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**MINISTER FOR PLANNING AND INFRASTRUCTURE, MOORE RIVER REZONING**

*Matter of Public Interest*

**THE SPEAKER (Mr F. Riebeling):** Today I received within the prescribed time a letter in the following terms from the Leader of the Opposition, seeking to debate as a matter of public interest the following motion -

That this house condemns the Minister for Planning and Infrastructure for her blatant disregard for the private property rights of the Moore River Company in the Guilderton area.

If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

**The SPEAKER:** The matter shall proceed on the usual basis.

**Mr J.N. Hyde:** You want the Moore River residents to suffer just as the Highgate residents have suffered.

**The SPEAKER:** Member for Perth, the Leader of the Opposition has every entitlement to speak, as does the member. It is disorderly to yell at that level and to stop him from contributing to this debate. I call the member for Perth to order for the second time.

**MR M.J. BIRNEY (Kalgoorlie - Leader of the Opposition) [2.43 pm]:** Thank you for your protection, Mr Speaker. I move -

That this house condemns the Minister for Planning and Infrastructure for her blatant disregard for the private property rights of the Moore River Company in the Guilderton area.

In the next 10 to 15 minutes I will very clearly outline for members that the Minister for Planning and Infrastructure has become embroiled in a very serious and present conflict of interest.

*Point of Order*

**Dr K.D. HAMES:** The member for Riverton asked how much did they pay for us to do that. That impugns not only the person, but any suggestion that the Liberal Party would take such -

Several members interjected.

**The SPEAKER:** Order! This is a house of political debate. That sort of comment has not been unheard of in this chamber on previous occasions, and has not been ruled out of order.

*Debate Resumed*

**Mr M.J. BIRNEY:** I just want to give members a very brief outline of the situation.

Several members interjected.

**The SPEAKER:** Order, members!

**Mr A.D. McRae:** The member has taken the question seriously.

**The SPEAKER:** Order! I call the member for Riverton to order. I say to people on my right-hand side that the minister will have an opportunity to answer the queries. I am sure that she can do it without the inane interjections that are currently occurring.

**Mr M.J. BIRNEY:** The member for Riverton seems to have some involuntary condition that causes his gums to just bang together. I want to give an outline of this issue. On 3 March 1995 the land south of Moore River in Guilderton that is owned by Mr Marcus Plunkett and his family was rezoned from rural to urban. Members may draw all sorts of conclusions about whether that was a wise rezoning. I happen to think it was a wise rezoning. I am sure that will be the subject of some debate. The land was duly rezoned to urban, so the developers then set about putting together a development plan that would ultimately result, I think from memory, in the development of about 600 lots in that area and a nice little urban settlement south of Moore River in Guilderton. What has happened since then is a bit of a comedy of errors on the part of the government and all the people involved in this situation.

The Plunkett family went about their business, bringing in consultants, town planners and all sorts of other people in order to get the development up and running. In the course of doing that they spent \$5 million. One must ask why anybody would spend \$5 million if they did not have a secure title. Of course, they had a very secure title. The particular property was zoned urban. One can imagine the Plunketts' surprise when they finally got their development plan in order and presented it to the Western Australian Planning Commission, only to be told that it would be rejected for a number of reasons. Among a number of technical reasons for the rejection, I understand one was the fact that it was not consistent with the so-called future Gingin coast structure plan.

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The proponents, the Plunkett family, then lodged an appeal with the Town Planning Appeal Tribunal. One can imagine their surprise when the Minister for Planning and Infrastructure stepped in and said that she wanted to determine the appeal. The minister herself has admitted that she has done that on only two or three occasions. The minister set up a tribunal to hear those very appeals. I will tell members what she thought about ministerial appeals in her press release dated 22 April 2003. She stated that Western Australia's system of ministerial planning appeals had ended and a more transparent and accountable system had taken its place. The minister also stated that Western Australia was the last state to have a system of ministerial appeals and that it was a system that lacked transparency and always had the potential to allow decision to be tainted by allegations of political patronage. The Minister for Planning and Infrastructure said that when she did abolish ministerial appeals. One must ask oneself a question: why did she suddenly throw herself headlong into this debate by telling the Town Planning Appeal Tribunal that she wanted to determine this matter and that it was not to determine it? That is question number one. Of course, we know that for a long time the Minister for Planning and Infrastructure has had a set against the Plunkett family's land in Moore River. There is a host of Labor Party position and pre-election statements, and I will read out a couple of them. One on Labor's position on the development of Moore River states that Labor will enter into negotiations with the developer in an endeavour to see how the development could be scaled back. The minister, when she was the opposition spokesperson for planning, was sending a shot across the bow of the Plunkett family and saying, "Guess what? I'm about to become important. I will probably be the Minister for Planning in the not-too-distant future. Guess what? We are going to scale back your development. What do you reckon about that?" She did not stop there. She went on to say a host of other things.

A statement released by Hon Alannah MacTiernan on 8 October 2000 stated that a future Labor government would reverse the worst aspects of the proposed 557 hectare housing development. Once again, a shot across the bow of the Plunkett family. She then produced a very interesting paper that might give members a bit of humour. It is again on Labor's position on the development of Moore River and has a particularly flattering photo of the minister at the top. It was produced just prior to the last election and states that Labor is further concerned by other aspects of the approval given to this development, in particular the apparent presence of conflicts of interest in the planning process. Here is the opposition spokesperson for planning suggesting that there was some conflict of interest involved with the people who gave the original urban zoning decision to the Plunkett family. The minister then goes on to say that she will investigate it and all those sorts of things. I suspect that the investigation fell flat and that no conflict of interest was found.

While we are on the subject of conflict of interest, I will outline to members a huge conflict of interest and one that has just been acknowledged by the Minister for Planning and Infrastructure in her decision to stand aside from hearing this appeal. The issue, of course, is that if the minister did not believe that there was a real or perceived conflict of interest, she would not have agreed to stand aside from hearing this appeal. Why has she agreed to stand aside from hearing the appeal? It is because she knows that there is either a real or perceived conflict of interest.

I will give members a bit of background on that conflict of interest. In 1981, a Supreme Court writ was issued by the now Minister for Planning and Infrastructure against the Plunkett family, who were her neighbours over the back lane. The writ states that the plaintiffs - being, of course, the Minister for Planning and Infrastructure and her husband - claim a declaration that they are the owners in fee simple and entitled to be registered as the proprietors of the land. The land referred to relates to a portion of land that was on the Plunketts' factory site. The writ states a host of other things. That particular claim was the subject, obviously, of a very bitter neighbourhood dispute between the Plunkett family and the now Minister for Planning and Infrastructure. A consent judgment was then handed down, which stated that it was adjudged by consent and hereby declared that the defendant - that is, the Plunkett family - is the registered proprietor and entitled to the possession of the whole of the land being the portion of Perth suburban lot. The judgment goes on to give details of the land. Effectively, the minister in a legal sense tried to nick the Plunketts' land from them. She tried to claim adverse possession, and in a legal sense nick their land. The consent judgment goes on to state that the plaintiffs - that is, the Minister for Planning and Infrastructure and her husband - do pay to the defendant its costs of action and counterclaim in the sum of \$1,200. I did a bit of rough maths, and in today's money that is about \$10 000. That would have hurt a little back in 1985, when the consent judgment was handed down. There was therefore a very clear dispute in that neighbourhood involving the Plunkett family and the now Minister for Planning and Infrastructure, which resulted in the Minister for Planning and Infrastructure paying the costs of the family to the tune of \$1 200.

**Ms A.J.G. MacTiernan:** What year was that?

**Mr M.J. BIRNEY:** It was 1985.

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**Ms A.J.G. MacTiernan:** What year was the action taken?

**Mr M.J. BIRNEY:** In 1981, and the consent judgment was made in 1985.

It did not stop there. It was not just an isolated incident in which the minister tried to claim adverse possession of that property. There we have it: she lost the first action and it cost her 1 200 bucks.

I understand that in 1992 the minister went screaming over to the Plunkett joinery factory and let everybody know in her typical fashion that she was not happy with the noise coming from the factory. As a result of that, a complaint against the Plunkett family was then lodged with the Perth City Council, on which the minister herself was a councillor. The Plunketts wrote to the then Minister for Planning on 13 October 1992 and said that it had come to their attention that on two occasions she had entered their property situated at 98 Smith Street, Highgate. - that is, over the back lane from the minister's property - without permission and in the absence of any invitation. The letter stated that the first occasion occurred in early September that year whereupon she entered the property to complain about noise being made by a chainsaw operated on the property. On that occasion she was asked to leave the premises. On 10 October she again entered the property whereupon she was asked three times to leave the property and also was informed that she had been trespassing. It further stated that no doubt she was well aware that entering upon private property without permission or being invited constituted a trespass and that they were presently considering some recourse on this aspect. The letter said that it might have assisted neighbourly relations had she not left an extremely abrupt message on their answering machine on 5 September 1992 advising that she was reporting an incident involving the operation of a chainsaw to the Perth City Council. It further said that they could not understand how she could not have politely spoken to someone at their office informing them of her concern so that the matter could have been looked at in a non-inflammatory atmosphere with perhaps an amicable resolution if her concerns were considered to be genuine and properly founded. The letter said that in any event they would respond to correspondence which they had received from the City of Perth. The letter was signed by Mr Marcus B. Plunkett, Director, Plunketts Joinery. There we have it: a very clear neighbourhood dispute instigated by the minister herself, if we are to believe the letter that I have just read out.

These matters might appear frivolous in terms of neighbourhood disputes. I know that many people get caught up in neighbourhood disputes. I make no comment about who was right and who was wrong in that neighbourhood dispute. However, I do say that if a minister of the Crown is charged with making a decision relating to someone with whom the minister has had a bitter neighbourhood dispute, the minister should immediately stand aside; yet it took the opposition to raise this matter before the minister would even consider standing aside.

It is inconceivable to believe that, having paid \$1 200 in court costs to the Plunketts and having had a bitter neighbourhood dispute with them in 1992, the minister did not know that the land in Moore River was owned by the same Plunkett family. They are not exactly "Smith" or "Jones", are they? I suspect that there would not be too many Plunketts around the place. Indeed, the minister received correspondence from Mr Marcus Plunkett about their initial neighbourhood dispute, and I understand she received correspondence from that very same person about the Moore River property. This matter raises all sorts of questions, notwithstanding the question of private property rights, that must be answered by the minister. Who in this Parliament could sit in this place and be happy to learn that somebody had spent \$5 million on developing his land, based on the existing land zoning, only to be told that the land would be rezoned and was now worthless? Does any member, even on the Labor side of this house, believe that it is a good thing? Does any member believe that with the stroke of a pen this land should be rezoned and we should forget about the \$5 million that these people have spent? I have no particular brief for the Plunketts; I hardly know them. I think I have met them on one occasion. I have researched all of these documents and I am convinced that the minister opposite has a very clear conflict of interest with this issue. The real question is: how far back does the conflict of interest go? As I said earlier, during the 2001 election campaign, the Minister for Planning and Infrastructure released no less than three or four statements putting a shot across the bows of the Plunketts saying that she would scale back or reverse some of the decisions about that land in Moore River. When the minister put out those press releases, did she have a sly snigger and think to herself that the Plunketts would not be too happy with this, the very same Plunketts that she had a neighbourhood dispute with between 1981 and 1992; that is, over 10 years worth of neighbourhood disputes? It did not stop there, because as soon as she got into government, she made all sorts of noises on radio and in the press about the need to rezone the Plunketts' land. In this day and age, one cannot put up with a conflict of interest like that. Did the minister know that these were the same Plunketts that she had had this neighbourhood dispute with? Was the minister aware of that?

**Ms A.J.G. MacTiernan:** Of course I knew. I had discussions with Marcus Plunkett.

**Mr M.J. BIRNEY:** Yet the minister did not see the need to stand aside from determining this appeal.

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**Ms A.J.G. MacTiernan:** It was ancient history. There was no conflict.

**Mr M.J. BIRNEY:** What does the Premier think about that?

**Dr G.I. Gallop:** Wherein lies the conflict?

**Mr M.J. BIRNEY:** I will tell the Premier wherein lies the conflict. The minister tried to pinch the Plunketts' land off them in a legal sense, and she failed; she had to pay \$1 200 court costs; then she complained to the Perth City Council about noise coming out of their property. That was a particularly bitter neighbourhood dispute. Now, she is looking at rezoning their land, and the Premier says where is the conflict! Is he joking? Is this the same Premier who went to the last election talking about openness and transparency and all those sorts of things? He asks where is the conflict.

I want to comment about a couple of these matters, because I have about only one minute left. The member for Moore will want to add a few points. The Plunkett family spent their money in good faith. The Plunketts were given an urban zoning and they have gone ahead with their development, but they have now hit a brick wall. The Gingin coast structural plan, when it was first put out for public comment in December 2003, actually had the Plunketts' land zoned urban, but something happened between 2003 and 2005 when the Western Australian Planning Commission came back and said it had made one little modification to the plan and that involved the Plunketts' land. Did the minister have any involvement during that period from 2003 to 2005?

**Ms A.J.G. MacTiernan:** Of course we did. We had a policy. We made it very clear.

**Mr M.J. BIRNEY:** The minister made that clear after the Gingin coast structural plan came out.

**Ms A.J.G. MacTiernan:** Mr Plunkett wrote to me, or contacted me somehow or other, and said that he thought it was unfair that it was going to be changed without it being put out for public comment, and I agreed.

*Point of Order*

**Mr R.C. KUCERA:** This is a fairly sensitive issue. I do not think it is proper that people should use telephones in the Speaker's gallery. I just bring that to your notice, Madam Deputy Speaker. It is not appropriate.

**The DEPUTY SPEAKER:** That definitely is a point of order that will be upheld. The use of mobile phones in the Speaker's gallery and in this room is not appropriate, and I would ask that people desist.

*Debate Resumed*

**Mr M.J. BIRNEY:** Between 2003 when the original Gingin coast structural plan came out with the urban zoning and 2005 when it was changed to rural zoning, is the minister telling me that she had some involvement in the changing of that zoning?

**Ms A.J.G. MacTiernan:** As did the Minister for the Environment. We had several -

**Mr M.J. BIRNEY:** So the answer is yes or no?

**Ms A.J.G. MacTiernan:** Yes, absolutely.

**Mr M.J. BIRNEY:** So here we have it, Madam Deputy Speaker: the people responsible for drafting and presenting the Gingin coast structural plan thought that that land should be zoned urban and the minister, by her own admission, forces them to rezone it rural. By her own admission, she got herself involved and then had it rezoned rural.

**Ms A.J.G. MacTiernan:** Can I just be clear. The first time that I heard that it was proposed that it be rezoned rural was when the recommendation came to me from the Planning Commission. That had not been what we were necessarily looking at. We said, "Here is our policy; we need to ensure that this policy is put in place."

**Mr M.J. BIRNEY:** The policy was that it should be rezoned rural.

**Ms A.J.G. MacTiernan:** No, it was not. It was -

**Mr M.J. BIRNEY:** I have to finish in a minute, but there is another question I want to ask the minister.

**Ms A.J.G. MacTiernan:** It was to scale back the development.

**Mr M.J. BIRNEY:** As I understand it, the Gingin coast structural plan, which has now been adopted by the WA Planning Commission, has to go to the minister for approval; is that right?

**Ms A.J.G. MacTiernan:** That is right.

**Mr M.J. BIRNEY:** Will the minister also stand aside from that decision?

**Ms A.J.G. MacTiernan:** I am more than happy to put this to cabinet.

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**Mr M.J. BIRNEY:** There are two matters that have to be determined by the Minister for Planning and Infrastructure, both of which the minister should bar herself from hearing and determining. The first is the matter of the Plunkett family appeal for their subdivision. The minister has already acknowledged that she will stand aside from determining -

**Ms A.J.G. MacTiernan:** Hold on. I said I would publish the recommendations and that we would take advice on whether we could give it to cabinet or -

**Mr M.J. BIRNEY:** Will the minister stand aside?

**Ms A.J.G. MacTiernan:** I am just getting some legal advice on what my capacities are.

**Mr M.J. BIRNEY:** If the minister has the legal capacity to stand aside, will she then stand aside?

**Ms A.J.G. MacTiernan:** The member is saying that because I am prepared to consider my position, my position was wrong. I do not accept that, because there was absolutely no issue for me.

**Mr M.J. BIRNEY:** Why is the minister going to stand aside then?

**Ms A.J.G. MacTiernan:** Because if that is what the Plunketts think, it astounds me.

**The DEPUTY SPEAKER:** Order, members on my left! I choose to hear one person at a time in this place while I am in the chair. This is not a football scrum. That goes for people on both sides of this house. The Leader of the Opposition sought an interjection from the minister. He was getting a reply, but none of us could hear it because members all thought they would join in. It is totally unacceptable. I have called two members to order three times each, and several have been called to order twice; members should not push their luck with me today.

**Mr M.J. BIRNEY:** I will finish here, but I want to make the point very clearly so members understand it. There are two matters that the minister has to determine, both of which she should stand aside from. The first is the Plunketts' appeal in respect of their subdivision application that was rejected. The minister should immediately make a statement this afternoon that she will stand aside from hearing that appeal. The second is the minister's ratification of the Gingin coast structural plan. As far as I can ascertain, there has only been one major change to that coast structural plan since its tabling in 2003, and that relates to the Moore River land that it is now suggested should be rezoned. The minister must sign off on that Gingin coast structural plan that has been presented to her by the WA Planning Commission. I also urge the minister to stand aside from making that decision on the Gingin coast structural plan. Anything less than that will either be a real or a perceived conflict of interest. The Premier has spoken often about transparency and openness and conflicts of interest. There is no way that this minister can determine that appeal and sign off on the Gingin coast structural plan given her long and bitter history with the Plunkett family. To do so would be an absolute travesty.

I want to finish on this point: if we had not raised this matter in the Parliament today, the minister would not even be considering standing aside from the matter. That speaks volumes about the Labor Party.

**MS A.J.G. MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [3.08 pm]:** I want to make it clear that this is an absolutely extraordinary claim. I certainly could not remember this adverse possession thing. It happened, and I have to say that at that point -

**Mr R.F. Johnson:** How would you forget that?

**Ms A.J.G. MacTIERNAN:** I want to make this point. The member may not accept this. At that point, I was in fact not living at Harold Street, Highgate.

**Mr T.R. Buswell:** Did you pay the court costs?

**Ms A.J.G. MacTIERNAN:** No, I did not. It was not an action that -

**Mr M.J. Birney:** You don't remember it, so how do you know?

**Ms A.J.G. MacTIERNAN:** I remember there being a discussion about this matter, but I certainly do not remember the detail. It was not an action that I initiated. This has been made out to be well beyond what it was. This is ancient history.

Several members interjected.

**Ms A.J.G. MacTIERNAN:** Madam Deputy Speaker, I really must demand that I be given an opportunity to respond, because very serious -

**Ms S.E. Walker** interjected.

**Ms A.J.G. MacTIERNAN:** Would the member for Nedlands mind letting me answer this question?

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**Ms S.E. Walker** interjected.

**Ms A.J.G. MacTIERNAN:** The member for Nedlands is not giving me an opportunity to respond.

Several members interjected.

**The DEPUTY SPEAKER:** Members may think it is humorous, but I noted that the minister listened to the Leader of the Opposition and others, so I expect her to be accorded the same courtesy.

**Ms A.J.G. MacTIERNAN:** Thank you, Madam Deputy Speaker. I will explain the situation. There was a huge factory wall, maybe 20-foot high, along the back of the property, and then there was our property. There was nothing between the two. There was a dispute about where the fence line between the properties should be, because there was no fence. We always thought the large brick wall was the boundary of the property, because there was no fence. We are talking about two feet of land that we believed was part of our property. I do not remember this matter ever going to court.

**Mr T.R. Buswell:** You have remembered half of what you did not remember.

**The DEPUTY SPEAKER:** Order, Deputy Leader of the Opposition!

**Ms A.J.G. MacTIERNAN:** I do not remember this matter going to court, partly because I was not living in the property at the time.

**Mr M.J. Birney:** Sorry, it did not go to court. You settled out of court. You agreed to pay costs of \$1 200.

**Ms A.J.G. MacTIERNAN:** I thank the Leader of the Opposition for that information. I had no recollection of that.

**Mr T.R. Buswell** interjected.

**Ms A.J.G. MacTIERNAN:** I did not recall the matter. This occurred 24 years ago. I do not want to go into the details of why I was not living at the house at that time. However, I recall that there had been a lack of clarity about the boundary of the property because there was no fence. When I returned to the property, there was a problem with the Plunketts operating the factory at the weekend. There was a great deal of concern in the community about the noise that this created. We attempted on several occasions to engage with the Plunketts to address this matter, but they refused to accept that anything was going on. This is ancient history. It never occurred to me that anyone would consider this to be an issue. However, if this family and this landowner believe that that is what is motivating me -

**Ms S.E. Walker:** If you can't see it, resign.

**Ms A.J.G. MacTIERNAN:** I give up.

**The DEPUTY SPEAKER:** Members can disrupt a member on his or her feet in a range of ways. It does not mean that a member must shriek across the floor. If I find anyone continuing to disrupt, in any manner, the member who has the call, that person will be called to order.

**Ms A.J.G. MacTIERNAN:** As I said, this occurred a long time ago. It is certainly not something that loomed as an issue in my mind. It did not motivate me and it did not inform the policy that was developed in any way, shape or form. However, if Mr Plunkett believes that this was my motivation, of course that concerns me. On that basis, I am prepared -

**Mr M.J. Birney:** It is a perceived conflict.

**Ms A.J.G. MacTIERNAN:** If Mr Plunkett perceives that this is what motivated me, of course it concerns me. I am prepared to take steps to ensure that these matters are decided not by me but by cabinet. I would do that not because I have a conflict of interest, but because of what the Leader of the Opposition has told me. I have not heard this from Mr Plunkett. He has certainly not corresponded with me. The only correspondence I recall receiving was from his solicitors, after the recommendation was made under the structure plan, stating that this was a substantial change and that the matter should be advertised.

**Mr M.J. Birney:** Did he ask you to stand aside in that letter?

**Ms A.J.G. MacTIERNAN:** Absolutely not.

**Mr M.J. Birney:** Are you sure?

**Ms A.J.G. MacTIERNAN:** I will check, but I certainly do not recall that being the case.

I said that he was correct in saying that this was a substantial change and one that should be advertised. The matter was advertised and has now been determined by the Western Australian Planning Commission. The overwhelming response to that advertising was support for the recommendation to change the zoning. However,

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I agree that a perception of impartiality is very important. On the basis of Mr Plunkett's perception of my motivation in this matter, I have no difficulty whatsoever in allowing the decision to go to cabinet. I do not like being in a situation in which people's expectations are not met. Indeed, we have been very keen to determine whether there is some way to accommodate and ensure the potential for development of the land. I very much want that land to have development potential. I also make it clear that the town planning appeal will be heard by the State Administrative Tribunal, which will make public recommendations.

**Mr M.J. Birney:** Why can't SAT determine it?

**Ms A.J.G. MacTIERNAN:** We are trying to get advice on whether it can determine it. Our interim legal advice suggests that there may be some mechanisms for doing that.

I do not have a conflict of interest. This is ancient history. I am not even sure of the direct relationship between the entities that hold this land and the entity that held the factory. If this is what the appellant feels, I am more than happy to put in place a process that would give the appellant comfort that I have no personal motivation for my conduct in this matter.

**MR G. SNOOK (Moore)** [3.18 pm]: My comments follow those of the Leader of the Opposition. This debate raises the issues of natural justice and procedural fairness, which strike at the very heart of the rights of property owners. This issue smacks of a severe conflict of interest on the minister's behalf, and contradicts many of the things the minister is on the record as having said in Parliament about natural justice and procedural fairness in planning matters. Her comments can be found in *Hansard*. This is hypocrisy at its best. The minister said during question time and on other occasions that the environment is the key issue. It has been clearly outlined today that the key issue is more than just the environment. When a person in local, state or federal government has a perceived conflict of interest, the rules are clear and concise. To uphold the standard of propriety, the person with the perceived conflict of interest should step aside. That rule is unequivocal. That leaves no doubt or question about the person's ability to handle an appeal or, in the case of the minister, determine the serious precedent of downzoning. This matter is exceptional. The minister admitted in the house today that the downzoning of land does not occur on a common basis. It is a rare occurrence. Indeed, she quoted only one other instance.

I refer the minister to the length of time that this development proposal has been under way. In 1987, the Moore River Company - the Plunkett family - first approached the Shire of Gingin to discuss the prospect of development on its property. That was normal practice, and the process began. As with all developments in sensitive areas - which Moore River is; nobody doubts that - there was some concern in the community and opposition to the development. That is a natural occurrence. A lot of strategic planning and work was done in the planning process prior to the Gingin Coast Structure Plan Community Advisory Group starting work a few years ago. In the late 1980s, the central coast - with the assistance of the then Department of Planning and Urban Development - was preparing a central coast planning strategy. The plan in itself finally identified south Guilderton, among other patches of land up and down the coast, as suitable for urban development. The decision to develop was not taken without a lot of consideration. The proper process has been followed. It has been said that there was no formal assessment by the Environmental Protection Authority. As we all know, the EPA is an independent body that provides advice. I do not believe that it needs to be questioned. Its advice was that there was no need for a formal assessment. That is not unique, as the minister knows, in terms of subdivision approvals. It has happened in lots of local authorities on lots of occasions. That is the call of the people in that position.

In the past, the Minister for Planning and Infrastructure has spoken at length about natural justice and procedural fairness. Much has been said over the past couple of days and during interjections in the debate today about previous planning ministers. I refer members to the *Hansard* of 29 March 2000 and the second reading debate on the Planning Appeals Bill. I will quote what the minister said in her second reading contribution, when she was an opposition member, to emphasise her strong belief in natural justice and planning procedural fairness and openness. She stated -

However, if the minister had listened to any of the critics of the ministerial appeals system, he would have understood that the problem was that principles of natural justice and openness and transparency do not exist, quite aside from the nature of the minister's involvement. However, the various people who have argued against ministerial appeals have obviously been unable to get the minister to understand that the issue goes to the core of the system we should be establishing.

The planning minister at the time was Mr Kierath. As an opposition member, the minister argued strongly for transparency, openness, procedural fairness and natural justice. In that record of *Hansard*, she quotes the need for procedural fairness and natural justice five times. In the *Hansard* of 18 August 1999, there are more comments about natural justice and procedural fairness. This issue is about the need for the minister to step

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down and distance herself from the determination of this issue. The evidence before us today is concerning - the minister herself has admitted that. Given her vast experience in his place, the minister should resign. Alternatively, the Premier should dismiss her.

**DR G.I. GALLOP (Victoria Park - Premier)** [3.24 pm]: I take this opportunity to comment on this afternoon's debate. First of all, I rebuke the member for Cottesloe. Sometimes during a debate there are occasions on which it is necessary for a member to leave the chamber for a brief period to collect notes, answer the call of nature or something like that. Every time a member does that, he or she would not expect to be interjected on or criticised by a fellow member of Parliament. I have fully listened to all the issues raised in this debate.

I will move on. First of all, this has been a very contentious issue. Certainly in the lead-up to the 2001 election, I remember many representations being made to the then opposition about the decision to zone this particular area urban. There is no question that it is very contentious. Moore River is an iconic part of our coastline. If that area were undermined, we would lose something of real value in Western Australia.

Since we came to government, we have been trying to carry out the policy that we put to the electorate in 2001. I am very disappointed that the perception that the minister may have a conflict of interest in this matter was not raised before. It certainly was not raised with me as Premier. The issue has now been raised by the opposition in Parliament. The opposition has the right to raise the matter. The government is doing two things. First of all the minister, who is a person of integrity in these matters, has made it clear that if she was informed that the proponent in this case had a perception of a conflict, that is a matter to which she would give serious consideration. That is the quality of the minister. Secondly, we are currently taking advice on the question of what may be possible in terms of the perception of the proponent that the minister considering the issue has a conflict of interest. We are taking advice on whether it would be possible to have this matter considered in some other way, as a result of the proponent's perception. That is the way in which we deal with these issues. Members may recall that with respect to the Ningaloo question, the minister at the time felt that because she had a position on that matter previously, it was appropriate that someone else consider it. That is what happened. We are currently taking advice on the question of the appeal against the Western Australian Planning Commission's refusal of the subdivision and the Gingin structural plan. We are doing that in the context of the minister herself acknowledging that if the proponent perceives that bias will be exercised because of the issue that occurred a long time ago, she will be happy to stand aside. Secondly, we are looking at the possibilities that may be available. I conclude by saying how disappointing it is that the proponent did not raise with the government the matter of a previous conflict. Many members of this Parliament have been in local government. There are always issues about neighbourhood conflict and whether it is appropriate for a particular development to occur in a particular area. Lots of these issues come up in the course of members performing their duties. If members of the opposition argue, when they find themselves as ministers, that every time that happens they will have to preclude themselves from making decisions on the issue, then there will be a lot of movement within government with respect to decision making.

We have no problem looking at the claim of the proponent with respect to fairness. The minister has indicated that she has no problem looking into that. We are disappointed that the matter was not raised directly with us. Now that it has been raised, we will look into this issue and take legal advice on it.

**MR J.N. HYDE (Perth)** [3.30 pm]: The Plunkett family has owned land in Highgate since the 1880s. I understand that the late Tom Plunkett was head of the company at the time alluded to. The Leader of the Opposition mentioned a person named Marcus. I do not know whether he was the owner. Those members who have been involved in local government would know that at that time the term used if a councillor was a near neighbour was "interest in common". The Leader of the Opposition gave the address, quite rightly, of the Plunkett family home owned by Tom Plunkett as being Smith Street.

**Mr M.J. Birney:** Over the back lane.

**Mr J.N. HYDE:** Over the back lane, down a hill, through the trees. I was one of the people at the time who voted for the member for Armadale as a north ward councillor. Many of us did. We wanted local councillors to be involved in the local neighbourhood. Hundreds and hundreds of people were involved in a group called the Inner City Residents Association, which has since folded. The former Plunkett factory, which was a blight, has been redeveloped into wonderful inner urban residential blocks that were sold off by the Plunkett family for a very good sum. Rates have gone up in the area because the area has been cleaned up.

The Leader of the Opposition made assertions that this was a personal issue. It is not at all. We had the Inner City Residents Association, of which the now Minister for Planning and Infrastructure was a member, although not an overly active member, and a local ward councillor. I have spoken to one of the few remaining people

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involved in the residents association. Like Tom Plunkett, many of the people involved have since passed on. This issue is well part of history.

Since the 1880s the Plunkett family bought up surrounding blocks and developed them. It actually developed project homes in the 1880s. We still have about three local homes that were project homes developed by the Plunketts. Unfortunately, 100 years later -

**Ms S.E. Walker** interjected.

**The DEPUTY SPEAKER:** Order! I call the member for Nedlands to order for the third time and remind her, as I did before, that there are a number of ways she can disrupt a member on his feet. She just did. She should not repeat the exercise.

**Mr J.N. HYDE:** In the 1980s, 100 years later, the factory was on a downhill slope and no longer used primarily as a factory, but the company at the time had bought up a number of surrounding heritage properties. As was the case with developers in those days, they would buy up heritage properties, run them down, allow tenants with particular associations or a penchant for motorbikes and other such vehicles to move in, and then apply to the council for a demolition. There were complaints from local residents and the local council in the then City of Perth regarding the laneway owned by the Plunkett family. It was not a public right of way. It was being used for drug deals. Syringes were being thrown around. A major pine tree was continually set alight. Homes owned by the company were eventually amalgamated into a super block. The super block was sold off to make way for the wonderful development that is there now. These houses were run-down and frequented by bikies and drug dealers. That area was a social issue bonfire. It was purely on planning grounds that the homes were not made safe, so it was easy for vagrants and others to live there.

The original Plunkett family home was owned by Tom Plunkett but it had not been lived in by him for many years. A young person, an adopted member of the family, I understand, was in there and there were significant complaints about parties and other issues. Many residents complained about this urban blight. When I was elected as the local councillor and our council looked at rezoning former industrial land for residential purposes, it was a very easy decision to change the zoning of the Plunkett land from factory, which was not making much income, to residential. That land was then easily sold off, and it has developed into a top residential development today.

When the factory at the back was not being used, it was not secured. There were an enormous number of call-outs for police, and drug deals were being done. The residents surrounding the laneway contacted not only local councils but also other activists involved, wanting to buy the laneway. They said, "If you're not looking after this private laneway, sell it off to some of us." This afternoon I spoke to one of the few remaining neighbours - the others have died - who said that the Plunketts had refused to sell that section of the laneway. Eventually it was sold to a developer who onsold it to some of the residents.

There was enormous publicity at the time. Some members on the front bench of the Liberal Party were still in year 9 or 10 at the time. There was considerable angst among local residents. Today, because of the action of community activists and local councillors such as the member for Armadale, who did the right thing in respecting their constituency, that area is a residential shining light for us. Crime in the area continues to go down; it is now down by 30 per cent. It is totally different from 20 years ago. If the focus of the opposition is no longer on the 76 per cent of Western Australians who live in metropolitan Perth but is now on regional people, the opposition should be making sure, whatever decision is made in a town planning appeal tribunal, that the rights of residents and the protection of the environment with regard to noise and sustainability are looked after.

I remember as a local government mayor and councillor the number of times we were overridden by former planning minister Graham Kierath. The Gallop Government has left ministerial decision making for only those matters of regional significance. That is a very, very important change. It has been one of the big drivers of the development of industry in this state, because developers are certain that a Liberal cabinet member will not be going up to Graham Kierath with a wink and a nudge and getting something overturned. Developers have security in this state. Development is going ahead because developers know that decisions are made transparently and in an open fashion. When the opposition was in government, it should have put in the planning scheme and treated developments in the way the Gallop Labor government has done. Development in this state is now not only more transparent and secure but also sustainable. The opposition must take into account that the views of the community must be considered by a planning tribunal, the town planning body and, more importantly, the minister, if issues of a state or regional nature must be resolved. The minister has acted more than appropriately in this matter. If the Mr Plunkett for whom the opposition is operating is not the same Mr Plunkett whose company was involved in a dispute with the now minister, then the opposition should encourage the company to approach the government directly rather than try to raise a silly stunt such as this today. The

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opposition has fallen on its face yet again. The opposition is wrongly trying to criticise a proper process that has been transparent and above board. This is the way planning should be operating in Western Australia.

Question put and a division taken with the following result -

Ayes (20)

Mr C.J. Barnett	Mr M.J. Cowper	Mr J.E. McGrath	Mr T.R. Sprigg
Mr M.J. Birney	Mr J.H.D. Day	Mr P.D. Omodei	Mr T.K. Waldron
Mr T.R. Buswell	Dr K.D. Hames	Mr D.T. Redman	Ms S.E. Walker
Mr G.M. Castrilli	Ms K. Hodson-Thomas	Mr A.J. Simpson	Mr G.A. Woodhams
Dr E. Constable	Mr R.F. Johnson	Mr G. Snook	Dr G.G. Jacobs ( <i>Teller</i> )

Noes (27)

Mr J.J.M. Bowler	Mr J.C. Kobelke	Mr A.D. McRae	Ms J.A. Radisich
Mr J.B. D'Orazio	Mr R.C. Kucera	Mr N.R. Marlborough	Mr E.S. Ripper
Dr J.M. Edwards	Mr F.M. Logan	Mrs C.A. Martin	Mr T.G. Stephens
Dr G.I. Gallop	Ms A.J.G. MacTiernan	Mr M.P. Murray	Mr P.B. Watson
Mr S.R. Hill	Mr J.A. McGinty	Mr A.P. O'Gorman	Mr M.P. Whitely
Mrs J. Hughes	Mr M. McGowan	Mr J.R. Quigley	Mr D.A. Templeman ( <i>Teller</i> )
Mr J.N. Hyde	Ms S.M. McHale	Ms M.M. Quirk	

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Pairs

Mr B.J. Grylls	Mr A.J. Carpenter
Dr S.C. Thomas	Mrs M.H. Roberts
Mr D.F. Barron-Sullivan	Mr P.W. Andrews

Question thus negatived.