and 21% of businesses surveyed opposed the project.<sup>38</sup>

3.38 Patterson assessed the results as follows:

*It is clear that the community has a high level of awareness of the proposed development. Moreover there appears to be a high level of anticipation and expectation that it will revitalize the foreshore. ... but there is a minority of respondents for whom the development is not a positive step. Their reasons for resistance revolve largely around a perceived threat to public beach and open space access, and a perceived miss-match between the character of Bunbury (seen as being quiet, uncrowded and unstressed) and the potential that a dramatically revitalized foreshore would have in changing “their town”.*

*It will be important in the development of the foreshore that adequate care is taken to ensure that residents still have access to the*

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<sup>35</sup> Ibid, p4.

<sup>36</sup> Ibid, p8.

<sup>37</sup> Ibid.

<sup>38</sup> Patterson Market Research, *Bunbury Community Attitudes Towards Bunbury Waterfront Development*, August 2008, p3-4.

*waterfront, and that there is ample opportunity for passive recreation (walking, running and simply sitting on the beach).*<sup>39</sup>

3.39 Further to inquiries by the Committee, the Minister for Planning advised that the Bunbury Waterfront Project Taskforce report (Taskforce report) had been presented to him on 2 October 2009 and if the Western Australian Planning Commission (WAPC) initiated amendments to the Greater Bunbury Region Scheme, the report would form part of the documentation advertised for public comment.<sup>40</sup>

3.40 The Bunbury Waterfront Project Taskforce (Taskforce) was established to resolve the regional planning issues associated with the Eastside Precinct component of the Bunbury Waterfront Project. The Taskforce's terms of reference were:

*To define the Regional Open Space, City Centre uses and other uses of State interest.*

*Create a policy statement for the development of any area identified for urban purposes.*

*Establish any requirements for an environmental review of the project area.*

*Advance an amendment to the Greater Bunbury Region Scheme for public comment.*<sup>41</sup>

3.41 The Taskforce report considered the major planning issues in relation to the project and identified critical 'public interest' criteria by which the proposed development would be evaluated. These criteria were:

*Enhancing the public domain;*

*Maintaining the foreshore public open space 'arc';*

*Protecting vistas towards the foreshore;*

*Improving the entry to the city; and*

*Activating the Bunbury Waterfront.*<sup>42</sup>

3.42 The Taskforce report reached the following conclusion:

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<sup>39</sup> Ibid, p5.

<sup>40</sup> Letter from Hon John Day MLA, Minister for Planning, 11 December 2009.

<sup>41</sup> Report to the Bunbury Waterfront Project Taskforce, October 2009, p1.

<sup>42</sup> Ibid, pp12-13.

*Given the very different challenges provided by the three areas of Koombana South, Koombana North and Marlston North in terms of both the likely environmental requirements and timing of development it is appropriate to run the amendments to the Greater Bunbury Region Scheme as three separate although concurrent amendments. However, these amendments will be initiated concurrently to provide an integrated and comprehensive 'picture' to the community of all of the changes being proposed.*<sup>43</sup>

- 3.43 As a result of its preliminary inquiries, the Committee was satisfied that the community had been consulted regarding the proposed development and that community feedback, particularly in relation to the preservation of open space, had been taken into account. Significantly, the planning and consultation process had not yet been completed and there would be further opportunity for public consultation when the amendments to the GBRS were progressed. On that basis, the Committee decided not to undertake further inquiries into this matter and the petition was finalized on 3 March 2010.

#### **PETITION NO 38—URANIUM MINING IN WESTERN AUSTRALIA**

- 3.44 This petition was tabled by Hon Alison Xamon MLC on 13 August 2009 and contained 182 signatures.

- 3.45 The petition read:

*We, the undersigned residents of Western Australia are opposed to uranium mining.*

*Your petitioners therefore respectfully request the Legislative Council to recognize the unacceptable risk to the community and the environment posed by uranium mining and immediately re-instate the ban on uranium mining in Western Australia.*<sup>44</sup>

- 3.46 A submission from Ms Jo Vallentine, the principal petitioner and Chairperson of the Anti-Nuclear Alliance of WA (ANAWA), requested that the Committee investigate the issue of uranium mining because it constituted a major policy change that had not been adequately discussed prior to the last election.<sup>45</sup>

*Although Premier Barnett's views on uranium mining have been well known for many years, he did not address the issue during the*

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<sup>43</sup> Ibid, p31.

<sup>44</sup> Legislative Council, Tabled Paper No 1036, 13 August 2009.

<sup>45</sup> Submission from Jo Valentine, principal petitioner, Chairperson of the Anti-Nuclear Alliance of WA (ANAWA), 20 August 2009, p1.

*campaign, and we need to remind all concerned that this is a minority government. We feel that ... the community does not generally support this move. And we would argue very strongly that the real facts ... need to be fairly put before the electorate.*<sup>46</sup>

- 3.47 According to the submission, uranium mining is a “very dirty industry” requiring “very detailed monitoring”.<sup>47</sup>

*All the old arguments apply: carcinogenic materials are unleashed as uranium is mined, it can be used in nuclear weapons (and no safeguards can ensure that Australian uranium doesn't find its way into nuclear weapons programmes of some of our client nations, or their client states), and its waste problems are well known. After 64 years, this industry has completely failed to find a way of safely dealing with its waste, some aspects of which are radioactive for 4.7 billion years...*<sup>48</sup>

- 3.48 In addition to disputing the uranium industry's claim to be carbon free, the petitioner expressed concern about the cost of uranium mining:

*Nowhere has the nuclear industry independently made good. It has always had massive government subsidies.*<sup>49</sup>

- 3.49 A further submission from the principal petitioner expressed concern that the Government sought to expedite uranium mining in Western Australia and “*in its enthusiasm to get the industry up and running before another election, we are concerned that short cuts may be taken.*”<sup>50</sup>

- 3.50 The petitioner calls for the re-instatement of the ban on uranium mining in Western Australia. The submission argues that nuclear power is not clean or cheap, and the industry emits greenhouse gases at every stage in the nuclear chain. In addition to the risk of accidents resulting in long term environmental effects, nuclear energy is the “*most expensive power source available*”. The petitioner asserts that renewable energy sources combined with greater energy efficiency are a superior option to nuclear energy.<sup>51</sup>

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<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid, p2.

<sup>50</sup> Letter from Jo Valentine, principal petitioner, Chairperson of the Anti-Nuclear Alliance of WA (ANAWA), 1 October 2009, p1.

<sup>51</sup> Ibid, p2.

3.51 The Minister for Mines and Petroleum emphasised that his response to the petition related only to uranium mining since the “*Western Australian Government does not support the development of a nuclear power industry in this State.*”<sup>52</sup>

3.52 The Minister disputed the claim that mining was not raised in the election campaign:

*The Premier’s position and the position of the Liberal Party of Western Australia in favour of removing the ban on uranium mining was clearly stated and amply publicly reported before and during the election campaign ....*<sup>53</sup>

3.53 In relation to health concerns raised by the petitioners, the Minister assured the Committee that regulatory controls were in place to ensure the safety of the industry:

*Western Australia’s current regulatory framework, in combination with international and Commonwealth legislation, guidelines and policies, provides for the safe development of uranium mining and associated activities.*<sup>54</sup>

3.54 In addition to collaboration with the Commonwealth regarding national standards, the Minister pointed out that Western Australia has a long history of regulating radioactive substances in mineral sands and other mining operations. This included the transportation of substances, management of radioactive waste and the export of radioactive minerals.<sup>55</sup>

3.55 The Minister explained that in addition to the *Radiation Safety Act 1975*, there are controls placed on the mining industry under the *Mines Safety and Inspection Act 1994*, through Part 16 of the *Mines Safety and Inspection Regulations 1995* which is designed to protect mine workers from the effects of radiation exposure. There are also regulations in relation to the effects of radiation to the public and the environment.<sup>56</sup>

3.56 In relation to transportation, the Minister advised that:

*It is the policy of the State Government that export of uranium will not be allowed through any ports surrounded by residential development in Western Australia. Current plans are for all uranium to be transported by road or rail to South Australia or the Northern Territory for export. Materials for export will be sealed in metal*

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<sup>52</sup> Letter from Hon Norman Moore MLC, Minister for Mines and Petroleum, 12 November 2010, p1.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid, p2.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

*drums and stored and braced in shipping containers in compliance with the Australian Radiation Protection and Nuclear Safety Agency's Code of Practice for the Safe Transport of Radioactive Material (2008). The transport of radioactive materials is also regulated by the Commonwealth's Nuclear Non-proliferation (Safeguards) Act 1987.*<sup>57</sup>

3.57 Additional resources had also been approved for the Department of Mining and Petroleum's Resources Safety Division "to facilitate the safe introduction of uranium mining."<sup>58</sup>

3.58 In relation to other specific concerns raised by the principal petitioner, the Minister advised the following:

- The Western Australian Government will not subsidize the uranium mining industry.<sup>59</sup>
- State and Commonwealth environmental impact assessments will be required before mining proposals are approved.<sup>60</sup>
- In accordance with the *Nuclear Waste Storage and Transportation (Prohibition) Act 1999*, the storage of nuclear waste is prohibited in WA.<sup>61</sup>
- Greenhouse gas emissions from uranium mining "do not differ substantially" to other mining operations.<sup>62</sup>

3.59 Finally, in relation to water consumption, the Minister advised that the amount of water used depended largely on the grade of ore but was also influenced by factors such as the mining and processing techniques utilized, and by the amount of water that is re-used or recycled:

*Like any other mining project, the State government will manage water usage and any potential impact on water resources by uranium mining projects through a comprehensive licensing and environmental management process. Companies will be required to demonstrate sustainable water management practices through the Environmental Impact Assessment process prior to approval being*

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<sup>57</sup> Ibid, p3.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid, p4.

<sup>62</sup> Ibid, p3.

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*granted to mine. The Department of Water and other relevant stakeholders will be consulted in this process.*<sup>63</sup>

3.60 While acknowledging that the issue of uranium mining continued to divide the community, the Committee considered that the matter had been debated on previous occasions and Government policy was clear. Consequently, while the Committee decided not to inquire further into the petition, it was agreed that the principal petitioner should have the opportunity to respond to the Minister's letter. A response from the petitioner was not received within the requested timeframe and the petition was finalised on 21 April 2010.

3.61 Subsequent to the petition being closed, a letter was received from the principal petitioner which addressed the Minister for Mining and Petroleum's remarks as follows:

- There should be further clarification regarding government subsidies for uranium mining companies.
- Concerns about nuclear waste are not limited to the storage of nuclear waste in Western Australia (which is prohibited) but also the radioactive byproducts of the mining process. Problems have occurred at other mines in Australia including the flooding of tailings dams and strong winds which disperse the tailings widely.
- The Minister's response to the issue of water consumption is inadequate. The quantity of water used by uranium mines is only one aspect of this issue—the effect on other water users such as pastoralists is also a consideration. There are unanswered questions relating to potential damage to the water table and ecosystem.<sup>64</sup>

#### **PETITION NO 40—MUNDLIMUP FOREST, JARRAHDALÉ LOGGING**

3.62 The petition was tabled by Hon Alison Xamon MLC on 8 September 2009 and contained 898 signatures. It states:

*We the undersigned residents of Western Australia are opposed to logging in the Mundlimup Forest adjacent to Jarrahdale.*

*Your petitioners therefore respectfully request the Legislative Council to recommend that a buffer zone be established prohibiting logging*

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<sup>63</sup> Ibid, p4.

<sup>64</sup> Letter from Jo Vallentine, principal petitioner, Chairperson of the Anti-Nuclear Alliance of WA (ANAWA), 22 April 2010.

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*within the half of the Munlimup Forest nearest Jarrahdale and its walk trails.*<sup>65</sup>

- 3.63 A submission from Ms Jan Star informed the Committee that following closure of the timber mills and the bauxite mine at Jarrahdale, a number of walk trails had been opened. The local Shire was endeavouring to develop the town's tourism potential and promote "brand Jarrahdale" and there had developed a "*much greater appreciation of our unique environment*".<sup>66</sup>
- 3.64 The coupe to be logged adjoins the town and is one of the most popular 'forest experience' areas. It is also a habitat for vulnerable or endangered bird species including the Forest Red-tailed Black Cockatoos, Baudin's Cockatoo and Carnaby's Cockatoo.<sup>67</sup>
- 3.65 The submission claims that the logging methods used by the Forest Products Commission (FPC) are very destructive to the soil and surrounding flora. Ms Starr expresses concern about the sustainability of current forestry practices:

*Experience elsewhere (eg Yabberup coupe) shows FPC and contractors' practices do not comply with guidelines. The mid-term Audit on Reporting of the Forest Management Plan to the Conservation Commission shows an alarming degree of non-compliance and lack of any penalties for it. It is known that the size of tree being harvested is decreasing – this alone shows that there is not sustainable logging as claimed.*<sup>68</sup>

- 3.66 The submission alleges that community views were not taken into account in the Forest Management Plan (current until 2013) and that there should be a five kilometer buffer around the town. Such a buffer would accommodate the expected increase in demand for walk tracks as well as an area for scientific study of forest growth and logging practice in a changing climate.<sup>69</sup>
- 3.67 A submission from Hon Alison Xamon MLC, the tabling Member, emphasized the importance of the emerging tourism industry in the area:

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<sup>65</sup> Legislative Council, Tabled Paper No 1082, 8 September 2009.

<sup>66</sup> Submission from Ms Jan Starr, October 2009, p1.

<sup>67</sup> Ibid, pp1-2.

<sup>68</sup> Ibid, p2.

<sup>69</sup> Ibid.

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*Jarrahdale residents have worked extremely hard to develop this industry to address the limited employment opportunities available in the community.*<sup>70</sup>

- 3.68 Logging would constitute a further threat to the health of the forest:

*The logging of Mundlimup Coupe 03 cannot be considered in isolation. It is one of a number of threats to the forests in the area, all of which will have an adverse impact on the ecology of the forest. In this context, any logging has the potential to damage the businesses in Jarrahdale that rely on unspoiled forests for their survival.*<sup>71</sup>

- 3.69 The tabling Member's submission requested the Committee consider a ban on logging within Mundlimup Coupe and to investigate the finances of the Forest Products Commission amid concerns about the low economic return on logs.<sup>72</sup>

- 3.70 The Minister for Agriculture and Food, Hon Terry Redman MLA, explained to the Committee that logging had occurred in the Jarrahdale area since the 1870's and it was the appeal of the town's history, as well as the re-growth forests, that constituted an important part of the town's tourist attractions. The planned 2009/10 timber harvest in Mundlimup 03 would

*temporarily disturb ... less than 10 per cent of the total public forest area within a 6 km radius of the town; the bulk of the forest area, including Serpentine National Park remains available for tourists.*<sup>73</sup>

- 3.71 The Forest Products Commission would ensure that any disturbance to visible areas of the forest and walk trails was minimal so that within four or five years the effects would be "barely noticeable".<sup>74</sup>

- 3.72 The Minister denied the petitioners' assertion that harvesting resulted in the destruction of the forest:

*the forests around Jarrahdale have been harvested previously on several occasions, and at a greater intensity than currently proposed. The jarrah forest is well known to be resilient and this area is a prime example of its capacity to recover from disturbance. I urge you not to*

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<sup>70</sup> Submission from Hon Alison Xamon MLC, undated, received 16 October 2009, p1.

<sup>71</sup> Ibid, p2.

<sup>72</sup> Ibid, p2.

<sup>73</sup> Letter from Hon Terry Redman MLA, Minister for Agriculture 10 November 2009, p1.

<sup>74</sup> Ibid.

*confuse the immediate visual effect – which I admit can be confronting – with ecological impacts.*<sup>75</sup>

- 3.73 The Forest Management Plan (FMP) contained specific strategies for protection of endangered fauna species, including the protection of habitat trees, and it took into account the range of factors that may affect the forest, such as mining. The management of dieback disease had also been part of logging operations for many years.<sup>76</sup>
- 3.74 In response to the petitioners concerns about low economic returns from logging, the Minister pointed out that the value of State forest harvesting does not just include the revenue from logs but also other activities such as the provision of domestic firewood and craft wood logs to customers in the local area.<sup>77</sup>
- 3.75 The Committee requested more information about the plan for habitat trees from the Department of Environment and Conservation (DEC) and was advised that the development of the Forest Management Plan involved public consultation and was subject to an environmental impact assessment by the Environmental Protection Authority (EPA). A significant proportion of the land covered by the Forest Management Plan was excluded from timber harvesting and was made up of conservation reserves such as national parks, informal reserves (areas surrounding streams and rivers) and fauna habitat zones (FHZ).<sup>78</sup>
- 3.76 Within the 950 hectare Mundlimup coupe, 250 hectares (26 per cent) are informally reserved and therefore unavailable for timber harvesting.<sup>79</sup>
- 3.77 Measures to reduce the visual impact of harvesting are outlined in the *Silvicultural Practice in the Jarrah Forest* guideline and include practices such as aesthetic buffers.<sup>80</sup>
- 3.78 In relation to habitat protection, the Director General made the following comments:

*Safeguarding the biological diversity of the State's south-west forests is a key objective of the FMP. This is achieved on several levels—at the whole of forest scale through a comprehensive, adequate and representative conservation reserve system, and on State forest and timber reserves through a network of informal reserves and FHZs*

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<sup>75</sup> Ibid, p2.

<sup>76</sup> Ibid, pp2-3.

<sup>77</sup> Ibid, p3.

<sup>78</sup> Letter from Mr Keiran McNamara, Director General, Department of Environment and Conservation, 8 February 2010, p1.

<sup>79</sup> Ibid, p2.

<sup>80</sup> Ibid.

*from which harvesting is excluded. At an operational level the impacts from harvesting are mitigated through the environmental management requirements to protect flora and fauna, identifying areas of old-growth forest for inclusion in informal reserves, compliance with hygiene (dieback) protection and retaining habitat trees and logs in coupe areas.*<sup>81</sup>

*... Changes to the general fauna requirements for timber harvesting were introduced in the FMP recognizing that tree hollows, as a critical habitat element likely to be affected by timber harvesting, needed to be accommodated by increasing the number of habitat trees retained in planned harvest areas. The number of primary habitat trees to keep was increased from three per hectare to 5 per hectare, with a new requirement to keep six to eight secondary habitat trees per hectare. Primary habitat trees are trees which have a moderate to high probability of bearing hollows, and secondary habitat trees are trees which have a lower probability of bearing hollows, but provide for the sustained availability of hollows over time and will contribute to structural diversity in the harvested area.*<sup>82</sup>

- 3.79 Habitat elements to be retained during timber harvest are outlined in guidelines and are identified at a coupe level by the Forest Products Commission. The DEC monitors this pre-harvest planning and it is audited regularly with findings published in the Department's annual report.<sup>83</sup>
- 3.80 There is a network of fauna habitat zones initiated by the Forest Management Plan *“to provide significant areas of relatively undisturbed habitat for fauna as a source of animals for re-colonising regenerating forest.”*<sup>84</sup>
- 3.81 In relation to damage caused by mechanical harvesting, the impact of logging on the soil is monitored by the Forest Products Commission and the DEC during harvesting. Soil protection initiatives have been introduced by the Department *“with the result that major improvements have been made in reducing the impact of timber harvesting on soils.”*<sup>85</sup>
- 3.82 In relation to the petitioners' complaint that the needs of the Jarrahdale community had not been taken into account during the development of the Forest Management Plan, the DEC responded as follows:

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<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid, p3.

<sup>85</sup> Ibid.

*As part of the public consultation phase to develop the FMP, the Jarrahdale community and representatives of the Shire of Serpentine Jarrahdale wrote to the Conservation Commission of Western Australia with a similar proposal to that outlined in the petition. As a result the Conservation Commission met with representatives of the Jarrahdale community to discuss the conservation of the area's recreational and heritage values. The Conservation Commission, in its reply from May 2003 to the Shire, concluded that it was confident that the objectives of the Jarrahdale community could be achieved within forest management principles as outlined in the FMP.<sup>86</sup>*

- 3.83 The Committee undertook a site visit to Jarradale to view the area where the logging would occur. The Committee was particularly interested in viewing the forest and the effects from logging from the vantage point of established walk trails. The site visit took place on 30 April 2010 and prior to traveling into the forest, the Committee was provided with an overview of the Forest Management Plan for the area by DEC staff. Petitioners and representatives from the Forest Products Commission were also present during the discussion.
- 3.84 Following consideration of the information available and with benefit of the site visit, the Committee agreed that the petitioners' concern regarding the provision of adequate buffers around walk trails and the town was legitimate. Consequently, the Committee wrote to the Forest Products Commission to recommend a buffer of 100m around walk trails be preserved wherever possible as well as a significant buffer around the town. The Committee resolved to otherwise finalise the petition on 5 May 2010.

**PETITION NO 44—ROUTE 344 BUS SERVICE – SOUTH BALLAJURA COMMUNITY CENTRE**

- 3.85 This petition was tabled by Hon Alyssa Hayden MLC on 16 September 2009 and contained 32 signatures. It reads:

*We the undersigned residents of Western Australia respectfully and strongly support the provision of an additional Route 344 bus service arriving at the South Ballajura Community Centre at or near to 9am.*

*We are concerned that the current services are not adequately providing for the local seniors and impose unnecessary inconvenience.*

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<sup>86</sup> Ibid, pp 3-4.

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*Your petitioners therefore respectfully request that the Legislative Council do everything in its power to ensure that an enhanced Route 344 service is provided for Ballajura residents.*<sup>87</sup>

- 3.86 A submission from the principal petitioner, Mr Luke Simpkins MP, informed the Committee that the petition was raised to highlight the needs of the members of the Senior Citizens Club of Ballajura, many of whom relied on the 344 bus service. Events at the club commenced at 9.00 a.m. and currently the bus service would allow members to arrive either at 8.44 a.m. or 9.45 a.m:

*The membership of the club ask that the bus service 344 (DV) which originates at Cromwell Rd / Avila Way (Stop No: 16076) commencing at 8.30am be delayed until 8.45am to arrive around 9.00am at Stop 15932, being the stop nearest to the Community Centre.*<sup>88</sup>

- 3.87 A letter from the Minister for Transport, Hon Simon O'Brien MLC, in response to the petition advised the Committee that public transport in Perth required a substantial operating subsidy, with fares covering approximately 25 per cent of total costs. The Minister noted the importance of public transport, however pointed out that

*the amount of subsidy that can be afforded is finite and must fit among Governments' many responsibilities.*<sup>89</sup>

- 3.88 The Minister explained that services must be designed to benefit the community as a whole and it was not always possible to provide the frequency or timing of a specific route that certain groups or individuals would prefer.

- 3.89 Prior to modifying a bus route, Transperth evaluates the impact of the change on existing passengers who use the service. In response to this petition, Transperth conducted a survey of passengers on the 344 service and found the majority of them were opposed to a change in the timetable. Based on passenger views and the flow-on impact to other services if the timetable was changed, Transperth did not support a change to the 344 bus service.<sup>90</sup>

- 3.90 It was the Committee's view that the Minister's response provided a reasonable explanation for the position adopted by Transperth. Further inquiries were not considered warranted and the petition was finalized on 3 March 2010.

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<sup>87</sup> Legislative Council, Tabled Paper No 1166, 16 September 2009.

<sup>88</sup> Submission from Mr Luke Simpkins MP, Federal Member for Cowan, 12 October 2009.

<sup>89</sup> Letter from Hon Simon O'Brien MLC, Minister for Transport, 1 December 2010, p1.

<sup>90</sup> Ibid, pp1-2.

**PETITION NO 45—ESPERANCE ANGLICAN COMMUNITY SCHOOL, REGISTRATION FOR YEARS 11 AND 12**

3.91 This petition was tabled by Hon Wendy Duncan MLC and contained 2,031 signatures.

3.92 The petition states:

*We the undersigned residents of Western Australia are opposed to the decision of the State Government to not grant registration for years 11 and 12 to the Esperance Anglican Community School, and reason that parents and children of Esperance are entitled to choice in education. Furthermore diversity of education adds to the attraction of the South-East region for professional and skilled workers therefore bolstering the economy.*

*Your petitioners therefore respectfully request the Legislative Council to recommend and support the granting of registration for years 11 and 12 to the Esperance Anglican Community School.<sup>91</sup>*

3.93 The submission from the principal petitioner, Mrs Lisa Gardiner, provided background to the petition. An application by the Anglican Schools Commission (ASC) to the then Minister for Education for advanced registration for a new school in Esperance was refused. The ASC requested a review of the decision in accordance with section 168 of the *School Education Act 1999*. The subsequent Review Panel established by the Minister recommended registration from Years 8-12 be allowed and this was approved by the Minister in December 2006. A condition on the registration meant that the school could not teach Years 11 to 12.<sup>92</sup>

3.94 In July 2009 a request that the new Minister for Education remove the condition was refused on the basis that the new school would “*detrimentally impact*” on the local government high school.<sup>93</sup>

3.95 The submission listed the following reasons the petitioners believed the Minister should allow the Esperance Anglican Community School (EACS) to teach Year 11 and 12:

- Strong community and business support.
- A lack of non-government secondary schools in Esperance which limited educational choice.

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<sup>91</sup> Legislative Council, Tabled Paper No 1345, 24 September 2009.

<sup>92</sup> Submission from Mrs Lisa Gardiner, principal petitioner, 5 November 2009, p1.

<sup>93</sup> Ibid.

- Esperance Senior High School is one of the largest government secondary schools in Western Australia and it was unlikely that registration to Year 12 at the new Anglican School would have a detrimental impact on it.
- Demographic data indicated further growth for Esperance.<sup>94</sup>

3.96 A submission from Hon Wendy Duncan MLC, the tabling Member, reiterated many points raised by the principal petitioner. She pointed out that there were many indicators of growth for the region and the government policy requiring students to remain in school until 17 years of age would result in an increasing cohort of students in the area.<sup>95</sup>

3.97 Further,

*The government has the opportunity to benefit from a private organization being prepared to provide the capital, bear the risk and add to the choice of education in the region. Without the removal of the condition, it is highly likely that this willingness to invest will not only be lost in Esperance but throughout regional Western Australia.*<sup>96</sup>

3.98 A response from the Minister for Education, Hon Dr Elizabeth Constable MLA, advised that the condition of registration imposed on EACS was very specific and the Minister had to be satisfied that removal of the condition would “*not have a detrimental effect on the ability of an existing school to function as a school.*”<sup>97</sup>

3.99 Following her decision to maintain the condition, the ASC requested a review of her decision and an independent panel was established to conduct the review. During the course of the review, the ASC student projections for the school were revised downwards, which in turn impacted the Department of Education’s assessment of the likely impact on Esperance Senior High School.<sup>98</sup>

3.100 The Minister advised:

*I have now carefully considered the Panel’s report and have made a further decision about this matter—restricting my decision, as required by the Act, to an assessment of the effect the proposed extension would be likely to have on the senior secondary program at*

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<sup>94</sup> Ibid, pp1-2.

<sup>95</sup> Submission from Hon Wendy Duncan MLC, 12 November 2009, p1.

<sup>96</sup> Ibid, p2.

<sup>97</sup> Letter from Hon Dr Elizabeth Constable MLA, Minister for Education, 15 December 2010, p1.

<sup>98</sup> Ibid, p2.

*Esperance Senior High School and not the matter of choice in education, as raised in the Petition.*

*I am concerned that the demographic projections for Esperance suggested by the ASC will not be sufficient, in the short-term, to support senior secondary school programs at both Esperance Senior High School and Esperance Anglican Community School, particularly with the “half-cohort” moving through senior school in 2013 and 2014.*

*... I have decided to lift the existing condition of registration for Esperance Anglican Community School, and place a cap (at the levels indicated in the Commission’s revised projections) on the number of students allowed to enroll at the school until 2015, after which the “half cohort” of students will have moved through the secondary school system.<sup>99</sup>*

- 3.101 On the basis that the petitioners’ objectives had been achieved, the Committee finalised the petition on 3 March 2010.

#### **PETITION NO 46—LAND CLEARING IN THE ROCKINGHAM NATIONAL PARK**

- 3.102 This petition was tabled by Hon Sue Ellery MLC on 13 May 2009 and it contained 42 signatures.

- 3.103 The petition states:

*We the undersigned residents of Western Australia are opposed to land clearing in the Rockingham Regional Park.*

*Your petitioners therefore respectfully request the Legislative Council to recommend to stop the clearing of land for a road to be built in the Rockingham Regional Park.<sup>100</sup>*

- 3.104 A submission from the principal petitioner, Mr Barry Jayne, explained that the proposed access road through the Woodbridge area would reduce congestion and provide a second access route to Rockingham General Hospital. He said the proposal had wide support but there was concern about the route of the access road.<sup>101</sup>

- 3.105 Concerns about the proposed route include:

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<sup>99</sup> Ibid.

<sup>100</sup> Legislative Council, Tabled Paper 764, 13 May 2009.

<sup>101</sup> Submission from Mr Barry Jane, principal petitioner, 5 November 2010, p1.

- Removal of a significant amount of bushland in the Rockingham Regional Park.
- The proposed route is unreasonably close to homes and will negatively impact on residents.
- The required construction of a bridge over the railway line will overshadow residences and will be visually inappropriate.<sup>102</sup>

3.106 The Committee requested information from the City of Rockingham (City) and was advised that the City had been liaising with the Department of Environment and Conservation (DEC) regarding the proposed road. Following the endorsement of Northern Option B as the preferred route by the Ministerial Working Group on 15 August 2008, the City had sought comment from relevant agencies.<sup>103</sup>

3.107 Correspondence from the DEC to the City advised that

*as a general principle, DEC does not support the loss of any land area from regional parks and it would naturally be expected that any intrusion into the Rockingham Lakes Regional Park would be proposed only where no other alternative was available.*<sup>104</sup>

3.108 A review of the preferred route by DEC noted that the proposed road traveled through almost the length of the Rockingham Lakes Regional Park. The estimated loss of approximately 9.6 ha from the Park would be considered a significant environmental impact and would therefore need to be referred to the EPA for assessment.<sup>105</sup>

3.109 Further, following examination of documentation associated with the proposal, DEC considered that

*there is insufficient justification for isolating the previously identified options down to the currently preferred one and that all other engineering options may not have been adequately explored.*<sup>106</sup>

3.110 Further correspondence from the Department to the City advised that:

*In previous correspondence and discussions with the City of Rockingham, DEC has identified a number of environmental issues*

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<sup>102</sup> Ibid, p2.

<sup>103</sup> Letter from Mr Chris Thompson, Director Engineering and Parks Services, City of Rockingham, undated, p1.

<sup>104</sup> Letter from Ms Barb Green, A/Manager Community and Regional Parks Branch, Department of Environment and Conservation to the City of Rockingham, 18 December 2008.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

*associated with the City's preferred Northern Entry – Option B, such as loss of native vegetation, loss of habitat and other threats to fauna (including potential threatened fauna), loss and fragmentation of regional park estate, disturbance through additional “edge effects” and loss of visual amenity. DEC has also provided the City with advice with respect to minimizing environmental impacts.*

*Based on the issues identified, it would appear that the Northern Entry – Option B is likely to have a significant environmental impact upon the Lake Coo롱gup area of Rockingham Lakes Regional Park. DEC does, however, recognize that the City is in a position where it needs to balance environmental concerns with social and economic considerations in deciding upon a preferred access route.<sup>107</sup>*

3.111 Ultimately, approval of a proposal was needed from the Environmental Protection Authority (EPA) and the Department recommended that the City of Rockingham refer its preferred access option to the EPA so that a level of assessment could be determined.<sup>108</sup>

3.112 At the Committee's meeting of 31 March 2010, Hon Phil Edman MLC, a member of the Committee, was able to provide Members with information on the status of the proposal in his capacity as Chair of the Rockingham-Kwinana Development Office (RKDO).

- The City had not referred the proposal to the EPA.
- The Ministerial Working Party, set up by the previous government, is now defunct.
- The northern route had not been chosen as the preferred route and it is not strongly supported.
- RKDO is working on the project with the City of Rockingham.

3.113 In March 2010, the Committee requested an update on the project from the Minister for Planning and was advised that while the Ministerial Working Group had recommended a preferred option, its report had yet to be submitted to the Rockingham Kwinana Planning and Development Taskforce for consideration.<sup>109</sup>

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<sup>107</sup> Letter from Mr Brendan Dooley, A/Manager, Community and Regional Parks Branch, Department of Environment and Conservation to the Chief Executive Officer, City of Rockingham, 11 December 2009, p1.

<sup>108</sup> Ibid.

<sup>109</sup> Letter from Hon John Day MLA, Minister for Planning, 28 April 2010, p2.

3.114 Timing for commencement of the project was unknown because:

*The Rockingham Kwinana Development Office (RKDO) is working with the City of Rockingham and has agreed to first determine what type of access is needed. This will require a traffic study firstly and then possibly a disaster risk assessment.*<sup>110</sup>

3.115 Hon Phil Edman MLC advised the Committee at its meeting of 24 June 2010 that funding for the traffic study had been approved however it was unlikely the study would be completed before the end of the year. The traffic study would include a public consultation process.

3.116 The Committee resolved to finalise the petition on the basis that the Government had not made a final decision regarding the requirement for an access road through Rockingham Regional Park. A traffic study was to be undertaken to inform the Government's decision which would not occur until later in the year.

#### **PETITION NO 47—BOORARA ROAD BRIDGE – REPLACE THE CURRENT BRIDGE**

3.117 This petition was tabled by Hon Robyn McSweeney MLC and contained 176 signatures.

3.118 The petition states:

*We the undersigned residents of Western Australia support urgent action to replace the ageing and narrow one way bridge known as Boorara Road Bridge on Boorara Road in Northcliffe. Delay in replacement of this bridge is putting the lives of Boorara Road users in danger.*

*Your petitioners therefore respectfully request the Legislative Council to support making the replacement of Boorara Road Bridge an urgent priority.*<sup>111</sup>

3.119 A submission from Mr Paul Owens, the principal petitioner, insisted that a new bridge was required for safety reasons. The bridge was used by milk tankers, log and grain trucks, livestock carriers, school buses and the public:

*The bridge ... is approached from both sides on a steep decline. Since the bridge was declared unsafe because of weight loading, they*

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<sup>110</sup> Ibid.

<sup>111</sup> Legislative Council, Tabled Paper No 1399, 13 October 2009.

*have made it a single lane bridge, requiring one side to give way. A real dangerous situation.*<sup>112</sup>

- 3.120 Mr Owens had been informed by the Department of Main Roads that the bridge was not on the Department's three year future plan for replacement.<sup>113</sup>
- 3.121 A response to the petition from the Minister for Transport, Hon Simon O'Brien MLC, advised the Committee that the Boorara Road Bridge was a two span timber structure owned by the Shire. An inspection by Main Roads in 2008 identified that part of the bridge was in poor condition. Given the condition of the bridge, the Council was given the option of "carrying out the necessary repairs, accepting a four tonne load limit or restricting the bridge to a single central lane."<sup>114</sup>
- 3.122 The Shire of Manjimup decided that repairing the bridge was not feasible, nor could a four tonne load limit be sustained given that it was used by a number of heavy vehicles. Consequently, the Shire chose to restrict the bridge to one lane.<sup>115</sup>
- 3.123 A Design Options Report which was prepared for Main Roads in June 2009 recommended replacing the current bridge with a single span bridge of similar capacity. The Minister advised the following:

*I am advised that in 2010/2011, \$120,000 of funding has been allocated in the Local Government Bridge Program to provide for preconstruction works necessary for the new bridge. These activities include preparation of a detailed waterways report and design, survey, geotechnical Aboriginal heritage and environmental assessments. Once completed the proposed project to replace the Boorara Road Bridge can be thoroughly scoped and a reasonably accurate cost estimate prepared. ... such preparations are essential in order for the proposed bridge replacement to be considered for funding in future Local Government Bridge Programs.*

*... in recognition of the importance of this bridge to the local community, funding allocated in 2010/2011 has been advanced and Main Roads is preparing to undertake preconstruction activities ... to ensure replacement works can commence with minimal delay once construction funding is identified. ...the earliest that funds for the*

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<sup>112</sup> Submission from Mr Paul Owens, principal petitioner, 7 November 2009.

<sup>113</sup> Ibid.

<sup>114</sup> Letter from Hon Simon O'Brien MLC, Minister for Transport, 20 January 2010, p1.

<sup>115</sup> Ibid.

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*replacement of the Boorara Road Bridge are likely to be made available ... is 2012/13.*<sup>116</sup>

3.124 On 3 March 2010 the Committee finalised the petition on the basis that the Government had made funds available to commence preliminary work on a new bridge.

**PETITION NO 48—MINING PRODUCTS AND HAZARDOUS MATERIALS – INQUIRY INTO THE SAFE TRANSPORTATION, MANAGEMENT, HANDLING AND EXPORT**

3.125 This petition contained 64 signatures and was tabled by Hon Robin Chapple MLC.

3.126 The petition reads:

*We the undersigned residents of Western Australia respectfully request that a full and thorough Parliamentary Inquiry be conducted into the ability of the WA Government to safely regulate the transport, management, handling and export of mining products and hazardous materials through all Western Australian Ports.*

*Our request is based on the following grounds:*

- i) The recent environmental health impacts that have occurred in Esperance with the lead and nickel contamination of the community and environment, the derailment of 80 iron ore containers in the Pilbara and many other derailments of mining products and hazardous materials in regional WA by rail transport.*
- ii) The Government's intention to fast track mining and industrial approvals, which may represent an increased risk to the environment and public health at WA ports and along transport routes, particularly for indigenous communities.*
- iii) The lack of adequate and legal environmental health protection afforded to workers, the environment and public health related to the transport, handling and export of mining products and hazardous materials in WA.*

*Your petitioners therefore respectfully request that the Legislative Council conduct a Parliamentary Inquiry to ascertain the adequacy, effectiveness, legal integrity and responsibility of the relevant government agencies to safely regulate for the protection of the environment, worker and public health, the transport, handling,*

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<sup>116</sup>

Ibid.

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*management and export of mining products and hazardous materials through all Western Australian Ports.*<sup>117</sup>

- 3.127 On 15 November 2009, the Committee received an email request from Ms Jane Bremmer, the principal petitioner, in which she requested an extension of time to provide a submission in support of the petition.
- 3.128 When a submission had not been received by 3 March 2010, the Committee resolved to finalise the petition with no further action. Subsequently, on 4 March 2010 an email was received from the principal petitioner which included a “submission addendum” (containing a long list of issues and questions) and an information sheet from the ‘Alliance for a Clean Environment’.
- 3.129 Despite the failure of the petitioner to lodge a submission within time and the Committee’s earlier decision to close the petition, the Committee decided to allow the petitioner the opportunity to identify any specific issues that she considered had not been addressed in the report *The Cause and Extent of Lead Pollution in the Esperance Area* by the Legislative Assembly’s Education and Health Standing Committee in November 2007. The Committee was of the view that the issues raised in the petition had been examined in detail in this report.
- 3.130 No correspondence was received from the petitioner within the requested timeframe and the petition was finalized again on 21 April 2010.

**PETITION NO 49—MOORE RIVER DEVELOPMENT**

- 3.131 This petition was tabled by Hon Giz Watson MLC and contained 191 signatures. Further copies of the petition were subsequently tabled and contained an additional 148 signatures.
- 3.132 The petition states:

*We the undersigned residents of Western Australia, are opposed to any development south of the Moore River, a view which has been consistently and strongly put forward by the community since 1995.*

*Your petitioners therefore respectfully request the Legislative Council to recommend that the land adjoining the proposed Wilbinga Conservation park which is subject to Moore River Company’s plans, be purchased by the Government at a fair price to the landowner, be managed in perpetuity for the benefit of the whole community, for the protection of the estuary of the Moore River, and serving as a buffer zone against further metropolitan encroachment.*

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<sup>117</sup> Legislative Council, Tabled Paper No 1400, 13 October 2009.

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*We make this request because of the unique aesthetic and environmental features which this area contributes towards the natural capital of Western Australia.*<sup>118</sup>

3.133 A submission from the principal petitioner, Mr John Prince, expressed concern about an announcement on 9 June 2009 by the Planning Minister, Hon John Day MLA, regarding a development by Moore River Company on the south bank of the Moore River. According to the submission, the tone of the Minister's statement was "*most disturbing*" as it indicated that the development was "*no longer open to debate.*"<sup>119</sup>

3.134 Despite the Government's decision to limit the development to 2,000 dwellings, the petitioner argues that the decision is contrary to fifteen years of public opposition to development.<sup>120</sup>

3.135 The petitioner and other members of the group, Friends of Moore River Estuary Inc, are concerned about the following issues:

- The northward spread of urban sprawl which extends to Two Rocks.
- The area is not well serviced and significant infrastructure investment will be required to support the development.
- There are insufficient employment opportunities to support a township of 6,000 residents.
- The Moore River Estuary is a eco-tourism destination and its attraction would be compromised by development.
- The Gingin Coast Structure Plan, which was adopted by the Western Australian Planning Commission (WAPC) in 2006, required the land to be re-zoned back to rural. The Minister's announcement reverses the WAPC recommendation without any public consultation.
- The creation of a township south of the river would negatively impact on the Guilderton local authority's resources.<sup>121</sup>

3.136 The petitioner disagrees with the Minister's assessment of the benefits of development:

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<sup>118</sup> Legislative Council, Tabled Paper No 1401, 13 October 2009.

<sup>119</sup> Submission from Mr John Prince, principal petitioner, 22 October 2009, p1.

<sup>120</sup> Ibid.

<sup>121</sup> Ibid, pp1-2.

- The Minister's claim that reducing the size of the development will address environmental concerns is disputed. The fragile coastal eco-system would be seriously compromised by any housing development close to the river.
- The petitioners also challenge the Government's position that the decision treats landowners whose land had been zoned urban since 1995, fairly. They argue that the urban re-zoning was made against "*overwhelming opposition from the Guilderton community and wider public.*"<sup>122</sup>

3.137 A response to the petitioners' concerns was received from the Minister for Planning, Hon John Day MLC. The Minister disputed that the Moore River estuary was threatened by metropolitan encroachment:

*The River is approximately 16km north of the boundary of the metropolitan region. The land immediately north of the metropolitan region is identified for future conservation estate (proposed Wilbinga nature reserve) or is existing state forest or priority protection land for the Gnangara water mound.*<sup>123</sup>

3.138 The Minister explained that the planning processes in relation to the land south of the Moore River would maintain high environmental standards and provide significant setbacks from the Moore River. Additional buffering will be provided by Crown Reserve 17949 which is immediately south of the mouth of the Moore River.<sup>124</sup>

3.139 In relation to planning policy and infrastructure costs, the Minister agrees that the petitioner's concerns are valid.

*However, in this instance, the cost of all investigations, connections and infrastructure to service the site will be borne by the developer ...*

*Some local infrastructure, including roads and community facilities, may be jointly funded by the developer and the local government.*<sup>125</sup>

3.140 The Minister confirmed that it is preferable to plan development around existing settlements that could provide sustainable services and infrastructure. However, the Moore River development could be supported since the revised Outline Development Plan can designate land for economic activity such as light industry. The Minister

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<sup>122</sup> Ibid, p2.

<sup>123</sup> Letter from Hon John Day MLC, Minister for Planning, 25 November 2009, p1.

<sup>124</sup> Ibid.

<sup>125</sup> Ibid, p2.

also pointed out that the Shire of Gingin has a “*well-established economic base through the farming and food-production industries.*”<sup>126</sup>

3.141 In relation to the petitioners’ concerns about damage to the area as an eco-tourism destination, the Minister responded as follows:

*Due to the topography of the site (high dunes on the southern bank), and the developer’s intention to provide a buffer of approximately 1km from the river, the proposed development south of the Moore River should not impact on eco-tourism on the river.*<sup>127</sup>

3.142 The Gingin Coast Structure Plan has an indicative population threshold for Guilderton of 5,000 and the scaled down Moore River proposal is consistent with this strategy.

*Although the strategy recommends that development occurs to the north of the existing Guilderton township, there are significant tenure issues that prevent this occurring in the short term. In addition, the Western Australian Planning Commission proposes to review the Gingin Coast Structure Plan in the context of a Wheatbelt Regional Strategy.*<sup>128</sup>

3.143 The Minister’s letter provided the Committee with a history of the Moore River development. A summary is provided below and the full document is provided at Appendix 1.

- The Moore River Company (MRC) owns approximately 2000 ha of land south of the Moore River. In 1995, 557 ha was rezoned from rural to ‘Urban Development’ under the Shire of Gingin Town Planning Scheme No 8 (TPS 8).
- An Outline Development Plan (ODP) approved by the WAPC in January 2000 provided for development of 557 ha and 5,200 dwellings.
- Prior to their election in 1991, the Labor Party made a commitment to scale back the development of land south of the Moore River.
- In 2001 the Shire adopted Town Planning Scheme No 9 (TPS 9) which proposed that the land south of the Moore River be zoned ‘Residential’.
- In 2003, the Gingin Coast Structure Plan (GCSP) which was published for public comment, identified the MRC’s land as residential settlement.

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<sup>126</sup> Ibid.

<sup>127</sup> Ibid.

<sup>128</sup> Ibid, p3.

- The previous Minister requested the WAPC review the ODP and urban development zoning.
- The WAPC adopted the GCSP which recommended that the land south of the Moore River be classified 'Rural'. Part of the land was identified as a 'Recreation and Tourist Node Investigation Area'. In October 2005 (following public advertising), the WAPC resolved to adopt the GCSP in that form.
- The rationale for the WAPC adopting the downgrade of the 'Urban Development' status of the land south of the Moore River was that urban development on this site would be contrary to the State's sustainability agenda.
- In March 2006, the WAPC recommended to the Minister for Planning that TPS 9 be modified to zone the MRC's land from 'General Rural' in accordance with the GCSP.
- The Shire of Gingin was not prepared to advertise the proposed modifications to TPS 9 until it received indemnity from the State Government against possible legal action (from MRC) in relation to the land south of the Moore River. The previous government did not take any steps to advertise, or require the Shire to advertise, the proposed modifications to TPS 9.
- In October 2003, the MRC applied for subdivision approval from the WAPC. Based on the new direction of the GCSP (to change the land use back to rural), the subdivision application was refused by the WAPC. The MRC appealed the decision to the State Administrative Tribunal (SAT) and in May 2007 the SAT recommended refusal of the subdivision since the proposal did not comply with strategic policy for the area (the GCSP and the State Sustainability Strategy agenda).
- The MRC appealed the SAT's decision to the Court of Appeal. The appeal was held in abeyance pending discussions with the previous Minister. Settlement negotiations were never concluded due to the election in September 2008.
- In June 2009, State Cabinet acknowledged the existing zoning of the site, provided there was a 60 per cent scaling back of the development and completion of a revised outline development plan.

- The revised outline development plan will be submitted to the shire of Gingin in early 2010 and will be publicly advertised.<sup>129</sup>

3.144 On 5 May 2010, the Committee heard evidence from the Department of Planning and was told that a key development occurred in 2004 when the WAPC

*refused the proposed subdivision on the basis that it was inconsistent with the draft Gingin coast structure plan. That was a big step. Probably about a month later, the WA Planning Commission adopted the Gingin coast structure plan as final. It established, I guess, Guilderton with a settlement hierarchy of approximately 6,000 people. That is the future development size for that settlement and Lancelin being the main town with 12,000 population.*<sup>130</sup>

3.145 The proponent appealed to the SAT and the Minister called in the appeal in accordance with section 246 of the *Planning and Development Act 2005*:

*246 (1) This section applies to an application made to the State Administrative Tribunal if the Minister considers that the application raises issues of such State or regional importance that it would be appropriate for the application to be determined by the Minister.*

*(2) The Minister may direct —*

*(a) the President to refer an application to which this section applies to the Minister for determination; or*

*(b) the State Administrative Tribunal to hear the application but, without determining it, to refer it with recommendations to the Minister for determination.*

3.146 The Department explained that:

*In calling in an appeal, the minister needs to be confident that the matter is of state significance. It is quite an unusual case. Of course, when SAT issued its decision in May 2007 the landowner then elected to appeal the SAT decision in the Supreme Court, which is the next option available to a proponent. That appeal had still not been determined at the time, by July 2009. It was eventually withdrawn by*

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<sup>129</sup> Letter from Hon John Day MLA Minister for Planning, 25 November 2009, Attachment C.

<sup>130</sup> Miss Catherine Meaghan, Director, Southern Regions, Department of Planning, *Transcript of Evidence*, 5 May 2010, pp4-5.

*the proponent as a result of the government's decision to recognize the zoning.*<sup>131</sup>

3.147 The Committee heard that the Shire of Gingin had always supported the development:

*the Shire of Gingin has consistently supported development south of the Moore River. They see that area as a significant growth area and it believes that by having future populations there, the settlement can attract appropriate services in education, health and so on.*<sup>132</sup>

3.148 However inconsistencies between the Town Planning Scheme and the Structure Plan can develop over time:

*In theory, a town planning scheme and other statutory planning mechanisms should accord with a strategic plan, which is what the Gingin coast structure plan is. However, the process of reviewing schemes and amending those schemes can take some time, and sometimes they can be slightly inconsistent.*<sup>133</sup>

3.149 In relation to the petitioners' dissatisfaction with the Minister's decision to preclude further debate on the issue, it was explained to the Committee that Cabinet had made a decision about the Moore River development, however:

*The statement issued by Minister Day said that the zoning of the land was not in question any more. What remains is the form of that development. I think that again will be unpalatable to the Friends of the Moore River Estuary because their position is to have no development at all. However, within the context of development occurring south of the Moore River there will be opportunity for that group and others to comment on any element of the outline development plan, which will also include the environmental issues on site, particularly water management and other coastal and riverine setbacks. They are quite fundamental.*<sup>134</sup>

3.150 The Committee requested clarification from the Minister regarding the basis for his decision to proceed with a development which had previously been found by SAT to be inconsistent with the Coastal Structure Plan. The Minister replied:

*Recognition of the existing 'Urban Development' zoning by the Government was based on the scale of the proposed development*

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<sup>131</sup> Ibid, p5.

<sup>132</sup> Ibid.

<sup>133</sup> Ibid, p7.

<sup>134</sup> Ibid, p10.

*being reduced by approximately sixty per cent. This equates to approximately 2,000 dwellings for the land and a likely end population of 6,000 people. This population range for Guilderton is consistent with what is envisaged by the Gingin Coast Structure Plan and is substantially less than that proposed in the matter that went before the State Administrative Tribunal.*<sup>135</sup>

- 3.151 At its meeting of 23 June 2010 the Committee agreed to close the petition. No further inquiries were warranted given that the Government viewed the scaled-down development as consistent with the Coastal Plan. Hon Lynn MacLaren MLC did not agree and indicated an intention to provide a minority report (attached).

#### **PETITION NO 51—VOLUNTARY EUTHANASIA**

- 3.152 The petition was tabled by Hon Nick Goiran MLC and contained 1,018 signatures. Further copies of the petition were subsequently tabled and contained an additional 4,989 signatures.

- 3.153 The petition states:

*We the undersigned residents of Western Australia are opposed to Euthanasia as we believe it supports and promotes a ‘Culture of Death’.*

*Your petitioners therefore respectfully request the Legislative Council to support a ‘Culture of Life’ by opposing Euthanasia (whether voluntary or involuntary) and urging the government of the day to assign more resources to Palliative Care and initiatives that enhance and/or improve the quality of life for people with disabilities and/or illness.*<sup>136</sup>

- 3.154 A submission was received from the tabling Member, Hon Nick Goiran MLC, which explained that the petition related to euthanasia and palliative care:

*When evaluating the petition ... the argument ought not be whether we allow people to take their own lives, the questions we should be asking are “why would people want to be taking their own lives?” and “are we doing all we can to provide the best quality of care for someone at the end of their life?”*<sup>137</sup>

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<sup>135</sup> Letter from Hon John Day MLA, Minister for Planning, 1 June 2010.

<sup>136</sup> Legislative Council, Tabled Paper No 1500, 10 November 2009.

<sup>137</sup> Submission from Hon Nick Goiran MLC, tabling Member, 1 December 2010, p1.

3.155 The tabling Member acknowledged that there had been significant advances in palliative care medicine however:

*It is important that an inquiry be made into palliative care in Western Australia to ascertain whether Western Australia complies with the best practice standards and whether enough funding has been allocated to palliative care delivery and the education of health professionals and service providers to ensure the quality and models of palliative care delivery are: a) of a 'world class' standard, b) mainstream, and c) available to all.<sup>138</sup>*

3.156 The tabling Member's discussions with palliative care specialists indicated that Western Australian palliative care services are reasonable, but areas that still need attention are:

- Community education about the dying process and palliative care services.
- Education of general practitioners (GPs) and other health providers.
- Cultural differences that exist in remote regions.
- Paediatric palliative care.<sup>139</sup>

3.157 A submission from Mr John Barich, one of the principal petitioners, opposed the legalisation of euthanasia and argued that such a move would have serious side effects including undermining efforts to reduce the incidence of suicide.<sup>140</sup> In a similar vein, the submission from Mr Peter O'Meara expressed concern that the *Euthanasia Bill 2009* promoted a "culture of death" and would make health professionals complicit in such practices.<sup>141</sup>

3.158 On considering the terms of the petition and the submissions from various petitioners, the Committee decided not to inquire further into euthanasia since this issue would be debated by Members extensively if a bill was introduced into the Parliament. The Committee decided to conduct preliminary inquiries into palliative care in Western Australia and accordingly requested information from the Minister for Health.

3.159 A response from Hon Dr Kim Hames MLA, Minister for Health, provided the Committee with background on recent reviews and developments in relation to palliative care, including:

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<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

<sup>140</sup> Submission from Mr John Barich, principal petitioner, 2 December 2009, p1.

<sup>141</sup> Submission Mr Peter O'Meara, principal petitioner, 6 January 2009, p1.

- A submission from Palliative Care WA (Inc) in 2003 to the Health Reform Committee made eight recommendations relating to palliative care.
- In 2004 a funding review of the Cancer Foundation Cottage Hospice, Murdoch Community Hospice and Ramsay's Hollywood Private Hospital Palliative Care Unit was conducted.
- The Department of Health commissioned a statewide review of palliative care in Western Australia in 2005. The subsequent report, *Palliative Care in Western Australia*, made 48 recommendations.
- In 2006 the Western Australian Cancer and Palliative Care Network was established to implement the recommendations of the 2005 report.
- In 2009 Cabinet approved \$14 million funding over four years to establish the Palliative Services Project Fund. The outcomes of the project are based on best practice models of care developed by the WA Cancer and Palliative Care Network.<sup>142</sup>

3.160 Further initiatives included:

- The Palliative Project Services Fund has allocated \$7.5 million to WA Country Health Services to improve rural palliative care services.
- A funding review by Healthcare Management Advisors Pty Ltd in 2004 addressed the issues raised by Palliative Care WA to the health reform committee.
- The 2005 statewide review of palliative care applied a population based approach in establishing future palliative care needs in the metropolitan area.
- A Palliative Care Model of Care Model has been endorsed which supports a partnership between specialist palliative care services and primary care providers to provide palliative care according to the needs of each individual patient.
- Progress in implementation of the Palliative Care in WA 2005 report includes:
  - Developing Models of Care.
  - Development of the Paediatric Palliative Care Program (for children with non-malignant disease) as a statewide service.

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<sup>142</sup>

Letter from Hon Dr Kim Hames MLA, Minister for Health, 16 April 2010, pp 1-2.

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- A Palliative Care Medications Project.
  - The statewide rollout of the Liverpool Care Pathway project.
  - Work towards a national evidenced based residential aged care project.<sup>143</sup>
- 3.161 The Palliative Services Project Fund will continue to address the recommendations of the report and the funding will be used to:
- Implement the Rural Palliative Care Model in rural areas.
  - Expand the paediatric palliative care program.
  - Develop an Indigenous Model for palliative care.
  - Implement the Liverpool Care Pathway project.
  - Develop Area Health Teams in the Metropolitan region.
  - Review workforce and education needs.<sup>144</sup>
- 3.162 The Committee concluded that there had been recent assessment and examination of palliative care services in Western Australia and a further inquiry was not warranted at this time. Consequently, the petition was finalised on 5 May 2010.
- 3.163 The Committee received further correspondence from the tabling Member, Hon Nick Goiran MLC, who expressed his dissatisfaction with the Committee's decision not to conduct an inquiry into palliative care.
- 3.164 The Committee took note of the issues raised by the Member but also noted that the report of the Legislative Assembly's Education and Health Standing Committee's Review of WA's Current and Future Hospital and Community Health Services, *Destined to Fail: Western Australia's Health System* was tabled in May 2010. A chapter of the report examined palliative care in Western Australia and made a number of findings and recommendations in relation palliative care services. The Committee confirmed its decision not to undertake further inquiries regarding this issue.

**PETITION NO 52—PRAYING FOR RELIEF (MR DOMINIC MANGANARO)**

- 3.165 This petition is reported in the Committee's Report 19, *Petition – Prayer for Relief*, tabled in the Legislative Council on 1 April 2010.

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<sup>143</sup> Ibid, pp 2-3.

<sup>144</sup> Ibid, p4.

**PETITION NO 53—REDRESS WA SCHEME**

This petition was tabled by Hon Sue Ellery MLC and contained 357 signatures.

3.166 The petition states:

*To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.*

*We, the undersigned residents of Western Australia support the Redress WA scheme as an important way of recognizing the pain and suffering of thousands of adults who were victims of abuse as children while in the care of the State. The Government's decision to reduce the maximum amount of the ex-gratia payments available under the Redress WA scheme, from up to \$80,000 to up to \$45,000 is a second betrayal of these victims.*

*Your petitioners therefore respectfully request the Legislative Council recommend that the government reverse this decision, so that the dignity of these people can be restored.<sup>145</sup>*

3.167 A submission was not received from the principal petitioner and the petition was finalized on 24 March 2010.

**PETITION NO 55—STRAWBERRY PACKAGING SHED ON A RURAL RESOURCE PROPERTY – APPROVAL GRANTED**

3.168 The petition was tabled by Hon Michael Mischin MLC and contained 48 signatures.

3.169 The petition states:

*We the undersigned residents of Western Australia are opposed to the recent approval of a Strawberry Packaging Shed on a Rural Resource Property in Hawkins Road, Wanneroo. The shed's operations and size are clearly of an industrial nature and should be treated as one. We believe that the information provided to Council on the proposed operations of the business was clearly incorrect which was detrimental to the approval outcome.*

*Your petitioners therefore respectfully request the Legislative Council to recommend a full investigation into how and why this packaging shed was approved by the City of Wanneroo.<sup>146</sup>*

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<sup>145</sup> Legislative Council, Tabled Paper No 1563, 24 November 2010.

<sup>146</sup> Legislative Council, Tabled Paper No 1768, 3 March 2010.

- 3.170 A submission from Mrs Anthea Gill explained that the petition related to an area of East Wanneroo containing market gardens and other rural businesses. The residents had been advised by the City of Wanneroo on 3 October 2008 that an application for development of a strawberry packaging shed was being considered. The petitioner's submission complains that residents were given a very limited time to submit comments (eight working days) and little information about the proposed development was provided to them.<sup>147</sup>
- 3.171 According to Mrs Gill, residents "*realized the new development would be a purpose built, sophisticated, industrial, wholesale warehouse, housing large coolrooms for storing produce awaiting export*" and objected to the development, particularly on the basis of the late night operating hours and noise.<sup>148</sup>
- 3.172 Mrs Gill asserts that such a warehouse is not permitted in the City of Wanneroo Rural Resource Zone. She appeared before the City Council in November 2008 with other residents to express their concerns about the development and the Council voted to restrict vehicle movements from 6am to 8pm (Condition 10). This condition was eventually modified to allow unrestricted truck movements from July to November.
- 3.173 The petitioners protest that during the July – November 2009 strawberry season, they must endure

*the noise and nuisance associated with truck movements, forklift loading and unloading operations, exposed refrigeration compressors, clanging metallic noises, and light spill from a huge undercover loading area. The truck collections and deliveries occurred every night, at regular intervals, until approximately 11pm – 12am and later, including weekends. This will happen each season.*<sup>149</sup>

- 3.174 The petitioner believes that

*the proponenets did not initially reveal to the City the true nature of their business and its operations, resulting in a flawed consultation and assessment process.*<sup>150</sup>

- 3.175 Mrs Gill advised the Committee that a complaint had been taken to the Ombudsman.

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<sup>147</sup> Submission from Mrs Anthea Gill, 6 April 2010, p1.

<sup>148</sup> Ibid

<sup>149</sup> Ibid, p2.

<sup>150</sup> Ibid.

3.176 A submission was received from Hon Michael Mischin MLC, the Member who tabled the petition, in which he requests the Committee investigate whether the “*approval process might have been perverted*”.<sup>151</sup>

3.177 The Committee learnt that the State Administration Tribunal (SAT) matter, *TI Dragon Management Pty Ltd and City of Wanneroo*, had been resolved at mediation (a confidential process) and the proceedings were subsequently withdrawn. The Committee was also advised by the Ombudsman’s office that a complaint had been referred to them regarding this matter but not sustained.

3.178 The response from the City of Wanneroo (City) to the issues raised in the petition confirmed that a complaint had been made by one of the petitioners to the Ombudsman about the City’s approval of the packing shed. The Ombudsman’s investigation concluded that it was within the City’s power to make the decision to approve the development and the decision, of itself, was not unreasonable. There was no evidence of “*defective administration*”.<sup>152</sup>

3.179 The City advised that it had recently completed an audit of the development to identify any non-compliance with the City’s development approval:

*Some areas of non-compliance were identified as a result of these investigations and these will be pursued directly with the landowner in accordance with the City’s standard development compliance and enforcement practices.*<sup>153</sup>

3.180 The City provided the Committee with copies of correspondence relating to the Ombudsman’s investigation and the Committee noted that:

- The operation complies with the definition for ‘Industry-Rural’ under the City of Wanneroo’s District Planning Scheme No 2 (DPS 2).<sup>154</sup>
- The City has been monitoring the operation to ensure compliance with the Environmental Protection (Noise) Regulation.<sup>155</sup>
- Condition 10 of the original Planning Approval restricted movement of trucks on site to between 6.00am and 8.00pm. The operator lodged an appeal with the SAT. Through the SAT mediation process, it was agreed to amend condition 10 to allow for:

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<sup>151</sup> Submission from Hon Michael Mischin MLC, tabling Member, 31 March 2010, p1.

<sup>152</sup> Letter from Mr Daniel Simms, Chief Executive Officer, City of Wanneroo, 9 June 2010, p1.

<sup>153</sup> Ibid.

<sup>154</sup> Letter from Mr Daniel Simms, Chief Executive Officer, City of Wanneroo, to Ms C Anthony, A/Investigating Officer, Ombudsman Western Australia, 11 February 2010, p1.

<sup>155</sup> Ibid, p2

*unrestricted truck movements into and out of the property for strawberries alone (given the significance of that crop to the local economy and it being the sole purpose of this facility for the foreseeable future), but only during the months of July to November inclusive (being the peak harvest period for strawberries).*<sup>156</sup>

- Priority uses within the Rural Resource zone include:

*“intensive agriculture, horticulture and basic raw materials extraction” all of which could arguably have the same or greater impact on nearby sensitive land uses, as the approved packing shed operation. ... Further more, sub-clause (i) requires the applicant for any “sensitive use” (which includes a dwelling) in the Rural Resource zone to submit a written acknowledgement of the nature and legitimacy of existing and future priority uses and acceptance of the existence (or potential existence) of noise, dust, odour and other impacts associated with such priority uses.*<sup>157</sup>

3.181 Following consideration of documentation in relation to this matter the Committee concluded that:

- The petitioner’s complaint has been investigated by the Ombudsman and was not substantiated.
- Information provided by the City regarding relevant zoning indicates that the business is appropriate for the area.
- The City has audited compliance with the development approval and has given an undertaking to follow up areas of non compliance.

3.182 Based on the above, the Committee resolved not to undertake further inquiries into this matter and the petition was finalized on 24 June 2010.

**PETITION NO 56 - DERBY/WEST KIMBERLEY SHIRE—OPPOSE THE WITHDRAWAL OF HEALTH SERVICES**

3.183 This petition was tabled by Hon Wendy Duncan MLC and contained 4 signatures. Another copy of the petition was subsequently tabled and contained an additional 865 signatures. It reads:

*We the undersigned residents of the shire of Derby/West Kimberley, Western Australia are opposed to the withdrawal of health services*

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<sup>156</sup> Ibid, pp2-3.

<sup>157</sup> Ibid, p3.

*from Derby and the effect this will have on the welfare and future progress of the community and surrounds.*

*Your petitioners therefore respectfully request the Legislative Council to similarly oppose the withdrawal of health services from Derby and request the WA Country Health Service ensures that—*

- *Surgery is able to be performed at any time at Derby Hospital by a resident Derby surgeon.*
- *Paediatrician/s remain based in Derby for the Kimberley Region.*
- *There is no further removal of health services from Derby.*<sup>158</sup>

3.184 A submission from the principal petitioner, the Shire of Derby/West Kimberley, raised the following issues regarding the Derby health service:

- There should be capacity to conduct surgery at any time at Derby Hospital by a resident Derby surgeon. General surgery is currently only provided 4-5 days per month with patients having to travel to Broome or Perth in urgent situations.
- A paediatrician should remain based in Derby. There are two Paediatric positions and a Paediatric Registrar position for the Kimberley region. Most paediatric work is in Derby and Fitzroy Crossing and it is feared that the paediatrician will be re-located to Broome:

*This is cause for major alarm in our communities as each time there is a review, we lose more of our services and paediatrics is essential.*<sup>159</sup>

- The two regional surgeon positions have been re-located to Broome and there should be no further removal of health services from Derby. The regional obstetrician and gynaecologist which was previously located in Derby is now located in Broome and provides a visiting service one week per month based on need.<sup>160</sup>

3.185 The petitioner expresses concern that bed capacity at Derby Hospital has been reduced with children sometimes having to share the General ward.<sup>161</sup>

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<sup>158</sup> Legislative Council, Tabled Paper No 1769, 3 March 2010.

<sup>159</sup> Submission from Ms Elsie Archer, Shire President, Shire of Derby/West Kimberley, 22 March 2010, p1.

<sup>160</sup> Ibid.

<sup>161</sup> Ibid, p2.

3.186 All of these developments, which have increased patient transfers to Broome (a 500km round trip), had decreased ambulance availability in Derby and the Fitzroy Valley.<sup>162</sup>

3.187 The submission pointed out that the poor accommodation for health professionals in Derby contributed to the difficulty in attracting and retaining staff. Efforts to resolve the situation had not been successful and the petitioner reported that the “*funding allocation for additional new houses in 2007 was diverted to the Pilbara.*”<sup>163</sup>

3.188 The submission also made the following points:

- There is a large discrepancy in the clinician per population ratio in the area compared to other parts of the State.
- Derby Health Services cover a vast area of 118,560 sq. km. and includes the towns of Derby, Fitzroy Crossing and Carnballin and around 60 remote Aboriginal communities and outstations. The removal of many services to Broome causes difficulties for the local population, including the forced removal from extended family.<sup>164</sup>

3.189 A submission from the tabling Member, Hon Wendy Duncan MLC, explained that:

*The petition is a response to the loss of many ... specialist health services to Broome, following the transfer of the region's base hospital from Derby to Broome.*<sup>165</sup>

3.190 The local population are now unable to access the same level of specialists services such as radiology, surgery, paediatric, obstetric and gynaecology at the Derby Hospital. These services are now only available on a visiting specialist basis or by a 440km round trip to Broome.<sup>166</sup>

3.191 The tabling Member also points out that:

*Accommodation options are extremely limited for people coming into a regional centre such as Broome, for treatment, and this leads to an increase in the number of itinerant persons around the town ... Through this model of health delivery, additional pressures are placed on the regional centre, as well as on the people who have to*

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<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

<sup>164</sup> Ibid.

<sup>165</sup> Submission from Hon Wendy Duncan MLC, tabling Member, 30 March 2010, p1.

<sup>166</sup> Ibid.

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*leave the place in which they live, their family and support network in order for them to receive appropriate treatment.*<sup>167</sup>

- 3.192 A response from the Minister for Health, Hon Dr Kim Hames MLA, explained the rationale for the model for delivering health services in the region:

*As the largest and most accessible town in the Kimberley region, Broome was identified as the most appropriate town and as a result, Broome Health Service was redeveloped to enable the hospital to undertake the role of Regional Resource Centre for the Kimberley region.*

*Derby, as an Integrated District Health Service, will continue to perform a critical role in providing primary and secondary care, including surgery and births, for its population and surrounding communities.*<sup>168</sup>

- 3.193 The Minister advised that for five years it had not been possible to recruit a resident surgeon for Derby, consequently in order to fill the position, it had to be re-advertised as a regional position.<sup>169</sup>

- 3.194 Emergency surgery is conducted in Broome to ensure patients have access to all necessary technology, clinical support and services. For the 2009-2010 financial year, Derby had 326 surgical separations, of which only two were transferred to Broome and three to metropolitan hospitals. The remaining patients had surgery in Derby.<sup>170</sup>

- 3.195 In relation to paediatric services, the Minister advised that there are two paediatricians and one paediatric registrar (on secondment from Princess Margaret Hospital) in the Kimberley. Following a recent review of paediatric services in the Kimberley, another paediatrician and physician will be appointed to the region.<sup>171</sup>

- 3.196 Derby Hospital underwent a \$14.4m redevelopment in 2007 and the 35 bed capacity of the Hospital is, according to the Minister, able to meet current demand. The general ward of the Hospital contains two wings and paediatric patients are generally placed in the paediatric wing unless circumstances (such as bed capacity) mean that they can be more closely managed in the general wing.<sup>172</sup>

- 3.197 In relation to the petitioners' concerns about inadequate staff housing:

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<sup>167</sup> Ibid.

<sup>168</sup> Letter from Hon Dr Kim Hames MLA, Minister for Health, 19 May 2010, p1.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid, p2.

<sup>171</sup> Ibid, pp2-3.

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*A housing renewal plan is being developed to ensure the disposal of unused/poor property and seeking approval to reinvest in new housing in Derby. Derby is fortunate to have access to land which will allow for the construction of new houses. This project is currently underway.*<sup>173</sup>

3.198 The Committee forwarded a copy of the Minister's letter to the principal petitioner and invited the petitioner to make any further comment in light of the Minister's response to the issues raised. The Committee did not receive further comment from the petitioner and the Committee finalized the petition on 30 June 2010.

**PETITION NO 57—BAUXITE MINING IN THE SHIRE OF CHITTERING AND DARLING RANGE, OPPOSE**

3.199 This petition was tabled by Hon Sally Talbot MLC, it contained 133 signatures and reads:

*We the undersigned residents of Western Australia, are opposed to the social, health and environmental harm which has been, or may be, caused by existing and future exploration and mining by Bauxite resources Limited and any subsidiary companies (BRL) in the Shire of Chittering and the Darling Range.*

*Your petitioners therefore respectfully request that the Legislative Council:*

- 1. Implement a formal inquiry into the bauxite mining activities and permit processes of BRL in the Shire of Chittering and Darling Range and to allow for proper evaluation of each project based on environmental and social assessments in accordance with legislation;*
- 2. Make recommendation that BRL mining projects (and any other mining proponents in the Shire of Chittering and Darling Range) be subject to due and transparent processes of formal environmental assessment as required by environmental laws and regulations (including public consultation) for both existing and future mining activities; and*
- 3. Conduct an independent social impact study to review and formally assess the competing interests of farming, rural lifestyle and open cut (and other) mining in the Shire of*

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<sup>172</sup> Ibid, p3.

<sup>173</sup> Ibid.

*Chittering and Darling Ranges, where BRL claims around  
15,000 square kilometers in mining tenements.*<sup>174</sup>

3.200 A submission from petitioners Ms Lyn Cuff and Ms Sue Cray expressed concern about Exploration Licences owned by Bauxite Resources Ltd (BRL) in the Darling Ranges. The land in question encompassed tourist destinations, parks and reserves, rare flora and fauna, water catchments, agricultural holdings, residential small holdings, horticulture, wineries and orchards:

*It is BRL's intention to conduct large scale, broad hectare strip mining at multiple locations throughout the Darling Ranges over 25 years and to haul bauxite using public infrastructure through environmentally sensitive and populated agricultural and tourism areas to ports for export, as well as develop an alumina refinery at Kemerton.*<sup>175</sup>

3.201 According to the petitioners the negative impacts of the operation would include the following:

- noise and dust emissions,
- clearing of siding vegetation,
- dangerous road conditions created frequent movement by large trucks, and
- uncertainty for rural lifestyle and tourism investment in the area.<sup>176</sup>

3.202 The petitioners are also concerned about the circumstances in which BRL's Stage 1 trial was approved and request the Committee conduct an inquiry into the following matters:

- *BRL mined bauxite under an Extractive Licence for "gravel" although the Chittering Town Planning Scheme clearly does not permit mining in the Shire;*
- *BRL did not obtain a Works Approval from DEC as required under the Environmental Protection Act (EP Act) to process 130,000 of bauxite ore;*
- *Bauxite was stockpiled at Mooliabeenee Siding without BRL's contractor Westnet Rail obtaining development approval from the Shire*

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<sup>174</sup> Legislative Council, Tabled Paper No 1771, 3 March 2010.

<sup>175</sup> Submission from Ms Lyn Cuff and Ms Sue Cray, principal petitioners, 13 April 2010, p1.

<sup>176</sup> Ibid.

*of Gingin for a change to industrial use, despite being adjacent to residences and a vineyard. Stockpiling minerals is not within the approved “railway purposes” that apply to the disused siding;*

- *No part of the trial was referred to the EPA for assessment under s38(5) of the EP Act prior to its commencement, despite it being likely to significantly impact on the environment;*
- *BRL undertook no public consultation at all in connection with the Trial;*
- *Government authorities were selectively informed and unaware that the trial was a prelude to a large scale, long term mining operation at >3mtpa from 2011 for 10 years.<sup>177</sup>*

3.203 The petitioners request a strategic assessment of the environmental, social and economic impacts of bauxite mining in the Darling Ranges to determine whether such an operation is environmentally and economically feasible.<sup>178</sup>

3.204 The Shire of Chittering advised the Committee that Stage 1 of the development had been approved by Council with conditions. A noise and dust management plan was included in the submission to Council, and there was public advertising through the local newspaper, adjoining land owners and relevant government agencies.<sup>179</sup>

3.205 It is the Council’s understanding that officers from the Department of Environment and Conservation (DEC) visited the site and provided advice to the applicant about whether the proposal would need to be referred to the Environmental Protection Authority (EPA) for a formal assessment.<sup>180</sup>

3.206 The application for Stage 2 was considered by Council in November 2009:

*Based on the extent of the proposal and the potential to adversely affect the environment, Council at that meeting resolved to refuse to support the application as the proposed development is considered as “Industry – Mining” which is a prohibited use under the Shire of Chittering Town Planning Scheme No 6.*

*The EPA after numerous complaints from the community resolved to have the application undergo a full Public Environmental Review*

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<sup>177</sup> Ibid, pp1-2.

<sup>178</sup> Ibid, p2.

<sup>179</sup> Letter from Mr Azhar Awang, Executive Manager Development Services, Shire of Chittering, 17 May 2010, pp1-2.

<sup>180</sup> Ibid, p2.

*(PER). It is understood that the applicant has made an appeal to the process and is currently providing the report to the EPA for its justification not to have to go through the PER process.*

*Each development application is assessed on its merit based on the applicable legislation, local laws and policies as well as the overall impact to the surrounding environment and how these issues are addressed through the respective management plans.*<sup>181</sup>

3.207 A response from Hon Donna Faragher MLC, Minister for Environment, explained that the EPA decided that BRL's proposal to mine at Bindoon would be subject to an environmental impact assessment at the level of PER. The assessment would include a six week public review period. The Minister advised that she had received 17 appeals on the EPA's decision and was awaiting further advice before she determined the appeals.<sup>182</sup>

3.208 Given the decision by the EPA to conduct a formal assessment of the proposal, at its meeting of 23 June 2010 the Committee decided not to inquire further into this matter.

3.209 Subsequently, BRL withdrew its application to the EPA and the Committee received email correspondence from the principal petitioner in which she states:

*In our petition we asked for a formal inquiry into the bauxite mining activities and permit processes of BRL in the Shire of Chittering and the Darling Range and to allow for proper evaluation of each project based on environmental and social assessments in accordance with legislation. I do not believe that the role that shires have had in this issue has been addressed at all. If it is not addressed it will happen again.*<sup>183</sup>

3.210 Given that a future application by BRL would require environmental assessment by the EPA, the Committee confirmed its previous decision to finalise the petition.

#### **PETITION NO 58—TO MAINTAIN W.A. AS A GENETICALLY MODIFIED (GM) FREE ZONE**

3.211 The petition was tabled by Hon Matt Benson-Lidholm MLC on 4 March 2010 and contained 20 signatures.

3.212 The petition states:

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<sup>181</sup> Ibid.

<sup>182</sup> Letter from Hon Donna Faragher MLC, Minister for Environment, 31 May 2010, p1.

<sup>183</sup> Email correspondence from Ms Sue Cray, 23 July 2010.

*We the undersigned residents of Western Australia, oppose the decision to allow the unrestricted commercial growing of Genetically Modified (GM) canola in WA. We believe this decision will irretrievably negatively impact on so many: Organic farmers who will face loss of certification and who do not have the option of controlling the expected transgenic weed populations with herbicides, conventional (even GM) farmers who will face extra danger and expense from the herbicides recommended to control these Round Up Ready weeds, the environment which will suffer the impact of those chemicals and the advent of “superweeds”, Non GM farmers who will face loss of their markets, brassica vegetable seed producers whose seedstocks will be contaminated, and consumers who will lose any choice to eat GM free brassicas or animal products. We ask the Legislative Council to renew the moratorium on GM crops in this State and your petitioners in duty bound will ever pray.*<sup>184</sup>

- 3.213 A submission was received from Mr Piers Verstegen on behalf of the Conservation Council; the Organic Growers Association of WA; Mothers Demystifying Genetic Engineering; Gene Ethics Australia; Network of Concerned Farmers; The Wilderness Society WA and Greenpeace. The submission requests that Members of the Legislative Council

*commit to a conscience vote with the Greens and the Labor Party to prevent the introduction of GM food crops and corporate control of food production in WA.*<sup>185</sup>

- 3.214 The submission argued that there is strong community opposition to the introduction of GM food crops in Western Australia, illustrated by:

- One of the largest petitions in Western Australian history, containing 27,000 signatures, was presented to the Minister for Agriculture and Food one year ago.
- Twenty four shires have declared themselves ‘GM-free’.
- The WA National Party went to the State election with a policy commitment to not introduce GM food crops in WA.<sup>186</sup>

- 3.215 Mr Verstegen contends that the introduction of GM Crops would remove choice for farmers and consumers because of the high risk of contamination. There were also

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<sup>184</sup> Legislative Council, Tabled Paper No 1778, 4 March 2010.

<sup>185</sup> Submission from Piers Verstegen, Director, Conservation Council of WA, undated, received 18 March 2010, p1.

<sup>186</sup> Ibid.

environmental concerns that had not been adequately addressed (such as the risk of ‘super weeds’) and not enough was known about the health impacts of GM foods. A further concern was the consequent control by corporate agribusiness over farmers and farming practices.<sup>187</sup>

- 3.216 Ms Bee Winfield, the principal petitioner, provided a submission which disputed information provided by the Department of Agriculture and Food (DAF) which claimed that contamination of neighbouring farms and crops over the 0.9 threshold was unlikely:

*Whilst fruit trees and wheat present no problem, Brassica species weeds (like wild radish and turnip) and some brassica vegetables will readily cross pollinate with Brassica Napus (canola) and produce viable offspring.*<sup>188</sup>

- 3.217 Ms Winfield referred to information provided by the Office of the Gene Technology Regulator (OGTR) which listed 22 Australian plants and vegetables that canola would cross breed with. According to the submission, the OGTR admit that GM canola will spread through brassica weed however this is not considered a risk as the weeds can be sprayed with pesticides such as 24D to remove them. Ms Winfield warns that such practice is “a huge risk to our environment, as these sprays are strongly linked to human birth defects.”<sup>189</sup>

- 3.218 Ms Winfield quotes various academic papers that support her concerns regarding contamination and she believes that an urgent halt to commercial sowing of GM canola is essential until a proper investigation is undertaken:

*All growers should have the choice and the tools to expand their businesses and grow their profitability, but not if their activities are impossible to contain and impact on other people’s choice to grow and market GM FREE canola, or certified organic food, or to save and sell GM free brassica seeds.*<sup>190</sup>

- 3.219 A response to the petition from the Minister for Agriculture and Food, Hon Terry Redman MLA, explained that the *GM Crops Free Areas Act 2003* sought to preserve the identity of non-GM crops and fears about the loss of certification by organic farmers could be allayed by the experience in NSW and Victoria where there had been no cases of organic farmers losing certification.<sup>191</sup>

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<sup>187</sup> Ibid, p2.

<sup>188</sup> Submission from Ms Bee Winfield, principal petitioner, 14 April 2010, p1.

<sup>189</sup> Ibid.

<sup>190</sup> Ibid, p2.

<sup>191</sup> Letter from Hon Terry Redman MLA, Minister for Agriculture and Food, 24 May 2010, p1.

3.220 In relation to concerns about transgenic weeds, the Minister responds:

*In 2003, the Office of the Gene Technology Regulator (OGTR) considered the issues of weediness of Roundup Ready® canola and pollen flow and concluded that Roundup Ready® canola will be no more persistent or invasive than non-GM canola in cultivated or non-cultivated areas. The OGTR noted that gene transfer to vegetables from the B. oleracea species (cauliflower, broccoli, Brussel sprouts) vegetables would be unlikely as these crosses do not produce viable progeny.*<sup>192</sup>

3.221 The Minister pointed out that that GM canola trials in 2009 showed that successful segregation was possible. There were 11 minor incidents during the trials, however testing of the WA 2009/10 canola crop showed that those incidents did not compromise the effective segregation of the GM canola.<sup>193</sup>

3.222 The Minister also cited an Australian Bureau of Agricultural and Resource Economics 2010 report, *‘Evidence for price premiums for non-GM grains in world markets’* which concluded that most major canola export destinations accept GM canola and that there are niche markets for certified non-GM and organically produced grains.<sup>194</sup>

3.223 While recognizing that the petition provided an opportunity for the petitioners to voice their concerns, the Committee was of the view that the issue of GM crops had already been extensively debated in the Parliament and a decision had been made to commercially grow GM canola. Consequently, it was decided not to undertake further inquiries into the matter at the present time.

#### **PETITION NO 59—BREAST FEEDING LEGISLATION**

3.224 The petition was tabled by Hon Adele Farina MLC and contained 185 signatures. Another copy of the petition was also tabled and contained an additional 1244 signatures.

3.225 The petition states:

*We the undersigned residents of Western Australia support the need for the Parliament of Western Australia to join the rest of Australia and pass Breastfeeding legislation which will protect mothers who wish to breastfeed in a public place from discrimination.*

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<sup>192</sup> Ibid.

<sup>193</sup> Ibid, p2.

<sup>194</sup> Ibid.

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*Your petitioners therefore respectfully request the Legislative Council to support and pass the Breastfeeding laws as set out by the Western Australian Legislative Assembly in 2009.*<sup>195</sup>

3.226 Given that the *Equal Opportunity Amendment Bill 2009* was debated and passed by both Houses of Parliament, the Committee finalized the petition on 24 March 2010.

**PETITION NO 61—CANNABIS LAW REFORM BILL 2009: BANNING OF CANNABIS SMOKING IMPLEMENTS**

3.227 The petition was tabled on 23 March 2010 by Hon Sue Ellery MLC and contained 3,923 signatures. Further copies of the petition were subsequently tabled and contained an additional 1860 signatures.

3.228 The petition states:

*To the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.*

*We the undersigned residents of Western Australia are opposed to the banning of Cannabis smoking implements (Bongs and Waterpipes) under the proposed Cannabis Law Reform Bill 2009.*

*Your petitioners therefore respectfully request the Legislative Council to oppose the banning of Cannabis smoking implements.*<sup>196</sup>

3.229 A submission was received from Mr Mark Allen, principal petitioner and owner of a retail business that sells smoking implements. Mr Allen expressed the view that the proposed ban of smoking implements would not deter people smoking cannabis since other ad hoc devices can be used for smoking purposes. Such home made devices which could be made from various products may pose an even greater health risk. He also pointed out that smoking implements can be bought on-line<sup>197</sup>

3.230 Mr Allen argued that the sale of smoking paraphernalia should not be illegal, but properly regulated.<sup>198</sup>

3.231 Mr Allen outlined other concerns about the proposed legislation:

*I am concerned with these proposed law changes as most of us also sell tobacco pipes for the smoking of tobacco, cigarette papers and*

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<sup>195</sup> Legislative Council, Tabled Paper No 1779, 4 March 2010.

<sup>196</sup> Legislative Council, Tabled Paper No. 1824, 23 March 2010.

<sup>197</sup> Submission from Mr Mark Allen, principal petitioner, (undated), received 21 April 2010, p1.

<sup>198</sup> Ibid.

*shishah's/hookah's for smoking herbal tobacco. I have read the Cannabis Law Reform Bill 2009 and it does not yet have specifics on what we may or may not be able to continue to sell legally as these products and many others are to open to interpretation of what could be "Made or modified to be a smoking implement".*<sup>199</sup>

- 3.232 In light of the fact that provisions of the *Cannabis Law Reform Bill 2009* would be considered and debated by the Parliament, the Committee finalised the petition on 5 May 2010.

#### **PETITION NO 62—BROOME BOATING FACILITIES DEVELOPMENT**

- 3.233 The petition was tabled by Hon Ken Baston MLC on 23 March 2010 and contained 677 signatures.

- 3.234 The petition states:

*We, the undersigned residents of Western Australia, believe that the current boating facilities in Broome are woefully inappropriate and unsafe in meeting the requirements of the community, industry, and visitors to the region.*

*Your petitioners therefore respectfully request the Legislative Council to support the development of a safe boating facility in Broome. One, that can be operated by all boat users, (pearling, fishing, recreational, charter, commercial) safely and effectively, in all environmental conditions, (tide, wind and waves), and all seasons. The government has a duty of care to provide boating facilities that safely and adequately meet the current and future requirements for the community of Broome.*<sup>200</sup>

- 3.235 A submission from the principal petitioner, Mr Jeff Cooper, argued that the state of boating facilities in Broome was "*grossly inadequate*" and that no significant improvements had ever been made on the facilities.<sup>201</sup>
- 3.236 The petitioner explained that boat operators had to launch and retrieve boats from the beach which required vehicles to be reversed into the water. In addition to rust and other damage to vehicles, this situation could also put boat operators in the dangerous situation of becoming bogged or having their vehicle swamped:

<sup>199</sup> Ibid, p2.

<sup>200</sup> Legislative Council, Tabled Paper No 1830, 23 March 2010.

<sup>201</sup> Submission from Mr Jeff Cooper, principal petitioner, undated, received 28 April 2010, p1.

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*Countless numbers of vehicles have been bogged and wrecked by the harsh tides and dynamic environmental conditions whilst undertaking simple and routine boating activities in Broome.*<sup>202</sup>

- 3.237 Biological risks to boat operators include poisonous jelly fish, crocodiles and stingrays. Mr Cooper provides an example of the hospitalization of four people from Irukandji jelly fish stings at the Entrance Point and Town Beach boat ramps on a single day in December 2009.<sup>203</sup>
- 3.238 Unprotected launching facilities also increased the risk of accidents and personal injury due to waves lifting and moving boats off trailers.<sup>204</sup>
- 3.239 Large numbers of people using the same areas of water for recreation added to the problems:

*Children snorkel amongst the boats, kite surfers scoot in and around moored boats, jet skis hoot around, and even horses and dogs are exercised in an area that is designated for boat launching. In July 2009 at the Gantheume point facility a small child was run over by a boat trailer whilst the operator was trying to retrieve from being bogged. Thankfully the child was not severely injured.*<sup>205</sup>

- 3.240 The petitioner points out the problem is not limited to recreational boat operators:

*Charter boat businesses, Commercial fishers, Pearling operators and even Sea rescue are severely impacted by the substandard and lack of suitable facilities in Broome. On low tides Sea rescue cannot launch their vessel to save stricken boat owners, additionally it takes Broome Sea Rescue a minimum of one hour to get their vessel on the water as they need a large tractor to launch it in the boggy waters.*

*Charter boat operators have to tend to their moored vessels by the use of small boats. These boats are used to ferry passengers from the beach to their vessels and frequently encounter problems with prevailing environmental conditions ...*

*Larger vessels have to be moored in either the open ocean (Gantheume point) or in Roebuck bay. This situation leaves them*

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202 Ibid.

203 Ibid.

204 Ibid.

205 Ibid, pp1-2

*exposed to sudden and unexpected changes in the weather which is not just limited to cyclone season.*<sup>206</sup>

3.241 A submission from the tabling Member, Hon Ken Baston MLC, pointed out that the two concrete boat ramps at Entrance Point used by recreational users have “no protection, are not accessible at all tides and both are exposed to wind and waves and become dangerous to use in moderate easterly winds.”<sup>207</sup>

3.242 In relation to repairs and hard standing, there is one small hard stand area at the port which “provides a very basic facility, is of gravel construction and has no power or water and no safe tie down facilities for cyclonic conditions.”<sup>208</sup>

3.243 The tabling Member expressed the view that:

*Boat launching for recreational fishers is inadequate and dangerous. There are no finger jetties or breakwaters and this lack of any protection from wave and wind action has caused injury to persons and damage to boats. The tide range in Broome is such that the ramps are not accessible from mid tide and lower. One consequence of this is that there is a temptation to launch off the beach and this has led to vehicles being bogged and their subsequent loss.*<sup>209</sup>

3.244 In addition, fishing boats have difficulty refueling and offloading at the port jetty (which was designed for use by larger ocean-going vessels) and reportedly find it “safer, faster and cheaper ... to haul out of the water, offload, refuel and re-provision in the hard stand area than to use the jetty.”<sup>210</sup>

3.245 Economic and safety consequences resulted from the lack of an adequate hard stand and boat lifter since major maintenance and emergency repairs to fishing and pearling boats had to be undertaken at Geraldton or Darwin.<sup>211</sup>

*The ramp to the hard stand is part concrete and gravel and in poor condition, haul in and haul out is by tractor and a five metre plus tide is needed for even this basic facility to be usable. The process involves sailing the boat in and out of a jinker. The jinkers have to be*

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<sup>206</sup> Ibid, p2.

<sup>207</sup> Submission from Hon Ken Baston MLC, tabling Member, 23 April 2010, p1.

<sup>208</sup> Ibid.

<sup>209</sup> Ibid, p2.

<sup>210</sup> Ibid.

<sup>211</sup> Ibid.

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*put in position at low tide which leaves boats vulnerable to changing weather conditions for up to three hours.*<sup>212</sup>

- 3.246 The Committee sought a response to the petition from the Minister for Transport, Hon Simon O'Brien MLC, and was advised by the Minister that:

*The state budget for 2010/11 has committed \$5m towards improved boating facilities in Broome. A further \$30m is set aside in the forward estimated years of 2011/12 and 2012/13.*

*The funding will enable the development of an appropriate boating facility for small-craft near Entrance Point within the Broome Port area. The Department of Transport will investigate and deliver the facility and seek community engagement via a committee to be established by them during 2010.*<sup>213</sup>

- 3.247 Given the Government's undertaking, the Committee finalized the petition on 23 June 2010.

**PETITION NO 66—PROPOSED LIMESTONE QUARRY AND BATCHING PLANT AT LOT 1 NOWERGUP ROAD, NOWERGUP**

- 3.248 The petition was tabled by Hon Giz Watson MLC on 4 May 2010 and contained 410 signatures.

- 3.249 The petition states:

*We the undersigned residents of Western Australia respectfully oppose the proposed limestone quarry and batching plant at Lot 1 Nowergup rd, Nowergup as the proposed development has raised significant long term planning and environmental issues for this area.*

*Your petitioners therefore respectfully request the Legislative Council to recommend that a moratorium on all development approvals within the identified area be granted until the City of Wanneroo has had the opportunity to complete its obligations as recommended by the Western Australian Planning Commission and to allow a full consideration of the environmental impacts of quarrying on the proposed extension of the Neerabup National Park.*<sup>214</sup>

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<sup>212</sup> Ibid, p2.

<sup>213</sup> Letter from Hon Simon O'Brien MLC, Minister for Transport, 11 June 2010.

<sup>214</sup> Legislative Council, Tabled Paper No 1975, 4 May 2010.

3.250 The submission from Ms Sabine Winton, the principal petitioner, explained that the proposal sought to clear over seven hectares of bushland adjacent to Bush Forever site 383 at Neerabup National Park and Nowergup Lake Fauna Reserve. The City of Wanneroo rejected the proposal in October 2009 and the matter was currently under consideration by the WA Planning Commission. The proponent, WA Limestone, had appealed the City's decision to the State Administrative Tribunal (SAT).<sup>215</sup>

3.251 The submission states that:

*The local community have waited for many years for the protection of this area from incompatible land uses such extractive industries and lime manufacturing.*

*... The proposed site falls right in the heart of the identified area and would sterilise the entire area from being able to achieve the aims of the Landscape Enhancement Zone Amendment that has been actioned and severely impact on the Neerabup National Park and BushForever Site 383.*<sup>216</sup>

3.252 Ms Winton calls for a moratorium on all development approvals within the City of Wanneroo's Landscape Enhancement Zone.<sup>217</sup>

3.253 Given that the proposal was under consideration by the Western Australian Planning Commission and the SAT, the Committee decided not to inquire further and finalized the petition on 23 June 2010.

3.254 The petitioner subsequently requested the Committee review its decision to not inquire further while relevant authorities were considering the matter:

*...it is this very fact that has motivated the petition in the first place given the lengthy time frame involved in these authorities dealing with this matter.*<sup>218</sup>

3.255 Due to the timeframes involved, the petitioner sought a moratorium on development application in the area concerned.<sup>219</sup> The Committee resolved not to overturn its previous decision not to inquire further and explained to the petitioner that it did not have the power to impose a moratorium on development.

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<sup>215</sup> Submission from Ms Sabine Winton, principal petitioner, 11 June 2010, p1.

<sup>216</sup> Ibid, p2.

<sup>217</sup> Ibid.

<sup>218</sup> Letter from Ms Sabine Winton, principal petitioner, 13 July 2010.

<sup>219</sup> Ibid.

**PETITION NO 72 – PLASTIC SHOPPING BAGS.**

3.256 This petition was tabled by Hon Sally Talbot MLC on 25 May 2010 and contained 33 signatures.

3.257 The petition states:

*We the undersigned, say that plastic shopping bags are highly damaging and destructive to the environment - injuring and killing precious wildlife, littering our oceans, water ways and public open spaces, taking 1,000 years to break down and clogging up landfill.*

*Your petitioners therefore respectfully request the Legislative Council to follow the leadership demonstrated by the South Australian and Victorian Governments and ban the use of plastic shopping bags in the State of Western Australia by supporting the Private Members Bill, to be introduced by the State Opposition, which legislates for the ban of plastic shopping bags (but not plastic bags without handles which are used for the hygienic storage of food).<sup>220</sup>*

3.258 A submission from Hon Dr Sally Talbot MLC, the tabling Member, informed the Committee that the petitioners were showing support for a Private Members Bill which was introduced into the Legislative Council earlier in the year.<sup>221</sup>

3.259 The tabling Member explains that of the four billion plastic bags used in Australia each year, only 3 per cent are recycled. It is known that plastic bags cause damage to the environment and many countries have introduced measures to limit their use. However, South Australia and Victoria are the only Australian states to have banned plastic bags.<sup>222</sup>

3.260 At its meeting of 30 June 2010, the Committee resolved not to inquire further into this matter as a Bill had been introduced to the Parliament which would provide Members with the opportunity to debate the issue.

**PETITION NO 74 – ESTABLISHMENT OF A SPECIALIST PSYCHOLOGISTS REGISTRATION BOARD**

3.261 The petition was tabled by Hon Alison Xamon MLC and contained 281 signatures.

3.262 The petition states:

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<sup>220</sup> Legislative Council, Tabled Paper No 2067, 25 May 2010.

<sup>221</sup> Submission from Hon Dr Sally Talbot MLC, tabling Member, 23 June 2010, p1.

<sup>222</sup> Ibid.

*We the undersigned ask for the establishment of a statutory board in the state of Western Australia to oversee the registration of specialist psychologists and monitor the continuing education and supervision of specialist psychologist registrars. We ask that this Specialist Psychologist's Registration Board be functional as soon as Western Australia moves into the National Registration Scheme for Health Practitioners.*

*We ask this in response to moves to replace Western Australia's current specialist title registration process with endorsement, following the establishment of the Psychology Board of Australia (PBA). We have been informed that the PBA intends to downgrade current standards in Western Australia by accepting Australian Psychological Society College (APS) members as 'endorsed' psychologists, even though APS Colleges have members without an accredited (or equivalent) postgraduate psychology degree (and some College members do not even have an accredited (or equivalent) undergraduate psychology degree). This would amount to a significant dilution of standards required to practice as specialist psychologists in Western Australia, and thereby place the public at increased risk.*

*Membership of APS Colleges has not been an acceptable criterion to be registered as a specialist by the Psychologists Board of Western Australia. We also lack confidence in the APS to properly advocate for and credential specialist psychologists.<sup>223</sup>*

- 3.263 The Committee decided to finalise the petition on 23 June 2010 on the basis that this matter was subject to a report by the Uniform Legislation Committee and would be debated in the House. The principal petitioner was advised that interested parties should request their local Member to ask the relevant questions in the House.



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**Hon Kate Doust MLC**  
**Deputy Chairman**

**18 July 2011**

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<sup>223</sup> Legislative Council, Tabled Paper No 2080, 27 May 2010.



**APPENDIX 1**  
**MOORE RIVER - OVERVIEW OF PLANNING PROCESS AND SUMMARY OF**  
**PUBLIC CONSULTATION**



# APPENDIX 1

## MOORE RIVER - OVERVIEW OF PLANNING PROCESS AND SUMMARY OF PUBLIC CONSULTATION

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### Attachment C

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#### Moore River – overview of planning processes and summary of public consultation

##### Introduction

1. The Moore River Company (MRC) owns approximately 2000 ha of land south of the Moore River. On 3 March 1995, 557 ha was rezoned from rural to 'Urban Development' under the Shire of Gingin Town Planning Scheme No. 8 (TPS 8). **Attachment A** shows the site and current zoning.
2. TPS 8 requires the preparation of an Outline Development Plan (ODP) prior to subdivision and development. The WAPC approved an ODP in January 2000. The ODP provides for the development of 557ha and envisages an ultimate population of 13,500 residing in around 5,200 dwellings.
3. Prior to being elected in February 2001 the Labor Party made commitments to scale back the development of land south of the Moore River in order to reduce the environmental and planning hazards currently presented by the ODP.

##### Gingin Coast Structure Plan

4. In 2003, the Gingin Coast Structure Plan (GCSP) was being prepared and identified the MRC's land as residential settlement because the zoning was in place and the ODP was approved. A Steering Committee was formed by the WAPC to oversee the planning study and a Community Advisory Group also assisted with the study. The GCSP was published for public comment.
5. The previous Minister corresponded with the Chairman of the WAPC about the development south of Moore River. The Minister requested a review of the current ODP and 'Urban Development' zoning as the current ODP did not represent the preferred form of development for the area.
6. In January 2003, State Cabinet decided not to rezone or acquire land at Breton Bay for industrial or port purposes, which could be seen to remove the need for residential land at Guilderton to service the proposed port.
7. Following public advertising and workshopping which involved the Steering Committee and the Community Advisory Group, the WAPC adopted the Gingin Coast Structure Plan which recommended that the land south of the Moore River be classified 'Rural' with part of the land being identified "Recreation and Tourist Node Investigation Area". The previous Minister then provided consent for public advertising for that section of the Gingin Coast Structure Plan. In October 2005 (following public advertising), the WAPC again resolved to adopt the Gingin Coast Structure Plan in that form.

8. The WAPC in adopting the GCSP made a decision to commence the statutory process to downgrade the 'Urban Development' status of the land south of the Moore River. The rationale for this change was that urban development on this site would be contrary to the State's sustainability agenda.

#### **Shire of Gingin Town Planning Scheme No. 9**

9. In 2001, the Gingin Council adopted Town Planning Scheme No. 9 (TPS 9) which was a review of TPS 8 and proposed that the land south of the Moore River be zoned "Residential". TPS 9 was advertised in 2003/4.
10. In March 2006, the WAPC forwarded TPS 9 to the Minister for Planning and Infrastructure and made recommendations that TPS 9 be modified, among other things, to zone the MRC's land from 'General Rural' in accordance with the Gingin Coast Structure Plan.
11. In August 2006, the acting Minister for Planning and Infrastructure (the Hon. Tony McRae) formed the opinion that the proposed modifications to TPS 9 including those relating to the MRC's land were substantial and so should be advertised.
12. The Shire of Gingin then advised the DPI that it was not prepared to advertise the proposed modifications to TPS 9 until it received indemnity from the State Government against possible legal action in relation to the land south of the Moore River. The MRC had indicated that they would take legal action against the Shire if they advertise the modifications to down-zone the land. The State Solicitor's Office (SSO) advised that it would not be appropriate to provide any indemnity. The previous government did not take any steps to advertise, or require the Shire to advertise, the proposed modifications to TPS 9.

#### **Subdivision application to create 661 lots**

13. In October 2003, the MRC applied for subdivision approval from the WAPC within the context of the approved Outline Development Plan finalised in 2000.
14. Mainly based on the new direction of the Gingin Coast Structure Plan (to change the land use back to rural), the subdivision application was refused by the WAPC. The MRC appealed the refusal to the Tribunal SAT.
15. In November 2004, the former Minister for Planning and Infrastructure called in the appeal under the *Planning and Development Act 2005*. The Minister asked the Tribunal to hear the case and to make recommendations to her.
16. In December 2006, the case was heard by the SAT and in May 2007 the SAT recommended refusal to the subdivision mainly for the reason that the proposal does not comply with Strategic Policy for the area as outlined in the Gingin Coast Structure Plan and the State Sustainability Strategy agenda.

17. The MRC then appealed the SAT's decision to the Court of Appeal. The appeal was due to be heard in May 2008 but was held in abeyance pending discussions with the previous Minister about a possible solution in relation to the dispute. Settlement negotiations were never concluded due to the election in September 2008.

18. On 10 December 2008, and again on 27 March 2009, the Minister for Planning, through the State Solicitor's Office agreed to a further deferral of the appeal so that he could be briefed on the history of this complex matter.

**Cabinet Decision**

19. In June 2009, State Cabinet considered this matter and resolved to acknowledge the existing zoning of the site, provided there was a significant scaling back of the development (by 60%) and the completion of a revised outline development plan that addressed contemporary planning standards.

20. The revised outline development plan will be submitted to the Shire of Gingin in early 2010 and will be publicly advertised.

**Public consultation**

Public consultation is summarised in the table below and actions relating to public comment are highlighted in green.

DATE	GOVT/ MINISTER	GINGIN COAST STRUCTURE PLAN	SUBDIVISION	LPS/ SCHEME
1995				Land is zoned for "urban development" through Amendment 22 to the Shire of Gingin's planning scheme No 8.
Jan 03	20 – Cabinet decision not to support Breton Bay			
Feb 03				11 – Minister grants consent to advertise draft scheme, including residential zone south of Moore River and without Breton Bay.
Jun 03		24 – WAPC adopts draft for public comment (incl urban dev zone)		
Oct 03			27 – Subdivision received for Stage 1	24 – draft scheme and strategy advertised until 23 Jan 04
Dec 03		Minister approves release for advertising - 120 days		
Jan 04				23 – Advertising of draft LPS and TPS 9 closes
Mar 04	16 – Minister requests WAPC review ODP			
Apr 04	22 – Chairman	30 – advertising		

	requests meeting with Minister to discuss Moore R.	<u>period closes</u>	
Jun 04	29 – meeting with Minister, JD, TM, AM, PW to discuss Moore River		15 – Shire resolves to adopt final LPS/ TPS 9 and forwards to WAPC (rec'd 21)
Aug 04		<u>9 – Workshop with Community Advisory group</u>	
Sep 04			21 – SPC refuses proposed subdivision on basis that it's inconsistent with proposed structure plan and SPP 3
Nov 04			19 – Appeal 277 of 2004 lodged 26 – Minister "calls in" appeal
Dec 04		21 – WAPC adopts "final" structure plan (without residential zone)	
Jan 05		<u>Minister requests re-advertising of Moore River changes</u>	
Feb 05			3 – mediation conference
Mar 05		WAPC seeks submissions on Moore R issue	
Apr 05		<u>8 – closing date for submissions</u>	28 – meeting with K Sproat to discuss sustainability
May 05			5 – mediation conference
Jun 05		<u>22 – Community Advisory Group (CAG) meeting at Guilderton</u>	30 – mediation conference
Jul 05		22 – Steering cttee recommends WAPC adopt plan	
Aug 05			2 – directions hearing
Oct 05		25 - WAPC adopts final GCSP	11 – directions hearing
Nov 05	15-16 – matter raised in Parliament, Premier promises alternative decision maker due to previous dispute between Minister and proponent. Designated Jon		

Dec 05	Ford as alternative Minister.		1- directions hearing 20 – meeting with Rob Mitchell (SSO) to discuss appeal 30 – directions hearing	
Jan 06				
Feb 06		Structure Plan published		14, 21 – considered by SPC – recommendation to Minister to re-advertise scheme as modifications are substantial (ie, removing RESIDENTIAL ZONE)
Apr 06	9 – new TP&D Act			
May 06			2 – directions hearing	
Jun 06			29 – directions hearing	
Aug 06			8 - compulsory conference	9 – A/Minister (MacRae) considers draft scheme – directs Shire to readvertise the scheme and strategy minus the residential zone.
Sep 06			1 – revised plan hearing 8 – directions hearing	
Nov 06			27 – HEARING	7 Shire resolves to take no action until indemnity received from State Govt. in case Council was sued by the proponent.
May 07			1 SAT decision. Appeal dismissed and recommended to Minister who had called it in. 25 - Supreme Court Appeal lodged	
Aug 07				Received advice from SSO regarding a way forward via amendment to the Regulations.
Mar 08			4-5 - Appeal listed for hearing. Dates vacated on basis that proponent was discussing a compromise with Minister.	
June 08	meeting with Minister's COS to discuss approach			
Sep 08	new Government			
May 09	Cabinet resolves to acknowledge the existing zoning of the land.			





**THIRTY-EIGHTH PARLIAMENT**

**MINORITY REPORT OF  
HON LYNN MACLAREN MLC**

**REPORT 22**

**STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC  
AFFAIRS**

**PETITION NUMBER 49 - MOORE RIVER DEVELOPMENT**

Report 22 - Minority  
July 2011



**Minority Report of  
Hon Lynn MacLaren MLC**

**in regard to**

**Petition No 49 - Moore River Development**

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1. I support the petitioners' view that the land south of the Moore River adjoining Wilbunga Conservation Park, which has been subject to urban development plans, should be considered for acquisition by the State Government at a fair price. I agree that this land should be managed in perpetuity for the benefit of the whole community, for the protection of the estuary and to serve as a buffer zone against urban sprawl. I hold the view that the Committee's consideration of the petition should not have been finalised on 23 June 2010 and that further inquiries were warranted.
2. The petition relates to land near Guilderton, a small coastal town located north of Perth, Western Australia at the mouth of the Moore River in the Shire of Gingin. Development already exists north of the river. Recent extensions of the freeway and the opening of Indian Ocean Drive have made it easily accessible from Perth by car in about 1½ hours' drive. It is an attractive destination for many weekenders.
3. The petitioners oppose urban development south of the Moore River, as do I. My reasons are:
  - 3.1 Prohibiting urban development in this area serves to provide a buffer to stop metropolitan sprawl up the coast.
  - 3.2 Development south of Moore River will risk the fragile coastal ecosystem, providing access by an estimated 6,000 residents and thousands of weekenders to the south side of the estuary.
  - 3.3 To deliver the high densities in metropolitan areas required by Directions 2031, many have argued it is necessary to prohibit new developments on the fringes of the metropolitan region.
  - 3.4 The decision to zone the landholding 'urban' was made prior to a regional strategic planning vision establishing a settlement hierarchy
  - 3.5 The regional strategic vision does not support urban development at this location, and instead identifies Lancelin, 45kms north, as a major regional settlement.

- 3.6 The Gingin Structure Plan shows a town site north of Moore River, not south of it.
- 3.7 It is not known whether Cabinet's decision to approve development at a reduced scale of 2,000 dwellings would be reflected by a reduced footprint for the urbanised zone. If the entire lot retains the urban zone designation, questions remain about whether there are any disincentives to increasing the number of dwellings beyond 2,000.
- 3.8 The Moore River Company's revised Outline Development Plan was not publicly available when the committee resolved to finalise the petition. Even though Town Planning Scheme No. 9 is currently publicised for public comment (submissions due August 29), the ODP has not been publicly released.
4. Further, I am concerned about evidence presented to the committee that indicated the process of development approval was unusual. Clearly the State Administrative Tribunal had sound reasons for refusing development approval. In summary: The statutory planning committee refused the proposed subdivision on the basis that it was inconsistent with the draft Gingin Coast structure plan (GCSP). A month later, the WAPC adopted the GCSP as final. The landowner exercised his right to appeal to the State Administrative Tribunal. The SAT dismissed the landowner's appeal in May 2007 on the following grounds (quoted from [2007] WASAT 98):
- a) *The conflict between the proposal and the GCSP;*
  - b) *The inconsistency of the proposed subdivision with TPS 8 by reason of the departures of the proposed subdivision from the ODP that are not of a minor nature;*
  - c) *The proposal would defeat the planning objectives contained in the proposed modifications to draft TPS 9, which are seriously entertained planning proposals, which reflect the GCSP and State Planning policies concerned with sustainability, and should be given substantial weight in the circumstances of the case;*
  - d) *The conflicts identified above between the proposal and certain provisions of SPP 2.6, SPP 3 and the SSS<sup>224</sup> as discussed above, namely*
    - 
    - i. *The provision of new settlements with a planned economic and employment base;*
    - ii. *Discouraging continuous linear urban development along the coast;*
    - iii. *Minimisation of settlements with a high level of car dependency; and*

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<sup>224</sup> State Sustainability Strategy

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iv. *Minimisation of the “ecological footprint” of human settlement.*

5. Following the SAT decision the landowner appealed to the Supreme Court. However the case had not been heard by July 2009 when the landowner withdrew the appeal “as a result of the government’s decision to recognise the zoning.” After the change of Government, the new Minister decided to refer the matter to Cabinet for a decision. A compromise solution was agreed, which was to scale back the proposed development from 5,000 to 2,000 dwellings. The Supreme Court case was dropped.
6. Other compromises were possible and in the context of better urban planning, I believe a better compromise would have been to compensate the developer for the change in land use from urban development to reserve. The purpose of this reserve would be to limit urban sprawl by imposing a green buffer, retain native vegetation, preserve and protect the estuarine ecosystem, and provide the recreation and tourist node so designated on the Gingin Coast Structure plan.
7. In 1995 when the landholding was first zoned for urban development, I believe people were unaware that Perth would sprawl so quickly to the north and south.
8. Today, in 2011, the invading landscape of roof lines of the metropolitan area has encroached to within 16kms south of Moore River. Attempts to constrain the urban footprint first through Network City and now under the planning vision of Directions 2031, are proceeding haltingly as more bush is cleared to build predominantly single storey, single family, four-bedroom, two-bathroom dwellings to accommodate unconstrained population growth. The approval of urban development south of the Moore River exacerbates the problem. Once the infrastructure is developed, it will be difficult to constrain development and the natural buffer we once had will be at risk of disappearing under a sea of roofs.



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**Hon Lynn MacLaren MLC**  
**Committee Member**

**18 July 2011**