

EXECUTIVE SUMMARY

- 1 In August 2018 this Select Committee was formed to inquire into mining operations on Pinjin Station with reference to the actions of mine operators, pastoral leaseholders and government agencies. In particular, the Committee was to have reference to allegations of intimidation, abuse and racial discrimination alleged to have occurred from 2012 onwards.
- 2 The Committee elected to focus on two main areas. The first in the actions and decisions of government agencies leading up to the dispute at Pinjin Station and those agencies' management of the dispute. The Committee's second focus has been on those aspects of the private dispute between miners and pastoralists that were specifically raised with the Committee.
- 3 The Committee found that the Department of Mines, Industry Regulation and Safety for the most part acted appropriately in their actions and decision-making. The Committee recognises the tremendous amount of Departmental time and resources that this dispute consumed. The Committee makes two recommendations as to how the Department of Mines, Industry Regulation and Safety can improve their internal processes.
- 4 The Committee is also satisfied that the Department of Planning, Lands and Heritage acted appropriately in its involvement in matters under dispute. The Committee is confident that the Department of Planning, Lands and Heritage understands the issues at the root of the dispute and the steps required to address them for the future.
- 5 The Committee makes a series of findings in relation to racist signage that appeared at Pinjin Station in June 2018. The Committee considered there to be insufficient evidence and an absence of obvious motive to suggest that the mine operators were responsible for the signs.

Findings and recommendations

Findings and recommendations are grouped as they appear in the text at the page number indicated:

FINDING 1

Page 2

The Department of Mines, Industry Regulation and Safety and the Department of Planning, Lands and Heritage fully and competently participated in the Committee's Inquiry.

FINDING 2

Page 16

The language in correspondence from Tisala Pty Ltd to the Committee and other entities varied substantially. There are multiple voices speaking for Tisala despite all correspondence being signed off by its directors.

FINDING 3

Page 19

There were significant difficulties within Tisala Pty Ltd concerning the role of directors and the issuing of shares.

FINDING 4

Page 20

Leo Thomas and Lawrence Thomas relied heavily upon the advice of several individuals as to how to run the station and to guide their dealings with mining companies and the Department of Mines, Industry Regulation and Safety. The assistance provided by Steven Kean in this regard was more than what would commonly be considered administrative in nature.

FINDING 5

Page 23

Relationships between Tisala Pty Ltd and the joint venture were good prior to any decision to commence mining the resource on Common Reserve 10041.

FINDING 6

Page 27

There was an extensive period of dispute between the joint venture and Tisala Pty Ltd over technical aspects of the proposed mining operation.

FINDING 7

Page 28

As the length of the dispute between the joint venture and Tisala Pty Ltd grew between 2014 and 2017, the value of the offers of compensation decreased from those originally presented.

FINDING 8

Page 31

Tisala Pty Ltd expended significant funds improving the buildings and infrastructure located on the Common Reserve 10041.

FINDING 9

Page 35

The ministerial briefing note provided to the Minister for Mines concerning the incorporation of Common Reserve 10041 into the Pinjin pastoral lease was largely based on information supplied by the mine proponents. The Department of Mines, Industry Regulation and Safety did not take satisfactory steps to confirm the accuracy and completeness of the information or identify the sources of the information relied upon.

RECOMMENDATION 1

Page 35

The Department of Mines, Industry Regulation and Safety review its processes in relation to the preparation of ministerial briefing notes to ensure that the information they contain is accurate and complete.

FINDING 10

Page 38

Tisala Pty Ltd was, or ought to have been, aware by 2007 or 2008 that Common Reserve 10041 did not form part of the Pinjin pastoral lease.

FINDING 11

Page 41

Clarity as to the application of section 20(5) of the *Mining Act 1978* was critical to the bargaining positions of the joint venture and Tisala Pty Ltd.

FINDING 12

Page 45

The Department of Mines, Industry Regulation and Safety diligently assessed and gave due consideration to the factors relevant to the decision to approve the mine.

FINDING 13

Page 47

The Department of Mines, Industry Regulation and Safety advised Tisala Pty Ltd of its view that section 20(5) of the *Mining Act 1978* did not protect the water infrastructure on Common Reserve 10041.

RECOMMENDATION 2

Page 47

That the Department of Mines, Industry Regulation and Safety consider developing a procedure by which interested parties can be notified of the granting or refusal of an application to approve a mining proposal.

FINDING 14

Page 51

Parties to the dispute at Williamstown assumed that section 20(5) applied to occupants of Crown land who did not hold lawful title.

FINDING 15

Page 52

By the time mining commenced, Tisala Pty Ltd were of the view that section 20(5) would protect its homestead and the infrastructure that was located on Common Reserve 10041.

FINDING 16

Page 63

The Department of Mines, Industry Regulation and Safety's understanding of the law regarding the application of section 20(5) of the *Mining Act 1978* was confirmed by the Mining Warden.

FINDING 17

Page 64

It was not the role of the Department of Mines, Industry Regulation and Safety as regulator to insert itself into a dispute between private parties over issues of fact and law then being litigated before the Mining Warden.

FINDING 18

Page 68

Significant amounts of dust were generated in the early stages of mining activity, which adversely affected the buildings and amenity at Pinjin Homestead.

FINDING 19

Page 69

Dust monitoring equipment was not in place when mining commenced as required by the joint venture's Dust, Noise and Vibration Management Plan. This was installed later following Department of Mines, Industry Regulation and Safety intervention.

FINDING 20

Page 72

The Department of Mines, Industry Regulation and Safety's inspection regime of mining operations at Pinjin was appropriate and timely.

FINDING 21

Page 75

The Department of Mines, Industry Regulation and Safety took appropriate action in relation to complaints about dust.

FINDING 22

Page 80

Sample bags were removed once the Department of Mines, Industry Regulation and Safety and the joint venture were notified of their presence.

FINDING 23

Page 82

The appropriate forum for disputes as to the content of an affidavit submitted to the Warden's Court is the Warden's Court.

FINDING 24

Page 84

The interpretation and application of section 132(2) of the *Mining Act 1978* was a question of law for the Warden to determine.

FINDING 25

Page 88

The racist signs were not removed immediately when discovered and had to be removed by the Western Australia Police Force several days later.

FINDING 26

Page 88

The presence of the signs received extensive media coverage with several photographs published.

FINDING 27

Page 94

Joint venture personnel cooperated with the Western Australia Police Force requests in order to further the investigation. Similar levels of cooperation were not demonstrated by Tisala Pty Ltd's supporters.

FINDING 28

Page 96

The printing on the signs erected at Pinjin Station and the 'Hawthorn' sign erected at the joint venture work camp are not substantially the same.

FINDING 29

Page 97

There is insufficient evidence and an absence of obvious motive to suggest that the joint venture was responsible for the erection of the racist signs at Pinjin Station.