

THE CLIFFE — REMOVAL FROM REGISTER OF HERITAGE PLACES

Motion

Resumed from 23 February on the following motion moved by Hon Giz Watson —

That this house considers as a matter of grave concern the information withheld from this house when considering the removal of The Cliffe from the Register of Heritage Places.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [2.10 pm]: On the last opportunity we had to deal with this matter I think I had only a couple of minutes to start my introductory remarks, but I flagged from the outset that the opposition does not support the motion moved by Hon Giz Watson. Having had time over the past couple of weeks to review the comments that were made on the last occasion—I will not speak extensively today because, unfortunately, I have a family emergency I must deal with—I want to make a few points.

Hon Giz Watson has a long history and engagement with the heritage listing of The Cliffe and she is very passionate about it. I also note—I made these comments on the last occasion—that the matter has been canvassed extensively over the past 12 to 13 years in both chambers through questions, grievances and general debate, to such an extent that the Legislative Assembly’s Procedure and Privileges Committee conducted an inquiry into some of the matters canvassed by Hon Giz Watson about how the former Minister for Heritage, Hon Michelle Roberts, and the member for Cottesloe and now Premier, Hon Colin Barnett, approached the issues associated with the heritage listing of The Cliffe. As I said on the last occasion, that committee made a number of findings, but it could not find any evidence that Hon Michelle Roberts had deliberately provided false information to the Legislative Assembly.

I note that in the comments made by Hon Giz Watson, she purports that Hon Michelle Roberts had lied or in fact misled the house at that time and that that lie has permeated the debate in this chamber. It is unfortunate that those comments were made, because I am assured by Hon Michelle Roberts that that is not the case at all. We have heard from both Hon Robyn Sweeney and Hon Peter Collier about how they arrived at their certain views and positions on The Cliffe. Hon Michelle Roberts would have been given advice at the time, but—as I am sure these ministers will attest—just because a minister is given advice, it is not mandatory for a minister to adhere to that advice. Obviously, Hon Michelle Roberts would have come to her own conclusions on the best way to manage this particular issue based on what she had seen and her discussions with other people—including the member for Cottesloe in the Legislative Assembly and, I would imagine, the owners of the property and the local council—and their views.

We have had discussions in this place before about heritage matters, and different views may be taken by members, but it is a very important issue. In the last sitting week we dealt with another issue to do with heritage and planning and the state government has flagged further heritage legislation concerning breaches and penalties to be imposed for damage to property and for not adhering to heritage notices. Issues are being addressed in that way. How do the owners of The Cliffe feel about this? The owners would have bought the property in good faith. I have not personally seen The Cliffe, but I would imagine that being in Cottesloe it is a fairly large site.

Hon Giz Watson: It is in Peppermint Grove.

Hon KATE DOUST: Thank you. Peppermint Grove—no wonder I could not find it the other day; I was driving around Cottesloe. The Minister for Energy told me it is in Cottesloe.

Hon Peter Collier: It is off Richardson Avenue.

Hon KATE DOUST: Anyway, I got lost. Regardless, I imagine it would be a fairly substantial piece of land. When the owners purchased The Cliffe, they probably had plans for how they would utilise the property. They have now had to sit on their hands for 12 to 13 years. Even from the comments of Hon Giz Watson, I think the owners have been fairly amenable in trying to work through and resolve these matters to the best of their ability. Imagine how the owners of this property feel with their hands tied and unable to do anything about it. Whilst we recognise the importance and value of our built heritage, I agree with my colleagues on the other side that at some point we must ask: What can we do to sustain it? Is it sustainable or do we make the decision to allow change to occur? I agree with Hon Giz Watson; I also do not think we have handled built heritage issues well in the past, regardless of which party was in government, and things can be done better. However, I think this issue of The Cliffe is complex. The decisions made concerning this property, both by the previous minister, Michelle Roberts, and by the current government, have been made in good faith. There are people in the community who are still passionate about sustaining this property. I am not too sure who those people think would pay for the upgrade, because I imagine it would be a very expensive process. We have to take into account the real value to the community of sustaining such a property.

One of my real concerns is the allegation that Minister Roberts had lied. If Hon Giz Watson is really dinkum about making that allegation, she should not make it in this place; she should make it outside and deal with the consequences. There is also an allegation that the former Minister for Heritage made her decision based upon financial contributions from the owners of the property to not only her party, but also the Liberal Party. I do not know how it works in the Greens, but donations to the Labor Party are made directly to the party, usually to the state secretary. The members of the party certainly have no direct knowledge of contributions being made and they have no engagement with the process. I would imagine it is the same for the Liberal Party. Ministers are certainly kept very much away from any of the financial arrangements or fundraising aspects of the party's operation. For Hon Giz Watson to infer that the minister may have been persuaded to make her decision based upon some donation is farcical and should be treated with contempt. As I think I said last time, it is quite beneath Hon Giz Watson's standards to make those sorts of allegations.

I do not think that today's debate will resolve this issue in any way; the issue will obviously not go away. However, at some point a conclusion is needed one way or the other so that the owners will know what they need to do with their property. The owners could build on the property or they may have to do something else. If the owners are unable to redevelop the site as they choose, I do not know how they will go in the future. How does someone sell a property that has a heritage listing? For me this has always been an issue: when people purchase a property in good faith, how often are they told that it is heritage listed? Of course, the real estate agents are not going to share that information, because they want to move properties off their books very quickly. I have always thought it should be a requirement that all purchasers are advised of whether a property is heritage listed and at what level. Matters such as asbestos should also be listed so that purchasers are also aware of that. I am sure there is a range of information that could be made available, but for me heritage listing and asbestos are two fairly key issues. There have been similar issues in Hilton, in my electorate, where we have had to deal with heritage listings for asbestos houses.

That is why those two key issues have come up. Therefore, I have some empathy and sympathy for the owners of this property and how they move forward. I think at some point a decision simply has to be made and the owners need to be able to move on with their lives.

I come back to the point that after my discussions with the former minister and a number of other people, having listened to what both the ministers in the current government have contributed to the debate about their involvement in this matter, and also having read the comments made by the member for Cottesloe, Hon Colin Barnett, I think people have tried to resolve this matter in a reasonable way so that the owners of the property can work out how they will deal with the arrangements they have in place. I do not know how much longer the member can drag these sorts of matters on for, but I think it is inappropriate to consistently keep raising it as though there had been some sort of conspiracy or backhand behind-the-chair arrangement as to why these decisions were made. If I did not have this other matter to deal with, I would talk more extensively about how we approach issues related to built heritage in Western Australia, because I think there are some serious issues. However, I do not know whether this is the appropriate time to do that. I am not too sure what Hon Giz Watson hoped to achieve with this particular motion other than to provide the opportunity to raise these matters and put them on the record again, because I do not know what other outcome she would get aside from that. We do not accept that there was any intent to withhold information. I know that a question was asked in the other place of the current Minister for Heritage, Hon John Castrilli, in relation to some correspondence he has received—from a Mr Waldron, I think—and the minister responded that he had replied to every piece of correspondence he has. Therefore, I think that when this issue has been raised, both parties in government have tried to deal with the matter openly and to provide as much information as possible. I know, having been through a lot of the documents that are available online, and through *Hansard*, that an enormous amount of work has been done on this matter. I come back to the point that even though the minister of the day may have been given a piece of advice, at the end of the day I believe it is up to ministers to determine how they utilise that advice in making their decision. I am sure that ministers across the way and people on our side who have been ministers in the past would agree with that.

With those remarks, we do not agree with the tenor of the debate and some of the matters that the member raised on the last occasion. We certainly will not support the motion. As a member, I sincerely hope that at some point this matter can be resolved to everyone's satisfaction. We all want to ensure not only that the memory of what these places were like is sustained in some way, but also that when people buy a property in good faith, they can use it for the purpose that they want to use it for. I think that is also a very important thing and those matters need to be considered. The opposition will not support this motion.

HON LYNN MacLAREN (South Metropolitan) [2.24 pm]: I want to make just a couple of comments in favour of the motion before us and to thank Hon Giz Watson for putting it on the notice paper because we might not otherwise have had the opportunity to bring some scrutiny to this issue.

I want to also give members probably the opposite point of view from that which Hon Kate Doust has just put before us that a heritage place is perhaps of a lesser value. I think that for many people the heritage listing of a property can be an asset and it is a very good point-of-sale quality. Heritage is highly valued by many members in the community and can be an added bonus for a property when people purchase it. Therefore, along the lines of Hon Kate Doust, I hope that we could have a method of advising buyers at the point of sale whether a property is heritage-listed because, personally, I think it is an asset. Likewise, Hon Kate Doust mentioned that if there are any other extenuating circumstances relating to a property, such as asbestos, that need to be dealt with in an environmentally sensitive manner, that also should be a part of that point-of-sale advice, as should energy efficiency ratings, which we are pushing for throughout Australia. An energy efficiency rating is very valuable; in fact, in the Australian Capital Territory property has been calculated to be worth \$10 000 more for each energy efficiency star. Perhaps one day we will become aware enough of heritage values in Western Australia that we can also calculate that value accurately.

Hopefully, we will have the opportunity to carefully look at heritage legislation in Western Australia when the heritage review occurs as promised midyear. That will be an opportunity to again discuss the points that Hon Giz Watson has raised; namely, this house should not make a decision about heritage without the advice of the Heritage Council. I thought that was a very rational argument and hopefully members will support that. Another point that could come out of that heritage act review is how we look at the National Trust of Australia, how that organisation operates to inform the house, and whether that body, to which many of our heritage properties are entrusted, is adequately funded to do the job that we rely upon it to do. Therefore, with those brief comments, I support the motion.

HON GIZ WATSON (North Metropolitan) [2.28 pm] — in reply: I want to make a few comments and to thank members for their contribution to the debate on this motion. Just to remind members, the motion is —

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Therefore, it is quite a simple motion.

I will respond to some of the contributions that we have heard and reiterate that it is my contention that we have a very poor track record in conserving the built heritage of Western Australia. We are kind of this boom state that knocks everything down and builds something new pretty much every other week, and we do not do very well in protecting those very few significant built heritage structures that we do recognise. I remind members of the ongoing debate on the Sunset Hospital site, which I have been discussing in this place ever since I first became a member of Parliament. That is still not resolved so that that site can be adequately protected and given a good community use and be valued and enjoyed by the community; the hospital still sits there, locked up, the issue unresolved. Of course, we have examples in this state that are even more problematic in that heritage buildings simply have lit matches thrown into them. It is very hard to prove why fires occur, particularly in historic buildings, but putting a match to an old building is certainly one way of resolving the issue about what someone will do on a site; I am thinking of hotels in Guildford in particular. But that is not the case with The Cliffe. I acknowledge that the owners are continuing to make the effort to find a resolution for this building.

I touch on an issue raised by a number of members, in particular Hon Peter Collier, about his site visit to The Cliffe, and we had an exchange on that during his contribution. The point that I made by way of interjection, but that I will now make more formally, is that I do not think that a number of members of Parliament, accompanied by the owners of a building, are representative or experienced people to make an assessment of the building. Had they been accompanied by independent heritage architects or the like, they might have had a balanced view put to them. Why have a Heritage Council if we do not heed its advice? The Heritage Council has sought independent advice and has formulated that advice into a report. That report states that this building has not deteriorated to a point at which its heritage value is compromised; and, in fact, it should be conserved. If the building was in poor condition, surely it was up to the minister of the day to have acted to prevent this deterioration. As we should know, section 78 of the Heritage of Western Australia Act contains provisions for penalties and sanctions for people or organisations that fail to meet their obligations under this legislation. Notably, section 78 allows the state to acquire heritage assets that are being “demolished by neglect”. Whichever way we look at this, if the building was in poor condition and subject to what is referred to as “demolition by neglect”, the minister should have acted.

My other point, which has become clear from this debate, is that the former opposition was briefed on this matter and shown a copy of the Heritage Council’s advice, however, other members of the Legislative Council were not. Why did Hon Peter Collier, when he was provided with Heritage Council’s advice, fail to provide it to all the members of the Council, and indeed, other members? Hon Kate Doust has said that she believes that I said

that the then Minister for Heritage, Michelle Roberts, had lied. I have just checked my comments and I certainly did not say that.

Hon Norman Moore: You came pretty close.

Hon GIZ WATSON: I might have come close. The question I ask the members of the Council is: do they believe that withholding advice is lying? Do they believe that there is an obligation to provide a balance of information in any particular debate? I argue that the members who had that information could have said, "The Heritage Council had said this, but we have decided to take an alternative path and these are the reasons." I would have had some respect for that approach, because it says that they acknowledge that we have a body paid from the public purse to do this job, that it has been charged with that job and that it has come up with some independent advice. The minister of the day, in her wisdom, may have made a different recommendation, and Hon Colin Barnett, representing his constituent, may have made a different recommendation again. That would have been a fair and reasonable thing to do. Therefore, I put to members that by withholding information, they are depriving the Council of the ability to come to a fair and balanced conclusion. Whether that is lying is for others to decide, but it deprived the house of information that it was entitled to.

Hence, we need to amend the Heritage of Western Australia Act so that this cannot happen in the future, and the advice of the Heritage Council should be provided to Parliament in such circumstances as a motion to delist. Arguably, the Heritage Council should have the capacity to report to Parliament whenever it sees fit. I hope that when we look at making amendments to the act, these matters are considered very seriously.

I conclude my comments on this motion. I thank members for their contributions. I think it has been useful to put clearly on the record some matters that needed to be put there; and, if nothing else, I encourage members to be vigilant on heritage matters in this state and to participate and engage with any changes that we need for heritage protection in WA. I also hope that the owners of The Cliffe and the Shire of Peppermint Grove continue to try to find a resolution that does not result in the demolition of this building, because that would be a great loss to the state. I am still hopeful that some positive resolution can be found.

Question put and a division taken with the following result —

Ayes (4)

Hon Lynn MacLaren

Hon Giz Watson

Hon Alison Xamon

Hon Robin Chapple (*Teller*)

Noes (28)

Hon Liz Behjat

Hon Matt Benson-Lidholm

Hon Helen Bullock

Hon Jim Chown

Hon Peter Collier

Hon Mia Davies

Hon Ed Dermer

Hon Wendy Duncan

Hon Phil Edman

Hon Sue Ellery

Hon Brian Ellis

Hon Donna Faragher

Hon Adele Farina

Hon Jon Ford

Hon Philip Gardiner

Hon Nigel Hallett

Hon Col Holt

Hon Robyn McSweeney

Hon Michael Mischin

Hon Norman Moore

Hon Helen Morton

Hon Simon O'Brien

Hon Ljiljana Ravlich

Hon Linda Savage

Hon Sally Talbot

Hon Ken Travers

Hon Max Trenorden

Hon Ken Baston (*Teller*)

Question thus negatived.