

HOPE VALLEY-WATTLEUP REDEVELOPMENT BILL 2000

Committee

Resumed from an earlier stage. The Deputy Chairman of Committees (Hon Derrick Tomlinson) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Progress was reported after Hon J.A. Cowdell had moved the following motion -

That the Legislative Assembly be informed that the Legislative Council has considered the compensation provisions contained in the Hope Valley-Wattleup Redevelopment Bill 2000 and is dissatisfied with both the quantum of the compensation and the system by which compensation would become payable.

Accordingly the Legislative Council requests the Legislative Assembly to reconsider the compensation provisions with a view to providing for a solatium of 10 per cent over and above market value for properties in the redevelopment area and to make provision for the prompt payment of compensation to owners who wish to re-locate as a result of changes effected by the passage of this Bill.

Hon J.A. COWDELL: The Attorney General said that compensation was beyond the purview of the Bill. If that were the case, I would be surprised. Clause 33 seems to apply to a compensation regime. Certainly the other place considered a range of amendments with respect to a compensation regime. It therefore appears to be within the purview of the Bill and has been clearly considered that way by the other place, which has taken a far more narrow view of matters than this Chamber has in the past. I will not enter into the arguments as to why the message must be sent; I will address the principal point that a message should be sent and can be sent.

I was saying earlier that I did not believe any point expressed about compensation necessarily meant an increase in appropriation nor an increase in the charge or burden on the people. The view expressed in the first sentence that we think the regime is inadequate does not seek to impose any increase, charge or burden. I was making the point that it is in the nature of a narrative motion. We are not requesting a statutory amendment; we merely seek consideration of the compensation provisions by the Assembly. In fact, if the House felt that our thinking on this matter should not be conveyed in the motion, the motion could conclude as follows -

... accordingly the Legislative Council requests the Legislative Assembly to reconsider the compensation provisions.

It is worthwhile indicating what areas the Assembly might consider in this regard. However, that could be picked up from the debate in this Chamber. It need not necessarily be in the form of the message if it was felt that that section impinged on our ability to send a message. An alternative point of view may be put regarding clause 33, the compensation clause, such as: What does it mean? What is the quantum? Is there a quantum and does this increase the burden of that quantum? It is not clear whether clause 33 establishes a clear quantum that could be increased by this motion.

I make the point concerning burden or quantum with respect to provision for the prompt payment of compensation. The Government may envisage the payment of an appropriation of \$5m a year across the next 10 or so years. The Opposition is saying that perhaps some people should not be strung out over the full 10 years before they receive compensation. It may be that there is no increase in the quantum, but it should be promptly available; that is, the quantum remains the same, but the delivery is in 12 months or two years rather than 10 years. It is not necessary that this motion add a charge or burden on the public. It might suggest payment is made more promptly without increasing the quantum, particularly with the latter proposal.

I conclude by pointing out that the Assembly has always taken a rather narrow interpretation of appropriations, and it might do so again with any message from us. However, this does not require us to conform to any Assembly interpretation in defining our view of the situation, or what message we can send. I argue that the legislation and the standing orders envisage that we are able to provide communication to the Assembly on Bills, although we cannot increase the financial burden on the public or amend them, therefore the Chamber should entertain this proposed message. I will not continue with an argument on the proposed worth of the message, because that is a separate matter. The Deputy Chairman will no doubt consider argument on whether this is a legitimate exercise of the prerogative of the Council on this legislation.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Hon John Cowdell has correctly anticipated that I would want to consider whether his motion falls within the scope of Standing Order No 270, particularly in light of his reference to section 46(3) and (4) of the Constitution Acts Amendment Act. I propose to leave the Chair and

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take advice. However, before I do that, the Attorney General raised several points of order during the argument, and I would like to give him the opportunity to respond to the arguments raised by Hon John Cowdell.

Hon PETER FOSS: This is a totally cynical exercise. However, I will go through a number of reasons that this message is not permissible. The first is that the Bill does not deal with compensation for people whose land is acquired. Being a planning Bill, the only area it deals with is compensation for injurious affection by reason of the variation of the planning regime. If we get into the area of compensating people whose land is being acquired, it would be under a different Act - the Land Administration Act, which deals with the acquisition of land when that is appropriate under planning provisions. The Bill contains no mechanism for inserting in this Bill - it would be a radical departure from the Land Administration Act - a whole provision relating to compensating people whose land is acquired, particularly if we were to set up a totally new acquisition process providing for 10 per cent solatium and so forth. That process is already dealt with under section 241(6) of the Land Administration Act and provides a solatium of up to 10 per cent for damage that has been suffered by people. I am not sure whether Hon John Cowdell is suggesting that we re-enact that section in this Bill, in which case it is a major departure from the character of this Bill, or whether we amend the Land Administration Act, which will be a major departure from this Bill. Hon John Cowdell is trying either to get those people more money or he is not. If he is seeking to get those people more money, he is clearly seeking to increase the burden or charge on the people. I do not see how we can do that whether by message or otherwise.

One of the most alarming aspects of this is that Hon John Cowdell is not requesting an amendment under a particular standing order, he is seeking to get around the rule in this Chamber which does not allow a new matter to be introduced into this Bill. If we agree to this, I can see an unfortunate precedent being created. If we agree, what is there to stop that standing order of this Chamber, which does not allow amendments that depart from the nature of the Bill, to be always circumvented by a message sent to the Legislative Assembly that does not have this rule, and for it to be added there and sent back to us? That is a remarkable departure. It is not allowed for in our standing orders, and I do not believe we should start that new practice. I can see the effect: Every time somebody comes up against the standing orders of this Chamber we will get involved in enormous debate about sending a message to the other Chamber to do something that we cannot do, even though it has nothing to do with appropriation. That is the basis on which we will allow a new type of message to go to the other place, other than a message that is referred to in Standing Order No 270 of this Chamber. That is my biggest concern. We are asking for something that we cannot do, whether or not it is under the Constitution, and I do not believe that we can.

Lastly, my real objection is that it is a cynical delaying exercise. I know I am not now dealing with the point of order but the substance of the member's debate. Hon John Cowdell is proposing to lob a ball in the air knowing full well, if there were any reality in what he was saying, that taking a section from the Land Administration Act will set up a whole new acquisition regime to be put into this Bill, which will be sent back to us; and he expects this will all be done by Thursday!

The DEPUTY CHAIRMAN: Rather than hear argument on Hon John Cowdell's motivation for moving this way, I would rather the Attorney General confine his argument to whether this is an appropriate motion under Standing Order No 270.

Hon PETER FOSS: If I may be allowed a little liberty on this, Mr Deputy Chairman. I took points of order at the appropriate time and Hon John Cowdell was allowed to continue on the substance of his debate. If I am now ruled out of order, I am left with the substance of his debate unanswered and without the opportunity to answer. This would not have happened if it were not for the fact that he was allowed to continue on the substance and had you dealt with the points of order as I raised them. I should, in duty bound, be allowed an opportunity to respond on the substance, because had we followed the normal rule, I would not have had to deal with the substance because it would not have been raised.

The DEPUTY CHAIRMAN: Carry on, but bear in mind my warning.

Hon PETER FOSS: I think it has always been the case that what these people need urgently, and what the Government has started to provide, is a regime that will deliver compensation; and what will deliver the real prospect of compensation to the people in both these areas is the Government's standing in the market. To merely give these people 10 per cent compensation in a market that is flat and has collapsed will not give them anything. That is why I believe this is a cynical exercise. The member knows that the one action alone that can deliver to these people adequate compensation is the Government's standing in the market. That standing in the market has already increased values in both these areas by over 20 per cent and has thereby doubled the amount of compensation that is contemplated in this amendment. The only way that these people will receive adequate compensation is through the action the Government has already taken, which is to create a market. That is the most important thing. If we do not pass this Bill, we will prevent these people from having the statutory

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framework under which that rescue by the Government will have the opportunity to work. I believe what the Government is proposing - namely, an active participation in the market - is the best guarantee these people can have.

The DEPUTY CHAIRMAN: Unless any member wishes to make a point that is important to my consideration of the point of order, I shall leave the Chair until the ringing of the bells.

Hon SIMON O'BRIEN: Mr Deputy Chairman, I understand that you are considering a point of order, not the substance of the debateable motion.

The DEPUTY CHAIRMAN: I am considering whether the motion moved by Hon John Cowdell is appropriate in the language of Standing Order No 270, and that is what I will rule upon.

Hon SIMON O'BRIEN: Mr Deputy Chairman, I will seek the opportunity to speak if you rule that it is in order.

The DEPUTY CHAIRMAN: In that case, I shall leave the Chair until the ringing of the bells.

Sitting suspended from 5.52 to 7.30 pm

Ruling by Deputy Chairman

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Members, I suspended the sitting to consider the status of the motion by Hon John Cowdell. My ruling on Hon John Cowdell's motion for a message to the Assembly is that it is out of order. My reasons for so ruling are -

- (1) Standing Order No 282 restricts a Committee of the Whole to a consideration of the matters referred to it by the House - in this case the Bill is the matter referred.
- (2) So far as this Bill is concerned, the Committee of the Whole cannot consider anything other than the provisions of the Bill as agreed to on second reading. It may amend the Bill or, where appropriate, seek an amendment by the Assembly to the extent that section 46 of the Constitution Acts Amendment Act 1899 permits.
- (3) It is agreed that the motion is not a "requested amendment" contemplated by section 46 to which I have referred, although that in itself is not fatal to the motion.
- (4) Were the Chamber to have passed an instruction enabling the Committee of the Whole to consider the motion, it may have been in order to move it. However, some of the objections raised by the Attorney General hinging on the issue of relevance would have come into play. As it is, I need not rule on those issues. Whether the Chamber is competent to give such an instruction is a separate issue that must wait to be decided on another occasion.

I observe that this motion may have been more suited to the procedure described in Standing Order No 232.

That being the case, members, we return to clause 1. The question is that this be the short title of the Bill.

Hon J.A. COWDELL: I rise to address the short title -

The DEPUTY CHAIRMAN: Order! I am attempting to draw the Chamber to order. Hon John Cowdell is attempting to address the committee on clause 1 and is having difficulty. I am having difficulty hearing him because of the conversations going on around the Chamber. If members wish to converse, would they please leave the Chamber.

Hon J.A. COWDELL: Mr Deputy Chairman, I note your ruling in passing and that there was no instruction to the Committee of the Whole. A third reading is coming up, but that is another matter altogether.

The Australian Labor Party has attempted to send a clear message that it wants a better deal for the residents of Hope Valley-Wattleup with no heavy industry, the saving of the town sites, a balanced redevelopment, a proper development authority, decent compensation and continuing appeal to Parliament on the master plan. The Attorney General was correct when he said that we wanted more money. That, of course, was the point; although one need not always state a point in a message.

We cannot move for a redevelopment authority or for enhanced compensation provisions, as both would involve appropriations. We have attempted to send a message by committee referral, which was frustrated by the Government. We have attempted to send a message directly to the Assembly on these key matters and that has now been ruled out. Now I can only state the amendments that we are committed to at this short title stage. I cannot move amendments that would appropriate funds to set up a redevelopment authority, nor can I move amendments that would directly enhance the compensation scheme. Therefore, Mr Deputy Chairman, although I commend both of those initiatives to the Chamber, I cannot act on them during the committee stage. This is an

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unfortunate situation. The Bill is the worse for not having such amendments. We have passed the second reading stage and have, therefore, adopted the policy of the Bill. However, the Bill would have been enhanced with those amendments that cannot now be moved. It was the sentiment of the Chamber, as Hon Barbara Scott sought to convey, that a need existed for improved compensation. Hon Mark Nevill expressed concern about the quantum of the payout. I believe he soundly pointed out - although I do not subscribe to the notion - that the money he had saved the Government on an expensive redevelopment authority could be redistributed to the needy. I believe, Mr Deputy Chairman, you expressed concerns about the adequacy of the compensation clauses; in that regard the Bill is deficient. The current valuation of the Wattleup blocks on one indication may be \$95 000 and, on another averaging median, up to \$103 000. That still leaves a deficit for relocation to a comparable block in the adjoining suburb of Spearwood. I admit that there is the argument that government fees and charges are forgone and that there may be a greater escalation in value of a block in an adjoining suburb than in the existing one. However, having said that, I believe 10 per cent in addition to market valuation would not be unreasonable as compensation for the hardship and inconvenience landowners have suffered.

The second area the Opposition sought to address that is deficient in this Bill was the quantum of funds available. This is not compulsory acquisition. Therefore, there is not 10 per cent on top of market value - it is just market valuation. Of course, a certain amount of money is available each year. If it is \$5m each year, and people do not end up getting any money until year seven, it will be a considerable cost to those people to wait those seven or eight years to receive the adequate compensation payment; and in the interim the infrastructure in the area will have degraded. That obviously applies to not only town lots but also rural lots. It may well be correct to say that there is a prospect of capital gain. That may be 20 years down the track. In the meantime, there are plenty of vacant sites in the existing industrial area. There is no assurance that the cleared land will be used first, and not everyone will be able to provide the sort of capital infrastructure to develop the holdings that he or she has as suitable for an industrial estate.

In these circumstances - that is, that it is not possible to move amendments that would enhance this Bill or, indeed, in my opinion, make it worthwhile - I indicate that the Opposition will vote against clause 1, the short title, in an attempt to kill this Bill.

Hon PETER FOSS: It seems that Hon John Cowdell thinks if he says something often enough, it will be true. The fact is that the measures he has proposed would not deliver one cent more to these people. What will deliver them more, and will compensate them, is creating a market. In opposing this Bill, he has tried to continue the planning blight that has depressed the value and removed the market. He has not acknowledged the real cause of the recent rise in prices. The only thing that will deliver adequate compensation to the people of Hope Valley and Wattleup is a market. The Government hopes to not only continue the market it has created but also improve it. There have been discussions with Hon Barbara Scott, Hon Simon O'Brien and Hon Mark Nevill about the process by which we can make sure that a person who wishes to sell his property in those two towns can do so and that he will receive an adequate return for his property when he sells it.

Hon John Cowdell's fiddling around the edges is a cynical exercise, which he will use for political purposes in the election, and he will gull those people into believing he has done something for them and that he cares for them. He has tried to defer this legislation, which at last brings certainty to the area, and he has tried to ignore the fact that there is no point in people receiving 10 per cent more if that 10 per cent is on market value in a flat market. He knows that the only way in which there will be any value for people in that area is if there is a market. He has studiously avoided acknowledging that, while saying that the Government has refused the changes he has suggested. He has known all along that he could not move those amendments, and he has known all along that he could put forward those sorts of rubbish amendments, which do nothing, because they would not be passed. The Labor Party has behaved in a cynical way in all of this. It has made no real attempt to rectify the situation. We have heard only words and flowery assurances. The people who really care about what is happening in those two areas have raised this very point: How do we make sure that the people in those two areas get value for their land? I have not heard one single basis put forward, other than to create a market. The Government's intention is to create a market, to resolve the planning blight that has been the problem for this area for decades and to give people some certainty about where they stand.

We should get on with the debate on this Bill and make sure that we resolve this planning issue. Secondly, the Government should get into those areas to buy up those properties and create that market.

Hon MARK NEVILL: It is important to bring some certainty and finality to this issue, because people have been living in limbo for 20 years. I am pleased that the Deputy Chairman's ruling means that the process will not be drawn out for another three, four, five or six years. This issue will not be resolved unless it is dealt with by this Parliament.

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There may be some hope for a request by the Government in this place to incorporate in a Bill a provision to require funding. Even the request from this place to fund the gas access regulator was unceremoniously dumped by the other place. Therefore, I did not see any prospect of a request by the Opposition in this Chamber to the other place being satisfied. It is probably fortuitous for the people in the Fremantle Rockingham Industrial Area Regional Strategy region that that has not been allowed.

Some of the people who might have received this extra compensation will lease back these properties. They may not move out of them for some years. Other considerations could be developed to show the inequity of trying to fiddle with the system to make it better. As I said, I tried all sorts of permutations and variations of the Bill to see how one might be able to do that. I was not able to come up with anything, and no-one else has come up with something that is equitable and that will work. I agree with the Attorney General that we should deal with this Bill as expeditiously as possible.

Hon B.M. SCOTT: As I said during the second reading debate, I have declared my interest in this Bill because it concerns Cockburn, which is in my electorate. I have indicated that I will support the Bill, but I am very much in favour of considering compensation. As I said earlier, the Labor Party has been cynical in its consideration of the concerns of the citizens of Cockburn. I have endeavoured to negotiate with the Minister for Planning a precedent that would be set in the area of compensation. However, as we have learned this evening, all the compensation issues that have been raised have been wiped out in this Chamber because we are not allowed to deal with appropriations. I went into detail about a swap with land in Coogee, and that was not acceptable. I have talked about a 10 per cent or 20 per cent solatium. I have worked closely with many people from the Cockburn area on this matter, and some of them will be disappointed that a compensation package cannot be put through this Chamber. On the other hand, as I said in my speech during the second reading debate, many people have lived with blight on their land and their lives, and they want some finality to it. I have been given information by the Minister for Planning. I hope that the information, although not compensating those people, may allay some of their fears about compensation. In the past 18 months, as we have heard, the Western Australian Planning Commission has been acquiring land in the Hope Valley and Wattleup townships under the mechanism of an improvement plan, which is quite new to Western Australia. These acquisitions are targeted towards people who have hardship cases, many of whom have brought their cases to me. The hardship cases have ranged from medical and financial to other quite substantial cases.

When the Western Australian Planning Commission started to acquire land, the township areas were clearly suffering from equivalent-of-market values. I must agree with the Attorney General and Hon Mark Nevill, who has contributed to this debate by saying that when the Government is in the marketplace, the level of money available to people is raised. The median value of properties in Wattleup in 1988 was \$86 000. Because of valuation creep and properties being acquired, the median value is now \$103 000, which represents a 22 per cent increase in the past 18 months.

Another issue that was explained to me late this evening by the minister, with whom I was still negotiating over a compensation package, is that property owners will pay no stamp duties or transfer fees on transactions, which means that on each transaction they will save between \$5 000 and \$8 000.

In the media last week after the second reading debate, I was accused of not having the courage of my convictions. I have worked closely with these people and with the minister to negotiate some reasonable and sensible compensation. I have gone through the detail line by line with the minister in an endeavour to achieve some reasonable compensation in addition to the land value. I have sought legal advice, and it seems it is not possible. I have therefore reluctantly agreed that the best thing for my constituency is to accept the Government being in the marketplace and being able to cause at least a 22 per cent rise in land values that people could not have expected in 1998.

I plead with the Chamber again this evening to remember the human side of the story. When the Government decides to declare an area an extension of industrial land, the people of Western Australia will benefit. Those people who must leave their homes in the end or who need to sell now should be the recipients of some of that prosperity because the process will achieve prosperity for many Western Australians, particularly in the region I represent where we have a high level of unemployment. We are guaranteed that the extension of the industrial area, especially the light industrial area, in the Kwinana region will provide in the region of 15 000 extra jobs. As I said in my speech during the second reading debate, a job is probably the most significant thing we can offer to an unemployed person.

Although I reluctantly agree, we cannot at this stage of the Bill include any appropriations which would provide for some compensation. If we send the Bill back to the Legislative Assembly, as Hon John Cowdell has said, it will be buried. I am reluctant to be as cynical as the Labor Party has been over this whole issue.

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Hon J.A. SCOTT: I want to correct a little statement I made during the second reading debate.

Hon Mark Nevill: We will be here all night.

Hon J.A. SCOTT: I have not started on Hon Mark Nevill's comments. I said that I had been told that at a very hot meeting at Cockburn, Hon Simon O'Brien disappeared out the back entrance of the meeting place to avoid people. He said it was not the case. I spoke to people later who indicated he stayed at the meeting for a very long time, so the statement was not correct. I want to correct that straightaway.

I have listened to the speeches of members who have said that this Bill will provide people with a wonderful escape from Wattleup and that only through the Government's intervention are people able to get away and get a good price for their property. It was the Government which created a buffer zone in the area which drove down the house prices in the first place. Members are speaking a lot of nonsense. The Government did it.

Hon Peter Foss: Which Government?

Hon J.A. SCOTT: I am not sure. I cannot remember the year that it came in but I presume it was probably during the term of the previous Government.

Hon Peter Foss: Yes.

Hon J.A. SCOTT: However, it remains the truth; creating the buffer zone was the main driver of the house values going down, staying down and not going with the rest of the market. A handful of people may have left, but most people did not want to leave. It is true that now some people want to leave because a transient population lives in quite a few of the houses that have been bought. People feel that the Government's decision has ruined the community. Now the Government is saying how wonderful it is because now it will give the people a bit of compensation. It is absolute rubbish.

The Government is forcing the evacuation of people who do not want to go. That is why Hon John Cowdell's motion was so important. Let us not forget it when we hear excuses, such as those from Hon Mark Nevill, about having to move people out because we will be saving them from pollution. His electorate in Kalgoorlie has three times the pollution, but he does not want to move the people out of Kalgoorlie-Boulder.

Hon Peter Foss: People do not have to move out of this area at all.

Hon J.A. SCOTT: The Bill contains a compulsory acquisition clause.

Hon Peter Foss: We have always had compulsory acquisition powers.

Hon J.A. SCOTT: The power has been written into the Bill, which is why I believe it will be used.

Hon Peter Foss: So what?

Hon J.A. SCOTT: If a Government did not require the power, it would not take the trouble of writing it into a Bill. It is exactly the same as saying that the white line down the middle of the road is there so that people stay on one side of the road or the other. The white line is usually put there for a reason.

Hon Peter Foss: That means that every bit of land in Western Australia will be acquired because we can.

Hon J.A. SCOTT: I say through you, Mr Chairman, that the rest of Western Australia does not have a Bill setting in place powers to change an area into an industrial area. A lot of ramifications will follow which I believe have not been properly thought through, because this Bill does not cover many of the problems that will occur. It is claimed that it will deal with the uncertainty that was created for landowners in the area. In fact, because it is a staged proposition, master plans will gradually come into place that will allow the Government to take more and more land as time goes by. People living in that zone will be waiting with no idea what will happen over the next couple of years. The uncertainty remains. As has been stated, some people want to move from the area. They have applied to sell their houses through the acquisition program, but they have been told that that is not possible. They will have to wait until their houses are required - not knowing when that will be. They know that the town they love is about to die, but they do not know when. They know there will be a reduction in services and fewer people in the area, but not when. To say, as Hon Mark Nevill did, that there is no scope for further compensation is a pile of rubbish and totally unfair.

The structure plan provides no detailed mechanism for coordinated development of the region. The submission on behalf of the Kwinana Air Buffer Zone Steering Committee, compiled by Taylor Burrell, states -

This Structure Plan provides no detail or mechanism for the coordinated development of the region. The recent practice and policy of the WA Planning Commission, requires detailed Structure Planning with significant community consultation prior to the support of a rezoning under the Metropolitan Region Scheme, particularly where there is such fragmented land ownership. It is apparent that these

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circumstances are prevalent in this case. It is also necessary to demonstrate in some detail, the manner in which the development may be serviced. The FRIARS document provides no assessment of coordinated development and general services, including; drainage, sewer, power, water etc that are normally required.

We know that LandCorp will take on many of the roles of local government in that area. However, we do not know whether the residents will be required to pay rates. Will the council be able to provide services if LandCorp has bought those properties, which people are still occupying? We do not know the answers to many of these questions.

Hon Barbara Scott said that the Government will provide a generous handout in that it will not require the payment of stamp duty on the land sales. Surely that is the norm with compulsory acquisition. Is this a new proposition or is it normal procedure with compulsory acquisitions under the Public Works Act? I do not know whether the Government is being generous or doing what it is required to do.

Hon Barbara Scott is very concerned about compensation. As she pointed out in her second reading speech and more briefly in her contribution to the debate on clause 1, she would have preferred better compensation because an entire town is to be moved with the resultant social disruption. That can be achieved in only one way if the minister refuses to fix that problem; that is, she will have to cross the floor and vote against this legislation.

Hon Peter Foss: How will that fix it?

Hon J.A. SCOTT: It will put pressure on the minister to act decently and to provide suitable compensation to those people whose lives have been destroyed.

Hon NORM KELLY: I raise the case of landowners whose situation might not fall into the hardship category but who want to move away because they do not want to be the last people left in town. Hon Barbara Scott referred to the fact that the Government has been acquiring properties and, if people present with genuine hardship cases, it will look favourably at their situation. However, a large percentage of people surveyed would like to see the legislation defeated because they believe that the community should be retained and that the Government's requirements for industrial land are misguided. The numbers in this place suggest that this legislation will pass.

One of my main concerns is the people who want to sell their properties but whose properties might not be required at this stage. Those involved might have young children and they might want to establish a new home in a secure environment. The government-commissioned survey tabled in this place by the Attorney General indicated that 62 per cent of those families with school-age children want to live in the Wattleup area for the next 20 years. A number of people are concerned that if the Government does not compulsorily acquire their properties, they might not be able to sell them at a fair price and receive adequate compensation. It would be shameful of the Government not to acquire those properties so that those families can look to the future and establish themselves elsewhere as soon as possible.

Hon PETER FOSS: The point raised by Hon Norm Kelly is the same as that raised by Hon Barbara Scott, Hon Simon O'Brien and Hon Mark Nevill. It is the matter of greatest concern to everyone. The Government has committed a regular amount of money for the acquisition of properties, and it has concentrated on hardship cases in the first instance. The minister is working on an arrangement to allow the number of properties purchased in any one year to be extended to cover a far greater number of cases. If such an arrangement can be formulated, anyone who wishes to sell in the next three years will be able to do so. I cannot give that guarantee at the moment, but that is what the minister is trying to do and I believe he has the capacity to achieve it.

Hon J.A. Cowdell: Are you saying that the Government will not give that undertaking?

Hon PETER FOSS: It cannot because the minister is still working on it. The Government is striving to achieve that arrangement. However, it does not believe that is the rate at which people will want to leave. As has been stated by Hon Jim Scott and Hon Norm Kelly, a large number of people do not want to leave. This applies only to those people in the improvement plan area, because that is the area affected by the legislation. If an undertaking is to be given, it must be achievable. I do not believe that area represents the number of people who will want to leave. I believe if the Government were able to give that assurance, it would affect the number of people who would want to leave.

Hon NORM KELLY: I do not think this legislation will alter the number of people who want to leave; it will enable them to have a more definite view of the future. The removal of the "planning blight" that has been frequently referred to will mean that people will know that they must look further afield to find a place to live.

Hon PETER FOSS: That is not correct. People find uncertainty most difficult; they have a great capacity to handle certainty. On many occasions I have found in government that people can handle bad news if some

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certainty is attached to it. I should not digress, but as Minister for Health I became aware that the worst time for a woman suspected of having breast cancer was the time between when she had a mammogram and when a diagnosis was made. If she found out she had cancer, she had some certainty with which to deal. Of course, if she found out that she did not have it, that was even better. The most difficult time for her is not knowing.

One of the problems surrounding this area is the fact that its future is in limbo. Once people are sure of its future, it will make life easier because they will know where the lines are drawn and what is intended for the area. Once the planning proposal is established, the Government can make clear statements about the area's future. That is why we have planning. There will be a major improvement simply due to the certainty.

Hon Jim Scott said the drop in land values was caused by the establishment of a buffer zone by the previous Government. If that were the case, it would have had a similar effect on both Hope Valley and Wattleup, but it did not; the results differed. It is simplistic to say that the drop in values was due to the buffer zone.

The Government has known all along - I hope this Chamber has come to the realisation - that a property market must be created. I hope to give a better idea of what we can offer in that sense. The Government intends to continue to expand the market in the way it has to date, through progressively purchasing properties. That has had a beneficial effect on the price of the properties. I may be able to give an undertaking for more than that, but I will not do so until I am certain it can occur. That which Hon Norm Kelly suggested would be more than the demand in that area for properties. It would have the dual effect of allowing people who wanted to move away to do so, many of whom may sell and lease back. Many people will choose to stay in that rather nice rural area, which will be preserved as part of the buffer area, especially when they know what is planned. The best thing we can do for those people is to provide them with certainty of planning and to create a property market. We intend to do that; we may even create a better market than presently exists.

Hon NORM KELLY: The Attorney General's response highlights the major failing of this legislation and the Government's unwillingness to make a commitment to purchase properties from people who want to move out. As I said, a significant number of people want to stay in the area, but under a scenario different from that which will be created by this legislation.

Hon Peter Foss: That will not change the situation; it will make it certain.

Hon NORM KELLY: It will change the situation; because it will reinforce the fact that the communities as they are now will cease to exist.

Hon Peter Foss: That is a wrong reading.

Hon NORM KELLY: People will be certain about who will be in control of their destiny; for example, responsibility for the area will be taken away from the local government authority. As I said, it is a major failing of the Government that it is unwilling to acquire the properties of residents who wish to move on. Some of them may want to sell their property and lease it back while they prepare to invest in another area, ready to move to as the need becomes urgent. However, it is wrong for the Government to be unwilling -

Hon Peter Foss: It is not that it is unwilling. We have given more than any other Government. We are trying to do better. The alternative is to adopt the previous policy on offer from the Government, but which gave no planning certainty. Do you want that?

Hon NORM KELLY: The Government's policies will not allow the landowners to profit from the future industrial development of the area. Hon Barbara Scott said that unemployed people who remain there will profit from the jobs that will be available in 15 years. That is inadequate. The gist of my comments is that the Government should be able to make a commitment, as a baseline, to purchase properties from the people who want to sell them.

Hon Peter Foss: That has nothing to do with this Bill.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Order! If the Attorney General wishes to address the Chair he may do so. However, before he does, I suggest he seek the call.

Hon SIMON O'BRIEN: I support clause 1 of this Bill. I acknowledge the correction Hon Jim Scott made at the start of his remarks a few minutes ago. I am sure we will have no further interjections during my brief contribution!

This Bill has not progressed far beyond the second reading debate. During the second reading debate I said that when I was speaking to residents in the affected areas, I told them that I regretted not being able to make this upsetting situation disappear. I admitted that I could not do that. I also said that no-one else had a magic wand to make it disappear. I support this Bill for the sake of giving some certainty and to allow the buy-out of properties of people who want to leave the area, particularly in the town sites of Wattleup and Hope Valley.

Hon John Cowdell; Deputy Chairman; Hon Peter Foss; Hon Simon O'Brien; Hon Mark Nevill; Hon Barbara Scott; Hon Jim Scott; Hon Norm Kelly; Hon Derrick Tomlinson

That will continue to frame my approach to the Bill in Committee. I want to see achieved the most that can be achieved for these constituents in the South Metropolitan Region.

I invite members to consider the amendments remaining on the Notice Paper and the fact that so far nothing has changed. For one reason or another, every approach to compensation has been found to be flawed or inferior to that which is proposed in the Bill. As I have said in here before, like other members, I have explored a range of options. Hon Barbara Scott has told us on several occasions that she has gone to great lengths to explore with the minister the issue of compensation. I can vouch for her efforts. Indeed, I discussed it with her a couple of times today. As I indicated in my remarks during the second reading debate, there is no alternative now than to proceed with this Bill.

No doubt, through the Labor candidate for Cockburn, Australian Labor Party members will beat their chests about whether O'Brien and Scott have let down the people in the South Metropolitan Region. That is the nature of the political environment in which we live. My purpose, as members will recall from my remarks in the second reading debate, has been to achieve what I am capable of achieving. So far nobody has demonstrated that they can do any better than that. Let us now proceed through the remaining stages of this Bill, so at least we can get this long-running problem progressed to the benefit of the people who need some certainty in their lives.

Hon J.A. SCOTT: I asked the Attorney General a question about stamp duty on land. Is it normal practice for tax to be payable for compulsory acquisitions under the Public Works Act?

Hon PETER FOSS: Hon Jim Scott is correct, but he missed the whole point. We are talking about the fact that the Government has been buying this land. In this process the Government does not pay agents' fees, which represents a significant amount of money. When we assess the market value of a house, we must take off the agent's fees, which would normally be paid to sell the house. One of the benefits to people selling under this system is that they do not have to pay agents' fees. The member is quite right; the purchaser pays stamp duty.

Clause put and a division taken with the following result -

Ayes (14)

Hon Dexter Davies	Hon Barry House	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson (<i>Teller</i>)
Hon Max Evans	Hon N.F. Moore	Hon B.M. Scott	
Hon Peter Foss	Hon Mark Nevill	Hon Greg Smith	

Noes (13)

Hon J.A. Cowdell	Hon Tom Helm	Hon Christine Sharp	Hon Bob Thomas (<i>Teller</i>)
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Tom Stephens	
Hon G.T. Giffard	Hon Norm Kelly	Hon Ken Travers	
Hon N.D. Griffiths	Hon J.A. Scott	Hon Giz Watson	

Pairs

Hon M.J. Criddle	Hon Ljiljana Ravlich
Hon W.N. Stretch	Hon Kim Chance
Hon Ray Halligan	Hon E.R.J. Dermer

Clause thus passed.

Clauses 2 and 3 put and passed.

Clause 4: Redevelopment area defined -

Hon J.A. COWDELL: I move -

Page 3, line 26 - To insert after "Schedule 1" -

but shall not include the Wattleup or Hope Valley town sites

This is a key amendment that recognises the redevelopment of the area, but that redevelopment should not include the two town sites in question. It recognises that 800 hectares, apart from the town sites, will be made available for industrial estate. I am not sure where the promise of 15 000 jobs came from. That is another of the Government's over-optimistic projections, given the level of unemployment in that area at the moment. The amendments moved by Labor propose that the heavy industrial component be removed to allow for industry other than heavy industry. We see that as compatible with the retention of the town sites, and it is hoped that the

Hon John Cowdell; Deputy Chairman; Hon Peter Foss; Hon Simon O'Brien; Hon Mark Nevill; Hon Barbara Scott; Hon Jim Scott; Hon Norm Kelly; Hon Derrick Tomlinson

location of residences nearby will lead to more employment opportunities and a more mixed and balanced zoning. This is a key amendment to safeguard these communities and those who wish to retain their residences there.

Hon PETER FOSS: This should be described as the ostrich amendment. By burying one's head in the sand one can pretend that it does not exist. Why pass a Bill that is intended to give some certainty to the residents of Wattleup and Hope Valley and then delete them from its application? Is this to allow the planning blight to continue, and to remove the possibility of their receiving compensation under the Bill? Why on earth is the Labor Party doing this? Excluding the residents from the provisions of this clause will mean they cannot get compensation for loss of amenity if they stay on. What a brilliant move that would be! In the doom and gloom predicted by the Labor Party for the area if this amendment is not passed, it forgets that one of the earlier issues raised was the requirements of the Department of Environmental Protection. The DEP has set the licence area and what can occur within that licence area. The DEP will not permit further industries to be omitted. The Opposition is making suppositions that are not permitted under the current licensing. The Opposition's argument is based on a total misapprehension of what the Government is trying to achieve under the Bill, and what the DEP has already said about that area. The Opposition would also remove any justification for the implementation agency to enter into a negotiated purchase in the town site. With one amendment the Opposition would manage to ignore reality and deprive these people of the provisions of the Bill. This is an extraordinary amendment.

Hon J.A. SCOTT: Once again, the Attorney General fails to recognise that people want to live in this area. His argument assumes that all these people are just waiting to move from this area. It assumes also that no other sensible options could have been put in the place of this planning decision. In fact, the City of Cockburn, which has studied this issue rather more comprehensively than has the State Government, has come up with a number of different alternatives, which it put in its submissions to the FRIARS report. For instance, I have a shortened version of option 5, which talks about a gross area of 1 076 hectares, and that is not including the 270-odd hectares of unused industrial land in the main Kwinana industrial area that could be used without impacting on the townships of Wattleup and Hope Valley. However, for some reason the Attorney General and the Government seem to think that this plan, which will provide more industrial land than is required for the next 30 years, is the only plan. They seem to think also that certainty can be obtained only from what most of the community in that area think is the worst possible plan, but yet is the plan to which for some reason the Government and the minister seem wedded.

The reality is that we can get certainty, and we can get rid of the planning blight, by adopting other options. Significant areas of industrial land already exist in the Cockburn area, and 46 per cent of that industrial land is not utilised or is under-utilised. I support the amendment moved by Hon John Cowdell. I acknowledge that significant damage has been done already to those town sites because of the Government's intransigent position on this issue, which is out of step with every local council in the area, the community's aspirations, and good planning principles. The meteorological conditions in this State and city mean that it is not appropriate to have a huge increase in the amount of industry in this area. That point does not seem to have gotten through to Hon Simon O'Brien, who has not noticed that we have what is called the Fremantle doctor, and that we already have significant pollution problems in that area, which are caused particularly by the government-run Western Power facilities.

Hon Simon O'Brien interjected.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): The interjections cannot be heard, and there is a question as to whether the interjections should be made. However, one of the reasons the interjections cannot be heard is because of the audible conversations around the Chamber, particularly those behind the Chair. I suggest that if members want to converse, they do it outside the Chamber; and if they want to interject, they do not.

Hon J.A. SCOTT: The Government's plan is not a good plan. It does not create certainty. The proposition put by Hon John Cowdell is perfectly reasonable. There is no doubt that problems will be caused by the fact that many of the houses in the area have already been sold, and that has demoralised those townships. However, that is the only problem those people would have with a change in planning position. The reality is that a number of better plans exist -

Hon Simon O'Brien: Where do they exist?

Hon J.A. SCOTT: Option 5.

Hon Simon O'Brien: That is the one in which the City of Cockburn shoved it all beyond its town boundaries.

Hon J.A. SCOTT: No it did not. It was mostly within its town boundaries. The City of Cockburn was rather more interested in looking after the rights of the people who live there -

Extract from *Hansard*
[COUNCIL - Tuesday, 21 November 2000]
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Hon John Cowdell; Deputy Chairman; Hon Peter Foss; Hon Simon O'Brien; Hon Mark Nevill; Hon Barbara Scott; Hon Jim Scott; Hon Norm Kelly; Hon Derrick Tomlinson

Hon Simon O'Brien: It was more interested in keeping its maximum rateable property and putting all the industry in the Town of Kwinana; and I assure you that the Kwinana Town Council was not very impressed with that idea.

Hon J.A. SCOTT: There is a spread of industrial land around the whole area. It is simply not true that the City of Cockburn has shoved it all down to the Town of Kwinana. The reality is that the City of Cockburn did its homework, unlike the Government. Despite the Government's plan being inferior, it could be improved upon by the amendment moved by Hon John Cowdell, and other land, particularly to the east of this area, where there will be a future requirement for industrial land, could be developed.

Amendment put and a division taken with the following result -

Ayes (13)

Hon J.A. Cowdell	Hon Tom Helm	Hon Christine Sharp	Hon Bob Thomas (<i>Teller</i>)
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Tom Stephens	
Hon G.T. Giffard	Hon Norm Kelly	Hon Ken Travers	
Hon N.D. Griffiths	Hon J.A. Scott	Hon Giz Watson	

Noes (14)

Hon Dexter Davies	Hon Barry House	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson (<i>Teller</i>)
Hon Max Evans	Hon N.F. Moore	Hon B.M. Scott	
Hon Peter Foss	Hon Mark Nevill	Hon Greg Smith	

Pairs

Hon E.R.J. Dermer	Hon Ray Halligan
Hon Kim Chance	Hon M.J. Criddle
Hon Ljiljanna Ravlich	Hon W.N. Stretch

Amendment thus negatived.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Compulsory taking of land -

Hon J.A. SCOTT: The interesting thing about this clause, as the Attorney General said tonight, is that the Government has such powers. For example, we have heard and read the press release by the Minister for Planning that people are not being forced to sell and if they want to stay in the area then they can do so. I have also read a statement by him that nothing in the Bill indicates compulsory acquisition. I disagree with him on that particular statement because that provision clearly is contained in this Bill. I have heard it said and have always understood that the Liberal Party stood up for the rights of the individual and the philosophy that every man's home is his castle. These days one might say every person's home is his or her castle, but I will not change that old saying because I do not suppose the Liberal Party has changed much in that time either. The Government may not be in favour of compulsory acquisition, but the reality is that the Bill contains compulsory acquisition clauses. I believe that clause 6 should be removed to reflect the Government's stated position on the matter. It is certainly signalling to the community that the residents must leave their area. The minister acknowledges that people have misinterpreted the intentions of the Government and that of the Bill. If it is not the intention of Bill to provide for compulsory acquisition, then it should not be contained in the Bill. It is as simple as that. The way in which the Government deals with this clause will be an indication of how seriously it regards the matter.

Hon PETER FOSS: There are various other mechanisms by which compulsory acquisition can occur and it is arguable that we do not need them in this legislation. It is the Government's preference that it be in this clause.

I am now in a position to deal with a matter I was discussing earlier. The Ministry for Planning has been analysing the cash flow on this matter and it believes that within a period of three years, it will be able to make an offer to all people within the two town sites who wish to sell their properties.

Hon Norm Kelly: Is that using the metropolitan region improvement fund?

Hon John Cowdell; Deputy Chairman; Hon Peter Foss; Hon Simon O'Brien; Hon Mark Nevill; Hon Barbara Scott; Hon Jim Scott; Hon Norm Kelly; Hon Derrick Tomlinson

Hon PETER FOSS: No, it is not. The ministry has considered the various moneys available to it, and that will be helpful to the residents.

Hon Norm Kelly: Can you give us any indication where the moneys will come from?

Hon PETER FOSS: It is the ministry's present commitment to funding. The ministry has looked at the cash flow involved and the commitments that can be made. An amount has already been spent in the MRIF. That will be helpful information for the members who were curious about that. The ministry believes that the purchase of properties can be done within the current funding.

I prefer that this clause remain, as it makes for a cleaner Bill to include all these matters. However, it would not stop any compulsory acquisition taking place if it were removed, and I urge the Committee to leave it there.

Hon MARK NEVILL: I am pleased that the minister has given the Committee an assurance that an offer will be made to the people in Wattleup and Hope Valley within three years. I asked the minister assisting the Treasurer, Hon Graham Kierath, that the Government make a commitment to make an offer to people within the next two budget cycles. I presume that that three years includes six months of this year and the next two budget cycles. I think it is important that an offer be made to these people as early as possible, so that they are not waiting for an offer to be made if they cannot meet the hardship requirements. That is good news.

The other issue is the compulsory taking of land. I only wish that the Government of the day would take a bit more interest in committee reports from the Legislative Council, because I chaired an inquiry into land resumption in 1987 that recommended the establishment of a separate land acquisition Act. This legislation would cover any resumption of land, and would provide a fairly concise document outlining people's exact rights. At the time many agencies had completely different ways of resuming land. In the case of the Metropolitan Regional Planning Authority no notice was given; it just resumed the land. The inquiry recommended a fairly standard procedure, most of which was incorporated into the Land Administration Act. However, it would have been better to have a separate land acquisition Act and that every Government authority had to follow that procedure. The people would then know their rights and we would not need these ad hoc clauses. My understanding is that this clause is incorporated in this Bill only for insurance purposes. Hon Jim Scott has a good point, but because of the insurance purposes I will not support the amendment.

Hon NORM KELLY: I want to clarify what the Attorney General said and Hon Mark Nevill's comment, because I did not interpret the Attorney General's remarks as an absolute undertaking that the Government would make an offer by 30 June 2003.

Hon PETER FOSS: It is a statement of this Government's intention that by June 2003, any person who wishes to sell his Hope Valley or Wattleup town site will be able to get an offer from the Government if he wishes to do so.

Hon NORM KELLY: Is the Attorney General saying that they may have to wait until 2003 before the Government will be able to give them an offer?

Hon PETER FOSS: Not necessarily. It is a progressive amount of money, about \$5m a year, that has been devoted to the purchase of land. It will be about one-quarter of the amount this year and one-quarter in each of the following three years. The ministry would be able to manage that within the current cash flow organisation.

Hon MARK NEVILL: When I examined this question, I noted in the forward estimates that \$5m is set aside a year for the purchase of properties. If the houses remaining in Wattleup have a median price of \$103 000, it means that about \$18m is needed to buy up Wattleup. The houses remaining in Hope Valley are valued between \$149 000 and \$150 000, then another \$5.5m is needed to buy up Hope Valley. These are just "back of the envelope" calculations. Therefore, the Government will need \$24m. According to that survey, the likelihood is that only three-quarters of those people who want to sell will accept the offer in two years. The Government will need \$18m in those two years, of which it has \$10m set aside in forward estimates. It will therefore need to find another \$8m, which is not such an onerous task, even if the Government has to go into debt to do it.

Hon MARK NEVILL: I hope that whoever is in government will make a fierce effort to make an offer to those people in the next two budget cycles.

Hon PETER FOSS: Hon Mark Nevill is spot on. The money will come partly from the consolidated revenue fund and partly from borrowings as part of the ordinary program; that will enable us to make those offers in those budget cycles. It was just a matter of looking at the figures and making sure that it could be done and the understanding now is that it can be done.

Hon John Cowdell; Deputy Chairman; Hon Peter Foss; Hon Simon O'Brien; Hon Mark Nevill; Hon Barbara Scott; Hon Jim Scott; Hon Norm Kelly; Hon Derrick Tomlinson

Hon NORM KELLY: Does that mean that the Government will discontinue using the money from the metropolitan region improvement fund for purchasing these properties or will it be used in addition to these other funding sources?

Hon PETER FOSS: It already has been discontinued.

Clause put and a division taken with the following result -

Ayes (14)

Hon Dexter Davies	Hon Barry House	Hon M.D. Nixon	Hon Derrick Tomlinson
Hon B.K. Donaldson	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson
Hon Max Evans	Hon N.F. Moore	Hon B.M. Scott	<i>(Teller)</i>
Hon Peter Foss	Hon Mark Nevill	Hon Greg Smith	

Noes (12)

Hon J.A. Cowdell	Hon N.D. Griffiths	Hon J.A. Scott	Hon Ken Travers
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon G.T. Giffard	Hon Norm Kelly	Hon Tom Stephens	Hon Bob Thomas <i>(Teller)</i>

Pairs

Hon Ray Halligan	Hon E.R.J. Dermer
Hon W.N. Stretch	Hon Kim Chance
Hon M.J. Criddle	Hon Ljiljanna Ravlich

Clause thus passed.

Clause 7 put and passed.

Clause 8: Temporary closure of streets -

Hon J.A. SCOTT: I move -

Page 5, line 23 - To delete "14" and substitute "21".

This clause deals with the closure of roads. The number relates to the timeframe required to be given to the local government before the provision in the Bill takes effect. That was 14 days' notice. However, in many situations people will be affected by these road closures and the amount of time given to the local government and those people who may have to re-route their way to these areas is insufficient. It will take time for the decision to go from the council to the home owners or landowners who normally use that road.

Another point is that there is a need for emergency services in the Kwinana area, which has a number of volatile industries. Adding another seven days to the timeframe would give an opportunity to those people affected by the change to be properly informed of it, rather than finding out either as it happens or a few days before. An additional seven days would improve the situation. I would prefer 30 days but I believe 21 days would be sufficient, provided the council acts swiftly to inform both the individuals concerned and the emergency services in the area.

Hon PETER FOSS: The Government opposes this amendment. This provision affects only a temporary, not a permanent, road closure. There is a case on the issue. However, the timeframe is consistent with the provisions in other redevelopment Acts, such as the Midland, East Perth and Subiaco Redevelopment Acts. We must try to get as much consistency in the process as we can, as every single authority must have a time process.

Hon Norm Kelly: Just get on with the authority and it will be consistent.

Hon PETER FOSS: I look forward to that being suggested by Hon Norm Kelly. I do not believe we should have separate times for each redevelopment authority; we should try to maintain consistency between them. I urge the Chamber to reject the amendment.

Hon MARK NEVILL: I probably support the consistency argument. I am unaware of the period of notice in the other Acts mentioned by the Attorney General but I accept his advice. These temporary road closures are for more than three days; however, there appears to be no upper limit to them and the following clause deals with permanent closures. This amendment would give the authority power to close a road temporarily for a long period of time. What is contemplated by this clause in that sense?

Hon John Cowdell; Deputy Chairman; Hon Peter Foss; Hon Simon O'Brien; Hon Mark Nevill; Hon Barbara Scott; Hon Jim Scott; Hon Norm Kelly; Hon Derrick Tomlinson

Hon PETER FOSS: The provision has been interpreted in a case involving the Shire of Belmont, Swan Hotels and Mobil Oil Australia. I am dredging the depths of my memory to remember that case.

Hon N.D. Griffiths: That is a real dredge.

Hon PETER FOSS: That case is a real dredge because it related to a road that ran through what is now the middle of the Belmont Shopping Centre. The road has been closed for a long time. That was a temporary closure. A closure is governed by the nature of the works being carried out and the requirement for a street to be closed. Therefore, this clause cannot be used to effect a long-term, permanent closure. It must be a closure for a purpose, and a street cannot be closed for longer than the appropriate time. The clause does not contain a limitation, but one is entitled to require the closure to cease if the reason for it does not persist.

Hon Mark Nevill: Is there an obligation to reopen a road under temporary closure?

Hon PETER FOSS: Yes. One is not allowed to close it forever. One must nominate a time; and if that time is not sufficient, one must, if I remember rightly, go through the process again. It cannot be used as a de facto permanent closure.

Hon J.A. SCOTT: The Attorney General has said that this clause is uniform with the sorts of things that occur under the Subiaco and East Perth Redevelopment Authorities. However, we are not dealing with the same sort of area; this is a very different area. This area has sodium cyanide and gas plants et cetera in its midst. If there is a serious incident and emergency services try to access the area but are unaware of those closures because there has not been sufficient time to warn them about those closures, they may not be able to drive around the corner to get to the area, as they would be able to do with a suburban block. The same applies to some of the rural properties. There are not myriad roads on which one can hop around the corner to get to an area in a few minutes. The situation is rather different. Whether or not that 14-day period applies to the Subiaco and East Perth redevelopments, it is hardly a great difficulty for the Government to give the longer notification of an extra seven days in order to inform the people who should know of these impending closures so that they are able to make alternative arrangements. I see little merit in the Attorney General's argument that this should apply just for the sake of uniformity with a totally urban situation. There are urban areas within this redevelopment area, but the areas are not all urban, and a lack of knowledge about those industrial areas could be very dangerous.

Amendment put and negatived.

Clause put and passed.

Clause 9: Permanent closure of streets -

Hon J.A. SCOTT: I move -

Page 6, after line 12 - To insert the following new subclauses -

- (2) A local government under subsection (1) must provide to the corporation or corporations named in paragraph (b) (as the case requires) a copy of the notice of motion that is required to be published under section 58(3) of the *Land Administration Act 1997* at the time that it is submitted for publication.
- (3) A street cannot be closed under subsection (1) —
 - (a) if the street is the sole or principal or most convenient means of access to adjoining residential properties; or
 - (b) unless its closure is an essential element, or is an integral part, of the purpose intended.

This is the next section of the Bill, which deals with the permanent closure of streets. Obviously, that has a permanent effect. It is important that these streets be permanently closed with the agreement of a local government, because there is no doubt that local governments have a much better idea about the needs of the community they represent, even though LandCorp will be the de facto local government in much of this area. The concern is that when a person is still resident in a house in a street which has been closed, which forces that person to drive a long distance to get to the house, this clause could be used to help move out somebody whom the Government did not want to stay there, for instance. This amendment will ensure that a local government must provide a copy of the notice of motion required to be published under section 58(3) of the *Land Administration Act 1997* at the time it is submitted for publication. Proposed subclause (3) states that -

A street cannot be closed under subsection (1) —

- Hon J.A. COWDELL: I move -

Page 7, after line 21 - To insert after "Act" -

except that land may not be reserved, zoned or classified for heavy industry

I have previously mentioned this matter. The Labor Party believes that the proposal for heavy industry in this estate is unnecessary. Under the minister's plans, perhaps 90 hectares of the total estate will be zoned for heavy industry. We are yet to be convinced of the planning rationale behind it. Certainly the area proposed in Hope Valley is detached from the other heavy industrial area. We believe this will not assist the total estate, that it will not fit within the existing buffer zone and that it is unnecessary. We are opposed to this component of the estate. As I said, it is a relatively small section which is not contiguous with the existing heavy industrial area. We believe that its inclusion will hinder the progress of the total estate, not to mention its impact on surrounding areas, including Kwinana. We are therefore opposed to this provision, which would include heavy industry in the development.

Hon PETER FOSS: Hon John Cowdell's first amendment to clause 11 is to stop the master plan from zoning land for heavy industry. The issue of future land use will be dealt with through the master plan. It has been proposed that any heavy industry must be within the current operating parameters of the policy on environmental protection and atmospheric waste at Kwinana. This means there can be no diminution of air quality below the standards that are currently set through the policy.

It is also important to bear in mind that heavy industry does not have to be polluting industry. I believe that the dark satanic mills argument is coming out here again; that is, some people are saying that we do not want any heavy industry in Western Australia. I will give an example of heavy industry which is very compatible with the environment; that is, Australian Fused Materials Pty Ltd, which is already operating in the area. No doubt, as it is within the member's electorate, he is conversant with it. I am sure he would support that industry being there as it is totally non-polluting and extremely beneficial to the area. I am sure he would love to see more examples of it in his electorate, employing people and making sure that there is work for them to do.

Quite apart from the misguided intent of the amendment, it is bad in principle, because it would be wrong in legislation such as this to try to do the planning necessary or to fetter the way in which proper planning should be applied.

Hon J.A. SCOTT: The study for the "Towards Optimising Kwinana" report carried out by Dames and Moore Pty Ltd was really a forerunner to the Fremantle Rockingham Industrial Area Regional Strategy report. It looked at the vacant land in its study area, which is not such a large area as the subject of this Bill. Its report said that of the vacant land which lies within the study area but outside the existing industrial zone, 234 hectares - over half the land, including Westrail's holdings south of Thomas Road where the buffer zone is at its narrowest - would not be suitable for the development of heavy industries with a potential for risk, noise and odours. I understand that this is pretty well the area that is the subject of the Bill. It is only about 90 hectares of land. The report also said that the remaining vacant land within the study area lies north of Thomas Road and the surrounds of bauxite residue storage areas A, B and C. The air quality buffer zone at this point is much wider, extending well to the east, including the bauxite residue storage areas. Due to the width of the buffer at this point, the vacant land in this area, in conjunction with the residue storage areas, provides 202 hectares of potential industrial land. It had also been suggested to the study team that a number of industries are neither heavy nor port related and that those industries should perhaps relocate elsewhere in the region, thus freeing up land for new industries which can demonstrate a strategic requirement for such a scarce resource. This follows on from industries saying that although there was sufficient total industrial land in the area for their requirements, they needed to have some of the area zoned for heavy industry. Dames and Moore have identified an area which may be partly covered by the Motorplex. I am not sure whether all of it was in that area, but certainly it would have covered 90 hectares of that area. As Hon Simon O'Brien noted in the Cockburn electorate, the land could have been used for the heavy industry that the minister was talking about, which Hon John Cowdell said he would rather not have in that area.

It may be true that, as the minister has said, not all heavy industry produces pollution, but it is generally likely to produce more pollution than light industry. This zoning will allow any enterprise that fits into the category to be set up in the area if it meets certain requirements. Of course, if it is heavy industry, the requirements are not as onerous as those for general industry. It is disingenuous for the Attorney General to suggest that because at least one heavy industry does not produce pollution, the rest will be the same. The reality is that heavy industry is likely to produce more pollution, including noise pollution. The area in question is already experiencing noise pollution problems. A number of studies conducted by the Department of Environmental Protection have indicated that some enterprises in the area have had to implement measures to address noise concerns. It is not sensible to put more heavy industry into an area which is already suffering noise pollution and which is acknowledged by anyone with an iota of commonsense about pollution and knowledge about the meteorological conditions in this city to have a serious problem. We should not add to the heavy industry burden of that area.

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Studies of the airshed have resulted in a buffer based on one pollutant; that is, sulfur dioxide. We know very well that the Kwinana area is one of the worst producers of noxious gases and nitrous oxides. These issues have been largely ignored by the Government. They will cause significant problems because it has not yet been acknowledged that nitrous oxides cause more serious respiratory diseases than sulfur dioxide. The Government has not caught up with modern environmental science. This increase in heavy industry in the area will add to the airshed burden of the metropolitan area and it is not a good idea.

Amendment put and a division taken with the following result -

Ayes (12)

Hon J.A. Cowdell	Hon N.D. Griffiths	Hon J.A. Scott	Hon Ken Travers
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon G.T. Giffard	Hon Norm Kelly	Hon Tom Stephens	Hon Bob Thomas (<i>Teller</i>)

Noes (13)

Hon Dexter Davies	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson (<i>Teller</i>)
Hon Max Evans	Hon N.F. Moore	Hon B.M. Scott	
Hon Peter Foss	Hon Mark Nevill	Hon Greg Smith	
Hon Barry House	Hon M.D. Nixon	Hon Derrick Tomlinson	

Pairs

Hon E.R.J. Dermer	Hon Ray Halligan
Hon Kim Chance	Hon M.J. Criddle
Hon Ljiljana Ravlich	Hon W.N. Stretch
Hon Tom Helm	Hon B.K. Donaldson

Amendment thus negatived.

Hon J.A. COWDELL: I move -

Page 7, after line 21 - To insert the following -

- (2) The master plan shall make provision for general industry, rural living, horticulture and conservation areas, and appropriate buffer zones, in a mosaic that best reflects the wishes of residents and land owners, provides for a higher and better use for land and rehabilitates land unused or damaged from earlier uses.

This amendment is not overly prescriptive. The Bill is silent about what can be included in the master plan. This amendment will provide direction to the authority in preparing the master plan and in envisaging that mixture. It is consistent with the Fremantle Rockingham Industrial Area Regional Strategy report, and the Minister has acknowledged that this type of direction was contained in that report. This amendment will merely give the FRIARS direction some standing in the provision dealing with the master plan. Although this is not prescriptive, it will provide a broad outline, but not in terms of the outcome in any area. I commend the amendment to the Committee.

Hon NORM KELLY: The amendment seeks to provide, in a statutory sense, a good direction to LandCorp for developing the master plan. It highlights what the Democrats believe to be one of the inadequacies of the Bill in vesting the planning powers and responsibilities in a development arm of government. LandCorp is experienced in developing land, but not in the planning process of a huge area.

Hon Peter Foss: Are you referring to the WA Planning Commission?

Hon NORM KELLY: No, to LandCorp. The master plan to be prepared by LandCorp is to be submitted to the Planning Commission at a later stage for its approval. The commission is far better suited to carry out the planning process. Hon John Cowdell's amendment seeks to provide for a good mix of planning uses and processes. I am not sure whether the words "a higher and better use for land" are suitable because they are subjective. If the amendment is passed they may need clarification. The amendment will provide a general sense of intent for LandCorp to work at formulating its master plan.

Hon MARK NEVILL: During the second reading debate I gave my reasons for opposing this mosaic proposal. As I said, if various land uses are nominated within the industrial areas some people will have their land zoned rural and be rather annoyed because they will be unable to sell it as industrial land. Other people who have their land zoned industrial will benefit considerably. The variations could create tension. People's increasing

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expectations of environmental levels will also cause problems. This amendment is a recipe for conflict within the industrial area. It would be better to make the ground rules clear at the start and save ourselves problems in the future. I will not support the amendment.

Hon PETER FOSS: Hon Mark Nevill has caught it in one. Mixed use or mosaic land can occur only when uses are compatible; for example, retail use in high-density residential areas. For many of the reasons already discussed, industry is not compatible with residential uses; these reasons include unacceptable noise levels, increased risk to human health and wellbeing and loss of amenity. In addition, it should be noted that no planning legislation provides directions for land use. The legislation merely provides a statutory framework for the preparation of documents that will provide directions for land use; that is, the master plan. In addition, the Fremantle Rockingham Industrial Area Regional Strategy, which is referred to in the Bill, provides direction for the final land uses. Also, the process for determining optimum planning outcomes through the preparation of the master plan should not be fettered by such arbitrary requirements as those put forward in the proposed amendments. The reality is that the detailed planning of such an area will lead to a variety of uses.

Hon J.A. SCOTT: The Bill is called the Hope Valley-Wattleup Redevelopment Bill; yet this is the first time a clause has been proposed that will deal with anything other than industrialisation. It is the first acknowledgment that other uses could be made of the land. That area contains a number of significant environmental areas, such as Beeliar Regional Park, and important environmental areas close to the Kwinana town site; yet the Bill contains no acknowledgment of that. It will give LandCorp the power to take authority over those areas, but it does not make provision for management of anything else. How will that occur, given that further master plans will apply to an increasing number of areas? What planning will occur for the other myriad uses of the land, which uses must be managed equally with industry? This highlights the fact that this is not a redevelopment Bill, but an industrialisation Bill.

Amendment put and a division taken with the following result -

Ayes (12)

Hon J.A. Cowdell	Hon N.D. Griffiths	Hon J.A. Scott	Hon Ken Travers
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon G.T. Giffard	Hon Norm Kelly	Hon Tom Stephens	Hon Bob Thomas (<i>Teller</i>)

Noes (13)

Hon Dexter Davies	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson (<i>Teller</i>)
Hon Max Evans	Hon N.F. Moore	Hon B.M. Scott	
Hon Peter Foss	Hon Mark Nevill	Hon Greg Smith	
Hon Barry House	Hon M.D. Nixon	Hon Derrick Tomlinson	

Pairs

Hon Kim Chance	Hon Ray Halligan
Hon Ljiljanna Ravlich	Hon W.N. Stretch
Hon E.R.J. Dermer	Hon M.J. Criddle
Hon Tom Helm	Hon B.K. Donaldson

Amendment thus negatived.

Clause put and passed.

Clauses 12 to 38 put and passed.

New clause 17 -

Hon J.A. COWDELL: I move -

Page 11, after line 20 - To insert the following new clause to stand as clause 17 -

17. Parliamentary Scrutiny

- (1) A copy of the master plan and any amendments to it shall be laid before each House of Parliament within 6 sitting days of the House next following the date of publication of the notice of approval of the master plan or amendment in the *Gazette*.

- (2) Either House may by resolution, notice of which has been given at any time within 12 sitting days of that House after the copy of the master plan or amendment was laid before it, disallow the master plan or amendment.
- (3) If neither House passes a resolution disallowing the master plan or an amendment, the master plan or amendment comes into effect from and after the last day on which the scheme might have been disallowed, or such later day as is specified in the plan or amendment.

This new clause requires parliamentary scrutiny of the master plan. It is important to have parliamentary scrutiny so that constituents and local residents can make representations - as many groups have - and have their views brought forward and given some weight. It should not be a bureaucratic hearing in which concerns can be dismissed, but a forum in which to test the proposed master plan and to debate it thoroughly. I note also that the passage of the Bill would allow the relevant authorities to expend moneys and acquire the properties of all those who want to sell. However, Parliament has no say in ensuring that the Executive comes up with the funds to acquire the properties of those who want to sell. A report-back provision whereby parliamentary scrutiny could provide for disallowance of the master plan would ensure that local residents were adequately catered for and their interests seen to within the parameters of the Bill, and not overridden. This will provide a fail-safe mechanism, particularly in the appropriation and expenditure of funds for those who want to sell their properties to the authority and get out in a timely period. Parliament could provide that check. I commend this proposed new clause to the Chamber.

Hon PETER FOSS: I oppose this new clause as it would elevate this master plan to the equivalent of a metropolitan region scheme amendment. That would be inappropriate, especially given that the development will be somewhere between a development plan and a town planning scheme. It is nothing like a regional scheme. No other town planning scheme or redevelopment authority has this formality. I am horrified at the suggestion that this type of town planning scheme should come to Parliament in this fashion. I doubt local government would be keen to see this as a way in which the Opposition deals with town planning schemes.

Hon J.A. SCOTT: I very much support this new clause, because the Western Australian Planning Commission is in effect both the developer and the assessor of this development plan.

Hon Peter Foss: It is the planning authority.

Hon J.A. SCOTT: It oversees the work of LandCorp; however, the power lies with the Planning Commission. The system provides no checks and balances, and I am not at all surprised that the Executive does not want parliamentary scrutiny of the master plan. This is a normal path for an MRS amendment, and I do not see why this should escape the scrutiny that is involved in an MRS amendment. After all, it is not much more than an MRS amendment, except that we are giving much greater powers to government agencies to establish this industrial area. Rather than handing over more of this Parliament's powers, we should ensure proper scrutiny of the master plan which, after all, will have extreme powers in its ability to take over planning from local government, to take over crown land and to compulsorily acquire private property. This needs scrutiny and this is the only way left in this Bill to do that.

Hon NORM KELLY: The Australian Democrats also support this new clause. We believe it is similar to the way we deal with metropolitan region scheme planning changes. It is important to note that proposed clause 17(3) provides that the master plan will not come into effect until after the last day on which the scheme might have been disallowed, whereas the Bill provides that it will come into effect on the day on which it is published. This will prevent any action occurring before the period of parliamentary scrutiny has been passed. Given that the minister will have the power to give ministerial directions with regard to the master plan, it is particularly important that there be proper parliamentary scrutiny of any ministerial intervention in the final format of the master plan.

New clause put and a division taken with the following result -

Extract from Hansard
[COUNCIL - Tuesday, 21 November 2000]
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Hon John Cowdell; Deputy Chairman; Hon Peter Foss; Hon Simon O'Brien; Hon Mark Nevill; Hon Barbara Scott; Hon Jim Scott; Hon Norm Kelly; Hon Derrick Tomlinson

Ayes (12)

Hon J.A. Cowdell	Hon N.D. Griffiths	Hon J.A. Scott	Hon Ken Travers
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon G.T. Giffard	Hon Norm Kelly	Hon Tom Stephens	Hon Bob Thomas (<i>Teller</i>)

Noes (13)

Hon Dexter Davies	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson (<i>Teller</i>)
Hon Max Evans	Hon N.F. Moore	Hon B.M. Scott	
Hon Peter Foss	Hon Mark Nevill	Hon Greg Smith	
Hon Barry House	Hon M.D. Nixon	Hon Derrick Tomlinson	

Pairs

Hon E.R.J. Dermer	Hon Ray Halligan
Hon Kim Chance	Hon W.N. Stretch
Hon Ljiljanna Ravlich	Hon M.J. Criddle
Hon Tom Helm	Hon B.K. Donaldson

New clause thus negated.

New clause 22 -

Hon J.A. SCOTT: I move -

Page 15, after line 14 - To insert the following new clause -

22. Environmental reviews and social impact

An environmental review conducted under this Act must include a description of the nature and extent of the social impact anticipated as a result of implementing the purpose that caused the review.

The reason for this new clause is that no environmental review has been undertaken by any of the agencies involved to ensure that there will be no significant social impacts on the immediate communities within the development area. There will be significant impacts on the communities of Wattleup and Hope Valley, because not just a handful of people but two whole towns will be relocated, and the social structures and friendships of those people will be changed. Within that period, which may be 22 years or so, what will remain of those townships and their surrounding areas will be broken down by transient populations who will take temporary accommodation in those towns. I have been made aware by a number of people that this problem is already occurring and is causing friction in Wattleup. This Government has done nothing to look at the social impacts for those people and how they should be managed, and to deal with the problems of the people who will remain in that area.

The increasing industrialisation of that area and of the coastline along Cockburn Sound will have a severe impact on the recreational opportunities of people in the communities of Kwinana and Cockburn in particular but also of the people in the hills who access the coast through that area, because little beach recreation area will be left, and that will affect people who live in places like Cottesloe, because many more people will use the beaches to the north of the Swan River -

Hon Max Evans: If the sharks do not get them.

Hon J.A. SCOTT: The sharks should stay up there and not come down and start messing around with the people of South Metropolitan.

I understand that the full meaning of the term "environmental review" includes the effects on the community and the social impacts. However, the reality is that this Government has no concern about the social impacts and is happy for the deleterious effects of its planning policies to just come into being without doing anything to alleviate the effects of its legislation. This new clause is the least we can do, and even though it is late, and too late in many cases, it is important to the wider community that a proper social study of the impact of these changes be made in the area together with the environmental review so that these matters can be dealt with in a planned way to reduce the worst of the impacts on the community.

Hon PETER FOSS: Proposed new clause 22 requires that the environmental review conducted as part of the Environmental Protection Act master plan assessment include a social impact study. It is not considered appropriate to fetter the Environmental Protection Authority's ability to set the level and parameters of the

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environmental assessment under the Environmental Protection Act. Further, LandCorp is required to implement the Fremantle Rockingham Industrial Area Regional Strategy final report which directs LandCorp to prepare a social transition strategy, which is a dynamic process of supporting existing residents and is not a static examination, as we would expect from the term "social impact study" as used by Hon Jim Scott.

Hon J.A. SCOTT: Can the minister point out where in the Environmental Protection Act it states that this is required to occur? I cannot see it in the Bill.

Hon PETER FOSS: Page 49 at the bottom of column 1.

The DEPUTY CHAIRMAN (Hon Derrick Tomlinson): Perhaps the Attorney General would identify the document to which he referred.

Hon PETER FOSS: I identified it when I spoke earlier. It is the Fremantle Rockingham Industrial Area Regional Strategy final report.

Hon J.A. SCOTT: Is it a requirement under the Bill, when enacted, for that to happen or is it proposed to occur when the Government gets around to it?

Hon PETER FOSS: The EPA is obliged to take into account the final report when preparing the master plan.

New clause put and a division taken with the following result -

Ayes (12)

Hon J.A. Cowdell	Hon N.D. Griffiths	Hon J.A. Scott	Hon Ken Travers
Hon Cheryl Davenport	Hon Helen Hodgson	Hon Christine Sharp	Hon Giz Watson
Hon G.T. Giffard	Hon Norm Kelly	Hon Tom Stephens	Hon Bob Thomas (<i>Teller</i>)

Noes (13)

Hon Dexter Davies	Hon Murray Montgomery	Hon Simon O'Brien	Hon Muriel Patterson) (<i>Teller</i>)
Hon Max Evans	Hon N.F. Moore	Hon B.M. Scott	
Hon Peter Foss	Hon Mark Nevill	Hon Greg Smith	
Hon Barry House	Hon M.D. Nixon	Hon Derrick Tomlinson	

Pairs

Hon Kim Chance	Hon Ray Halligan
Hon E.R.J. Dermer	Hon M.J. Criddle
Hon Ljiljanna Ravlich	Hon W.N. Stretch
Hon Tom Helm	Hon B.K. Donaldson

New clause thus negatived.

New clause 39 -

Hon PETER FOSS: I move -

Page 29, after line 12 - To insert the following new clause -

“

39. *Town Planning and Development Act 1928* amended

- (1) This section amends the *Town Planning and Development Act 1928**.
- (2) Section 6(4) is amended as follows:
- (a) after “area” by inserting a hyphen;
- (b) by inserting the paragraph designation “(a)” before “within”; and
- (c) by deleting the full stop and inserting instead —

“

or

Extract from *Hansard*

[COUNCIL - Tuesday, 21 November 2000]

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Hon John Cowdell; Deputy Chairman; Hon Peter Foss; Hon Simon O'Brien; Hon Mark Nevill; Hon Barbara Scott; Hon Jim Scott; Hon Norm Kelly; Hon Derrick Tomlinson

- (b) within the meaning in the Hope Valley-Wattleup Redevelopment Act 2000.

”.

- (3) Section 31(2a) is amended —

- (a) after “1994” by deleting “or” and inserting a comma; and

- (b) after 1999 by inserting —

“

or a master plan approved under Part 3 of the *Hope Valley-Wattleup Redevelopment Act 2000*

”.

- (4) Section 37 is amended in the definition of “appeal”, by inserting after paragraph (bc) the following paragraph —

“

- (bd) an appeal under section 29 of the Hope Valley-Wattleup Redevelopment Bill 2000;

”.

[* *Reprinted as at 19 March 1999.
For subsequent amendments see 1999 Index to Legislation of
Western Australia, Table 1, p. 254, and Act No 24 of 2000.*]

I have moved to insert this secondary amendment to the clause, which should have been included in the Bill but was omitted.

New clause put and passed.

Schedule 1 put and passed.

Title put and passed.

Bill reported, with an amendment.