

Mr Gary Snook; Acting Speaker; Ms Alannah MacTiernan; Mr Colin Barnett; Dr Elizabeth Constable; Mr Terry Waldron; Mr Bob Kucera; Mr John Castrilli; Mr Paul Omodei; Mr Trevor Sprigg; Deputy Speaker; Speaker

PERRY LAKES REDEVELOPMENT BILL 2005

Consideration in Detail

Clause 1: Short title -

Mr G. SNOOK: Given that the Perry Lakes redevelopment will include AK Reserve, should there be a reference to AK Reserve in the short title? The title of the bill is the Perry Lakes Redevelopment Bill 2005; we all understand what that means. However, part of the redevelopment and development process will be the establishment of sporting facilities on AK Reserve. It is appropriate that AK Reserve be referred to in the title of the bill because a substantial part of the legislation deals with establishing sporting facilities on AK Reserve. In my view, AK Reserve is a warranted addition to the title.

The ACTING SPEAKER (Mr P.B. Watson): Before I give the call to the minister, I advise members that amendments to this bill are being copied and will be distributed.

Ms A.J.G. MacTIERNAN: I apologise for the late circulation of the amendments. There was obviously a breakdown in communication. I authorised the amendments to be distributed last night, but somehow that message became confused. Theoretically, we could include AK Reserve in the title of the bill. We could call the bill the "Perry Lakes and AK Reserve Redevelopment Bill" or the "Perry Lakes, AK Reserve and Adjacent University Lands Redevelopment Bill". The bill could have a range of titles. However, we have kept it relatively simple. Fundamentally, we are talking about the replacement of facilities that currently and very famously are located at Perry Lakes and the redevelopment of land at Perry Lakes to, in part, fund that proposal. The title of the bill is adequate. One could always think of alternative titles, but the title of the bill gets to the guts and thrust of what is being considered.

Mr C.J. BARNETT: I gather from what the minister just said that government amendments to the government's bill are about to be distributed. This bill has been rushed into Parliament. It was introduced last Thursday and brought on for debate yesterday. Elected members of this Parliament - representatives of the community - have been given no notice of the government's amendments. I do not know whether they are trivial or significant amendments; however, we should have been informed about them. Did a little administrative error on behalf of the minister mean that she failed to have the amendments distributed yesterday? How many little administrative errors will the minister be responsible for during the handling of this bill? It is incumbent on the minister to explain the nature of the amendments, even if they are trivial. This situation is not good enough and it illustrates why the bill should not have been hurriedly introduced into Parliament. There should have been at least a week between the conclusion of the second reading debate and the consideration in detail stage to allow not only members to get across some of the issues, but also the government to get its act together, which it clearly has not done.

Ms A.J.G. MacTIERNAN: The amendments are being circulated. Most of them are of a clerical nature. Two amendments are of substance. If the house desires more time to deal with the relevant clauses, I would be quite happy for those clauses to be dealt with tomorrow. I spoke to one of the Clerks last night and authorised the distribution of the amendments. However, there was a breakdown in communication and it was not clear that that is what I said. These things happen. One of the substantive amendments seeks to provide some certainty to the Town of Cambridge by setting the maximum price that will be paid for AK Reserve. The other has resulted as a response to concern that was raised during the briefing about the nature of the \$5 million that will be the finite contribution of the Town of Cambridge to the maintenance of the athletics facility. The amendment makes it clear that that money will be set up in a trust fund so that it will always be spent on the maintenance of that facility. As I said, if members need more time to consider those two clauses, as opposed to the ones that are purely clerical, I am more than happy to consider them tomorrow.

Mr C.J. BARNETT: By my quick count, at least a dozen amendments have been circulated on three pages. I will illustrate the minister's lack of preparedness. As the member for Churchlands pointed out to me, an amendment to clause 44 reads -

The Minister for Planning and Infrastructure: To move -

Page 34, lines 1 to 17 - To oppose the clause.

What the hell is going on? Clause 44 relates to the expense of maintaining, operating and managing the athletics facility. The minister will oppose her own clause, a clause that we were briefed on a couple of days ago. Last night we were told that everything was in order and yet today the minister will oppose her own clause. The back of the amendments' circular - I do not know what this is about - includes a note from parliamentary counsel that was provided in confidence. It reads -

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This draft is supplied on the assumption that the Minister for Planning and Infrastructure has signed the draft letter to me, . . .

Draft letters and advice from parliamentary counsel in confidence on the assumption that the minister signed a department letter - what is going on? The minister clearly is not in a position to handle this bill. I respectfully suggest that she abandon this debate today and bring it on tomorrow. The minister should talk to parliamentary counsel in or out of confidence so that she can let members of Parliament in on the act, because it is our job to vote on this bill.

Mr G. SNOOK: I am stunned. Yesterday the minister spoke long and loud about the presumed incapacity of the Town of Cambridge to handle its business because of its switching, changing and indecisiveness. I put it to the house that, even before the bill reached the table, the minister was guilty of replicating the very things she spoke about. It is absolutely unacceptable. If this is a taste of what we will be faced with in the run-up to this redevelopment, I reiterate that there is a distinct possibility that the government will be unable to deliver its on-time and on-budget promises to provide these much-needed sporting amenities. It is intolerable that members of this place have been asked to battle with and get their minds across these amendments in the short space between their late delivery and now. I agree with the member for Cottesloe that we must pause. As I said in my opening address yesterday in the second reading debate, the bill is being rushed and there is no need for it to have been declared urgent. It was intended that opposition members receive by e-mail the answers to questions they asked in the briefing. I checked my e-mail again this morning and still no e-mail response had arrived. It may have been taken off or -

Ms A.J.G. MacTiernan: I tabled the e-mail yesterday in the Parliament.

Mr G. SNOOK: I understand that. Last evening, we were in this Parliament until midnight going through this very important legislation. We are back in this place this morning and we are expected to give due consideration to this very important legislation; yet we have been handed five pages of amendments. Some amendments may be trivial, such as substituting one word for another. However, by the minister's admission there is at least one substantial amendment. I suggest to the minister that it is not unreasonable for members to ask that due process occur, and that the Parliament be given the opportunity to give full and careful consideration to the whole bill and the amendments, before there are any more embarrassing revelations. It is not acceptable.

Ms A.J.G. MacTIERNAN: The reason that we will move to remove clause 44 is that we have made -

Point of Order

Mr C.J. BARNETT: This is a Parliament; it is not a committee room; it is not a working forum. It is not acceptable for discussions to be going on with the minister, other than with members of Parliament or assisting staff.

The ACTING SPEAKER (Mr P.B. Watson): The minister should either have her adviser sit at the chair or she should leave the chamber if she wants to communicate with someone outside the chamber.

Ms A.J.G. MacTIERNAN: Yes, Mr Acting Speaker. She was simply seeking to get information that had been asked for.

The ACTING SPEAKER: She must leave the chamber to get that.

Mr J.H.D. Day interjected.

Ms A.J.G. MacTIERNAN: The member for Darling Range is a very nasty little person.

Mr J.H.D. Day: It is evident.

Ms A.J.G. MacTIERNAN: Mr Acting Speaker, I will ask my adviser to come forward. We were just trying to assist.

The ACTING SPEAKER: She must either sit down or leave.

Ms A.J.G. MacTIERNAN: Thank you; she will sit down.

Debate Resumed

Ms A.J.G. MacTIERNAN: As I said, we provided the e-mail yesterday to the member for Moore. He is obviously still struggling to work out whether he still has it.

I will go through the issues again. A number of these amendments are only small clerical amendments. That is not unusual. I was in opposition for eight years. I dealt with many pieces of legislation to which the government made a series of clerical amendments. The majority of the amendments to this bill are clerical. There are three amendments of substance to clauses 8, 43 and 44. If members want further time to consider those amendments, I

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am more than happy to move over them when we reach them and come back tomorrow to consider them. That is a perfectly reasonable way to go forward. I am more than happy to accommodate the opposition if it has a concern and needs more time to deliberate on the amendments. I propose to press on with this legislation. When we come to clause 8, I will move to defer consideration of the clause until the end of the consideration in detail stage. I am more than happy to come back tomorrow to consider that clause, together with clauses 43 and 44, if we make that amount of progress today.

Dr E. CONSTABLE: The minister will recall that yesterday I did not support the bill being declared urgent, although I was happy to support the bill's second reading. However, these amendments concern me greatly. At the bottom of each page of the amendments is the statement -

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These are draft amendments. I wonder whether the minister herself has had time to scrutinise them and whether there are other errors. I have been a member of this place for 14 years and I do not believe I have ever seen a proposed amendment in which a minister opposed a clause in a bill. I assume it means delete, or it means something else and somebody has got it wrong.

Ms A.J.G. MacTiernan: Yes, it means delete.

Dr E. CONSTABLE: Again, it indicates that these are draft amendments; that they are perhaps not the amendments the minister is ultimately looking for and that the minister has not had an opportunity to scrutinise the draft amendments and put them into a final form. I am concerned that the bill has been declared urgent and that we have been given a copy of proposed amendments that do not necessarily make sense. The proposed amendments are clearly only in draft form. I want to see the final version of these amendments, so that members do not trip over themselves as they go through the bill. I want the consideration in detail stage of the bill to go well, but I am concerned that we will have problems if we have only draft amendments.

The ACTING SPEAKER: Members, I must advise that we are debating clause 1, the short title.

Mr G. Snook interjected.

The ACTING SPEAKER: No, we are debating clause 1 and whether it should be accepted.

Mr T.K. WALDRON: The short title states "This is the *Perry Lakes Redevelopment Act 2005*". I contend that the words "AK Reserve" should be considered in the title. In doing so, I support the member for Churchlands' comments. As they are obviously draft amendments, is the minister happy with them? This is important legislation. I have talked to many members of this place, many people in the sporting industry and people in the Town of Cambridge. This is very important stuff.

The ACTING SPEAKER: I remind the member that we are debating clause 1.

Mr T.K. WALDRON: That is right, but it is very important that we get it right, Mr Acting Speaker. If we rush the bill through the Parliament and get it wrong, the title might change again. This is too important. I say to the minister that, as she obviously wants this legislation to work well, perhaps she should give herself and other members more time. To me, that is practical and commonsense. Let us not be stupid about this bill. This is the Parliament of Western Australia, not a meeting of the Jingalup parents and citizens association.

Mr R.C. KUCERA: I want to bring the debate back to the subject under discussion: the title of the bill. It is not about whether people are prepared to do work in this house. We are going through the normal process of Parliament.

Several members interjected.

The ACTING SPEAKER: Order, members!

Mr R.C. KUCERA: Every bill that comes before this house is subject to constant supervision, revision, drafting and change. It is not unusual for a minister to either withdraw or oppose a clause in a bill in conjunction -

Mr C.J. Barnett: It is usually on the notice paper, not handed around as a scrap of paper.

The ACTING SPEAKER: I call to order the member for Cottesloe.

Mr R.C. KUCERA: That last remark by the member for Cottesloe is an insult to the staff of this house. The staff of this house do not hand around bits of paper. The staff of this house work with us.

The ACTING SPEAKER: Members have had their say and the Minister for Disability Services will have his say. I will call to order any member who interjects again.

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Mr R.C. KUCERA: Thank you, Mr Acting Speaker. I want to get the debate back on line. There has been enough procrastination and barriers put in the way of the development of this facility over the past six years without there being a need to put other barriers in place, particularly as this is simply about the process of Parliament.

Mr G.M. CASTRILLI: I support the member for Moore's comments on the short title of the bill, "... the *Perry Lakes Redevelopment Act 2005*", because the bill also affects the AK Reserve. How many hours until midnight last night did we spend debating this matter, which encompasses and has ramifications for the whole project? I said in my maiden speech that I was happy to work with the government. I said that I saw it as my role to try to improve legislation for the benefit of the people of Western Australia. The short title must be all encompassing. As the member for Churchlands has said, we now have amendments that were drafted at seven o'clock last night. My decisions on this bill were based on the bill as presented for a project that involves the Perry Lakes area and the AK Reserve, which we were told last night is a project worth \$204 million, which is a significant amount. The minister has said that the project is complex. I understand and appreciate that, and that is why I want to work, where I can, to support it. However, these amendments might change the whole complexion of the bill. I do not know. The bill was introduced last Thursday and debated yesterday, and then we received more amendments.

Mr R.C. Kucera: What if you raised a legitimate argument during the debate and it was agreed that there had to be a change? Is that not the normal process of the Parliament?

The ACTING SPEAKER (Mr P.B. Watson): Order, minister!

Mr G.M. CASTRILLI: I think I have made my point clear. I am not in this Parliament to oppose things for the sake of opposing them.

Mr R.C. Kucera: I appreciate that.

Mr G.M. CASTRILLI: I thank the minister. I am genuinely trying to say to the Minister for Planning and Infrastructure and to the government that I am happy to work with the government wherever I can - I am sincere about this - to improve legislation. There might be a bit of a smirk on the minister's face, but I am sincere when I say that I am genuinely trying to assist. However, I also need a bit of courtesy from the minister by the minister giving me as much proper time and information as possible. I know that events must happen urgently, and I appreciate that. From time to time that is fine, and I am happy to consider amendments to cater for them, but sometimes amendments such as these, which were produced at seven o'clock last night -

The ACTING SPEAKER: We are not talking about the amendments. We are talking about the short title.

Mr G.M. CASTRILLI: I am talking about the title of the bill, which encompasses a \$204 million project, and the fact that we have been presented with amendments.

The ACTING SPEAKER: What has that to do with the short title?

Mr G.M. CASTRILLI: It has a lot to do with the short title of the bill, because it is an all-encompassing title for the AK Reserve and Perry Lakes. We are talking about the whole redevelopment of the area, which we might amend as a result of the introduction of these amendments that I do not know anything about. We need time. I would love to have another two weeks to consider the whole bill, but I am happy to take tomorrow.

The ACTING SPEAKER: Member, I have been very lenient with you. The question is that clause 1 stand as printed. You are not talking about the clause. You can continue if you want to but, please, talk about clause 1.

Ms A.J.G. MacTIERNAN: May I just say once again that substantial changes are proposed to two clauses, both of which I am prepared to defer until tomorrow.

Mr P.D. Omodei: Is the minister talking to the title of the bill?

Ms A.J.G. MacTIERNAN: I am addressing the issues that have been raised, so that members will have time to deliberate on them. I have made it very clear that the amendments refer to only two matters: one is the \$5 million trust fund and how that \$5 million that is to be allocated for maintenance is to be dealt with, and the other is the determination of the value of AK Reserve. They do not affect the structure of the legislation. They are two very confined issues. I understand that members quite rightly want to have more time to think about those amendments and I am happy to put them off until tomorrow. That could be the only reasonable complaint.

As for the member for Cottesloe, he displayed his typical arrogance by saying that it is ridiculous and that the opposition will oppose the legislation.

The ACTING SPEAKER: Will the minister get back to the short title?

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Ms A.J.G. MacTIERNAN: Bear with me for 30 seconds. This is a very traditional way of dealing with an amendment; in fact, we did exactly the same thing with the Planning and Development Bill. No exception was taken to it. Indeed, I remember my good friend the member for Warren-Blackwood opposing the legislation, quite surprisingly, when he was handling the bill. It is the language that is used when one clause is being substituted for another. We could go on ad infinitum about how long the short title should be, but, quite frankly, “Perry Lakes Redevelopment Act” gets to the guts of what this bill is about, and that is the name that we will be sticking with.

Mr P.D. OMODEI: I refer to the short title of the bill, “This is the *Perry Lakes Redevelopment Act 2005*,” and the impact of that name on the development. Obviously, the redevelopment of the Perry Lakes site will not occur until the new sporting facilities are built. Therefore, not only could we be referring to AK Reserve but also the Minister for Sport and Recreation referred to a centre for excellence, so there could be a number of titles for the bill, including the centre of sports excellence bill or the fleecing of the people of the Town of Cambridge bill. There could be a whole range of other names for the bill, but I find it quite remarkable that we should come into the Parliament and see drafting instructions to the Clerk for amendments being tabled on the day that we are discussing this very important piece of legislation, which the government proposes to call the Perry Lakes Redevelopment Act. I sympathise with members on this side of the house who have some concerns about the title of the bill. It could be named something different. I might ask the minister whether it is intended to continue to call the new development the Perry Lakes sporting facility.

Ms A.J.G. MacTiernan: What new development?

Mr P.D. OMODEI: Will the minister call the new development the Perry Lakes sporting facility?

Ms A.J.G. MacTiernan: I do not think that those matters have been in any way determined.

Mr P.D. OMODEI: They impact on what we should call the bill. Obviously, the Perry Lakes site will be redeveloped two years down the track if this process is started tomorrow, so in reality the bill is really providing for a new sports facility for Western Australia. It is legitimate for members on this side of the house to ask about the naming of the bill. It might sound trivial, but the bill could well have been called something else.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation -

Ms A.J.G. MacTIERNAN: I have an amendment standing in my name. The amendment simply seeks to address a typographical error where the word “Part” should be replaced by the word “Act”. I move -

Page 2, line 20 - To delete “Part” and substitute “Act”.

Amendment put and passed.

Ms A.J.G. MacTIERNAN: I move -

Page 3, line 7 - To insert after “under”-

Part 3

This amendment is due to a typographical error that neglected to insert “Part 3” before “Division 5”. It clarifies the authority of the Western Australian Planning Commission in issuing a development approval.

Mr P.D. OMODEI: I ask for the forbearance of the minister. She is referring to line 7 at page 3? It states -

“development approval” means a development approval issued by the WAPC under Division 5;

Ms A.J.G. MacTiernan: Yes.

Amendment put and passed.

Mr T.R. SPRIGG: I require some clarification about “AK Reserve Minister”. The definition is that it is the minister who has the administration of the Western Australian Sports Centre Trust Act. That makes sense. However, clause 3(1)(b) does not make sense to me. It refers to an alternative minister being appointed. Will the minister explain the reason for that?

Ms A.J.G. MacTIERNAN: It is just a belt and braces approach. Not that there are any plans whatsoever but, if, for example, that act ceased to be in existence, this paragraph provides a device whereby responsibility for the legislation can be allocated. It is our view and intention that it will be the Minister for Sport and Recreation who, at the moment, is responsible for the Western Australian Sports Centre Trust Act. It is just to provide a measure of protection in the event that that legislation ceases to exist for any reason.

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Clause, as amended, put and passed.

Clause 4: Governor may fix certain dates -

Dr E. CONSTABLE: I would like the minister to spend a moment or two explaining subclause (3). On a first reading, I had trouble understanding it. I have read it three times and I think I understand it. However, I do not want to tell the minister what I think it means. Will she explain what it means? If I have questions afterwards, I will ask them. I found the provision quite difficult on a first reading. It is not clear what it means until one examines each word.

Ms A.J.G. MacTIERNAN: Subclause (3) deals with the sorts of things that the minister must take into account.

Dr E. Constable: Please go through them so that it is absolutely clear.

Ms A.J.G. MacTIERNAN: The minister must not make a recommendation under subclause (2) unless certain things are satisfied. When the planning minister can make a recommendation, he must do so only if he is satisfied that the metropolitan region scheme and any relevant town planning scheme is consistent with the redevelopment plans for the AK Reserve and the Perry Lakes land. It is about making sure that the planning is in order and that there are no costs or expenses chargeable to the Perry Lakes Trust Fund established under part 4 of the bill, or that satisfactory alternative arrangements have been made for payment of those costs. It ensures that all the planning that is in place is consistent with the aims of the legislation and that all the amounts that can be taken from the trust fund have been taken from the trust fund. The government is trying to ensure that there is some capacity to quit the process and hand it over to the Town of Cambridge before all the development is completed. Nevertheless, we have an obligation to make sure that there is adequate planning in place for the Town of Cambridge should it take over the project. For example, if only 100 lots had been developed on the development site and there were sufficient funds from those lots to pay for all the things agreed - the subdivision costs, project management costs, basketball and rugby facilities and the 52 per cent of the athletics facilities - it might well be that more development would take place. This gives us the capacity to remove ourselves early by setting a completion date. One of the things I have to do is to make sure that we have acquitted all the expenses that we need to before we do that.

Dr E. Constable: Does it also mean that it could happen before the rugby facility is completed and that the management of that would be taken over by the Town of Cambridge?

Ms A.J.G. MacTIERNAN: That is not contemplated. One of the things we are trying to do is to leave maximum flexibility so that, if after the development of 100 lots we have obtained sufficient funds to cover all the items we believe the development should be able to fund, this gives us the capacity to hand it back through an early completion date. The planning minister of the day will not be able to do that before he has made sure that the metropolitan region scheme and town planning scheme in place provide a framework that is consistent with the development that is set out in this legislation.

Mr G.M. CASTRILLI: I refer to subclause (2), which states that the Governor, on the recommendation of the planning minister, may fix a day as a completion day. I assume that the minister can set the completion date when she is satisfied that certain parameters have been achieved. Does she have any preconceived time frames that might allow her to set a completion date after certain things have happened?

Ms A.J.G. MacTIERNAN: I want the government to be out of the site in five years. It may well be that that could be by the end of 2008. That would be an optimistic scenario. The end of 2009 would probably be a more realistic scenario. If, for example, everything went tickety-boo and development proceeded, it may well be that, by the end of 2008, sufficient plots of land would have been sold to enable acquittal of all the expenses we have set out. It is marginally possible that we would be in a position to do that at the end of 2008, but more likely at the end of 2009. In any event, we certainly see ourselves being well and truly out of there by the end of 2010.

Mr P.D. OMODEI: I refer to clause 4(3). I note that, in the middle of the fifth paragraph of the explanatory memorandum dealing with clause 3, the memorandum states -

For example, 'development' has the meaning given by the *Town Planning and Development Act 1928*, but clause 3 and clause 52 'Regulations' of the Bill empower the Governor -

The Governor, of course, being the government -

to make regulations to declare any work, act or activity to not constitute 'development'.

What kind of work or act would be deemed to be not a development?

Ms A.J.G. MacTIERNAN: Madam Deputy Speaker, I wonder whether we could get some clarification. I thought we were dealing with clause 4.

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The DEPUTY SPEAKER: We are.

Mr P.D. Omodei: Okay. Sorry, I was dealing with clause 3.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Certain land resumed -

Dr E. CONSTABLE: Clause 6 refers to land being resumed. This is one of the very important aspects of this legislation. The second part of the clause refers to the resumption of land at Perry Lakes, and the third refers to the resumption of the “Avenues land”, which I assume is AK Reserve, because I cannot see AK Reserve mentioned by that title in this clause. Therefore, I need clarification of that.

Ms A.J.G. MacTiernan: You want to know which of these is AK Reserve?

Dr E. CONSTABLE: Yes. It is the “Avenues land”, is it?

Ms A.J.G. MacTiernan: It is lot -

Dr E. CONSTABLE: What is the “Avenues land”? I suppose that is what I am asking the minister.

Mr P.D. Omodei: It means the land being that part of lot 25 on deposited plan 25810. It is under the interpretation clause.

Dr E. CONSTABLE: Okay.

Ms A.J.G. MacTiernan: We will deal with it one by one. You want to know which part is AK Reserve.

Dr E. CONSTABLE: Yes, and I want to know what the “Avenues land” is. I also have another question about this; that is, whether land that is currently in the City of Nedlands will be included in this development. I had understood that the original plan, or some other plan, some time ago included changing the boundary between the Town of Cambridge and the City of Nedlands to complete the construction of the facilities on AK Reserve. Will the minister clarify whether that is needed under the current plan?

Ms A.J.G. MacTIERNAN: The “Avenues land” is described in clause 3. I understand it is land that is part of a planned road reserve. It joins Stephenson and Underwood Avenues. It is owned by the Town of Cambridge, but it is an undedicated road reserve. It is an unusual status. As I understand it, AK Reserve is in fact lot 711, which is referred to in subclause (2)(b). Adjoining that is lot 25, which is on what we know commonly as AK Reserve. The final one, which is the portion of road shown as lot 2, is a dedicated road. That land is all being assembled together so that we will get a composite block of land that will become lot 713.

Dr E. Constable: My last question was about the City of Nedlands.

Ms A.J.G. MacTIERNAN: Nothing in this legislation will change the boundaries. In the planning for the construction of the new stadium, there has always been a concern that it would not be possible, particularly with the Bush Forever issues, to crush all the facilities into AK Reserve itself. Therefore, the prospect was that the stadium might be partly in the Town of Cambridge and partly in the City of Nedlands, which would not be an entirely sensible outcome. Once the planning is finalised for the location of those facilities, if any rationalisation of boundaries is needed, that will be done as a separate act.

Dr E. CONSTABLE: Will the minister clarify whether at this stage it is likely that some of the Bush Forever land will be included in the actual construction area and that Bush Forever areas will be felled in order to build these facilities?

Ms A.J.G. MacTIERNAN: I need to clarify that. The entire site is Bush Forever land. Obviously, that does not mean that all parts of that site have regionally significant bushland on them. However, because it was land that was already in the metropolitan region scheme, a fairly blunt instrument was imposed when that was identified as a Bush Forever site. Under whatever proposal was considered - whether it was the Town of Cambridge’s proposal or the government’s proposal - there were always going to be Bush Forever issues. Like all Bush Forever sites that have been identified, the next process is to go around ground truthing and to work out on the ground which are the most significant areas and those areas that need to be considered. One of the advantages of what we are proposing today by bringing this into a broader planning framework is that it gives us a little more flexibility. Because we can reposition the facilities on other sites, it gives us some capacity to do land swaps to make sure that the best of the regionally significant bushland is protected.

Mr C.J. BARNETT: I gather from the minister’s response to the member for Churchlands that clause 6(2)(a) refers to the Perry Lakes land. The boundaries of that are well understood, and that is okay. I take it that the minister is saying that paragraphs (b), (c) and (d) together make up AK Reserve. It is a combination of bushland

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areas, road reserves and whatever else. Will the minister confirm that paragraphs (b), (c) and (d) together make up AK Reserve?

Ms A.J.G. MacTIERNAN: The area we call AK Reserve land in this bill is made up of those three components. What might technically be considered AK Reserve probably only consists of lot 711. Lot 711 is by far the substantial proportion of it, but the two areas that are adjacent to it - one being a non-gazetted road and the other a gazetted road - are being put into it. In the planning that has been done over the years, those other areas have been put into play as part of that process.

Mr C.J. Barnett: I refer to the map at the back of the bill. Does what is called AK Reserve in the bill represent those three areas?

Ms A.J.G. MacTIERNAN: That is correct, but it is actually made up of three separate lots.

Mr P.D. OMODEI: Clause 3(1) defines "AK Reserve land" as the land being lot 713 on the deposited plan. The original AK Reserve is lot 711. I assume that when lot 711 and lot 25, the resumed road reserve, are amalgamated, it will become lot 713. Is that correct?

Ms A.J.G. MacTiernan: That is correct.

Mr C.J. BARNETT: I will follow up the question raised by the member of Churchlands. Given that members accept that the sporting facilities will not fit on the AK Reserve as it is defined in this bill and will overlap into the City of Nedlands, does it mean that at a future date the minister will come back to this place with another piece of legislation to resume land from the City of Nedlands and/or to change boundaries and/or to resume further Town of Cambridge land to give to the City of Nedlands? I am of the view that the City of Nedlands will not hand over one square metre unless it gets some compensating area of land put into its boundary.

Ms A.J.G. MacTIERNAN: I think the member is confusing municipal boundaries with land ownership. The issue of land ownership from the City of Nedlands is not involved. I understand that the adjoining lands are either crown lands or university lands. The Minister for Sport and Recreation said yesterday that the University of Western Australia has indicated a great preparedness and interest to work in partnership with the state government to resolve these issues and make sure that we get maximum benefit for sport in Western Australia out of this. Indeed, there are potentialities for even greater synergies by bringing sports, such as netball, into the area.

Dr E. CONSTABLE: Will the minister confirm that the area referred to as the "Perry Lakes land" will be rezoned urban? At the moment it is all urban deferred.

The confusion over the local government boundaries goes back to earlier discussions and plans that the Town of Cambridge would manage these sporting facilities and would own them. Is it correct that, under this plan, the state will manage these facilities; therefore, the local government boundary issue is no longer an issue?

Ms A.J.G. MacTIERNAN: It is the state's intention to manage all of the sporting facilities. They are facilities of a significant nature and history has shown that is probably the best outcome. In terms of municipal boundaries, even if it not a question of management, it is never useful to have a facility such as the stadium that would be half in one municipality and half in another. For example, if one wanted to get development approval or work with a particular local authority, it would be an unhelpful arrangement to have. I do not think that anyone would rationally argue that we should have a municipal boundary that goes through the middle of a major sporting facility.

Dr E. Constable: If this goes into the University of Western Australia's land, it may be in the City of Nedlands - in fact, I am sure it will be - and we may have that problem.

Ms A.J.G. MacTIERNAN: It was always an issue because the planning was going to be very difficult to accommodate the best of the Bush Forever land and to put the facility on AK Reserve. That is part of the very real problem we would have if we did not take over this project. It requires a complex series of land swaps and partnership arrangements with UWA and one must have one's heart 100 per cent in the project to get these complex negotiations brought to a conclusion. That is one of the inevitable complexities of this project that makes us very clear that it needs to be done at a state government level.

Dr E. Constable: My other question was about Perry Lakes and the zoning.

Ms A.J.G. MacTIERNAN: It will all be urban but that does not mean that there will not be public open space within that. A large percentage of public open space within the metropolitan area is within the urban zone.

Mr P.D. OMODEI: I refer to the comments in Parliament yesterday by the Minister for Sport and Recreation. When talking about a centre of sporting excellence, he mentioned McGillivray Oval. Given that the minister

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said earlier today that the government hoped to be out of there by 2008 or as soon as possible after that, obviously there would be a new body to govern the sports facility on AK Reserve. It is well known that when the Town of Cambridge was talking about locating the sports facility on the site that it would not fit. Therefore this legislation will impact on the City of Nedlands. This legislation will also impact on the Riding for the Disabled Association of WA, and that has not been mentioned in this debate. Surely that association will be impacted upon by this development. Am I right to presume it is in the City of Nedlands?

Mr C.J. Barnett: Yes, that is right.

Mr P.D. OMODEI: Surely when we are talking about the boundaries for this facility, we should take into account the impact of fitting the sports facility on the AK Reserve and obviously the impact on the Riding for the Disabled Association. I understand there are plans to relocate that organisation. It is an important organisation that does wonderful community work and it has not cracked much of a mention in this legislation.

Ms A.J.G. MacTIERNAN: There are difficulties for the Riding for the Disabled being located in the Bush Forever site. Both the office of the Minister for Sport and Recreation, who is also the Minister for Disability Services, and my office have been in dialogue with that association. As a former Minister for Disability Services, the member for Warren-Blackwood is particularly interested in this issue, as is Minister Kucera. I can assure the member that we are working closely with the Riding for the Disabled Association to find an alternative site for it within the precinct.

Mr P.D. Omodei: I understand the Town of Cambridge was looking at the old drive-in site. Is Riding for the Disabled Association in the Town of Cambridge or the City of Nedlands?

Ms A.J.G. MacTIERNAN: It is in the City of Nedlands at the moment. Members of that association have traditionally ridden through that area, which was always going to be the site for the new facilities. Work has to be done with the Riding for the Disabled Association. We can be assured, given that the Minister for Sport and Recreation is also the Minister for Disability Services, that the association's concerns will be given a high profile.

Mr G. SNOOK: I draw the minister's attention to the amalgamation of lot 711, lot 25 and a portion of lot 2 - the closed road section. Subclause (6) states -

Without limiting subsection (5), the Registrar of Titles may do all things necessary to create Lot 713 -

That is fine; we understand that -

on Deposited Plan 48234 including (but not limited to) closing the portion of road shown as Lot 2 on Deposited Plan 48234 and amalgamating that portion with Lot 711 . . .

Should that subclause not also mention lot 25? That lot must be included. It is an oversight, unless the minister can explain why lot 25 is not mentioned in that subclause.

Ms A.J.G. MacTIERNAN: There are two reasons for that. First, it is important to understand that the subclause includes the words "but not limited to". Specifically, we are talking about closing a portion of a road. The subclause provides express authority to close a portion of a road. I understand that lot 25 is not a gazetted road, so there is no need to raise the spectre of closing a road that is not gazetted. Specific mention was made of lot 2 to deal with the closure issue, so that another legislative step did not need to be taken to close the road.

Mr G. Snook: The amalgamation needs to happen to create new lot 713. The subclause should include lot 25. Perhaps the minister could point to where that is included in the bill. I know that the words "but not limited to" covers everything.

Ms A.J.G. MacTIERNAN: It was our judgment that the bill required a clear definition of lot 713, and that definition makes it clear that the new lot contains the three portions of land.

Mr G. Snook: Where does it say that?

Ms A.J.G. MacTIERNAN: There is a reference to the deposited plan. I am happy to look at whether we should include the deposited plan as a schedule to the bill. That might be a way of addressing that concern. I will take advice on that point and get back to the member later. We might put the member's concern beyond doubt if we perhaps made the deposited plan a schedule to the bill. I will get back to the member either this afternoon or tomorrow. In our discussions with the Registrar of Titles he made it clear that these are the powers he needs. I take the member's point, and there is some merit to it. It would be good to include a reference to the three lots. It would perhaps be appropriate to include the deposited plan as a schedule. I ask the member to bear with us. We will come back to the member on how to best do that.

Mr G. Snook: That is all it is; we need to get the words right.

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Ms A.J.G. MacTIERNAN: The words are okay, but the member has pointed out that something could be included in the bill to more closely tie those things together.

Mr C.J. BARNETT: This clause designates all the areas of land that will be included. My question concerns the boundary between the Town of Cambridge and the City of Nedlands. Although ownership may not be an issue with the University of Western Australia, what stage have negotiations or discussions reached with the City of Nedlands on a change of municipal boundary?

Ms A.J.G. MacTIERNAN: There have been absolutely none. No steps have been taken to discuss this matter. No decisions have been made. The first step in the chain is to finalise precisely where the facilities will go. It is only once that is known that there is any point in having any discussions on the way forward. Quite frankly, the good of the community and the proper location of the facility should come first, and the precise boundaries of the two municipalities should then fit around that.

Mr C.J. BARNETT: I accept the logic of first working out the siting of the facilities. I do not have a problem with that. I am sure that surrounding landowners would not have a problem with that. I ask the minister to explain what process she intends to follow, on the assumption that there will be a realignment of the boundaries.

Ms A.J.G. MacTIERNAN: We anticipate that if any change is required - as I said, no decision has been made - we would go through the standard process; that is, go to the Local Government Advisory Board. Recommendations would then be made to the Minister for Local Government and Regional Development. That is the standard legislative process. Nothing in this legislation changes the status quo in terms of the power and mechanism for dealing with that.

Mr C.J. BARNETT: I ask the minister to confirm that the change to the boundaries will require legislation.

Ms A.J.G. MacTIERNAN: No. I need to clarify that. I do not believe that that would be necessary. I cannot claim to be a specialist on the Local Government Act. However, I can say that there is nothing in this legislation that would give us the power to do that. A process is in place under the Local Government Act, which will be followed if any change to the boundaries proves necessary. We would simply use the powers and processes laid down in the Local Government Act.

Mr C.J. BARNETT: I ask the minister to clarify, before this debate is finished, whether legislation would be required. That is highly likely. I think the minister agrees that the boundaries will need to be changed before construction can start. If that is the case, I ask the minister to seek some advice and to advise the house.

Ms A.J.G. MacTIERNAN: First, I do not concede that boundary changes will be necessary, although it is possible. I certainly do not concede that boundary changes will be required before construction commences. However, I certainly concede that boundary changes may be necessary to provide a rational demarcation between the municipalities. If changes are required, there is no requirement under the Local Government Act for that to be done by way of further legislation. I am sure the member is very familiar with that act.

Mr C.J. BARNETT: I do not want to see any unnecessary delays, but this bill will enable the resumption of the land from the Town of Cambridge and will give it to the government. If normal processes are to be followed, as the second reading speech indicated would be the case, I assume building approvals will be required from the local governments. If that is the case and the boundary is not changed, the government will need building approvals from two local governments, the Town of Cambridge and the City of Nedlands. That is a potential problem for this project.

Ms A.J.G. MacTIERNAN: I draw the member's attention to clause 36. We are very focused on decisions, not delays, and, for this reason, building approvals for developments on the AK Reserve will go to the Minister for Housing and Works.

Mr C.J. BARNETT: Where in this legislation does this take away the right of the City of Nedlands with regard to building approvals if land is actually in the City of Nedlands?

Ms A.J.G. MacTIERNAN: It does not do that. Clause 36 deals with the new amalgamated lot 713 and provides that building approvals will go to the Minister for Housing and Works for facilities that are on the AK Reserve.

Mr C.J. Barnett: You have not talked to the City of Nedlands about it.

Ms A.J.G. MacTIERNAN: I will just clarify that. The member for Cottesloe just mumbled something. Nothing here changes the City of Nedlands' authority.

Mr C.J. Barnett: Yes, it does.

Ms A.J.G. MacTIERNAN: Where is it?

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Mr C.J. Barnett: If, as is likely, construction extends across the boundary of the City of Nedlands, then, based on the minister's last answer, its right in the building approval and planning process is taken away without consultation.

Ms A.J.G. MacTIERNAN: No, not at all.

Mr C.J. Barnett: Are you going to put the building approval through the City of Nedlands or not?

Ms A.J.G. MacTIERNAN: If there are facilities on the City of Nedlands' land, yes.

Mr C.J. Barnett: The minister has just contradicted herself.

Ms A.J.G. MacTIERNAN: No, I have not just contradicted myself. I referred to the development of facilities on the land formerly known as the AK Reserve. Under clause 36 there are clear powers for those approvals to be dealt with by the Minister for Housing and Works. If there are facilities on the City of Nedlands' land, all the standard planning approvals that might be required from the City of Nedlands will apply. Nothing in this legislation changes the powers and entitlements of the City of Nedlands. We do not anticipate that the City of Nedlands will present us with a difficulty.

Mr C.J. BARNETT: Seeing the minister is focused on decisions, not delays, we have now established that the likelihood is that there will be two building approval processes for this stadium. That is another example of this legislation being rushed and not thought through properly.

Clause put and passed.

Clause 7: No compensation payable for Perry Lakes land -

Mr G. SNOOK: Subclauses (1) and (3) refer to a person who holds an interest extinguished by section 6(4) etc. With the minister's legal background, can she advise whether the word "person" covers a local authority?

Ms A.J.G. MacTiernan: Can the member repeat that?

Mr G. SNOOK: Clause 7(1) and (3) refers to the word "person". We all understand that Perry Lakes land is currently owned by the Town of Cambridge. Should that clause not include the words "or authority", or name the Town of Cambridge? I am unsure whether the terminology of a "person" encompasses a local government authority under an act of the Crown.

Ms A.J.G. MacTIERNAN: Clearly that is what is contemplated with this legislation. If the member had reference to the Interpretation Act, it would be clear that a "person" includes a municipality, which is a body corporate. A body corporate is an incorporated personality. It is a legal person and comes within the definition of "person".

Madam Deputy Speaker, I would like to clarify something for the member for Cottesloe. It is important to understand what can happen. If, in the planning for the facilities, it is determined that the facilities are to go beyond the AK Reserve as constituted by lot 713, then, by regulation, which is a disallowable instrument, we can move to extend the redevelopment area, in which case the Minister for Housing and Works would be the person with responsibility for granting the building licence. Obviously we would not take that step of regulating - it would be a step beyond this legislation - without dialogue with the City of Nedlands. To date nothing is contained within this legislation that changes any of the rights, powers or entitlements of the City of Nedlands, but it does contemplate the capacity to do that by regulation. We would not take that step without active involvement with the City of Nedlands.

Mr G.M. CASTRILLI: I seek a point of clarification about what the minister said to the member for Cottesloe. When this stadium is built, will the minister amend the boundaries to include the AK Reserve? Will that encompass the stadium totally within what we now classify as the AK Reserve or lot 713?

Ms A.J.G. MacTiernan: It may not be entirely within that area. Some of the plans show it going beyond that. If we talk about lot 713 as being the amalgamated area, it is possible that the facility will come down further and go onto UWA land, which would therefore be within the City of Nedlands. The new act in itself would not give us the power. We would need to make a subsequent regulation to bring that area within the redevelopment area. Once that is done, we would have the powers for the building approvals.

Mr G.M. CASTRILLI: So lot 713 is the new creation of a set lot?

Ms A.J.G. MacTiernan: Yes.

Mr G.M. CASTRILLI: If designs come back showing it has to extend beyond that area, nothing in this bill states that the government can amend that said lot to accommodate -

Ms A.J.G. MacTiernan: It says that we can amend it by regulation.

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Mr G.M. CASTRILLI: Yes. I just wanted to get that clear.

The DEPUTY SPEAKER: The question is that clause 7 stand as printed. I have allowed enough latitude so that debate could go back to a previous clause, which I should not have done, but I wanted to give the minister the opportunity to clarify the situation. We are now dealing with clause 7. There is another opportunity if members are unclear about that issue.

Mr G. SNOOK: Can the minister explain the reasoning behind clause 7(3) and the need for it?

Ms A.J. MacTIERNAN: I guess that this, yet again, is a case of parliamentary counsel being very cautious. The member for Churchlands set out the expenses incurred by four different property developers in putting forward proposals to the Town of Cambridge. Those proposals amounted to nothing. This provision is designed to make it absolutely clear that no liability will accrue to the state from disappointed proponents of that previous proposal, including claims that might emanate from proponents whose cases will ultimately be rejected.

Mr C.J. BARNETT: Clause 7 is not a very long provision comprising three subclauses. Subclause (2) simply reads -

The Land Administration Act 1997 Parts 9 and 10 do not apply . . .

What a sweeping clause! I do not know whether members realise that this provision would wipe out sections 151 to 258 of the Land Administration Act. The minister will set aside approximately 100 sections of the Land Administration Act through this measure. All clauses relating to land resumptions, entitlements, claims and appeal processes regarding compensation are to be wiped out with a few words. It indicates the sweeping nature of this provision. Sections 151 to 258 of the land law of Western Australia will be dispensed with in a few words. All the history of land administration, of security of title and of the rights of property owners, whomever they might be, will be simply dispensed with. This is not a minor amendment, as the minister would probably like the world to believe. Section 202, one of the sections to be dispensed with, at the start of part 10 lays down the principle of the Land Administration Act. It simply reads -

- (1) Every person having any interest in land which is taken under Part 9 is entitled, subject to this Part, to compensation for the interest from the acquiring authority.

The basic principle of the Land Administration Act in respect of land resumption is a right to compensation; that principle is reflected in the Australian Constitution. The minister seems to think that she can wipe out that principle without a thought. If this bill and the actions of this minister were to become subject to a legal challenge in the Supreme Court or High Court - who knows - the actions probably would relate to this clause. If that were to occur, the minister could blame absolutely no-one except herself. If the minister opens up the state to legal challenge on this matter, it will be on her head.

Ms A.J.G. MacTIERNAN: I accept responsibility for this matter. Frankly, the clause is not as well worded in one sense as could be the case because it does not make reference back to part 4 of the bill. Without considering part 4, the member for Cottesloe's comments would have some validity. If clause 7 stood by itself with no attempt to put in place another structure, the member's argument would have some merit. However, one cannot look at this clause in isolation. It is very important that members look at clause 7 in conjunction with part 4, which will establish that the state has no right to use the proceeds of this development for its own benefit. There is a very defined and limited range of expenditures for which the state can draw on this trust fund. These expenditures are entirely consistent with the agreements entered into between the Town of Cambridge and the state government dating back to 1998 under the previous administration. As I said last night, the valuations we have received indicate that even on a 213 to 216-lot development, the total proceeds available to the Town of Cambridge at the end of the process will be between \$67 million and \$99 million. Frankly, members must say to themselves that it cannot be said that the government is ignoring the rights of the Town of Cambridge. It is true that the government would not have gone ahead with the proposal without legislation. It was our very clear understanding that if we had just used the principles of the Land Administration Act, a great deal of uncertainty indeed may have arisen about the valuation of the land. All sorts of allegations could have been made claiming the land was worth more or less than the valuation. Our decision has put the matter beyond doubt. All the money will go into a trust fund. Therefore, any profit from the development of this land will go into a trust fund. The government cannot spend that money. It will be limited to the items expressly listed in clause 42 of the bill. Once the expenditure for those items is covered, the benefit of the trust fund will accrue for the benefit of the Town of Cambridge.

The member for Cottesloe has a point when looking at clause 7 in isolation. However, one cannot look at clause 7 in isolation because the structure of part 4 of the legislation provides an alternative mechanism to cater for the fact that it was always agreed that the proceeds of this development would in part fund the new facilities. It was on that basis that the state agreed to allow that rezoning. Otherwise, the state would never have agreed to

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the rezoning because that land is required for facilities. Having entered into an agreement with the Town of Cambridge, the government has changed the zoning to enable the land to become valuable. It is then not appropriate for the Town of Cambridge to say that the government has done its bit and created this highly valuable piece of land, but the town will stand back and take all the profit from that land.

This bill represents a very fair arrangement. I urge members to consider the bill as a whole. Although those provisions are structured in that way, I understand that the wording could have given rise to the conclusion of the member for Cottesloe had one not read the entire bill. Members need to read the entire bill and consider its structure. Between \$67 million and \$99 million will be returned to the Town of Cambridge; that is hardly no compensation.

Mr C.J. BARNETT: The return to the Town of Cambridge will be determined several years into the future. The Australian Constitution refers to the rights of property owners concerning compensation. The Land Administration Act specifically gives property owners in Western Australia, whomever they might be, a right to compensation. I flicked through part 4 of the bill as the minister was speaking, and I could see no reference at all to compensation. The minister stated that the town of Cambridge will receive what is left over. That is not the principle of land ownership, land administration and property rights in this state or, indeed, this nation.

Ms A.J.G. MacTIERNAN: The government has crafted a structure that deals with this specific circumstance. Indeed, part 4 does not refer to compensation because, in a very real sense, the benefit of the land will remain with the Town of Cambridge. The government will hold these funds in trust for the Town of Cambridge. The concept is not compensation, but holding the funds in trust with the caveat and exemptions that the government can deduct from the trust funds only money for the agreed purposes needed to be spent by the town to live up to the agreement it entered into with the state government. The clause does not use the language of compensation because the structure is fundamentally different. It is built around the notion of holding that land beneficially for the Town of Cambridge, with some entitlements to make deductions to advance the agreed outcomes. Quite frankly, at the end of the day, who knows? It might be that the state government would stand to gain more financially if it did it the other way around. However, we knew that there would always be disputes about whether the Town of Cambridge was getting enough money, so we decided to set up this trust structure so that there could never be any question that the state government was taking profit from this arrangement.

Debate interrupted, pursuant to standing orders.

[Continued on page 5764.]

The SPEAKER: Before proceeding to question time, I acknowledge the presence in my gallery of Hon Nicola Bono, the Undersecretary of State from the federal Italian Parliament, and his party.

[Applause.]