



**THIRTY-SEVENTH PARLIAMENT**

**REPORT 7**  
**STANDING COMMITTEE ON ENVIRONMENT AND**  
**PUBLIC AFFAIRS**  
**A PETITION INTO THE PROPOSED MARINA AT**  
**POINT PERON**

Presented by Hon Louise Pratt MLC (Chairman)

December 2006

## 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*.”

### Members as at the time of this inquiry:

Hon Louise Pratt MLC (Chairman)

Hon Paul Llewellyn MLC

Hon Bruce Donaldson MLC (Deputy Chairman)

Hon Robyn McSweeney MLC

Hon Kate Doust MLC

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## **Government Response**

This Report is subject to Standing Order 337:

*After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a Member of the Council) shall report the Government's response within 4 months.*

The four-month period commences on the date of tabling.



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RECOMMENDATIONS FOR THE  
REPORT OF THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS  
IN RELATION TO  
PETITION INTO THE PROPOSED MARINA AT POINT PERON

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**RECOMMENDATIONS**

1 Recommendations are grouped as they appear in the text at the page number indicated:

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**Recommendation 1: The Committee recommends that the Government clarifies whether or not it will give priority to Bush Forever 355, and the CALM draft management plan, which seeks to protect and preserve designated land, or to particular proposals, such as the Point Peron marina canal estate development.**

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**Recommendation 2: The Committee recommends that the Government clarifies by way of relevant documentation whether or not the Commonwealth did release the State, from its obligations, that the future use of the 'transferred Point Peron land' be restricted to a reserve for Recreation and/or Park Lands under the 1964 Agreement.**

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**Recommendation 3: The Committee recommends that the State Government liaise with the Commonwealth Government at a Ministerial level, in relation to their plans for the Garden Island causeway to improve flushing between the southern end of Cockburn Sound and the ocean, regardless of whether or not any developments proceed.**

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**Recommendation 4: The Committee recommends that discussions take place between the State and Commonwealth governments to specify any funding arrangements and timeline for any modification or realignment of the Garden Island causeway.**

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**Recommendation 5: The Committee recommends that detailed onsite investigations be undertaken to determine the presence of potential ASS in the vicinity of Lake Richmond.**

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**Recommendation 6: The Committee recommends that adequate separation (buffer) distances be established between the contours of the ASS risk areas should any proposed development, adjacent to Lake Richmond be successful.**

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**Recommendation 7: The Committee recommends that a comprehensive independent study be undertaken to determine the present health of Cockburn Sound and the likely cumulative environmental impacts from the desalination plant, the proposed new island port, and any proposed marina canal estate development.**

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**Recommendation 8: The Committee recommends that a planning study be undertaken for the whole of the Cape Peron area.**

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**Recommendation 9: The Committee recommends that the Government adopt a cautious approach to any 'claims of success', about seagrass rehabilitation in Cockburn Sound at this stage.**

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**Recommendation 10: The Committee recommends that the Government regularly monitors water quality in Mangles Bay and Cockburn Sound.**

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**Recommendation 11: The Committee recommends that the Government undertakes detailed hydrogeological investigations to determine adequate separation distances for any proposed development, likely to impact on Lake Richmond.**

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**Recommendation 12: The Committee recommends that the Government ensures that there are no detrimental changes to the water quality in Lake Richmond, in order to preserve the threatened ecological communities, which are dependant upon high water quality.**

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**Recommendation 13: The Committee recommends that the Government initiate and fund further research into the social and economic benefits and constraints with both the Point Peron and Wanliss Street marina and canal development options in consultation with Local Government and the community.**



REPORT OF THE STANDING COMMITTEE ON ENVIRONMENT AND PUBLIC AFFAIRS

IN RELATION TO

A PETITION INTO THE PROPOSED MARINA AT POINT PERON

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**I REFERENCE AND PROCEDURE**

- 1.1 On 29 November 2005, Hon Giz Watson MLC tabled a petition in the Legislative Council [TP#1090] containing 2145 signatures opposing the construction of a Marina at Point Peron.
- 1.2 The petition stated that:

*We the undersigned citizens of Western Australia*

*Want the area known as Point Peron/Cape Peron, City of Rockingham in the State of Western Australia to remain in Perpetuity as Parks and Recreation and that an inland Marina not be built. Further that any improvements made to the area do conserve the natural environment and provide for continual access by people of all socio-economic groups.*

*We request that the Council ensure:*

*That studies of the impact on the natural environment of a proposed Marina and any developments not associated with a Marina, be assessed preferably as any part of Metropolitan Region Scheme amendment, necessary for such a marina or other developments and that this should include effect on sand erosion, seagrass, littoral drift, algal growth and flushing of Cockburn Sound.*

*That the land now currently zoned Parks and Recreation and Port Installations does not become privately owned or leased for 99 years for commercial development and that access remains for the public for the purpose of recreation and holiday accommodation.*

*That a study on the need for such a Marina and or other developments is completed and made available to the public prior to any rezoning or development.<sup>1</sup>*

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<sup>1</sup> Hon Giz Watson MLC, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 29 November 2005, p7789.

- 1.3 In accordance with Standing Order 134(i), the petition stood referred to the Environment and Public Affairs Committee (**Committee**).
- 1.4 The Committee conducted preliminary inquiries into the matters raised in the petition by gathering background information, including writing to the principal petitioner the tabling member and the City of Rockingham, as well as the Minister for the Environment and the Minister for Planning.
- 1.5 The Committee received a submission from the principal petitioner, and correspondence from the Minister for the Environment and the City of Rockingham.
- 1.6 The Committee visited Rockingham on Monday 22 May 2006 and received a presentation from the Mayor of the City of Rockingham, Mr Barry Sammels, and Mr Simon Proud, Senior Project Manager, Rockingham Development Office.
- 1.7 The City provided the Committee with a 126 page Report compiled by 'Strategen'.<sup>2</sup> The Report is titled *Strategic Environmental Review: Cape Peron Tourist Precinct Project* the (**SER document**).<sup>3</sup>
- 1.8 The Committee also heard evidence from Mr Bob Goodale, Convener/Chairman of the Preserve Point Peron group, and Mr Chris Tallentire, Director Conservation Council of Western Australia (WA), on 28 June 2006.
- 1.9 The Committee at its meeting on 30 August 2006 formally resolved to report separately on this petition to the Parliament, forming the procedural basis for this report.

## **2 BACKGROUND**

- 2.1 The Cape Peron Tourist Precinct Steering Committee (**Steering Committee**) was established to develop a marina-based tourist and residential precinct. The Steering Committee first met on 2 April 2005. The Mangles Bay area of Cape Peron, Rockingham (approximately 47 km south of Perth) is the focus for the development.
- 2.2 The Committee noted that Cape Peron is also known as Point Peron and that the proposed development is also referred to as being located in Mangles Bay.
- 2.3 The proposed development area (under study) is east of the Garden Island Causeway to Hymus Street, and extends south along Memorial Drive to the proposed 'Garden

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<sup>2</sup> Strategen is the trading name for Glenwood Nominees Pty Ltd.

<sup>3</sup> Strategen, *Strategic Environmental Review: Cape Peron Tourist Precinct Project*, prepared for Cape Peron Tourist Precinct Steering Committee, February 2006.

Island Highway'. The precinct is approximately 75 ha in area depending on the development option.<sup>4</sup>

- 2.4 The proposed development is a tourist based marina canal estate development built into the land which would accommodate more than 500 boats and would incorporate local boating clubs, commercial areas and boat pens for public use (both short and long-term). The surrounding land would be 'mixed-use' with recreational, commercial and residential components for both locals and visitors.
- 2.5 The Cape Peron Tourist Precinct Project (**project**) is under the auspices of the Premier's Rockingham Planning and Development Taskforce, and is managed by the Steering Committee, which is chaired by the Mayor of the City of Rockingham.<sup>5</sup>
- 2.6 The Committee noted the Environmental Protection Authority's (EPA) consistent advice in relation to previous proposals for a marina at Mangles Bay. In July 1993, the EPA deemed the proposal for a marina to be environmentally unacceptable.<sup>6</sup> It gave advice to the Mangles Bay Steering Committee and the Minister for the Environment in February 1998, and again expressed its concerns about any further reduction in seagrass.
- 2.7 In October 1998, the EPA provided strategic advice under s16(e) of the *Environmental Protection Act 1986 (EP Act)* in relation to the cumulative environmental impact of marine-related infrastructure proposals on Cockburn Sound.
- 2.8 The Committee noted the following extract from EPA Bulletin 1237, which quoted advice from the Chief Executive Officer of the then Department of Environmental Protection to the Mangles Bay Point Peron Recreational Tourist Development Technical Committee, in August 2002. Part of that advice stated:

*Seagrass in Mangles Bay continues to compare poorly with other sites in Cockburn Sound. The direct loss of seagrass therefore remains a primary issue for any proposal to develop the Mangles Bay Boat Harbour. The protection of Lake Richmond which is recognised for its conservation value, and nutrient inflow and pollutants from the Lake Richmond drain on the waters of Mangles Bay are also of concern.*<sup>7</sup>

<sup>4</sup> See Rockingham Development Office, Government of Western Australia's website: <http://www.estill.com.au/capeperon/faq.html> Accessed on 28 November 2006.

<sup>5</sup> *Ibid*, pi.

<sup>6</sup> EPA, *Mangles Bay Marina*, Report and Recommendation of the EPA, Perth, Bulletin 693, July 1993.

<sup>7</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006, p5.

- 2.9 In September 2006, The EPA maintained its stated objective of protecting the remaining seagrass meadows in Cockburn Sound.<sup>8</sup>
- 2.10 The former Minister for the Environment, Dr Judy Edwards, requested the EPA, to provide advice under s16(e) of the EP Act, of the strategic environmental implications of the project.
- 2.11 Essentially the EPA made a strategic appraisal of the SER document. The EPA called for public submissions for a four week period commencing on 6 March 2006 and ending on 4 April 2006. The EPA received over 440 submissions.
- 2.12 The Committee received a response from Hon Mark McGowan MLA, the Minister for the Environment, which provided information about the SER process. The Minister stated that:

*Submissions on the document are provided directly to the EPA, with the Cape Peron Tourist Precinct Steering Committee given the opportunity to respond to the submissions. Following consideration of the SER document and the submissions made on the project, the EPA will provide advice to Government on the strategic environmental implications of the project.*<sup>9</sup>

- 2.13 The Minister for the Environment also informed the Committee that matters such as privatisation of the site, or the conditions or contract of sale of the land, are not part of the EPA deliberations.
- 2.14 The Minister for the Environment disclosed an interest in the project and explained the reason why he removed himself from making a decision regarding the marina, with the following:

*As the lower house member for Rockingham and in my capacity as Minister for the Environment, I have stood aside from making a decision regarding the marina. It would be inappropriate to be involved in the decision-making process considering my position as Chair of the Premiers's Rockingham Taskforce and my role as a founding committee member of the Rockingham Environment Centre. The decision-making Minister for this project is yet to be determined.*<sup>10</sup>

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<sup>8</sup> EPA, *Fremantle Ports Outer Harbour Project: Advice to the Minister for the Environment under Section 16(e) of the Environmental Protection Act 1986*. Perth, Bulletin 1230, September 2006.

<sup>9</sup> Letter from Hon Mark McGowan MLA, Minister for the Environment, 17 May 2006, p1.

<sup>10</sup> *Ibid.*

2.15 The Committee sought further clarification from the Minister for the Environment as to when the 'decision making' Minister will be appointed for the project?

2.16 The Minister for the Environment responded with the following:

*With regard to the appointment of a delegate for me in relation to the Minister for the Environment's powers and duties under the provisions of the EP Act, I advise that this is premature. This is because no decision has been made that this project is to proceed. If there is a future decision made that the project is to proceed, a development proposal will be referred to the EPA for environmental impact assessment, requiring subsequent decisions of the Minister for the Environment.*

*At the appropriate time, once a proposal has undergone environmental impact assessment, a formal delegation of my powers and duties as Minister for the Environment in relation to the Cape Peron Tourist Precinct project will then be established.<sup>11</sup>*

- 2.17 The Committee noted that the intent of the s16(e) process is to allow the EPA to examine the key environmental issues associated with the project, including providing advice on potential flaws of the project at a relatively early stage.
- 2.18 The EPA provided its strategic advice to the Minister for the Environment on Monday 24 October 2006.<sup>12</sup>
- 2.19 The Committee concurs with the EPA's advice that the primary environmental issues under consideration are the potential loss of seagrass, changes to water quality, the impacts on Lake Richmond and the loss of terrestrial vegetation.<sup>13</sup>
- 2.20 The Committee was also mindful of the need to conduct further economic and social assessments, as well as ensuring that any proposal does not expose acid sulfate soils (ASS).
- 2.21 The Committee noted the three different development options 2.2, 2.3 and 2.4,<sup>14</sup> that were prepared by the Steering Committee, and that Strategen maintains, in the SER document, that those options were assessed against the sustainability criteria.

<sup>11</sup> Letter from Hon Mark McGowan MLA, Minister for Environment, 8 November 2006, p1.

<sup>12</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006

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

<sup>14</sup> See Appendix 1 for a copy of the three options, which were taken from: Strategen, *Strategic Environmental Review: Cape Peron Tourist Precinct Project*, prepared for Cape Peron Tourist Precinct Steering Committee, February 2006 pp32-34.

- 2.22 The sustainability criteria were also highlighted in State Parliament. In response to a question in the Legislative Council about the inland marina development, Hon Adele Farina MLC, Parliamentary Secretary representing the Minister for Planning and Infrastructure stated the following:

*A portion of the land is part of a Bush Forever site and this will be one of the issues considered by government prior to it making a decision on any final concept plan. Any development proposal will need to satisfy the government's sustainability criteria.<sup>15</sup>*

- 2.23 In seeking to identify the main issues to be resolved, and report those issues to the attention of the Parliament, the Committee sought to underpin this report into the petition, on the triple bottom line sustainability principles, which consist of economic, social and environmental considerations.
- 2.24 Firstly, the Committee sought to clarify the concept of sustainability as it applies in WA.

### 3 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

- 3.1 'Sustainable Development' has no universally accepted definition. It has over a number of decades been defined in many different ways. One of the most popularly used definitions comes from the 1987 World Commission on Environment and Development, *Our Common Future (the Brundtland Report)*,<sup>16</sup> which states:

*Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.<sup>17</sup>*

- 3.2 The Brundtland Report recognised that sustainable development means adopting lifestyles within the planet's ecological means. The Brundtland Report also made it clear that the world's current pattern of economic growth is not sustainable on ecological grounds and that a new type of development is required to meet foreseeable human needs.
- 3.3 Australia has used a slightly different term namely Ecologically Sustainable Development (ESD). In 1990, the Commonwealth Government suggested the following definition for ESD in Australia:

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<sup>15</sup> Hon Adele Farina MLC, Parliamentary Secretary to the Minister for Planning and Infrastructure, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 12 October 2005, p6163.

<sup>16</sup> Dr Gro Harlem Brundtland was the Chairperson of the World Commission on Environment and Development and the report is often referred to as the Brundtland Report.

<sup>17</sup> Gro Harlem Brundtland (Chair), The World Commission on Environment and Development, *Our Common Future*. Oxford University Press, Oxford, 1987, p43.

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*... using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased.*<sup>18</sup>

- 3.4 Put simply, ESD is development that aims to meet the needs of Australians today, while conserving our ecosystems for the benefit of future generations. To do this, methods need to be developed for using those environmental resources which form the basis of the Australian economy in a way which maintains and, where possible, improves their range, variety and quality. At the same time resources need to be utilised to develop industry and generate employment. As such, ESD represents one of the greatest challenges facing Australia's governments, industry, business and the community now and in the future.
- 3.5 The Australian National Strategy for Ecologically Sustainable Development (**National Strategy**)<sup>19</sup> evolved over several years and through extensive consultation with all levels of government, business, industry, academia, voluntary conservation organisations, community-based groups and individuals. The National Strategy's origins stem back to the release of the World Conservation Strategy in 1980, the National Conservation Strategy for Australia in 1983, and the 1987 Brundtland Report.
- 3.6 ESD is, according to the National Strategy, characterised by:
- consideration of the wider economic, social and environmental (**Triple Bottom Line**) implications of governmental and private actions;
  - taking a long term rather than a short term view when assessing those actions;
  - reduction of the likelihood of serious environmental impacts;
  - reduction of divisive and damaging confrontations which have characterised some developments;
  - improvements in the quality of our land, air and water; and
  - the development of new environmentally friendly products and processes.
- 3.7 The ESD model of decision making under the National Strategy offers a method of minimising conflict at all levels. It has been adopted by governments, at least on paper, as the central plank of Australia's environmental management framework. The

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<sup>18</sup> Department of the Prime Minister and Cabinet. *Ecologically Sustainable Development. A Commonwealth Discussion Paper*, Canberra. Australian Government Publishing Service, 1990.

<sup>19</sup> Ecologically Sustainable Development Steering Committee. *National Strategy for Ecologically Sustainable Development*. Canberra: Australian Government Publishing Service, 1992.

National Strategy sets out the Council of Australian Government's view of the potential of ESD:

*By developing this Strategy, we have demonstrated our belief that a co-ordinated approach to ESD is required... The goal is development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends.<sup>20</sup>*

#### 4 EVOLUTION TOWARDS SUSTAINABILITY IN WESTERN AUSTRALIA

4.1 In late 2003, and after a lengthy consultation period, the WA Government launched its State Sustainability Strategy (**WA Sustainability Strategy**). This comprehensive report went beyond the earlier definitions of ESD, and mere references to the triple bottom line approach, by focusing on the need to 'integrate' the environment, economic and social principles and outcomes.

4.2 In the Strategy, sustainability is defined as:

*... meeting the needs of current and future generations through an integration of environmental protection, social advancement, and economic prosperity.<sup>21</sup>*

4.3 A main concern with the earlier references to, and assessments of ESD in Australia, was that the triple bottom line issues were often treated in isolation. The inherent failing with that approach was that even when the environmental, economic and social outcomes were listed, often particular benefits were considered to have more merit or were given a 'higher' weighting than others.

4.4 To provide guidance for overcoming that problem, the WA Sustainability Strategy emphasised the need for all proposals to be assessed by considering the environmental, social and economic factors together to ensure that trade-offs are minimised.

4.5 In other words, the WA Sustainability Strategy provides the framework that enables private enterprise, the community and government to find net benefit in all three areas.

4.6 The Committee acknowledges the conceptual clarification contained in the WA State Sustainability Strategy but noted the need to constantly revise and reinforce the objective of integrating the triple bottom line approach across all spheres of government.

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<sup>20</sup> *Ibid.*

<sup>21</sup> Government of Western Australia, *The Western Australian State Sustainability Strategy: a vision for quality of life in Western Australia*, Perth, September 2003 p24.



- 4.7 The Committee formed the view that any development proposal for Point Peron should be assessed by integrating the social, economic and environmental issues to ensure trade-offs are minimised.

### Relevant Legislation and Planning Framework

- 4.8 The SER document identifies a range of State and Federal legislation that will have to be considered as part of any assessment of the marina canal estate development at Point Peron. These include the following State Legislation:

*Aboriginal Heritage Act 1972;*

*Building Regulations 1989;*

*Bush Fires Act 1954;*

*Conservation and Land Management Act 1984;*

*Environmental Protection Act 1986;*

*Environmental Protection Regulations 1987;*

*Environmental Protection (Swan Coastal Plain Lakes) Policy 1992;*<sup>22</sup>

*Health Act 1911;*

*Heritage of Western Australia Act 1990;*

*Land Administration Act 1997;*

*Local Government Act 1995;*

*Metropolitan Region Town Planning Scheme Act 1959;*

*Town Planning and Development Act 1928;*

*Wildlife Conservation Act 1950.*

- 4.9 The Committee noted that both the *Metropolitan Region Town Planning Scheme Act 1959* and the *Town Planning and Development Act 1928* were repealed by the *Planning and Development Act 2005*.<sup>23</sup>

<sup>22</sup> Environmental Protection Policies (EPP's) are initiated by the EPA and can be either rejected or approved by the Minister for the Environment. The 1992 *Swan Coastal Plain Lakes Policy* was formally approved under s33 of the *Environmental Protection Act 1986 (EP Act)*. The policy has the force of law (subject to s42 of the *Interpretation Act 1984*) as though it had been enacted as part of the *EP Act* on and from the day the approval order was gazetted, under s34.

<sup>23</sup> Proclamation, *Government Gazette*, No 48, Perth, 21 March 2006, p1077

4.10 The Committee also noted that the SER document did not include the Western Australian Planning Commission (WAPC), *Statement of Planning Policy No 2.6 State Coastal Planning (SPP2.6)*.<sup>24</sup>

4.11 The Committee further noted the comments to the EPA, from the Department for Planning and Infrastructure (on the advice from the Coastal Planning and Coordination Council), that the proposal has not addressed SPP2.6 and that it should have been done as part of the environmental review.<sup>25</sup>

4.12 The stated WAPC objectives of SPP2.6 are to:

- *protect, conserve and enhance coastal values, particularly in areas of landscape, nature conservation, indigenous and cultural significance;*
- *provide for public foreshore areas and access to these on the coast;*
- *ensure the identification of appropriate areas for the sustainable use of the coast for housing, tourism, recreation, ocean access, maritime industry, commercial and other activities; and*
- *ensure that the location of coastal facilities and development takes into account coastal processes including erosion, accretion, storm surge, tides, wave conditions, sea level change and biophysical criteria.*<sup>26</sup>

4.13 The Committee further noted that the SER document did not include the *Land Administration (Land Management) Regulations 2006*.<sup>27</sup>

4.14 The Committee also noted that Reserve No 27853 Point Peron, Rockingham is listed in Schedule 1 of the *Land Administration (Land Management) Regulations 2006* and that Reserve No 27853 is currently vested with the Minister for Sport and Recreation.<sup>28</sup>

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<sup>24</sup> Proclamation, *Government Gazette*, No 91 (Special), Perth, 10 June 2003 pp2059–2074.

<sup>25</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006, pp62–63.

<sup>26</sup> WAPC, <http://www.wapc.wa.gov.au/Publications/139.aspx> Accessed on 10 November 2006.

<sup>27</sup> Proclamation, *Government Gazette*, No 100 (Special), 14 June 2006, pp.2085–2106.

<sup>28</sup> *Ibid.*

- 4.15 The SER document listed the following State Government agency strategies and policies as being relevant to the environmental assessment and management of the project:

*Benthic Primary Producer Habitat Protection for Western Australia's Marine Environment, Guidance Statement No. 29, 2004;*

*Bush Forever Protection Policy 2000;*

*Conservation Policy for Western Australia 1997;*

*DoE Environmental Management Plan for Cockburn Sound and its Catchment 2005;*

*Environmental Protection Authority Position Statements;*

*EPA Red Book recommendations for Conservation Reserves of Western Australia;*

*Rockingham Lakes Regional Park Draft Management Plan 2003-2013;*

*State Environmental (Cockburn Sound) Policy 2005;*

*Western Australian State Sustainability Strategy 2003.*

- 4.16 The Committee noted that the SER document did not include the *Shoalwater Islands Management Plan 1992–2002*, or the *Shoalwater Islands Marine Park Draft Management Plan 2006*.
- 4.17 The Committee also noted that the SER document did not include the WAPC, *Development Control Policy 1.8 Canal Estates and Artificial Waterway Developments (DC1.8)*.<sup>29</sup>
- 4.18 The Committee noted that while DC1.8 is not a legislative requirement, it is an operational policy of the WAPC in relation to decision making.
- 4.19 The Committee noted the following in the Introduction to DC1.8:

*This policy and guidelines applies to canal estate developments which propose to incorporate artificial waterways. The general principles of the policy and guidelines also apply to:*

<sup>29</sup> WAPC, *Development Control Policy 1.8 Canal Estates and Artificial Waterway Developments* <http://www.wapc.wa.gov.au/publications/221.aspx> Accessed on 8 November 2006.

- *harbours and marinas whether as a result of the construction of breakwaters into a natural waterbody or by dredging inland harbours;*
- *developments incorporating artificial waterways or lakes designed for navigation as well as ornamental and recreational purposes.*<sup>30</sup>

4.20 The Committee considered it beneficial to include the following definitions from DC1.8 in this report:

***Artificial Waterway** means any artificial channel, lake harbour or embayment for use or intended for use for navigation purposes and which may also be used for ornamental and recreational purposes. The term includes any access channel or connecting channel, any addition to or alteration of any waterway within the meaning of this definition and any system of waterways within the meaning of this definition provided in any development of land. The term also includes any other waterway designed for any purposes such as drainage, but which is capable of use as a waterway as herein defined.*

***Boat Harbour** means an area of protected navigable waters where boats can shelter and where boat-to shore (and vice versa) transfers of people or goods can be made and includes the associated land, breakwaters and dredged waterways.*

***Canal Estate** means a development or subdivision which adjoins or directly influences an existing or proposed artificial waterway. For planning purposes any development where the titles to the subdivided lots extend into, abut or are proximate to a man-made waterway shall be deemed to be part of a canal estate unless the Commission determines otherwise.*

***Marina** means a discrete set of facilities operating under one management body within a boat harbour which provides safe permanent moorings and other boat related services for a group of small craft. There may be more than one marina operating within a single boat harbour.*<sup>31</sup>

4.21 In view of the above WAPC definitions, and for the purpose of this report, the Committee will be referring to the project as a marina canal estate development.

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<sup>30</sup> *Ibid*, p4.

- 4.22 The Committee wishes to highlight the following explanatory statement from the WAPC website, as it sets out the WAPC's requirements for the assessment and approval of canal estate developments, including harbours and marinas:

*The general principles and procedures which should be observed and followed by those proposing to undertake canal estate projects are set out in the associated guidelines. The general policy principles and guidelines also apply to other projects incorporating artificial waterways, such as harbours and marinas. In these cases, however, the detailed zoning provisions may vary.*

*Canal estates and artificial waterways projects affect the interests of many authorities and agencies and so it is important that the recommended procedures are followed as closely as possible to achieve the best and quickest results from the system through which proposals must pass before approvals are obtained.<sup>32</sup>*

- 4.23 The SER document listed the following Commonwealth legislation as being relevant to the project:

*Aboriginal and Torres Strait Islander Heritage Protection Act 1984;*

*Australian Heritage Commission Act 1975;<sup>33</sup>*

*Environment Protection and Biodiversity Conservation Act 1999;*

*Native Title Act 1993.*

- 4.24 The Commonwealth strategies relevant to the project include:

*National Strategy for Ecologically Sustainable Development 1992;*

*Intergovernmental Agreement on the Environment 1992;*

*National Strategy for Conservation of Australia's Biological Diversity 1996.*

- 4.25 The Committee noted the following Commonwealth legislation and regulations:

*Defence Act 1903;*

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<sup>31</sup> *Ibid*, pp5-6.

<sup>32</sup> *Ibid*.

<sup>33</sup> Repealed, by Schedule 1, of the *Australian Heritage Council (Consequential and Transitional Provisions) Act 2003*.

*Naval Defence Act 1910;*

*Control of Naval Waters Act 1918;*

*Control of Naval Waters Regulations 1922;*

*Defence (Public Areas) By-Laws 1987;*

*Defence Force Regulations 1952.*

## 5 LAND USE

- 5.1 The proposed marina canal estate development, with mixed-use and commercial development, is on land zoned 'port installations' and 'parks and recreation'.
- 5.2 The Committee noted that, should the project proceed to the next stage following a decision by the State Government, the marina canal estate development would be subject to a Formal Environmental Impact Assessment and would require an amendment to the Metropolitan Region Scheme.
- 5.3 All land south of Point Peron Road is on Bush Forever Site No 355 (**BF355**) *Point Peron and Adjacent Bushland, Peron Shoalwater Bay*.<sup>34</sup> The area within BF355 is 107 hectares and comprises part of the 4,270 hectares of Rockingham Lakes Regional Park.
- 5.4 In giving evidence, Mr Chris Tallentire spoke about Bush Forever:

*We have had a lot of debate and consideration about where Bush Forever sites should be located, yet it seems that it is perhaps being seen as a soft target, something that can be easily accessible to people with development projects. With those key points in mind, the Conservation Council is very concerned about the head of steam that has built up behind this project so far, and that there be satisfactory consideration of alternatives. We acknowledge that there may be need for better boating facilities in this area, which is undergoing a great deal of development. However, it seems that the proponents behind this particular project have not wanted to consider other options. An absolute priority for the Conservation Council is to ensure that the other options are properly considered.*<sup>35</sup>

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<sup>34</sup> Department of Environmental Protection, *Bush Forever: Vol 2 Directory of Bush Forever Sites*. Government of Western Australia, Perth, December 2000, p395.

<sup>35</sup> Mr Chris Tallentire, Director Conservation Council of WA, *Transcript of Evidence*, 28 June 2006, p1.

- 5.5 The Committee noted the conflicting aspects between the proposed development and the *Rockingham Lakes Regional Park Draft Management Plan 200 –2013*<sup>36</sup> which was adopted by the Department of Conservation and Land Management (CALM) (**CALM Draft Management Plan**).
- 5.6 The Committee would be concerned if Bush Forever sites were seen as a ‘soft target’.
- 5.7 A significant conflict between conservation and development is the proposal to excise approximately 40 hectares of land from BF355 for this development with the precise figure dependant on the chosen option.
- 5.8 The CALM Draft Management Plan explains the regional context of the Rockingham Lakes Regional Park as follows:

*[It] is an important link in a series of reserves and regionally significant bushland in the region. Nearby, there are wetlands and bushland in Beeliar Regional Park, Leda Nature Reserve Stakehill and Lakelands. The Shoalwater Islands Marine Park adjoins the Rockingham Lakes Regional Park to the west at Cape Peron, and extends from the Garden Island Causeway to Becher Point, including Shoalwater Bay and Warnbro Sound. The conservation, recreation and scientific values of the Park are enhanced by this regional context (Tingay and Associates, 1997).<sup>37</sup>*

- 5.9 The CALM Draft Management Plan continues:

*Rockingham Lakes Regional Park has significant conservation value owing to its geomorphic features, the presences of diverse wetland types, habitat, flora and fauna. The Park’s location in relation to other conservation reserves also enhances its value in a regional context and it is considered by the community to be an important buffer to urban development.<sup>38</sup>*

- 5.10 The Committee noted that the CALM Draft Management Plan refers to a proposed boat harbour at Mangles Bay.<sup>39</sup>

<sup>36</sup> CALM, *Rockingham Lakes Regional Park Draft Management Plan 2003–2010*. Government of WA, Perth, 2003.

<sup>37</sup> *Ibid*, p2.

<sup>38</sup> *Ibid*, p3.

<sup>39</sup> *Ibid*, pp8 & 56.

### The Protection of Crown Reserves in WA

- 5.11 The protection of Crown Reserves and public open space has a long history in WA and can be traced back to its first Premier, Sir John Forrest.
- 5.12 Sir John Forrest was the principal architect of the *Permanent Reserves Act 1899*, which was the first legislation specifically designed to provide Parliamentary protection for public parks in WA. The legislation was strengthened when Sir Winthrop Hackett had the original Bill changed in the Legislative Council to provide for the classification of reserves as A, B or C Class. Under Sir Winthrop Hackett's concept, A Class Reserves became the most secure, requiring an Act of Parliament to vary their boundaries, change their purpose or cancel them. B and C Class Reserves could be changed without the need for the Parliament's consent, but the Parliament had to be given an explanation in the case of B Class Reserves.<sup>40</sup>
- 5.13 The *Land Act 1933* also provided for the classification of A, B and C Class Reserves. However, the current *Land Administration Act 1997*,<sup>41</sup> which repealed the *Land Act 1933* only provides for the creation of A Class Reserves. Some B Class Reserves remain but there is rarely any reference to C Class Reserves.
- 5.14 The CALM Draft Management Plan states that Reserves 27853 and 39475 at Point Peron were vested with the Recreation Camps and Reserve Board. It states that Reserve 27853 is proposed to be transferred to the Conservation Commission of WA (**Conservation Commission**) and then continues:
- Crown Reserves now vested in the City of Rockingham which are proposed to be vested in the Conservation Commission of Western Australia will be converted to Class A Reserves under the Land Administration Act 1997 and afforded an appropriate classification and purpose ...*<sup>42</sup>
- 5.15 The Committee received a response from the Conservation Commission which informed the Committee that it considered the proposed development in November 2005.
- 5.16 The Conservation Commission subsequently made a submission to the EPA and outlined the following concerns with the three options in the SER document.

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<sup>40</sup> G. Rundle, 'History of conservation reserves in the south-west of Western Australia', *Journal of the Royal Society of Western Australia*, 79, 1996, p228.

<sup>41</sup> Proclamation, *Government Gazette*, No 68 (Special), 27 March 1998, p1765.

<sup>42</sup> CALM, *Rockingham Lakes Regional Park Draft Management Plan 2003-2010*. Government of WA, Perth, 2003, p9.



*The excision of 42 – 51ha from the Rockingham Lakes Regional Park. As the population in the hinterland increases, there will be greater demand for the recreational opportunities that the Regional Park provides. The creation of housing and canals over such a large area of the Regional Park considerably reduces these opportunities.*

*The loss of 31 – 44ha of a Bush Forever Site (Protection Area 355). Extensive natural bushland areas are becoming more and more scarce in the metropolitan area as urban development occurs. Planning should aim to retain such areas.*

*The potential for salt water intrusion into Lake Richmond arising from canal construction is a particular concern due to the important features of the lake that rely on maintaining water quality, eg the critically endangered ecological community of thrombolites.<sup>43</sup>*

5.17 The Conservation Commission stated that the Department of Sport and Recreation, the Department of Environment and Conservation and the Department for Planning and Infrastructure are finalising the transfer of the majority of the reserve to the Conservation Commission.

5.18 The Conservation Commission continued with the following:

*Please note that only a portion of Reserve 27853 will be transferred to the Commission, namely the portion within Rockingham Lakes Regional Park (i.e. the portion reserved for Parks and Recreation in the Metropolitan Region Scheme, South of Point Peron Road).<sup>44</sup>*

**Recommendation 1: The Committee recommends that the Government clarifies whether or not it will give priority to Bush Forever 355, and the CALM draft management plan, which seeks to protect and preserve designated land, or to particular proposals, such as the Point Peron marina canal estate development.**

5.19 The Committee noted the existence of a letter dated 10 January 1964<sup>45</sup> from the then Under Secretary for Lands to the Chief Property Officer of the Department of the Interior. The letter indicates that certain land at Point Peron was transferred from the Commonwealth to the State of WA following an agreement made in 1964.

5.20 The Committee wrote to the Department of Land Information (DOLA) seeking information about the transfer of Point Peron Land to the State of WA.

<sup>43</sup> Letter from John Bailey, Chairman, Conservation Commission, 15 November 2006, p1.

<sup>44</sup> *Ibid*, p2.

<sup>45</sup> Appendix 4.

5.21 The Committee specifically requested:

*Identification, if possible, of the "Point Peron property" that is the subject of the letter dated 10 January 1964.*

*A copy of the letter dated 10 January 1964 from your Department's files, as well as copies of any related documentation (particularly any documentation related to the 'conditions' that the Commonwealth sought to impose on the transfer of the Point Peron property).*

*Advice as to the current status of the 'conditions' relating to the 1964 transfer of land from the Commonwealth to the State of Western Australia (that is, that the transfer was subject to existing leases and that the property's future use would be restricted to a reserve for recreation and/or park lands).*

*Advice as to which Crown Reserve classification (A, B or C) is presently assigned to BF355.*

*Details of the chorological history of the Crown Reserve classifications in the Point Peron area from January 1964 to September 2006.<sup>46</sup>*

5.22 The Committee received a response from the Department of Planning and Infrastructure (DPI) as the matter was referred to them by DOLA.

5.23 The DPI provided the following response:

*The original area transferred by the Commonwealth of Australia to the State of Western Australia is shown bordered yellow (Area D) on the attached Plan ...<sup>47</sup> This was on the conditions that the existing leases were observed and that the remainder of the land was used as a reserve for Recreation and/or Parklands. Any variation of the terms would require consultation with the Commonwealth.*

*A copy of the Minutes from the Departmental files from Archives dated 10 January 1964 is enclosed together with copies of relevant documents.<sup>48</sup>*

*In 1968 the Commonwealth of Australia released the State from its obligations under the 1964 Agreement.<sup>49</sup> We do not have copies of*

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<sup>46</sup> Letter to DOLA, 14 October 2006, p2.

<sup>47</sup> Appendix 2.

<sup>48</sup> Appendix 3.

*correspondence on our files to confirm this, but the attached media extract of 15 October 1968<sup>50</sup> ... is indicative, and it is thought that relevant letters would be on files of the Department for Premier and Cabinet.*

*Currently Bush Forever Site 355, which is contained within the Point Peron Reserve, has a "C" Class classification. The Classification of the Point Peron Reserve has always been a "C" Class Reserve since its creation in 1966 until the present day.<sup>51</sup>*

- 5.24 The Committee noted the reference to an "A" Class reservation in the 10 January 1964 letter, from the then Under Secretary for Lands to the Chief Property Officer of the Department of the Interior.
- 5.25 The Committee also noted the reference in the CALM Draft Management Plan for the Crown reserves to be vested in the Conservation Commission to be converted to Class A Reserves under the *Land Administration Act 1997*.
- 5.26 The Committee further noted that the 1968 article in *The West Australian*<sup>52</sup> makes no reference to the Commonwealth "releasing the State from its obligations under the 1964 Agreement".<sup>53</sup>

**Recommendation 2: The Committee recommends that the Government clarifies by way of relevant documentation whether or not the Commonwealth did release the State, from its obligations, that the future use of the 'transferred Point Peron land' be restricted to a reserve for Recreation and/or Park Lands under the 1964 Agreement.**

#### Defence

- 5.27 The Committee acknowledged the strategic importance of Garden Island as a defence base in WA.
- 5.28 In their submission to the Committee, the petitioners stated that:

*Point Peron was originally Defence land sold to the Western Australian government on the condition that it would remain essentially in its natural state as an area for public recreation. Many Western Australians have spent happy, relaxed times as school children, scouts, naturalists or holiday-makers at the many camps on*

<sup>49</sup> Appendix 4 p61.

<sup>50</sup> Appendix 5 p62.

<sup>51</sup> Letter from Greg Martin, Director General, DPI, 27 November 2006, pp1–2.

<sup>52</sup> Appendix 5.

<sup>53</sup> Appendix 4.

*Point Peron. This experience would be lost to the massive earthworks and privatisation of the area should the Landcorp proposal be allowed to succeed. As it stands the proposal may constitute a breach of contract with the Commonwealth.*<sup>54</sup>

- 5.29 HMAS Stirling (also known as Fleet Base West) was commissioned on 28 July 1978, is the largest base in the Royal Australian Navy, and is home to over 2000 service personnel. It is located on the south eastern section of Garden Island adjacent to Rockingham.
- 5.30 HMAS Stirling provides operational, training and logistic support for four of the Australian Navy's major platforms: Collins Class submarines, Anzac Class frigates, Adelaide Class frigates and, the underway replenishment ship and Clearance Diving Team Four.<sup>55</sup>
- 5.31 The Navy and Defence operations occupy about 28 per cent of the 1300 hectare island. The remainder is in its natural state and is home to a range of native flora and fauna.
- 5.32 The island is connected to the mainland by a 4.2 km long causeway. Construction of the causeway began in 1971 and was completed in 1973.<sup>56</sup>
- 5.33 The Committee noted the extended debate surrounding the degree to which the causeway has restricted the exchange of water between the southern end of Cockburn Sound and the open ocean.
- 5.34 A 2002 study commissioned by the Cockburn Sound Management Council revealed that the construction of the causeway has reduced the flushing of Cockburn Sound by about 40 per cent.<sup>57</sup>
- 5.35 The Committee noted an article in the *Weekend Courier* which indicated that the Federal Environment Minister, Senator Ian Campbell, may send a letter of support for the Cape Peron Tourism Precinct and the realignment of the Garden Island Causeway to the City of Rockingham.<sup>58</sup>

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<sup>54</sup> Letter from Preserve Point Peron (Inc), 11 January 2006, p1.

<sup>55</sup> Graham Spencer, Philip Orchard and Rachael Whitney-Smith, *The Western Force - alias HMAS Stirling*, in *Sea Talk: issues that affect NAVY people*. Royal Australian Navy, Canberra, Summer 2005, p11. <http://www.navy.gov.au/publications/seatalk/summer2005/2005-summer.pdf> Accessed on 16 November 2006.

<sup>56</sup> DAL Science and Engineering Pty Ltd, *The Influence of the Garden Island Causeway on the Environmental Values of the Southern End of Cockburn Sound*. Report prepared for the Cockburn Sound Management Council, August 2002.

<sup>57</sup> *Ibid*, p16.

<sup>58</sup> 'Sympathetic hearing given'. *Weekend Courier - Rockingham*, Friday, 31 March 2006, p6.

- 5.36 The *Weekend Courier* also reported that Rockingham Mayor, Barry Sammels, had returned from Canberra after lobbying federal ministers for money and support for several local projects, including the Cape Peron marina, and the *Weekend Courier* continued:

*The \$30m realignment of the Garden Island causeway was discussed with Senator Campbell and Defence Minister Brendan Nelson.<sup>59</sup>*

- 5.37 The Committee wrote to Hon Dr Brendan Nelson MP, Minister for Defence, to inquire about planned works for the causeway and associated funding. Senator Hon Sandy MacDonald, Parliamentary Secretary to the Minister for Defence responded with the following:

*A number of maintenance works are being undertaken on the bridges and causeway leading to Garden Island. These works are expected to cost in the order of \$4 million. These works, together with the normal maintenance regime, should ensure that the causeway and bridges are operational into the medium-long term. In particular, Defence does not have any current plans to construct a new causeway or bridge.<sup>60</sup>*

- 5.38 The Committee noted that the causeway provides crucial access to Garden Island for the purpose of National Defence.
- 5.39 The Committee further noted the EPA's comments that the project, should it proceed to a development stage, is likely to require modifications to significant infrastructure including the Garden Island Causeway and the Water Corporation's Sepia Depression Ocean Outlet Landline. The EPA continued:

*It is expected that a formal proposal would detail the processes required to manage these interactions.<sup>61</sup>*

**Recommendation 3: The Committee recommends that the State Government liaise with the Commonwealth Government at a Ministerial level, in relation to their plans for the Garden Island causeway to improve flushing between the southern end of Cockburn Sound and the ocean, regardless of whether or not any developments proceed.**

<sup>59</sup> *Ibid*, p6.

<sup>60</sup> Letter from Senator Hon Sandy MacDonald, Parliamentary Secretary to the Minister for Defence, 26 September 2006, p1.

<sup>61</sup> EPA, *Cape Peron Tourist Precinct Project. Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*. Perth, Bulletin 1237, October 2006, p21.

**Recommendation 4: The Committee recommends that discussions take place between the State and Commonwealth governments to specify any funding arrangements and timeline for any modification or realignment of the Garden Island causeway.**

#### Acid Sulfate Soils (ASS)

- 5.40 The Lake Richmond area has been identified as having a high risk of ASS, as has a smaller area north of Lake Richmond, between Vista Avenue and Bell Street.<sup>62</sup>
- 5.41 The Committee noted the concerns of the EPA on the potential for generating ASS from this development, and that there would need to be detailed on-site investigations, should the proposal proceed to a planning application stage.
- 5.42 The Committee acknowledged that ASS is an important social, environmental and economic issue with considerable detrimental consequences if it is not properly managed.
- 5.43 ASS are soils and other soft sediments that contain iron sulfides mostly pyrite ( $\text{FeS}_2$ ) with typically smaller quantities of iron monosulfides ( $\text{FeS}$ ). In Australia, the ASS of most concern are the soils that formed in the Holocene geological period (the last 10,000 years), after the last major sea level rise.<sup>63</sup>
- 5.44 Iron sulfides are stable under oxygen-free (typically waterlogged) conditions. However, the disturbance of ASS for agriculture, urban development, some canal developments, dewatering or drainage or other land uses can expose iron sulfides to air, causing them to oxidise.
- 5.45 Pyrite oxidation produces a cocktail of sulfuric acid, aluminium, iron and other heavy metals that can move into coastal waterways, which can have significant social, environmental and economic impacts.
- 5.46 Some potential impacts of disturbed ASS in coastal areas include poor water quality due to dissolved metal contaminants; low pH levels; fish kills; loss of critical habitat; and the loss of wetland biodiversity and amenity.
- 5.47 There may also be direct public health implications of disturbing ASS, as acidified coastal wetlands could provide a predator-free habitat for mosquitoes.
- 5.48 ASS occurs throughout Australia and was first recognised as a problem in the Eastern States.

<sup>62</sup> WAPC, *Planning Bulletin No 64, Figure 4, South Metropolitan Region Scheme Acid Sulfate Soils*, Perth, November 2003, p1. See <http://www.wapc.wa.gov.au/Publications/213.aspx> Accessed on 27 October, 2006.

<sup>63</sup> WAPC, *Planning Bulletin No 64 Acid Sulfate Soils*, WAPC, Perth, November 2003, p1. See <http://www.wapc.wa.gov.au/Publications/213.aspx> Accessed on 27 October, 2006.

- 5.49 ASS are known to corrode concrete and steel structures, with some local councils in the Eastern States having to spend millions of dollars replacing infrastructure.
- 5.50 Tweed Heads Shire Council, for example, had to spend \$4 million on replacing corroded storm water drains.<sup>64</sup>
- 5.51 The NSW Department of Natural Resources describes ASS as having economic impacts on most industries on the NSW coast. These include recreational and commercial fishing, oyster growing and other aquaculture industries as well as cropping, grazing and dairying.<sup>65</sup>
- 5.52 The NSW Department of Natural Resources provides the following information:

*In 1995, over \$1 million worth of sea mullet was discarded by NSW commercial fishers because of red spot disease (Epizootic Ulcerative Syndrome). Losses in production of Sydney rock oysters from acid sulfate soil impacts were estimated at \$7 million over a period of six years. Overall, the cost to NSW fishery resources due to acid sulfate soils has ranged from \$2.2 to \$23 million per annum. Recreational fishing and tourism has been affected in some areas.*<sup>66</sup>

- 5.53 The Committee wished to highlight the following from Chapter 4.5 of the 2003 NSW State of the Environment Report:

*In NSW, the Acid Sulfate Soils Management Advisory Committee, comprising State and local government, scientific, affected landholder, industry and environmental representatives, has been facilitating a coordinated response to the problem since 1994. The committee developed the NSW Acid Sulfate Soils Strategy which aims to prevent problems by **avoiding disturbance of acid sulfate soils; managing disturbances in a manner that does not cause environmental harm; and remediate acid sulfate soil problem areas** [Emphasis added].<sup>67</sup>*

<sup>64</sup> John Williams and Rob Fitzpatrick, *Acid Sulfate Soils: A Problem of National Significance*. See, [http://www.affa.gov.au/corporate\\_docs/publications/pdf/rural\\_science/seminars/williamsetal16may.pdf](http://www.affa.gov.au/corporate_docs/publications/pdf/rural_science/seminars/williamsetal16may.pdf) Accessed on 3 November 2006.

<sup>65</sup> NSW Government, *Acid Sulfate Soils: What are the effects of acid sulphate soils?* Department of Natural Resources, Website: [http://www.dlwc.nsw.gov.au/soils/what\\_effects.shtml](http://www.dlwc.nsw.gov.au/soils/what_effects.shtml) Accessed on 8 November 2006.

<sup>66</sup> *Ibid.*

<sup>67</sup> Department of Environment and Conservation (NSW), *New South Wales State of the Environment 2003*, Chapter 4.5, Acid sulphate soils: [http://www.epa.nsw.gov.au/SOE/soe2003/chapter4/chp\\_4.5.htm](http://www.epa.nsw.gov.au/SOE/soe2003/chapter4/chp_4.5.htm) Accessed on 8 November 2006.

- 5.54 The Committee noted that in NSW, many local Councils, have modified their local environmental plans to include ASS provisions and soil risk maps.
- 5.55 In WA, largely due to the pressure on urban development from population growth, ASS is becoming increasingly acknowledged as a problem for planning across State and Local Government.
- 5.56 In the City of Stirling in late 2001, ASS rose to prominence as a significant issue. The WAPC Planning Bulletin No 64 explains the problem in Stirling with the following:

*Investigations have revealed that the contamination in the City of Stirling was caused by disturbance to acid sulfate soils in the area and, specifically, the combined effects of: (1) lowering the water table for new residential developments on the Roselea and Hamilton Lake estates to install sewerage infrastructure and provide a suitable base for building foundations; (2) stockpiling the peat excavated from the development areas; (3) excavating peat and related soils to create artificial wetlands in public open space in the area and stockpiling the soil in the centre of the lakes to create islands; and (4) climatic factors, including a long succession of dry winters.<sup>68</sup>*

- 5.57 The estimated cost to the City of Stirling to treat the disturbed ASS is around \$25 million dollars.
- 5.58 The Committee noted the following observation by the EPA about ASS in relation to the marina canal estate development proposal for Point Peron:

*A number of canal developments are experiencing considerable environmental problems with the exposure of acid sulfate soils (ASS). ASS can cause problems with water quality, fish health and breakdown of infrastructure. There would need to be high level of certainty that exposure of potential ASS would not result from the project. Construction and dewatering of the marina basin may result in the exposure of potential ASS.<sup>69</sup>*

- 5.59 The Committee acknowledged the EPA's concerns about ASS.

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<sup>68</sup> WAPC, *Planning Bulletin No 64 Acid Sulfate Soils*, Perth, November 2003, p1. See <http://www.wapc.wa.gov.au/Publications/213.aspx> Accessed on 27 October, 2006.

<sup>69</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006, p13.



- 5.60 The Committee also wishes to highlight that there is a ban on canal developments in NSW,<sup>70</sup> and that strict controls are applied in Queensland, in relation to new canal estates and other developments within high ASS risk areas.<sup>71</sup>

**Recommendation 5: The Committee recommends that detailed onsite investigations be undertaken to determine the presence of potential ASS in the vicinity of Lake Richmond.**

**Recommendation 6: The Committee recommends that adequate separation (buffer) distances be established between the contours of the ASS risk areas should any proposed development, adjacent to Lake Richmond be successful.**

## 6 MARINE ENVIRONMENT AND WETLANDS

- 6.1 Cockburn Sound extends from the south of the mouth of the Swan River at Fremantle for about 25 km to Point Peron near Rockingham. It is bounded on the east by the mainland and on the west by Garden Island and Carnac Island, several rocky outcrops and numerous well-developed coral reefs. Cockburn sound supports a range of competing and complementary commercial, industrial, defence, tourism and recreational uses.
- 6.2 Cockburn Sound has been described as an iconic representation of the Western Australian lifestyle. It has been the subject of numerous studies and much debate about the level of environmental degradation.
- 6.3 The ecological condition of Cockburn Sound was at its lowest in the 1970s, with poor water quality, high chlorophyll-a levels and extensive loss of meadow forming seagrass in the eastern surrounds of Cockburn Sound.<sup>72</sup>
- 6.4 The Committee noted the likely cumulative pressures on Cockburn Sound from the proposed desalination plant, the proposed new island port and the proposed marina canal estate development.
- 6.5 Cockburn Sound is therefore, also representative of the significant sustainability policy challenges facing governments because of the variety of competing values, interests and resources.

<sup>70</sup> NSW, *State Environmental Planning Policy No 50 – Canal Estate Development*, published in Gazette No 121, 10 November 1997, p9139 and amended in Gazette No 52, 13 March 1998, p1495.

<sup>71</sup> S. Dear, N. Moore, S. Dobos, K. Watling, and C. Ahern, *Soil Management Guidelines*. In *Queensland Acid Sulfate Soil Technical Manual*, (Department of Natural Resources and Mines), Indooroopilly, 2002, pp1–63. [http://www.nrw.qld.gov.au/land/ass/pdfs/soil\\_mgmt\\_guidelines\\_v3\\_8.pdf](http://www.nrw.qld.gov.au/land/ass/pdfs/soil_mgmt_guidelines_v3_8.pdf) Accessed on 9 November 2006.

6.6 Cockburn Sound is protected by the *State Environmental (Cockburn Sound) Policy 2005*, which was WA's first State Environment Policy (SEP). The policy is designed to take a precautionary approach<sup>73</sup> to environmental management, and seeks to prevent rather than wait for environmental incidents or impacts to occur.

6.7 At the time of its release, the former Minister for the Environment, Dr Judy Edwards MLA, said that the *State Environmental (Cockburn Sound) Policy 2005*:

*... will be backed by the full force of recently expanded powers under the Environmental Protection Act 1986, including environmental harm, clearing controls, licensing and unauthorised discharge regulations to prevent environmental impacts that might threaten the long-term ecological sustainability of the Sound.*<sup>74</sup>

6.8 The Committee noted that the preamble to the *State Environmental (Cockburn Sound) Policy 2005* states that the Government of WA:

*(a) recognises that Cockburn Sound, situated within Perth's coastal waters, is highly valued by the community for its ecological, economic and recreational attributes;*

*(b) is conscious of the need to protect the intrinsic value of biological diversity and the ecological, genetic, social, economic, scientific, educational, cultural, recreational, aesthetic, and natural values of biological diversity and its components;*

*(c) recognises the importance of not unnecessarily restricting public access to the foreshore and waters of Cockburn Sound;*

*(d) recognises the importance of Cockburn Sound for activities such as fisheries, aquaculture and tourism which require a high level of marine water quality and for uses such as industry, shipping, harbours and marinas (even though they can lower environmental quality in localised areas), provided that all reasonable and practicable measures are taken to prevent or minimise waste discharge and contamination;*

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<sup>72</sup> EPA, *Fremantle Ports Outer Harbour Project: Advice to the Minister for the Environment under Section 16(e) of the Environmental Protection Act 1986*. Perth, Bulletin 1230, September 2006, p5.

<sup>73</sup> Principle 15, of the 1992 *Rio Declaration of the United Nations Conference on Environment and Development*, codified the precautionary approach for the first time at the global level. Principle 15 states: "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

<sup>74</sup> Dr Judy Edwards MLA, Minister for the Environment, Foreword to the *State Environmental (Cockburn Sound) Policy 2005*.

*(e) recognises the Intergovernmental Agreement on the Environment made between the Commonwealth, the States and Territories, and the Australian Local Government Association on 1 May 1992; in particular the four principles of ecologically sustainable development pertaining to management of ecosystems, biodiversity, intergenerational equity, and the precautionary principle;*

*(f) recognises that all the uses of Cockburn Sound and its catchment, as they affect the Cockburn Sound, need to be managed in accordance with the above-mentioned principles of ecologically sustainable development;*

*(g) recognises the policy's linkages with other Commonwealth and State legislation, policies, strategies and action plans concerning Cleaner Production, Best Practice and Waste Minimisation, Continual Improvement and sustainability;*

*(h) recognises that the policy strives for best environmental quality throughout Cockburn Sound;*

*(i) recognises that events and activities outside the policy area may adversely affect the environmental values established in the policy from time to time; and*

*(j) recognises the importance of Cockburn Sound and Naval Waters to the Australian Defence Force and acknowledges the Commonwealth environmental, legislative and policy framework by which it abides.<sup>75</sup>*

6.9 The Committee noted that the Cockburn Sound SEP established a risk based approach to environmental management which was underpinned by Environmental Values (EVs) and Environmental Quality Objectives (EQOs).

6.10 In relation to Mangles Bay, the EPA states the following:

*The EQO for the Mangles Bay area of Cockburn Sound established by the SEP is that a High Level of Ecological Protection should be achieved. This 'level of protection' allows for small changes in the quality of water, sediment or biota (ie small changes in contaminant concentrations with no resultant detectable changes beyond natural*

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<sup>75</sup> *Ibid.*, p1.

*variation in the diversity of species and biological communities, ecosystem processes and abundance/biomass of marine life).*<sup>76</sup>

- 6.11 The Committee acknowledged the concerns expressed by University of WA oceanographer, Professor Chari Pattiaratchi, about the environmental health of Cockburn Sound. Speaking in relation to the proposed desalination plant and the island port project, Professor Pattiaratchi said:

*Either we just declare the area as an industrial area and write it off environmentally, or we have a moratorium.*<sup>77</sup>

**Recommendation 7: The Committee recommends that a comprehensive independent study be undertaken to determine the present health of Cockburn Sound and the likely cumulative environmental impacts from the desalination plant, the proposed new island port, and any proposed marina canal estate development.**

- 6.12 The Committee also noted that the EPA supports a planning study for the whole of the Cape Peron area and that the Cape Peron Tourist Precinct Project should not be considered in isolation.<sup>78</sup>

**Recommendation 8: The Committee recommends that a planning study be undertaken for the whole of the Cape Peron area.**

### Seagrass

- 6.13 Seagrasses have a variety of important functions. They increase the stability of the seafloor through the growth of extensive rhizome mats; play a crucial role in primary production with the harnessing and cycling of nutrients; and provide a valuable habitat for a diverse range of marine organisms.
- 6.14 The Committee noted with interest the concerns expressed by Mr Bob Goodale, Convener/Chairman of the Preserve Point Peron group, to the Committee about the impact on seagrass from the proposed development.

*The major environmental impacts would be on the seagrass, particularly in Mangles Bay. The bay is already stressed through eutrophication as a result of nutrients leaching into that area and because of past mismanagement of the Cockburn Sound seas.*<sup>79</sup>

<sup>76</sup> EPA, *Cape Peron Tourist Precinct Project. Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006, p2.

<sup>77</sup> Editorial, 'Crunch time for the State on Cockburn Sound', *The West Australian*, 18 August 2006 p16.

<sup>78</sup> *Ibid*, p21.

<sup>79</sup> Mr Bob Goodale, Chairman Preserve Point Peron Inc, *Transcript of Evidence*, 28 June 2006, p2.

- 6.15 The Committee acknowledged that practically all previous proposals for a marina at Mangles Bay were rejected largely because of a further loss of seagrass. Only the 1985 John Holland Group proposal, for a smaller marina, was deemed to be environmentally acceptable by the EPA.
- 6.16 In 1992, another proposed marina, also consisting of 500 boat pens would have resulted in the loss of 32 ha of seagrass. The EPA assessed the proposal and formed the view that none of the options for the marina should proceed. Its recommendation was that:

*The Environmental Protection Authority concludes that the proposed marina at Mangles Bay is environmentally unacceptable and should not proceed.*

*In reaching its conclusion, the Authority identified the main environmental factor as the significant impact on the remaining seagrass in the Mangles Bay area and the ecological significance of preserving the small amount of seagrass that remains in Cockburn Sound.<sup>80</sup>*

- 6.17 The Committee compared the current proposal with the one rejected in 1992. The main difference is that the current proposal is for an inland marina canal estate development whereas the 1992 marina options were proposed to be constructed out into the harbour.
- 6.18 This appears to explain why the proponents claim the loss of seagrass from options 2.2 and 2.3, for the current development, is 5.9 ha and 2.4 is 5.3 compared to the 32 ha in 1992 (See Appendix 1).
- 6.19 The predominant species of seagrass in Mangles Bay are *Posidonia sinuosa* and *Posidonia australias*.
- 6.20 The Committee noted the following evidence from Mr Bob Goodale, Convener/Chairman of the Preserve Point Peron group, in response to a question from the Committee's Chair, Hon Louise Pratt MLC:

*The proponents have informally told us that, in their view, this marina proposal would have less seagrass impacts. I think that is because, largely, it will be inbuilt into the land form as opposed to out to the ocean bed. What is your opinion?*

*Mr Goodale: What is less impact? If a marina is built over the ocean in Wanliss Street, there would be no impact on the seagrass*

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<sup>80</sup> EPA, *Mangles Bay Marina: Report and Recommendations of the Environmental Protection Authority*, Perth, Bulletin 693, July 1993, pii.

*whatsoever. It would mean there was deep water and quick access to both land and sea-based facilities. If it is built in Mangles Bay, it would totally destroy the seagrass. The inland version has merit because it will have less impact on the seagrass in that location. As I said, my frail older eyes find it very difficult to see the proponents' very clever manipulation of drawing very faint dotted lines on the map in an enormously long line through the seagrass. That will constantly need to be dredged and will get wider and wider and the silt from out of the area shown by the dotted line will have an impact on the surrounding seagrass and the silt will drift out over it. These photographs show how very shallow the area is and how people can walk out for hundreds of metres without getting their knees wet. An enormous channel will have to be dug to get through that seagrass.<sup>81</sup>*

- 6.21 The Committee also noted the following comment by the EPA, in relation to seagrass, from its appraisal of the Fremantle Harbour Project. The EPA stated that:

*Concern about seagrass loss in Cockburn Sound is not new. Approximately 80% of the seagrass present in Cockburn Sound prior to development commencing in the area has been lost since the 1950's. The EPA has a stated objective to protect the remaining seagrass meadows in Cockburn Sound (EPA, 1998). The EPA is concerned about the incremental loss of further Posidonia seagrass in Cockburn Sound. In previous assessments of proposals in Cockburn Sound where loss has been a predicted outcome, the EPA expressed significant concern about the loss of any further seagrass in Cockburn Sound in the context of historical losses (eg. Jervoise Bay Southern Harbour and Mangles Bay Marina). The EPA remains of the view that the remaining seagrass in Cockburn Sound should be protected and that activities and developments should be planned and implemented with an environmental objective for Posidonia seagrass of no net loss and preferably a net environmental gain.<sup>82</sup>*

- 6.22 The proponents also state that any loss of seagrass would be offset by rehabilitation of at least an equal area. The SER document cites the 'successful' example of seagrass rehabilitation in Owen Anchorage, Albany and to a lesser extent the more recent trials in Cockburn Sound.

- 6.23 The evidence for seagrass rehabilitation in the SER document appears to be overstated and the Committee again notes the following comment by the EPA, which states:

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<sup>81</sup> Mr Bob Goodale, Chairman Preserve Point Peron Inc, *Transcript of Evidence*. 28 June 2006, p6.

<sup>82</sup> EPA, *Fremantle Ports Outer Harbour Project: Advice to the Minister for the Environment under Section 16(e) of the Environmental Protection Act 1986*, Perth. Bulletin 1230, September 2006, p12.

*With respect to seagrass related off-sets, the EPA notes that planting of seagrass sprigs in Oyster Harbour, Albany has been very successful. Trials using similar techniques in Cockburn Sound are, however not showing anywhere near the same degree of success.<sup>83</sup>*

- 6.24 The Committee acknowledged the consistent position of the EPA, in relation to seagrass, and that it again states in its strategic advice for this project that seagrass planting trials in Cockburn Sound are not showing the same degree of success as Albany.<sup>84</sup>
- 6.25 The Committee noted that studies in the Eastern States indicate that survival of transplanted *Posidonia* is not generally successful over the long-term.<sup>85</sup>
- 6.26 The Committee finds that:
- research into seagrass rehabilitation to be at a very early stage in Australia; and,
  - a lack of demonstrable evidence of seagrass rehabilitation in Cockburn Sound.

**Recommendation 9: The Committee recommends that the Government adopt a cautious approach to any 'claims of success', about seagrass rehabilitation in Cockburn Sound at this stage.**

### Water Quality

- 6.27 The Committee noted the petitioners concerns about water quality, as stated in the following extract from their submission:

*The hydrological changes that are likely to result from the excavation of the proposed harbour threaten the ecology of Lake Richmond, including its Critically Endangered Ecological Community of Thrombolites. The proposed harbour and canals could drive the intrusion of seawater into the freshwater lake, activate toxic acid sulphate soils and mobilize contaminants into the water table.*

<sup>83</sup> *Ibid*, p13.

<sup>84</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006 p10.

<sup>85</sup> Stephanie Seddon, Rachel Wear, Sonja Venema and David Miller, *Seagrass Rehabilitation in Adelaide Metropolitan Coastal Waters II: Development of donor bed independent methods using Posidonia seedlings*. Prepared for the Coastal Protection Branch, Department for Environment and Heritage. SARDI Aquatic Sciences Publication No. RD004/0038-2, Adelaide, 4 November 2005, p8.

*The ability to flush a marina exiting into the south-eastern corner of Cockburn Sound would be negligible. The seagrass meadows of Mangles Bay would be further damaged by rock walls, dredging and the resulting sedimentation. An important nursery for King George Whiting may be lost.*<sup>86</sup>

- 6.28 The Committee noted the following comments expressed by the EPA about water quality:

*Dredging to develop access channels is predicted to have direct impacts on seagrass (as discussed above) and has potential to have indirect ecological effects through turbidity and sediment deposition related effects. These matters will require detailed investigation and evaluation if the Project proceeds to the next phase.*

*Water quality in marina developments has often been of environmental concern due to effects of reduced flushing on the nutrient, organic matter, contaminant and human health-related quality of water, sediments and biota.*<sup>87</sup>

- 6.29 The EPA continued:

*A marina development that would discharge water into Mangles Bay would need to demonstrate that it would not compromise the objective of achieving the EQOs which have been established for Mangles Bay and the broader Sound in the Cockburn Sound SEP (Govt. of WA 2005).*

*On the basis of current designs, water leaving the proposed inland marina would enter an area of Cockburn Sound with a high LEP [Level of Ecological Protection], as identified through the Cockburn Sound SEP. Accordingly, it would be expected that a marina would be designed and managed to ensure that the EQC for a high LEP could be met at the boundary of the marina water body and Cockburn Sound.*<sup>88</sup>

- 6.30 The Committee acknowledged that the EPA has significant reservations at this stage as to whether the project can be designed to ensure that the ability to achieve improved water quality in Mangles Bay is not constrained.

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<sup>86</sup> Letter from Preserve Point Peron (Inc), 11 January 2006, p1.

<sup>87</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006, p11.

<sup>88</sup> *Ibid.*, p12.



**Recommendation 10: The Committee recommends that the Government regularly monitors water quality in Mangles Bay and Cockburn Sound.**

### Significant Wetlands (Lake Richmond)

6.31 The 2003 Draft Management Plan describes the wetlands in the following way:

*The wetlands in the Park are recognised and protected at state, national and international levels. At the state level, all wetlands within the Park are Conservation Category Wetlands. These wetlands support a high level of ecological attributes and functions (Government of Western Australia). In addition, Lake Richmond, Lake Coo loongup, Lake Walyungup, Tamworth Hill Swamp, Anstey Swamp and Paganoni Swamp are protected under the State's Environmental Protection (Swan Coastal Plain Lakes) Policy 1992 (EPP). Wetlands identified under this policy are protected from unauthorised effluent disposal, filling, mining and drainage (Government of Western Australia, 2000).<sup>89</sup>*

6.32 The following uses of lakes are declared to be beneficial uses to be protected under the *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992*:

*(a) use of lakes as a refuge for many rare and endangered species of flora and fauna including many birds which migrate from the northern hemisphere and which are protected under international treaties;*

*(b) use of lakes as a focus of cultural and heritage values for communities living in the Swan Coastal Plain before European settlement, having provided the basis for food gathering and spiritual life in those communities;*

*(c) use of lakes as an important aesthetic element of the natural landscape in the Swan Coastal Plain;*

*(d) use of lakes as an important resource in studying the natural environment;*

*(e) use of lakes as an intrinsic part of the natural as well as the modified surface drainage pattern of the Swan Coastal Plain;*

<sup>89</sup> CALM, *Rockingham Lakes Regional Park Draft Management Plan 2003–2010*, Perth, Government of WA, 2003, p23.

*(f) use of lakes as an important tool for monitoring groundwater levels and quality.*<sup>90</sup>

- 6.33 The above applies to Lake Richmond which retains water throughout the summer months and is a valuable habitat area for migratory birds. Lake Richmond has been identified as a location where bird species under the Japan Australia Migratory Bird Agreement (JAMBA) and the China Australia Migratory Bird Agreement (CAMBA) are known to inhabit. Those bird species are also protected under the *Commonwealth Environment and Biodiversity Conservation Act 1999*.

*A survey by Goodale et al. (1998) identified over 100 bird species around Lake Richmond. A number of species are trans-equatorial migratory birds that fly between Western Australia and Siberia. Other species at the lake include but are not limited to Musk Duck (*Biziura lobata*), Pacific Black Duck (*Anas superciliosus*), Black Swans (*Cygnus atratus*), Australasian Coot (*Fulicacaetra*) and Reed Warbler (*Acrocephalus stentores*).*<sup>91</sup>

- 6.34 Lake Richmond is unusual compared with virtually all other lakes of the Swan Coastal Plain, being deep (maximum depth 15 m), perennial and fresh. It is elliptical, measuring approximately 1 km by 0.6 km. The water body covers about 40 ha, and is perched about 1 m above sea level. The maximum water depth of about 15 m varies only slightly with the seasons.<sup>92</sup>
- 6.35 The source of the calcium in the waters of Lake Richmond is probably groundwater that has passed through the calcium-rich dunes that surround the lake. The catchment for this groundwater is not known. The waters of Lake Richmond vary from 0.04 to 0.14% (0.4 to 1.4 parts per thousand (ppt)) salt and have a pH of between 8.3 and 9.3, which is significantly alkaline.<sup>93</sup>

### **Impacts on Hydrogeology**

- 6.36 The Committee noted with interest the EPA's concerns that the construction and ongoing operation of a marina at Point Peron may have long-term impacts on the local hydrogeology.

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<sup>90</sup> Section 5, *Environmental Protection (Swan Coastal Plain Lakes) Policy 1992*.

<sup>91</sup> CALM, *Rockingham Lakes Regional Park Draft Management Plan 2003–2010*, Perth, Government of WA, 2003, p31.

<sup>92</sup> Department of the Environment and Heritage, Thrombolite (microbial) community of coastal freshwater lakes of the Swan Coastal Plain (Lake Richmond), Advice to the Minister for the Environment and Heritage from the Endangered Species Scientific Subcommittee (ESSS) on a proposal to add an ecological community to Schedule 2 of the *Endangered Species Protection Act 1992* (ESP Act), <http://www.deh.gov.au/biodiversity/threatened/communities/thrombolites.html> Accessed on 9 October 2006.

<sup>93</sup> *Ibid.*

- 6.37 The EPA has particular concern about the connectivity between the saline marine water body and the freshwater Lake Richmond.
- 6.38 The EPA conceded that there is little existing information on the hydrogeology of the area. The EPA stated:

*In particular the structure of the superficial aquifer, and the sensitivity of the interface between the aquifer and the saltwater wedge to disturbance from lowering the watertable and intruding seawater into the aquifer much closer to Lake Richmond through the canals, is not well known.*<sup>94</sup>

- 6.39 The EPA questioned the assumptions of the hydrogeology modelling in the SER document with the following:

*Preliminary modelling undertaken for the SER, based on 2.2, identified that dewatering during canal construction may result in drawdown of the watertable of approximately 15cm at Lake Richmond. It is noted that this is reported to be within the seasonal variation of up to 1 metre. However, there is some uncertainty in these predictions, given the assumptions of the model, in particular, in relation to the hydrogeology of the area. A substantial reduction in water levels, if it occurred in the Lake may alter the salinity and concentrate nutrients and other contaminants. There is potential that a change in water level may also lead to greater exposure of the thrombolites to air, impacting on the growth and health of the microbes forming the thrombolites.*<sup>95</sup>

- 6.40 The EPA noted the different separation (buffer) distances between the freshwater Lake and the canals for the different options, but questioned whether those separation distances were adequate.
- 6.41 The EPA continued:

*As there is insufficient confidence in the existing knowledge of hydrogeology of the area, considerable detailed investigations would be required to provide greater certainty that the lake would not be impacted. It is likely that an increase in the separation distance between the canal construction and the Lake would increase the*

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<sup>94</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006, p15.

<sup>95</sup> *Ibid*, p16.

*confidence in predictions relating to hydrogeology of the area and reduce the potential for impact on the lake.*<sup>96</sup>

- 6.42 The Committee noted the comments by the EPA that option 2.2 is unlikely to be environmentally acceptable, and that the Steering Committee has already indicated that option 2.2 is unlikely to be considered further.
- 6.43 The Committee noted that the separation distance in option 2.4 is the largest at 350 metres (See Appendix 1).

**Recommendation 11: The Committee recommends that the Government undertakes detailed hydrogeological investigations to determine adequate separation distances for any proposed development, likely to impact on Lake Richmond.**

#### **Critically Endangered Ecological Community of Thrombolites**

- 6.44 The petitioners maintain that the hydrological changes from the proposed development would threaten the ecology of Lake Richmond, 'including its Critically Endangered Ecological Community of Thrombolites'.
- 6.45 Thrombolites are microbial limestone formations that have a clotted internal structure as opposed to stromatolites that have a laminated structure.
- 6.46 The thrombolites at Lake Richmond are rare and only survive in a few fresh or slightly saline lakes in WA. They comprise of many different species of bacteria and algae that, while growing, remove dissolved minerals (calcium carbonate) from the water and build up new 'rock' material, resulting in the formation of the obvious domed rock-like formations. They are in fact 'living rocks'.
- 6.47 The Threatened Ecological Community of Thrombolites is listed as endangered under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*,<sup>97</sup> and therefore receives additional recognition and protection.
- 6.48 The CALM Draft Management Plan states that the:

*Thrombolites have been subject to historical and ongoing disturbance and threatening processes including:*

- *physical crushing by visitors;*
- *nutrient enrichment;*

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<sup>96</sup> *Ibid.*

<sup>97</sup> Section 178, the list is also available online from the Department of Environment and Heritage's website at <http://www.deh.gov.au/cgi-bin/sprat/public/publiclookupcommunities.pl> Accessed on 10 October 2006.

- *alterations to groundwater throughflow or an*
- *increase in runoff, creating a reduction or increase*
- *in lake water levels, changes to lake hydrology or*
- *salt water intrusion;*
- *alterations to surrounding vegetation;*
- *smothering by weeds or sediment;*
- *dumping of rubbish; and*
- *risk of physical disturbance from development near the lake.*<sup>98</sup>

#### **Threatened Ecological Community of Sedgeland in Holocene Dune Swales**

- 6.49 The other threatened Ecological Community is Sedgeland in Holocene dune swales of the southern Swan Coastal Plain, which are also listed as endangered under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*,<sup>99</sup> and protected under BF355.<sup>100</sup>
- 6.50 There are two components to the Holocene dune swales community sedgeland in Holocene dune swales and woodlands over sedgeland in Holocene dune swales.
- 6.51 The present known distribution of the communities is almost entirely within linear wetland depressions (swales) occurring between parallel sand ridges of the Rockingham-Becher Plain. Most of the occurrences of sedgeland in Holocene dunes do not have an overstorey of woodlands.
- 6.52 The Rockingham-Becher Plain has been formed through the accumulation of Holocene sediments and is of high geomorphological significance due to the information it provides about the evolutionary record of sea-level history and climatic changes.<sup>101</sup>
- 6.53 The CALM Draft Management Plan continues:

<sup>98</sup> CALM, *Rockingham Lakes Regional Park Draft Management Plan 2003–2010*, Perth, Government of WA, 2003, p31.

<sup>99</sup> *Ibid.*

<sup>100</sup> Department of Environmental Protection, *Bush Forever: Vol 2 Directory of Bush Forever Sites*, Perth, Government of WA, December 2000, p395.

<sup>101</sup> Val English, et al., *Sedgeland in Holocene dune swales: interim recovery plan, 2002-2007*, CALM, Western Australia, 2002, p6.

*The Holocene dune swales community is significant not only because of its endangered status, but because it provides a unique record of wetland evolution and associated floral assemblages. There are examples of damplands and sunplands that formed 7,000 years ago, through to those that have been formed in the last 100 years.*

*The primary determinant influencing the distribution, composition and characteristics of the sedgelands is water regime. The age of the wetland and proximity to the water table are related factors.<sup>102</sup>*

- 6.54 The Committee noted the success and failure criteria for the recovery plans for the Lake Richmond threatened ecological communities.<sup>103</sup>

**Recommendation 12: The Committee recommends that the Government ensures that there are no detrimental changes to the water quality in Lake Richmond, in order to preserve the threatened ecological communities, which are dependant upon high water quality.**

## 7 ECONOMIC

- 7.1 The Committee appreciates that, because of the very nature of a sl6e request, the concentration, thus far, has largely been on the environmental aspects of the project.
- 7.2 The SER document concedes that a detailed analysis of the economic impacts of the various options has not been undertaken. It does, however, make some general predictions and includes the following:

*A simple comparison based on more detailed economic analyses undertaken for similar projects (eg Mandurah Ocean Marina) indicates the infrastructure expenditure and subsequent construction of this project will generate a significant economic impact in excess of \$500 million. Approximately half of this figure is from indirect flow-on economic impacts. This includes both direct and indirect spending.*

*Option 2.3 is likely to generate \$560 million whereas Option 2.4 is likely to generate \$515 million. The development will have at least one boutique hotel/resort (maximum height; five storeys), likely to employ 50 to 100 full time equivalent positions. Overall the retail, tourist and commercial businesses are expected to create direct employment of 620 to 650 full time equivalent positions. The indirect*

<sup>102</sup> CALM, *Rockingham Lakes Regional Park Draft Management Plan 2003–2010*, Perth, Government of WA, 2003, p30.

<sup>103</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006, p15.

*job creation in the surrounding areas during the operational phase of the project would be significant but is difficult to quantify.*

*The construction of the project would provide employment for at least ten years and would provide approximately 1500 jobs at its peak.<sup>104</sup>*

- 7.3 Considering that a detailed analysis of the economic impacts has not yet been undertaken, the Committee has some concerns with the stated objectives on page 22 of the SER document.

- 7.4 Specifically it states that:

*Sustainability objectives and associated criterion were established for a triple bottom line approach to the development of project [sic] (Table 2).*

*The proposed development concept options were developed with consideration for mitigating or offsetting negative impacts and enhancing the positive impacts with the aim of achieving a sustainable outcome with a net benefit for each of the social, environmental and economic objectives.<sup>105</sup>*

- 7.5 The petitioners made it clear that they are not against development, and agree that the City needs a marina, but not necessarily a canal. Their preferred location for the marina is at Wanliss Street.

- 7.6 In giving evidence to the Committee, Mr Bob Goodale stated:

*We are suggesting a marina à la Hillarys on the side of that jetty would be ideal for a future marina in Rockingham.<sup>106</sup>*

- 7.7 The Committee noted the apparent contradiction to the sustainability principles by way of reference to the EPA's Position Statement No 9<sup>107</sup> in the SER document which states:

*Environmental offsets are recognised by the Environmental Protection Authority (EPA) Preliminary (version 2) Position Statement No. 9, 'Environmental Offsets', as one tool that can provide alternative beneficial environmental outcomes in situations where social and economic growth is sought at some detriment to the*

<sup>104</sup> Strategen, *Strategic Environmental Review: Cape Peron Tourist Precinct Project*, prepared for Cape Peron Tourist Precinct Steering Committee, February 2006, p22.

<sup>105</sup> *Ibid*, p22.

<sup>106</sup> Mr Bob Goodale, Chairman Preserve Point Peron Inc. *Transcript of Evidence*, 28 June 2006, p2.

<sup>107</sup> Position Statement No 9, sets out the EPA's views on offsets.

*environment. The aim of environmental offsets is to achieve a 'no net environmental loss' or 'net environmental benefit' outcome (EPA 2005).*<sup>108</sup>

- 7.8 The Position Statement No 9 has now been finalised and the Committee acknowledges the following comment by the Chairman of the EPA, Mr Wally Cox in the foreword to that document. He states that:

*It is important to recognize that environmental offsets represent a 'last line of defense' for the environment, only being used when all other options to avoid and mitigate environmental impacts have been considered and exhausted.*<sup>109</sup>

- 7.9 The Position Statement No 9 also reveals that when there is an issue before the EPA, there is a presumption against recommending approval for proposals that are likely to have significant adverse impacts to 'critical assets'.<sup>110</sup>
- 7.10 The Committee appreciates the likely considerable economic benefits and job opportunities associated with the proposed marina canal estate development at least in the short to medium term.

## **8 SOCIAL**

- 8.1 The Committee noted the longstanding Indigenous and European cultural and heritage links with Point Peron.
- 8.2 The history of European activity in Cockburn Sound predates colonisation. It was the French, under the command of Nicholas Baudin, who, while exploring the area in 1803, gave the name to *Point Peron* after the zoologist on board Francois Péron.
- 8.3 It was Captain James Stirling who read the official proclamation on Garden Island in 1829, who later became WA's first Governor in 1831. HMAS Stirling was named after him.
- 8.4 Records of early maritime explorers suggest that Cape Peron supported a high proportion of the Shark Bay Aboriginal population prior to colonisation. The Aboriginal name for Cape Peron is Mooribirdup which translates into the place of dreaming of the yellow-tail whiting.
- 8.5 Lake Richmond is heritage listed with the Department of Indigenous Affairs as a site having ceremonial and spiritual significance (Site No SO2223).<sup>111</sup>

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<sup>108</sup> *Ibid*, p47.

<sup>109</sup> EPA, 'Environmental Offsets', *Position Statement No 9*, January 2006, pi.

<sup>110</sup> *Ibid*, p14.



- 8.6 Garden Island (Cockburn Sound) is listed as having mythological, artefact and historical significance (Site No SO2169), and Rotary Park (Mangles Bay) as having mythological significance (Site No SO2625).<sup>112</sup>
- 8.7 The SER document states that the local Aboriginal community utilise an area on the Mangles Bay foreshore as a meeting and learning place. It identifies the Sister Kate's former orphanage holiday camp as having emotional significance with recent Aboriginal history in the area.
- 8.8 The Committee noted the following from the SER document:

*As the disturbance of the two listed ethnographic sites is unavoidable (site numbers S02169 and S02625), the project developers will seek consent to disturb the sites from the Minister for Indigenous Affairs through a section 18 application under the Aboriginal Heritage Act 1972. Close consultation with the local Aboriginal community will be maintained during this process.*<sup>113</sup>

- 8.9 The Committee noted the comments from the Heritage Council of WA that Point Peron Recreational Camp, Cape Peron Battery Complex and the Turtle Factory are all listed on the City of Rockingham Municipal Inventory of Heritage Places.
- 8.10 Only the Turtle Factory will be directly affected by the proposed marina canal development.
- 8.11 The Turtle Factory, north of Point Peron Road, was built in 1923 and renamed Peron House in 1930. It became the Sacred Heart Convent in 1948 and remained so until 1973 when it was taken over by the Fremantle Port Authority. It is currently used by the Cruising Yacht Club of Rockingham.
- 8.12 The Committee noted the following from the SER document:

*The Turtle Factory building will require removal as part of the development. As this site is of cultural significance, consideration will be given to relocating the building, however, this may not be plausible given the building is constructed of asbestos material. The project developers will consult with the relevant government heritage*

<sup>111</sup> Government of Western Australia, Department of Indigenous Affairs, *Aboriginal Heritage Inquiry System* <http://www.dia.wa.gov.au/Heritage/Inquiry/Default.aspx> Accessed on 10 November 2006.

<sup>112</sup> *Ibid.*

<sup>113</sup> Straten. *Strategic Environmental Review: Cape Peron Tourist Precinct Project*, prepared for Cape Peron Tourist Precinct Steering Committee, February 2006.

*agencies, community groups and the City of Rockingham to determine the best outcome for this building.*<sup>114</sup>

- 8.13 The Committee noted the additional comments by the Heritage Council about the Turtle Factory as part of its submission to the EPA:

*Further assessment of the place under the requirements of the Government Heritage Property Disposal Process is necessary prior to considering possible development options.*<sup>115</sup>

- 8.14 The Committee anticipates that further assessment of all heritage sites will occur regardless of whether or not this particular project proceeds.

#### **Consideration of Other Sites**

- 8.15 The Committee noted that the overarching issue of contention is the location for the proposed marina canal estate development at Point Peron.

- 8.16 In giving evidence to the Committee, Mr Bob Goodale Convener/Chairman of the Preserve Point Peron Group, spoke about their preference for a marina at Wanliss Street, and also in favour of retaining the Rockingham Lakes Regional Park. Mr Goodale stated:

*In the deep waters of Cockburn Sound where there would be no impact on seagrasses, it would allow for easy access to existing infrastructure. Point Peron, a globally significant geological site, is not like the Coogee marina development, which I am sure you are aware of. ... We would be incredibly concerned if a precedent were set by a development occurring in what is already designated a regional park. It begs the questions: would a jet-ski area be acceptable at Herdsman Lake, and would peat mining be allowed at Beeliar Park so that we could be water-wise in our gardens, and would a high-wire gondola be acceptable in the Darling Ranges in which there are wonderful regional parks? We are rather concerned that a regional park could be violated in this way to enable a development to be suddenly built on it.*<sup>116</sup>

- 8.17 The Committee noted the following extract from the EPA strategic advice:

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<sup>114</sup> *Ibid*, p111.

<sup>115</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006 pp60–61.

<sup>116</sup> Mr Bob Goodale, Chairman Preserve Point Peron Inc. *Transcript of Evidence*. 28 June 2006, p2.

*A number of submissions on the SER raised the desire for other uses to be accommodated within the boundaries of the Project. While the consideration of the social issues is not an environmental matter as such, the Steering Committee will need to carefully consider how the mix of uses is catered for. The SER does not appear to provide sufficient scope to accommodate a wide range of social aspects without causing additional environmental impacts through increasing the proposed development footprint. Noting that a final proposal has not been developed, the EPA would be concerned if resolution of these social aspects of the Project in response to community aspirations was to result in an expansion of the Project area and further impact on the environment.<sup>117</sup>*

- 8.18 The Committee reviewed the *Marina Location Analysis Report*,<sup>118</sup> and extracts from the City of Rockingham minutes dated 25 October 2005, and the *Cape Peron Marina Development Traffic and Transport Report*.<sup>119</sup>
- 8.19 While stating that the actual development yields are unknown, the traffic and transport report lists the following base assumptions as a guide to the potential traffic generation of the development:

*537 apartments;*

*132 mixed use apartments;*

*390 tourist units (chalet park);*

*57 mixed use residential lots;*

*60 short stay residential lots;*

*321 residential lots;*

*100 room hotel;*

*750m<sup>2</sup> food and beverage related facilities*

*500m<sup>2</sup> associated retail/commercial;*

*250m<sup>2</sup> tourist related retail;*

<sup>117</sup> EPA, *Cape Peron Tourist Precinct Project, Advice of the EPA to the Minister for the Environment, under Section 16e of the Environmental Protection Act 1986*, Perth, Bulletin 1237, October 2006, p22.

<sup>118</sup> Project Management (NS Projects), *Marina Location Analysis Report*, prepared for the Cape Peron Tourist Precinct Project, July 2005.

700m<sup>2</sup> office use (government services);

500 boat pens.<sup>120</sup>

- 8.20 The Committee noted that the list above was only used as a guide for traffic, and that option 2.4, or indeed the actual development proposal (should it progress further), may well be significantly reduced.
- 8.21 The Committee noted that a number of submissions to the EPA suggested alternative locations for a marina with Wanliss Street being the preferred option.
- 8.22 The Wanliss Street site was examined as part of the Marina Location study and the Cape Peron Tourist Precinct Steering Committee provided the following comment about the Wanliss Street site to the EPA:

*This site was specifically examined in the study referred to above (NS Projects 2005). The report identified a range of opportunities and constraints in terms of engineering, planning, property and environmental aspects. While the opportunities and constraints for all aspects should be read in full, severe engineering and planning constraints were identified for this site. The water depth increases rapidly close to shore. To build anything but a jetty structure would require very large quantities of fill at high cost and questionable availability. A jetty structure would not meet boating demands beyond providing pens for, at best, just over a hundred boat owners. In addition, the narrow foreshore reserve did not provide adequate land area for any of the community facilities sought (e.g. chalet park, tourist facilities and marine science centre site) nor was there space for any parking.<sup>121</sup>*

- 8.23 In response to the submissions, the Cape Peron Tourist Precinct Steering Committee provided the following:

*During the community consultation the issue of alternative locations was raised. In response, the Steering Committee commissioned a desktop review by the project team of the entire coastline of the City of Rockingham which assessed the potential of each section of coastline to accommodate a marina-based tourist precinct. The same sustainability criteria were used in the assessment. The conclusion of*

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<sup>115</sup> Riley Consulting, *Traffic and Transport Report*. Prepared for the Cape Peron Tourist Precinct Project, February 2006.

<sup>120</sup> *Ibid*, p14.

<sup>121</sup> Straten, *Response to Submissions: Cape Peron Tourist Precinct Project*, prepared for Cape Peron Tourist Precinct Steering Committee, August 2006, p16.

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*the report (NS Projects 2005) was " ... for a marina-based development, Mangles Bay presents the least current constraints and most opportunities when compared to the rest of the Rockingham coastline."<sup>122</sup>*

- 8.24 The Committee noted that a strategic planning review of potential marina sites along the Rockingham coastline has not been undertaken by the State Government.

**Recommendation 13: The Committee recommends that the Government initiate and fund further research into the social and economic benefits and constraints with both the Point Peron and Wanliss Street marina and canal development options in consultation with Local Government and the community.**



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Hon Louise Pratt MLC  
Chair

7 December 2006

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<sup>122</sup> *Ibid*, p15.



# APPENDIX 1

## DEVELOPMENT CONCEPT OPTIONS 2.2, 2.3 AND 2.4

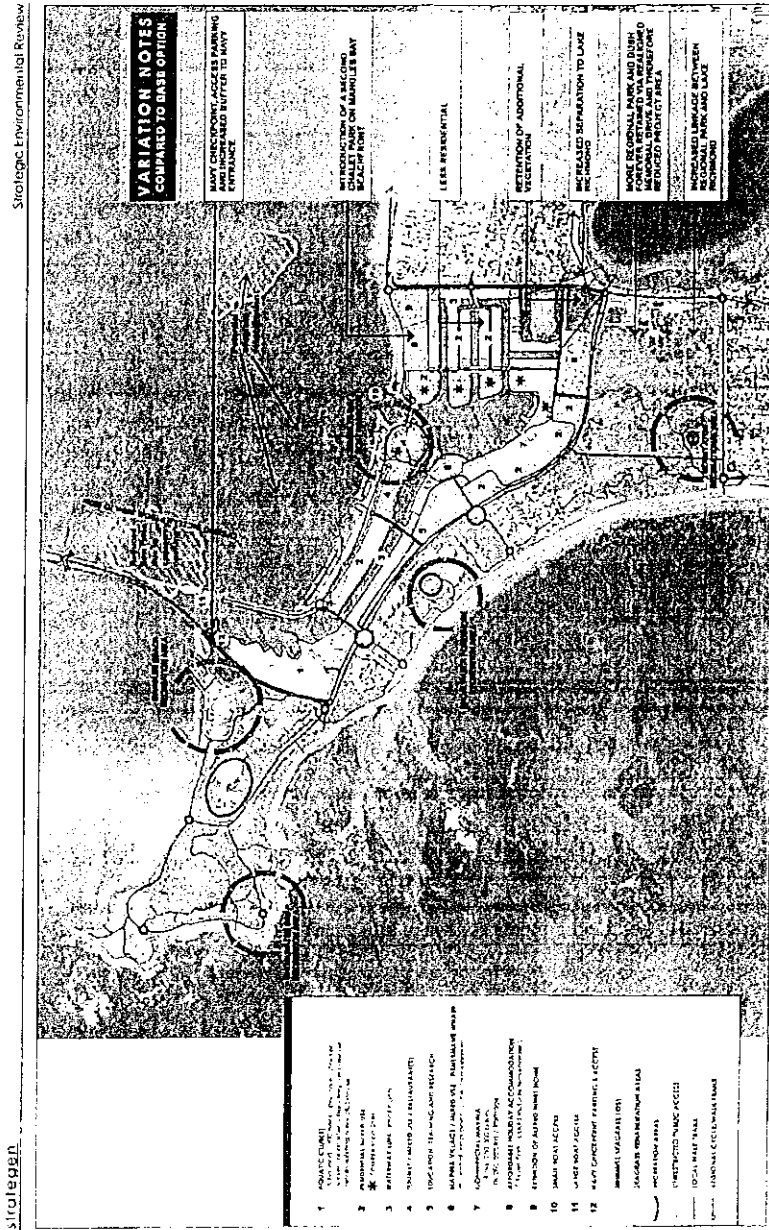


Figure 7 Development concept Option 2.3

Strategic Development Review (SAR) Doc. 26/07/2019

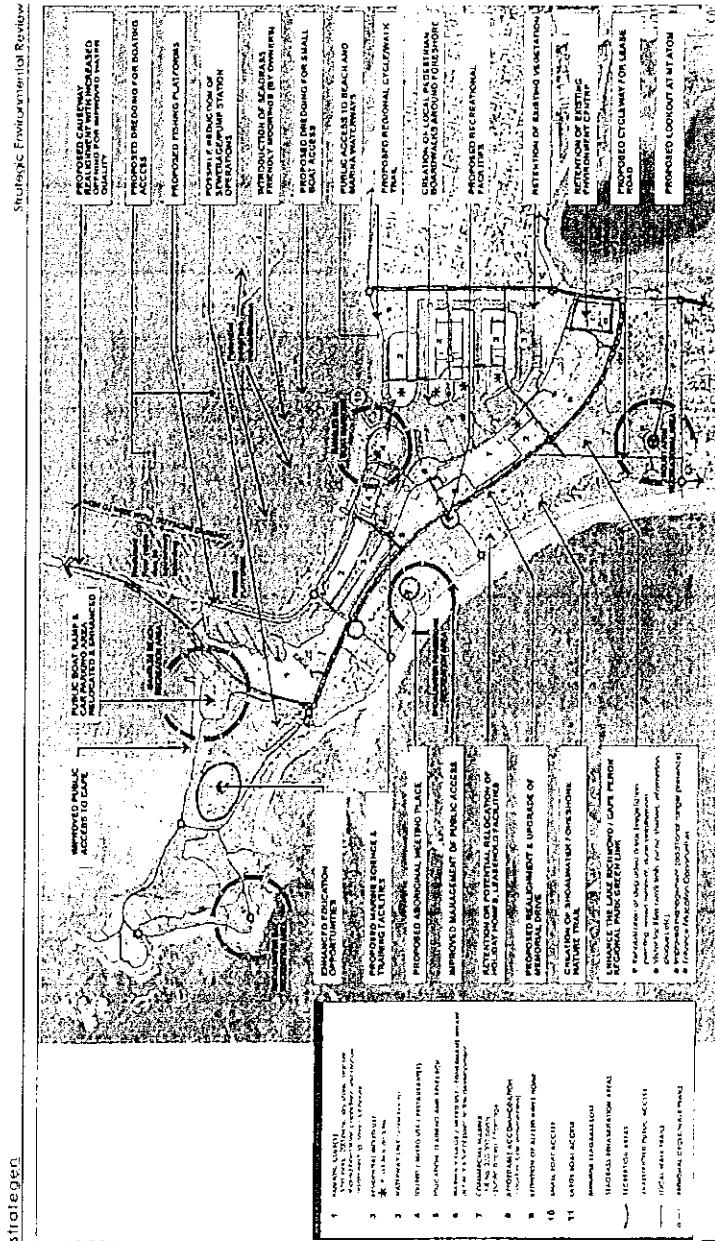
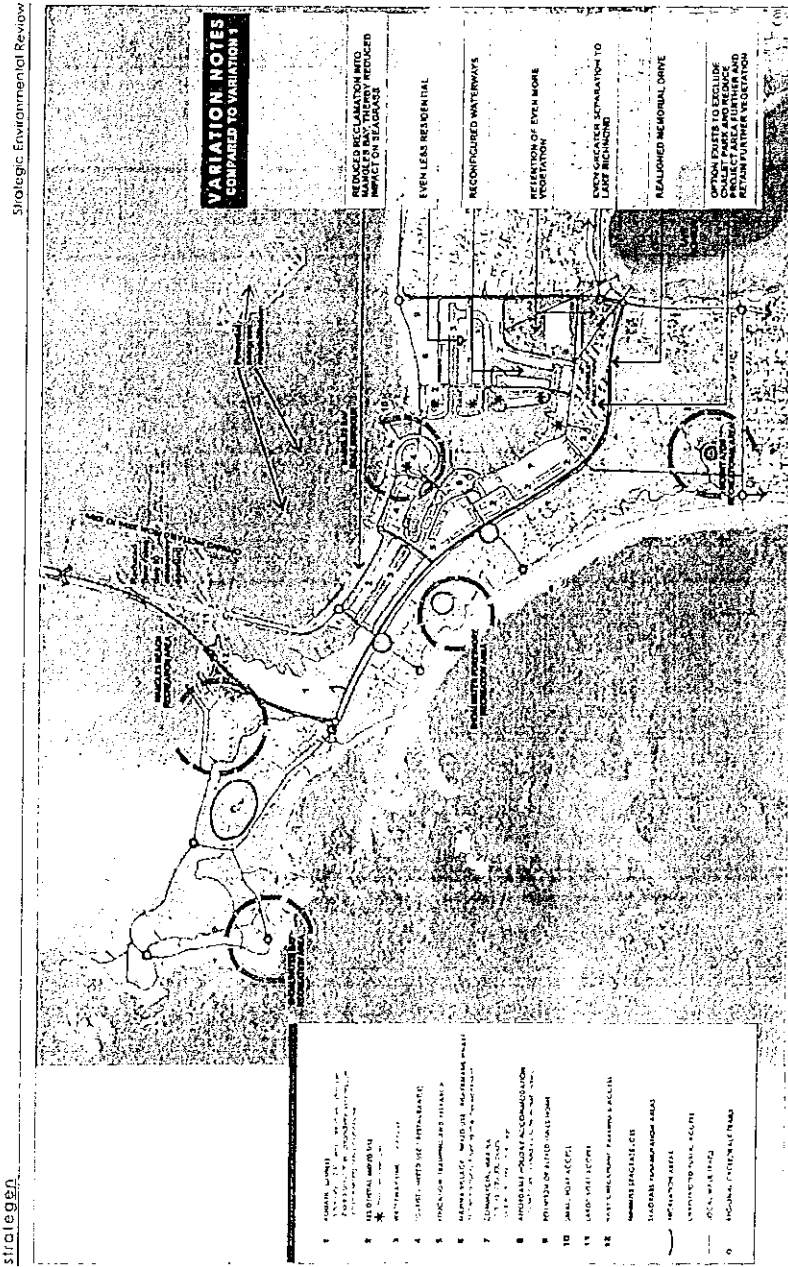


Figure 6 Development concept Option 2.2

Strategic Environmental Review Final Doc: 20/2/2006

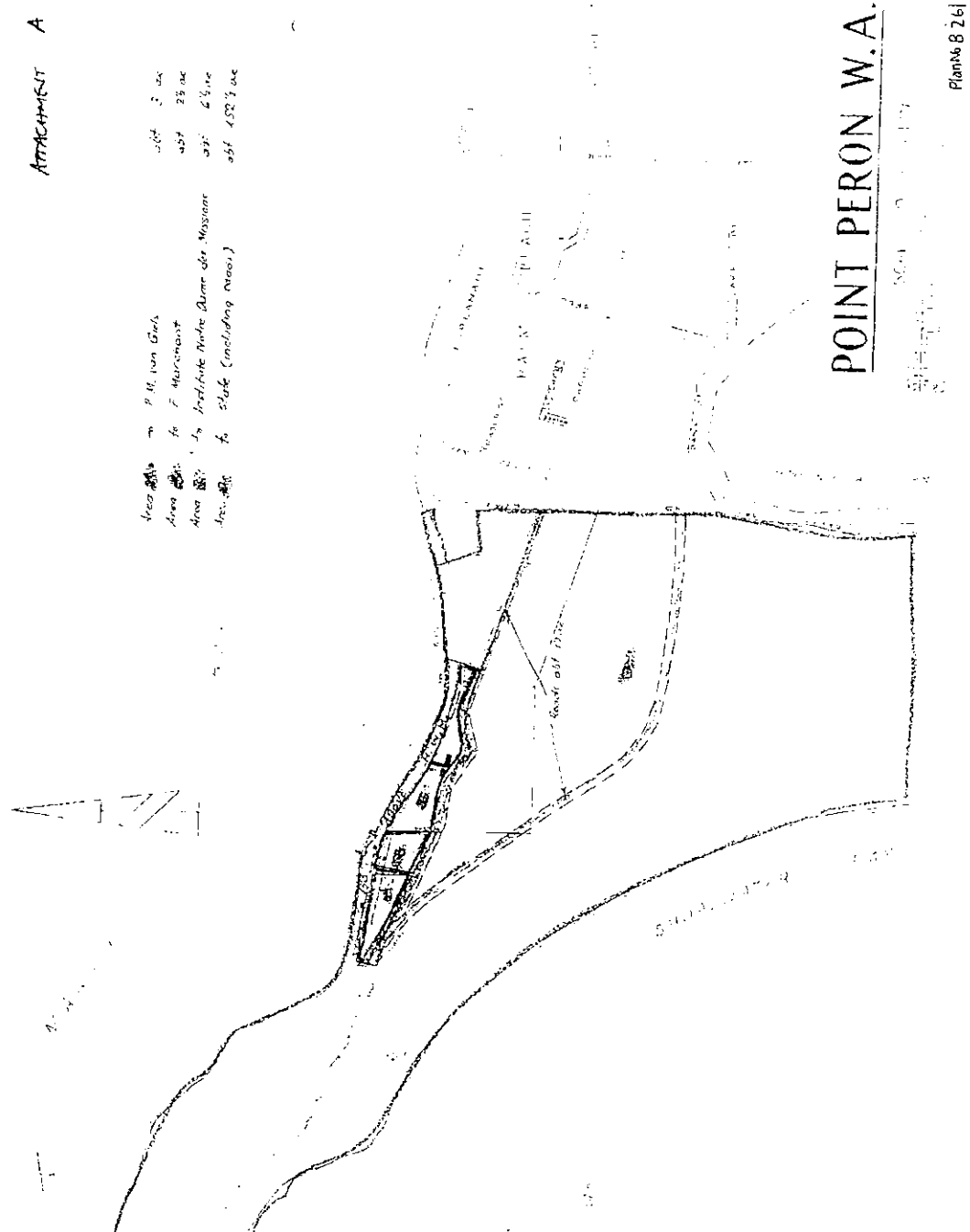






# APPENDIX 2

## MAP OF LAND TRANSFERRED TO WESTERN AUSTRALIA





# APPENDIX 3

## SPECIAL COMMITTEE MEETING NOTES

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NOTES OF A MEETING BY A SPECIAL COMMITTEE APPOINTED TO  
ENQUIRE INTO POINT PERON LANDS, HELD IN THE OFFICE OF  
THE UNDER SECRETARY FOR LANDS, ON THURSDAY, THE  
25TH JUNE, 1964, AT 2.30 P.M.

The Special Committee, appointed by the Hon. Minister for Lands, comprises --

Mr. C.R. Gibson (Chairman)	:	Under Secretary for Lands
Mr. H. Camm	:	Surveyor General
Mr. J.E. Lloyd	:	Town Planning Commissioner.

Negotiations have been completed between the Commonwealth and State Governments to transfer approximately 443½ acres, at Point Peron, to the State.

The transfer of the property was on condition that existing leases be protected and also the area was restricted to "a reserve for recreation and/or park lands".

The Commonwealth Government had granted leases --

(1) In 1947 --

(a) To Returned Sailors Soldiers' and Airmen's Imperial League of Australia (W.A. Branch) Incorporated, for 13 acres 2 roods; and,

(b) To Returned Sailors Soldiers' and Airmen's Imperial League of Australia (W.A. Branch) Incorporated, for 5 acres 10 perches,

both expiring on the 31st October, 1972.

The purpose of (a) was for welfare services for its members, and (b) for purposes of the Safety Bay-Rockingham Sub-Branch of the Returned Servicemen's Association.

(2) In 1958, to the Minister for Education, about 364 acres, commencing on the 1st January, 1958, and expiring on the 31st October, 1972, for the purposes of the National Fitness Council.

(3) In addition to these leases there exists --

(a) A 3-monthly tenancy from the 1st June, 1929, covering 1 acre, to Mary Frederica MAW, for Camping Purposes only.

(b) Air, Interior and Works Departments of the Commonwealth (known as "A.I.W. Recreation Centre"), for about 4½ acres, commencing the 1st May, 1957, to the 31st October, 1972, for "Recreation Purposes".

This was granted subject to Ministerial approval.

It can be seen therefore that apart from the 3-monthly tenancy to Mrs. M.F. Maw, all other leases expire on the 31st October 1972.

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Notes of Meeting by Special Committee Concerning Point  
Peron Lands:

An inspection has shown that this Recreation area is reasonably well developed, particularly under the National Fitness Council, which has twenty-eight (28) sub-leases to various bodies.

The National Fitness area was designed by the Town Planning Department, and of the areas set out four (4) remain vacant, i.e., thirty-two (32) sub-leases were designed originally.

In addition to the leases already granted, there were three areas left open, viz. :-

1. For a Community Sports Centre;
2. Reserved for future development; and,
3. Vacant - fronting Hymus Street, Palm Beach (known as Lot No. 1).

It was noted that three areas had been transferred by the Commonwealth as freehold properties prior to negotiations with the State being opened. These covered --

Mr. A. van Giels

Mr. F. Marchant

Institute de Notre Dame des Mission.

It was evident that the Point Peron area benefited a lot of people through the various organisations established there since 1958.

In order to preserve the conditions under which the State acquired the land from the Commonwealth, i.e., "subject to existing leases and future use of the area being restricted to a reserve for Recreation and/or Park Lands", it was considered that the following conclusions would satisfy both Commonwealth and State requirements :-

- (i) That negotiations be opened with the Shire of Rockingham, concerning the use, for Community Parking Purposes, of area marked "No. 1" front-Hymus Street (Palm Beach), and for this area to be screened with trees.
- (ii) That a reserve be created covering the Community Sports Centre, to which should be added the area marked "10" on the plan.
- (iii) That consideration should be given to extending the term of the existing leases, so as to provide security and incentive to develop the respective areas.

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Notes of Meeting by Special Committee Concerning Point  
Peron Lands.

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- (iv) That, for the purpose of No. (iii) above, the Minister for Education be offered a lease for twenty-one (21) years.
- (v) That negotiations be opened with the Returned Sailors Soldiers' and Airmen's Imperial League of Australia (W.A. Branch) Incorporated, including the Safety Bay-Rockingham Sub-Branch, and with A.I.W. Recreation Centre on the term of their existing leases.
- (vi) That the 3-monthly tenancy enjoyed by Mrs. M.F. Maw be transferred to the National Fitness Council.
- (vii) That, as requests have been made by interested parties for individual discussions on the future of the area, it was considered a Conference should be called for all parties to meet at the one time.
- (viii) That, it was most important access to the area by the public be preserved and, for this purpose, an approach be made to the Rockingham Shire Council with a view to making the roads public.

  
CHAIRMAN.

THE HON. MINISTER FOR LANDS:

The Town Planning Commissioner (Mr. J.E. Lloyd), the Surveyor General (Mr. H. Cann), and myself, met on the 25th June, 1964, to consider in which way the requirements of the Commonwealth could be safeguarded in relation to future control of the Point Peron area.

2. The transfer from the Commonwealth to the State has now been completed by the payment of the full purchase price of £30,450- 0- 0d., subject to the State recognising existing leases, and also that the future use of the area is restricted to "a reserve for recreation and/or park lands".

3. Details of tenancy arrangements made by the Commonwealth prior to the State taking possession have been obtained from the Chief Property Officer and, generally, these expire on the 31st October, 1972.

4. In considering all aspects in relation to future control, the Committee set out its conclusions which are shown in the notes of the meeting at pages 14, 15 and 16 hereunder, for your information. These conclusions are in effect recommendations and can be summarised as follows :-

- (i) That negotiations be opened with the Shire of Rockingham to convert the area marked "No. 1" on the plan, i.e., fronting Hymus Street, for use as a community parking area, and to be screened by trees.
- (ii) That the Community Sports Centre be created a reserve, to which should be added the area marked "No. 10" on the plan.
- (iii) That, to provide security and incentive for development, the tenure of the leases be extended by --
  - (a) offering the Minister for Education, representing the National Fitness Council, a lease for twenty-one (21) years; and,
  - (b) negotiating with the Returned Sailors Soldiers' and Airmen's Imperial League of Australia (W.A. Branch) Incorporated, which includes the Safety Bay-Rockingham Sub-Branch, for a new term. (21, 4/4)
- (iv) That the 3-monthly tenancy to Mrs. M.F. Maw be transferred to the Minister for Education on behalf of the National Fitness Council.
- (v) That, to preserve public access to the area, the road system should be declared "public" by the Rockingham Shire Council.

5. It was considered by the Committee that it was preferable for the Lands Department to enter into leasing arrangements with the respective parties so as to safeguard the requirements of the Commonwealth Government in preserving the Point Peron area for "recreation and/or park lands".



<p>Major Recreation Use of 30 Holdings at Sand, Substation.</p>	<p>1 acre</p>	<p>Monthly lease agreement 1st June, 1979</p>	<p>1/2 per annum.</p>	<p>For Planning purposes only.</p>	<p>Page 396 of File No. 321/26 Vol. 3.</p>	<p>Building not to be erected without approval of Commission. If erected, building not to assist under-let or part with possession without permission of Commission.</p>
<p>Returned Soldiers Soldiers and Nurses Imperial League (S.A. Branch) Incorporated.</p>	<p>13 acres</p>	<p>1st November, 1976, to 31st October, 1977, and in the interim of the lease containing in consultation, the land shall be used for such other or special purpose as may be agreed upon one month's notice in writing by either party.</p>	<p>1/2 per annum. If not used for purpose of the lease, the land shall be used for such other or special purpose as may be agreed upon one month's notice in writing by either party.</p>	<p>For the last-mentioned purpose of full enjoyment of the branch of the Lessee Association.</p>	<p>Pages 396 to 397 of File No. 321/26 Vol. 3.</p>	<p>Building not to be erected without approval in writing of the lessor. Building not to assist under-let or part with possession without consent in writing of the lessor. Leasing to comply with the regulations of the Health Authority or other public authority or authorities.</p>
<p>Returned Soldiers Soldiers and Nurses Imperial League (S.A. Branch) Incorporated.</p>	<p>5 acres 10 pds.</p>	<p>1st November, 1977, and in the interim of the lease containing in consultation, the land shall be held on a tenancy determinable upon one month's notice in writing by either party.</p>	<p>1/2 per annum. If not used for purpose of the lease, the land shall be used for such other or special purpose as may be agreed upon one month's notice in writing by either party.</p>	<p>For the last-mentioned purpose of full enjoyment of the branch of the Lessee Association.</p>	<p>Pages 402 to 407 of File No. 321/26 Vol. 3.</p>	<p>Building not to be erected without approval in writing of the lessor. Building not to assist under-let or part with possession without consent in writing of the lessor. Leasing to comply with the regulations of the Health Authority or other public authority or authorities.</p>
<p>MINISTER FOR EDUCATION (Being the Minister charged with the conduct of the National Finance Act, 1945).</p>	<p>461.36 acres</p>	<p>1st January 1968, to 31st October, 1972, and in the event of the lease continuing in consultation, the land shall be held on a tenancy determinable upon one month's notice in writing by either party.</p>	<p>1/2 per annum.</p>	<p>For the last-mentioned purpose of full enjoyment of the branch of the Lessee Association.</p>	<p>Pages 402 to 407 of File No. 321/26 Vol. 3.</p>	<p>Building - any structural alterations or additions to buildings erected in writing of the lessor. Leasing not to assist under-let or part with possession without consent in writing of the lessor. Leasing to comply with all regulations, rules, regulations, orders and directions of the Public Health Department and other statutory local government and public authority and authorities.</p>
<p>A.I.A. Reception Centre.</p>	<p>1/4 acre</p>	<p>1st May, 1957, to 31st October, 1972.</p>	<p>1/2 per annum.</p>	<p>For Recreation purposes.</p>	<p>Page 408 of File No. 321/26 Vol. 3.</p>	<p>Lease only granted subject to Ministerial approval.</p>
<p>(NOTE: National Finance (Small) has allocated portions of this lease to various organizations as shown on Plan No. 2, attached).</p>						
<p>(*) A combination of three Commissioner Departments - Mr. Inspector and works, secretary to Mr. F. Hudson, 19 Jersey Street, Canterbury.</p>						

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430The Hon. Minister for Lands: (Cont.)

6. Apart from requests which have been made by the Hon. Minister for Education for you to receive a deputation from the National Fitness Council, and also from the Hon. Minister for Works to meet the Rockingham Shire Council, there have been requests also from other leaseholders for discussions. The Committee feels it would be in the best interests of all parties if they were called together in a general conference so that each could explain his views to the other. It is suggested that the views so expressed would assist you in reaching an ultimate decision and the best means of ensuring that the public interest will be protected.

10th July, 1964.  
EF.

*G. V. ...*  
UNDER SECRETARY FOR LANDS.

*Hand 14<sup>th</sup> Aug  
" "*

TABLE 1  
LEASES GRANTED BY THE GOVERNMENT OF AUSTRALIA

DESCRIPTION OF TITLE 1281/830 - PORTION OF COVENANT BOUND LOT/SECTION 700 - AREA 1A'S AREA 2 roads 16 parcels (including the land between low and high water marks). TRAIL RETURNED TO STATE LAND UNIT, 1984 (Transfer No. 2115/84). THIS AREA IS REFERRED TO AS OF FILE NO. 1 AND 2.

LESSEE	AREA	TERM	RENTAL	PURPOSE	CONDITIONS	REMARKS
Returned Soldiers' League of Australia (W.A. Branch) Incorporated.	13 acres 2poods	1st November, 1972 to 31st October, 1972. AND in the event of the lessee continuing in occupation, the land shall be held on a tenancy at will until such a time as the lessee shall give notice in writing by either party.	1/4-year term, if de-annued.	For the use of the lessee in the provision of welfare services for members of the lessee's club.	Pages 398 to 403 of file No. 321/72 Vol. 3.	Building not to be erected without approval in writing of the lessee. Lessee not to assign under-let or part with possession without the consent in writing of the lessee. Lessee to comply with the regulations, rules and regulations of the health authority or other public authority or authorities.
Returned Soldiers' League of Australia (W.A. Branch) Incorporated.	5 acres 20 poods	1st November, 1971 to 31st October, 1972. AND in the event of the lessee continuing in occupation, the land shall be held on a tenancy at will until such a time as the lessee shall give notice in writing by either party.	1/4-year term, if de-annued.	For the use of the lessee for the purpose of the Bareilly Day-Booking Branch of the Association.	Pages 396 to 397 of file No. 321/72 Vol. 3.	Building not to be erected without approval in writing of the lessee. Lessee not to assign under-let or part with possession without the consent in writing of the lessee. Lessee to comply with the regulations, rules and regulations of the health authority or other public authority or authorities.
MINISTER FOR EDUCATION (being the Minister with charge of the National Fitness Act, 1945).	Abt. 354 acres	1st January, 1958 to 31st October, 1972. AND in the event of the lessee continuing in occupation, the land shall be held on a tenancy at will until such a time as the lessee shall give notice in writing by either party.	1/3-1/4-year term.	For the use of the lessee for the purpose of the National Fitness Association.	Pages 402 to 407 of file No. 321/72 Vol. 3.	Building not to be erected without approval in writing of the lessee. Lessee not to assign under-let or part with possession without the consent in writing of the lessee. Lessee to comply with all requirements, regulations and conditions of the National Fitness Act, 1945.

(Table 1 shows details of the leases granted by the Government of Australia)



APPENDIX 4

LETTER FROM UNDER SECRETARY OF LANDS

UNDER SECRETARY FOR LANDS:

(ATTACHMENT B)

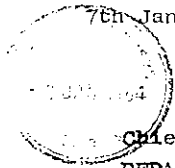
Page 385 noted.

Please follow up and keep me informed of developments.

*Stewart Baucus*

MINISTER FOR LANDS.

7th January, 1964.



Chief Property Officer,  
DEPARTMENT OF THE INTERIOR :

10th January, 1964  
321/32 v.3.

re: POINT PERON

I have to advise that the Hon. the Premier of Western Australia has received a communication from the Right Honourable the Prime Minister advising him that the Minister for the Interior has approved of the Point Peron property being transferred to the State of Western Australia, subject to the existing leases and subject also to the future use of the area being restricted to a reserve for Recreation and/or Park Lands, in consideration of a cash payment of £30,460 by the State.

The State is in agreement with the provision that the land shall be created a reserve for "Recreation and Park Lands", but as the transfer is subject to existing leases it is obvious that the land so leased will not be immediately available for "A" Class reservation.

Would you please let me have copies of all leases which affect the area proposed for transfer by the Commonwealth to the State for cash consideration of £30,460.

*Surveyor General*

JRH.

*ed*  
UNDER SECRETARY FOR LANDS.



**APPENDIX 5**  
**WEST AUSTRALIAN ARTICLE**

1544 (ATTACHMENT C)

THE WEST AUSTRALIAN, TUESDAY, OCTOBER 15, 1966

**Early Decision On  
Peron Expected**

Prime Minister Gorton has promised the State government an early reply on its proposed development at Point Peron.

Premier Brand said last night that he and Mr Gorton had talked about the State's plans for the area when Mr Gorton had visited Cockburn Sound.

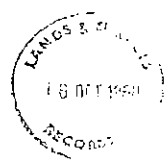
The State government wants about half of the Point Peron reserve for port facilities, including jetty, road and rail access and a sewage plant. It plans to preserve the remaining area for public recreation.

Mr Gorton said in Canberra last week the Commonwealth would not set the terms of an agreement between it and the State government, providing for the land to be used only as recreational or park land.

Mr Brand said that he was anxious to get the Commonwealth's decision on Point Peron.

However, were being built at a fast rate in the suburb and sewerage problems would occur before long.

The government had to decide where a sewage treatment plant would go.



Fr

FILE  
23 OCT 1966

