

METROPOLITAN REGION SCHEME AMENDMENT, SOUTHERN RAIL LINK

88. Mrs C.L. EDWARDES to the Minister for Planning and Infrastructure:

I refer the minister to her answer to a question without notice asked on 22 August in relation to minor amendment 1060/33A, which will allow for the construction of a railway along any primary regional road or other regional road reserve in the metropolitan area, in which she stated -

The only reason we would go down the minor amendment route rather than the major amendment route is timing.

- (1) Will the minister acknowledge that minor amendment 1060/33A will enable the construction of the southern rail link down the centre of the Kwinana Freeway to proceed, without developmental approval, on land that is currently reserved for road and not rail?
- (2) If, as the minister said in her personal explanation on the same day, the MRS amendment is not specifically intended for the construction of the southern rail link and timing is therefore not an issue, why is she not progressing it as a major amendment?

Ms A.J. MacTIERNAN replied:

- (1)-(2) I will take a little time to go through this. It is one of a few planning issues we have seen the Opposition run around with. It is quite complex so I will go through it. Members will recall the 1999-2000 case in which the City of Bayswater took what was then Family and Children's Services to court to contest the construction of a children's hostel within the City of Bayswater on the ground that developmental approval was required under the Metropolitan Region Town Planning Scheme Act. The court found in favour of the City of Bayswater. Prior to that, it had been assumed that the provisions of the 1928 Town Planning and Development Act prevailed. That Act provided that no developmental approvals were required for public works. That was the basis on which everyone had proceeded since 1928. The 1999-2000 City of Bayswater case regarding land zoned under the metropolitan region scheme turned that on its head. Minister Kierath then acted very quickly and withdrew the local government delegation regarding planning approvals for public works. We backed him on that. We said that that was the right thing to do. The minister then sought to ensure that proposals for a variety of public works, particularly those involving schools or road construction, should not be required to be considered by the Western Australian Planning Commission. If those sorts of steps were not taken, we would need developmental approval every time we wanted to build a road on a road reserve or move a fence or a demountable classroom in a high school. The member's Government of the day moved a minor amendment - one of those horrible minor amendments - to provide that various types of public works on reserves that were held for public purposes did not require planning approval; that is, they were not required to go to the Western Australian Planning Commission. This process was started under the member's Government. The proposal then came to me to sign off. I tightened the provisions after concern was expressed about a decision by the former Minister for Planning about a housing estate that was approved at Murdoch University. There was some concern that the process could be abused, so we tightened it to ensure that people could not do things like develop a housing estate on an area that was zoned for a high school without obtaining planning approval. In that tightening process -

Mr P.G. Pendal: You are completely misrepresenting the position.

Ms A.J. MacTIERNAN: This is a complex matter, and I need to go through it step by step. I understand that the member for South Perth might be having some difficulty concentrating on the logical process. However, I know that the member for Kingsley does not have that problem. I will ensure -

Mr P.G. Pendal: Your problem is that you do not want this to go before Parliament. Own up to that.

Ms A.J. MacTIERNAN: The member should tell me in which way I have misrepresented the facts. He is a crusty old conservative who was quite happy to support the minor amendment process when it was proposed by the previous Government.

Mr P.G. Pendal: No, I was not. That is an untruth and you know it. That misrepresents the position of two previous ministers, and you know that too.

Ms A.J. MacTIERNAN: Absolutely not! I tightened this up, but in the process I went too far. Without any involvement from me, the Western Australian Planning Commission then asked whether I would consider a further minor amendment to basically put into effect what had been proposed under the previous Government, and I agreed to that. There is no way that this will be hidden from the scrutiny of the Parliament. The railway enabling Bill is listed on the Notice Paper. This Parliament has to approve the legislation. There will be full public scrutiny in this Parliament of the proposal to develop the new rail link.

