LAND ADMINISTRATION AMENDMENT BILL 2000

Second Reading

Resumed from 14 November.

HON TOM STEPHENS (Mining and Pastoral - Leader of the Opposition) [3.24 pm]: Prior to the adjournment of this matter two days ago, I indicated to the House that I had sought some information from the departmental officer who was briefing me on this issue, but that it had not yet arrived. I am told that it had arrived in my office.

Hon N.F. Moore: I do not propose to take a vote on the second reading this week.

Hon TOM STEPHENS: I thank the Leader of the House. I apologise to the officer, who went to considerable lengths to obtain the information that I sought on one issue and to relay it to my office. Apparently the information was relayed to me but, for whatever reason, it did not adequately register with me that I had it. That is my failing.

Hon N.F. Moore: It is an obscure explanation.

Hon TOM STEPHENS: The officer is blameless. The blame rests with me. I thank the officer for making the information available to me and I apologise for what appeared to be a reflection on that officer for not passing on the information.

My question was put verbally and the reply was given verbally. Notes which my staff took during that conversation are now in front of me. I am not saying that this is the final word on it, but it provides the opportunity, in this debate, to register these points. If my understanding of these notes is incorrect, I encourage the minister to correct any mistake I make during his reply.

My question relates to the effective difference between the way in which land is currently excised, or taken from a pastoral lease, and that which will apply once the Act is amended by this Bill. If land, in future, is to be excised, for whatever purpose, when a pastoral lease is renewed, it will be a statutory requirement - if the amendments proposed in the Bill are passed - that the pastoral leaseholder be notified within a two-year period, and that a further two-year period be available for negotiations. If a future Government seeks an excision from a pastoral lease and does not comply with that two-year notification period envisaged in the Bill, what will be the Government's obligations? What will be the compensation rights of the pastoral leaseholder? The notes I have in front of me offer some guidance about provisions covering compensation, non-extension of an existing pastoral lease, and excision from an existing pastoral lease in the Land Administration Act 1997. Under section 114(3), compensation is for only the market value of any lawful improvements to the land under the lease. Section 242(2) covers normal compensation, which includes the value of the lease, any improvements or injurious affection. Section 241(6) reads -

> Regard is to be had to the loss or damage, if any, sustained by the claimant by reason of -
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> (a) removal expenses;
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> (b) disruption and reinstatement of a business;
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> (c) the halting of building works in progress at the date when the interest is taken and the consequential termination of building contracts;
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> (d) architect's fees or quantity surveyor's fees actually incurred by the claimant in respect of proposed buildings or improvements which cannot be commenced or continued in consequence of the taking of the interest; or
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> (e) any other facts which the acquiring authority or the court considers it just to take into account in the circumstances of the case.

They are the notes I have. I endeavour to understand them against the background of my knowledge of the way in which the Land Administration Act works and its interface with the Public Works Act 1902. I was thinking earlier of the State Government's successful plan to acquire the Waterbank pastoral lease. It was the ambition of both the previous Labor Government and the current Government to obtain the lease. It was necessary to do so to enable the orderly expansion of the township of Broome. The pastoral lease is adjacent to the town site. There were conservation and environmental considerations that justified the Government's pursuit of the lease. The process of acquisition included arbitration intended to derive a price for the relinquishment of the pastoral lease by the Higgins family, the former owners. The Higgins family had no great desire to relinquish the lease. They were eventually successful in securing an agreement that, by and large, has been made public by the current Government. If my memory serves me well, the agreement allowed the family to keep some freehold

land around the homestead on the Waterbank pastoral lease. I believe there are opportunities for the land to be used for commercial and horticultural purposes. A significant payment of funds, in the order of $1.939m, was made to the Higgins family. The surrender of the pastoral lease to the Crown involved a major allocation of funds from the State to the Higgins family, under part 9 or 10 of the Land Administration Act.

If Waterbank is a yardstick against which other pastoral leases in the State can be measured, there are questions about the situation the State will face if it subsequently identifies areas that it wants to excise from pastoral leases which are otherwise scheduled for renewal after 2015. Waterbank has some distinctive features: It is in a unique situation, in close proximity to a town in which land is extremely valuable. Broome is expanding rapidly. The land is of enormous interest to other potential users. What will be the yardstick for future relinquishment of pastoral leases? The question is of great interest to pastoral leaseholders. There may be an enormous cost to the Government and, therefore, the taxpayers of Western Australia. I hope the minister's reply to this part of my speech sheds some light on the anticipated implications of the future relinquishment of pastoral leases when it is done for public purposes and outside the provisions of this Bill, which triggers the two-year period.

Other issues arise from the Bill. Some pastoral interests and station proprietors are of the view that they have not received adequate briefing about the detailed provisions of this legislation. They are complaining about it. Since I last spoke in the House on this issue, I have made inquiries of the Pastoralists and Graziers Association, the Western Australian Farmers Federation and the Western Australian Municipal Association, seeking their views on the Bill. The Pastoralists and Graziers Association was quick to respond. It sent me a note written on the bottom of the fax that I sent it. The PGA assured me that it supported the Bill. The Western Australian Farmers Federation also indicated support. Again, I do not have the two items of correspondence at the moment. The Farmers Federation made an additional comment, which I cannot recall specifically. I have not had any response from the Western Australian Municipal Association. Despite the support of the Pastoralists and Graziers Association, at least some of its members have concerns.

From my own quick reading of the Bill, I am particularly surprised to find within it a requirement, which will come into effect following the passage and enactment of this Bill, that will obligate a pastoral leaseholder to seek and obtain a permit to hold or sell stock other than horses, sheep and cattle. That bold, bland, new provision planned for the Land Administration Act is without any qualification. I am not unfamiliar with the way many pastoralists around this State operate. Many of them have other sides to their businesses. Some of them will have small aspects to support their lifestyles at the homestead, including small numbers of stock such as chickens and pigs, as well as other livestock, upon which they draw their livelihood.

Hon N.F. Moore: And goats.

Hon TOM STEPHENS: There may be some who have goats in small numbers. Lucky them!

Hon Greg Smith: They are the unlucky ones.

Hon Ken Travers: The ones who have them in small numbers are the lucky ones.

Hon TOM STEPHENS: That is right. It is up for dispute. These days they are generally considered lucky. The fascinating development over recent years in the mustering of goats is that, because of the changed market situation, they are now a valuable commodity. Disputes are now occurring between pastoral leaseholders over people stealing their goats.

Hon Greg Smith: There have been more arguments between pastoralists over goats than there have been over sheep and cattle.

Hon Ken Travers interjected.

Hon TOM STEPHENS: That is not the case. I know that I am very successful in obtaining votes from some sections of the pastoral industry.

Hon Ken Travers: I was not referring to you.

Hon N.F. Moore: We know which sections they are.

Hon TOM STEPHENS: No, it is a variety of sections.

Hon Greg Smith: You just took it for granted that he was referring to you.

Hon TOM STEPHENS: There is some sense to a provision that requires a permit for the husbanding of large quantities of goats on a pastoral lease, but this provision seems to capture absolutely everybody with everything. I would appreciate some explanation about whether that is what is intended or whether the Government would entertain an amendment to that provision to exclude non-commercial ownership and holding of stock around the

homestead for the use of the family. I do not see why station people should be forced to obtain a permit if they have a small number of chooks and a few pigs.

Hon Greg Smith: And a peacock.

Hon TOM STEPHENS: And whatever else they have around the homestead. Essentially that is their business. Why should they have to go to a minister or a department to seek a permit for such possession of stock? If they choose to sell a pig or two, that is their business. I cannot see why this Bill includes a blanket requirement that people who have anything other than horses, sheep or cattle must go to the Government. This smacks of 1984; it is like Big Brother, *Citizen Kane*, the Government standing over -

Hon N.F. Moore: The Burke Government.

Hon TOM STEPHENS: I know it escaped the minister, but it was an allusion to classical literature. He will read about these things in his retirement.

Hon N.F. Moore: I know about 1984; I remember 1984 well.

Sitting suspended from 3.45 to 4.00 pm

Hon TOM STEPHENS: The provision that imposes a blanket requirement on pastoral leaseholders to seek and obtain a permit before they can hold or sell stock other than horses, sheep or cattle strikes me as overkill. The Government should consider amending the requirement so that station-owners are free to keep around their homesteads animals that cause no-one any inconvenience or do not damage the environment. If it were a matter of stocking vast quantities of pigs, goats or camels, a provision such as this would be sensible.

Hon B.K. Donaldson: Or donkeys.

Hon TOM STEPHENS: Yes, or donkeys. However, donkeys are a feature of many homesteads.

Hon B.K. Donaldson: We had a pet goat in our paddock.

Hon TOM STEPHENS: Many people enjoy having a couple of goats. They make good lawnmowers around the homestead area.

Hon Greg Smith: Hon Tom Stephens has done his run on the station.

Hon TOM STEPHENS: The member does not know everything about me.

Hon N.D. Griffiths: He is a lucky man!

Hon TOM STEPHENS: The requirement for a permit, without differentiation between one or two pets and the holding of large numbers of stock that might justify some departmental scrutiny, is overkill and unnecessary.

Hon N.F. Moore: I have got the message and I will have a look at the legislation.

Hon TOM STEPHENS: It is an invasion of the rights of station people.

The provisions that ostensibly deal with the Sunset Hospital site open up opportunities for Governments to deal with other, unspecified reserves. These provisions have been introduced in response to the Government's aims and objectives for the hospital site. However, an area has been highlighted and this legislation will create new opportunities for this and future Governments to deal with unspecified reserves. That requires more justification than was provided in the second reading speech. It would be worth the House knowing of the other reserves that led the Government to legislate in this area.

This Bill will alter the procedures for parliamentary scrutiny of dealings in crown reserve lands. That is in part a response to the relatively recent presidential ruling of 1 July 1999, which dealt with the effect of the prorogation of Parliament on certain motions. That ruling was prompted by a question I asked about matters that would lapse with the rising of the House and its subsequent prorogation. The President ruled -

> Section 43 of the Land Administration Act 1997 requires intended acts under other provisions of that Act to be put in the form of a proposal to both Houses and subjects that proposal to disallowance by either House.
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> Section 43(1) requires notice of a motion to disallow a proposal to be given within 14 sitting days of the proposal being tabled.

The proposal in question was a notice of disallowance that had been tabled on 12 May and moved by Hon Norm Kelly in the prescribed time on 23 June. The President went on to say -

> Because of the certainty of prorogation occurring between today and when the House next meets, the question I am asked to answer is whether, should the question remain unresolved when the House adjourns today, the proposal will be disallowed on prorogation by operation of Standing Order No 153(c). The cumulative effect of standing orders governing disallowance is to ensure that they are brought to resolution whether or not, in the case of prorogation, they have been debated. Leaving the House's rules aside for the moment, some consideration must be given to the applicable statutory provision, in this case section 43(1)(b) and (2) of the Land Administration Act.
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> Section 43(1)(b) states that if the disallowance motion "is not lost" within 30 sitting days of tabling, the proposed changes lapse. Subsection (2) discounts any prorogation occurring within the same Parliament in computing the 14 or 30 sitting days mentioned in subsection (1). In other words, "sitting days" are counted regardless of whether they occur in the same or subsequent sessions. However, section 43, so far as it provides for the computation of sitting days, cannot be read as overriding the common law effects of prorogation. In this case, prorogation kills off the disallowance motion. In this regard, I draw the attention of members to a ruling of President Griffiths given on 14 November 1991 regarding the Prorogation of Parliament Bill in which he held that any legislative alteration in the common law effects of prorogation were subject to section 73(2) of Constitution Act 1889 - that is, the referendum requirement.
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> Relevantly, subsection (2) would permit renewal of the disallowance motion in the next session were the number of sitting days within which notice might be given not exhausted. In this case, the available sitting days expire today, 1 July. Accordingly, when the current motion dies on prorogation it will not be possible to renew it when the next session commences in August. Conversely, had the proposal been tabled some time after 12 May, it seems clear that on the basis of the actual sittings of this House to this time, one or more sitting days may have been available in the next session to enable the motion to be renewed in accordance with the provisions of the disallowance procedures mandated by the Land Administration Act.
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> The issue then is whether the motion on the Notice Paper is one to which Standing Orders Nos 152 and 153 apply. They do not. Unlike section 42 of the Interpretation Act 1984 which provides for the disallowance of a regulation, but does not prescribe a maximum time within which a disallowance is to occur, section 43 of the Land Administration Act requires disallowance of an applicable proposal to be determined within 30 days of tabling. That determination must be by an actual vote of the House. I refer to paragraphs (b) and (c) of section 43(1) that require that the motion "is not lost" or "is lost". In parliamentary practice, something is lost if a majority votes against it or fails to carry it. What Standing Orders Nos 152 and 153 do for a regulation tabled under section 42 of the Interpretation Act is, namely, to bring the matter to resolution, as section 43(1)(b) and (c) do for a proposal. To the extent that standing orders are inconsistent with an express statutory provision, the standing orders must always give way.
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> Accordingly, although the proposal is a regulation within the meaning of Standing Order No 143 - that is, it is a statutory instrument capable of disallowance under a written law - it is not one by reason of section 43(1) to which the usual disallowance procedures apply because of the exhaustive nature of the scheme implemented by section 43 of the land administration Act. The 30-day sitting period cannot be cut back by operation of standing order 153. It cannot be made to apply merely because it is common knowledge that the prorogation will occur sometime between now and early August. I add that if Standing Order No 153 does not apply, then the pro forma provisions contained in Standing Order No 152, because of formal linkage between the two rules, also does not apply.
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> I therefore rule that section 43(1) of the Land Administration Act 1997 has effect despite Standing Orders Nos 143, 152 and 153, with the result that were Parliament not to be prorogued before the House next meets, the 30 sitting days provided for in section 43(1) would continue to run and the question would have to be resolved before they expire.

It was in response to that presidential ruling - and a pretty prompt response indeed - that the Government has proceeded with provisions contained within this Bill. I have looked at the interplay of that ruling with the old Act and have endeavoured to understand completely the way the Bill will then provide for parliamentary scrutiny of any dealings with crown reserve lands. I have some concerns as to whether the Bill as it stands contains adequate provision for parliamentary scrutiny of dealings with crown reserve lands.

I would appreciate some additional comments as to how the Government views these amendments, because of the concern that crown reserves should not simply be ordinary dealings of government which do not fall within the purview of or have the opportunity for scrutiny by Parliament itself. I would appreciate learning if there is

further justification for the Government's legislative response in this Bill as it affects those crown reserves. Essentially, the Government is making it easier for itself or future Governments to deal with A-class reserves by reducing the opportunity for parliamentary scrutiny. It opens opportunities for additional ministers, for instance - perhaps even the Minister for Justice - to grant licences or leases over land vested in other ministers.

I understand that one of the reasons for this Bill was that the Minister for Justice was prevented from granting a lease or a licence for a kiosk or a café on land falling under that minister's portfolio. I am not sure of the detail - whether it was a courthouse or a prison - but I gather that land reserved for such purposes cannot be granted a lease or a licence for a café or a kiosk or the like by the Minister for Justice without the additional opportunities that are opened by virtue of this Bill. I would appreciate details from the minister in his response as to where it is, what it is and whether there is in that example sufficient justification for the amendments proposed.

The next issue relates to the provisions aimed at clarifying gazettal of public roads on private land by ensuring that no crown compensation is required for parties with an interest in the land other than the landowner. The minister is empowered to waive, in whole or in part, conditional purchase provisions prior to granting freehold under regulations yet to be drafted. I am concerned that ministers are to be empowered with a discretion to waive, in whole or in part, the conditional purchase provisions prior to the granting of freehold, when we do not know exactly what regulations will govern such ministerial empowerment or discretion. It potentially opens the opportunity for inappropriate use of ministerial discretion to favour the interests of friends of government by waiving, in whole or in part, the purchasing provisions. In the public domain we would be exposed to the activities of ministers looking after their friends; even with charges before a court, ministers could intervene to favour their friends, to advantage them, to the point of having charges dropped.

Ministerial empowerment needs to be confined by strict guidelines stating how it should be utilised and the basis upon which a minister can simply grant freehold title without requiring whole or even part payment for the purchase of such title. We are told it tidies up procedures for transferring tenure of endowment land to local government bodies and frees up conditions for land transferred from conditions, in whole or in part. We are told that this creates flexibility for rental and purchase agreements and purchase price. Where there is flexibility for government, there is regrettably the opportunity for abuse. I believe it is incumbent upon the minister to explain how that flexibility will be exercised or what are the guidelines that will regulate the way the minister can free up conditions for land transfers from conditions, in whole or in part.

The briefing notes supplied by the Government, for which we express appreciation, state that there are other operational amendments. The more significant amendments include sections 42 and 43 of the Land Administration Act, which set out the parliamentary procedure for changing the purpose of A-class reserves; that is, the procedure requires the proposal to be laid before each House of Parliament and for a notice of motion to disallow the proposal to be given within 14 sitting days. If the notice is given, the motion must be dealt with within thirty sitting days after the proposal was laid before the House. The amendments confirm that the sitting days are to be counted across different sessions of Parliaments and different Parliaments, even if Parliament is prorogued, dissolved or expires in the meantime.

Section 46 of the Land Administration Act relates to the management orders made in relation to crown reserves. The amendments confirm that if a minister of the Crown, or any other prescribed person, does not have statutory corporate power to grant leases or licences of crown land, the management order gives the management body that power except where the legislation of those management bodies expressly prohibits the granting of leases and licences, or where their legislation empowers another person to grant leases and licences over reserve land.

The explanatory notes refer to various provisions in the Land Administration Act relating to roads that are to be clarified to bring them more in line with the situation that previously existed under the Local Government (Miscellaneous Provisions) Act 1960. The amendments confirm that rights of way created on subdivisional plans and rights of way taken by local governments are private roads; and that persons having an interest in the land in private roads are not entitled to compensation in the same way that owners of the land in private roads are not entitled to compensation. I am sure that will be of considerable interest to people with an interest in a right of way. I think ROWs typically are found in the metropolitan areas of the State. I am unsure of where else in the State they are found. However, they are regularly mentioned in western suburbs' newspapers such as the *Subiaco Post* and the *Claremont-Nedlands Post* and are regularly the subject of enormous debate. The amendment tabled under this legislation, as I read it, takes away the right to compensation for the resumption of a right of way for use as a road.

Hon Jim Scott interjected.

Hon TOM STEPHENS: I will not give the member the answer to that, other than to say that a provision in the Bill specifically tackles rights of way. If a right of way is resumed for the purpose of building a road, the people affected will not be entitled to any compensation by virtue of this Bill. I do not know how widely that is

understood by those who have rights of way. It may be that it will not impact on them because they will still have a right of way if a public road is constructed but it will no longer be their right of way.

Section 75 of the Land Administration Act deals with conditional tenure land. The formula for recovery of the State's equity in the unimproved value of the land that was originally transferred for a discounted price, when it is no longer used for the specified use, is corrected. The Minister for Lands may also waive, in whole or part, the amount otherwise payable to the State in prescribed circumstances which are approved by the Treasurer. The circumstances envisaged include the transfer of endowment lands to local government.

Section 79 of the Land Administration Act deals with conditional purchase leases. The amendments give the Minister for Lands greater flexibility in negotiating the rental and purchase price for land that is to be fully or partially developed under lease, before being transferred in fee simple.

A paper which was among the documents provided to parties interested in the Bill and which was subsequently made available to me by departmental officers, was first drawn to my attention by pastoral leaseholders who had asked the Government what stations were listed for excision after 2015. I seek leave to have the document incorporated into *Hansard*.

[The following material was incorporated by leave of the House.]

TABLE 1
Pastoral Lease

Charnley River
Dirk Hartog
Osmond Valley
Waterbank

TABLE 2
Pastoral Lease

Barragoon Lake
Cordering Farm
Dillon Bay
Foster Glen
Jibberding
Leschenault
Lime Peaks
Lynton
Mallee
McPherson Springs
Minarup
Mt View
Nabaroo
Oakwood
Perangery
Quannup
Strathairlie
The Angle
Woolka Woolka

TABLE 3
Pastoral Lease

Kimberley Region
Texas Downs
Mabel Downs
Sophie Downs
Carlton Hill
Fossil Downs
Gogo
Lake Gregory
Anna Plains
Doon Doon
Theda
Beverley Springs
El Questro
Mt Pierre

Pilbara Region
Juna Downs
Ningaloo
Cardabia
Warroora
Roy Hill
Exmouth Gulf

Midwest Region
Carrarang
Tamala
Nanga
Murchison House
Mt Narryer
Boolardy
Innouendy
Minnie Creek

Goldfields Region
Adelong
Jeedamya
Cowarna Downs
Credo
Thundelarra
Millibillie

South Coast
Madura
Mundrabilla

Hon TOM STEPHENS: Table 1 indicates that in the north east of the State the Government does not intend to renew pastoral leases on four stations beyond 2015, and lists those stations in order. The first one is the Charnley River, and I understand that decision. Perhaps the minister in his response could tell me who owns the pastoral lease on Charnley River. It is a controversial pastoral lease and I understand there is no intention to renew it. It makes sense to have it incorporated into a nature reserve or a national park. The second station is Dirk Hartog; that decision is widely understood in the community. The decision not to renew the third station's pastoral lease, the Osmond Valley lease, came out of the blue to me. The fourth station in that category, Waterbank, now belongs to the Government for purposes that I understand.

Osmond Valley is a small station that I know very well. It lies to the east of the Warmun community of Turkey Creek. I do not know how long the lease has existed, but it has belonged to the Green family for at least 30 years, possibly longer. When I first visited the station in the 1970s, old Mr Jack Green and his wife Mona Skeen lived there and ran a small pastoral operation and other stations in the area. They and their children had a connection with Osmond Valley. Mr Jack Green has passed on and his son John Green, a councillor with the Shire of Halls Creek, is now the leaseholder of that property on behalf of his family. It is extraordinary that this station owner is to be told that his pastoral lease will not be renewed. It is a small pastoral lease on which Mr Green, a very good cattleman, runs a small cattle operation. He hopes to diversify on that pastoral lease and also has ambitions for tourist operations there. It is an area of land adjacent to the Purnululu National Park and Conservation Reserve and has good prospects for a tourism venture. I understand the Deputy Premier, in his capacity as Minister for Regional Development, took the opportunity to provide support through the Office of Aboriginal Economic Development for the tourism aspirations of that pastoral leaseholder and his family, and I support those efforts. I travelled with the Deputy Premier to that area some years ago, when those efforts were described to us. It surprises me to see from this list that that station, which is owned by a distinguished family of the east Kimberley, is not to be offered a renewal of its pastoral lease. I would sincerely like an explanation from the Government as to why Osmond Valley and the Green family will be dealt with in that way. That area of land is subject to native title claim. The land in question is a pastoral lease; therefore, the success or otherwise of a native title claim will presumably depend upon the outcome of the appeal in the Miriuwung-Gajerrong case. However, if that appeal were dealt with in another way, the interests of the pastoral leaseholder and the native title claimants could be dealt with by agreement. I am sure that many other stations are in the same situation. However, I am confident that in the case of that station in particular, that family would be able to strike agreements and make arrangements with the native title holders, and would also have a capacity to work in collaboration with the Department of Conservation and Land Management and the management regime for the Purnululu national park.

It strikes me as extraordinary that the ambitions of CALM in this area seem to know no bounds. For whatever reason, it now chooses to run its boundary down this narrow little pastoral lease, to pick out a small bit of country owned by the Green family and settle on that as the pastoral lease that must be extinguished. It is an Aboriginal family, but why extinguish its pastoral lease? Adjacent country on other pastoral leases, which is not owned by Aboriginal interests, has environmental and conservation values similar to that of the Green's pastoral lease at Osmond Valley. I acknowledge that it is a particularly attractive pastoral lease. However, just because somebody owns an attractive pastoral lease, I do not understand why the ambitions of CALM suddenly become sacrosanct, and the opportunity to put that land into a national park is placed firmly on the agenda, because this pastoral lease will not be renewed beyond 2015 if the table which I have before me and which has now been incorporated in *Hansard* is accepted for what it was described to be when it was presented to me.

Table 2 refers to land to the south west where pastoral leases will not be renewed. I have looked through those pastoral lease names, and although you, Mr Deputy President (Hon Murray Montgomery), may recognise the names and understand why those pastoral leases will not be renewed, to be frank, I do not have any comment on them; they are not ones with which I am familiar.

Table 3 sets out a list of stations. There are 13 in the Kimberley, six in the Pilbara, eight in the mid west, six in the goldfields and two on the south coast. Contained within this list are references to a group of stations described as being in the Pilbara region. Those of us who are familiar with the Gascoyne would typically describe this as the Gascoyne region. The stations of Ningaloo, Cardabia, Warroora and Exmouth Gulf are all listed as stations, the pastoral leases for which are subject to renewal conditional upon land being excised for a public purpose, specifically conservation purposes.

I have received representations from that group of stations in the Gascoyne region for which Leonie Horak, a citizen and councillor of Exmouth, owner of the Warroora station pastoral lease and editor of the *Exmouth Expression*, is spokesperson. She has expressed concern about the speedy passage of this Bill and the ambition to open up an opportunity for land to be excised from those pastoral leases for conservation purposes. I will try to relay the pastoral lease owners' concerns through you, Mr Deputy President, to the minister and to the

Government, in order to give the Government the opportunity to put on the record its response to those concerns that have been expressed. I understand those concerns have been put vigorously by the pastoral leaseholder in question. It is important that any reply to those concerns be formally recorded in *Hansard*. Leonie Horak has given me the correspondence that she first received from the Government. The letter is dated 24 December 1997 and states -

> WARROORA
> LEONIE HORAK
> PO BOX 130
> EXMOUTH WA 6707
>
> Dear Pastoralist
>
> **RE: PASTORAL LAND TENURE**
>
> You will recall in 1995 the then Minister for Lands, the Hon George Cash wrote to you advising that under the Land Act, lessees may apply to the Minister for Lands during 1995 as to the future of their lease beyond the current expiry date of 30 June 2015.
>
> As you applied during 1995, I am now in a position to advise that your lease will be renewed in 2015 subject to:
>
> 1. compliance with lease conditions, including stocking requirements and maintenance of infrastructure, at the time of expiry on 30 June, 2015;
> 2. there being no Soil Conservation Notices or other orders by the Soil and Land Conservation Commissioner in force;
> 3. there being no unfulfilled requirements of the Soil and Land Conservation Commissioner and/or the Pastoral Lands Board in relation to observance of lease conditions under the Soil and Land Conservation Act and the Land Administration Act; and
> 4. exclusion of areas from the existing lease that may be required for public works, conservation, national park, nature reserve or other Government purposes.
> 5. the annual lease rental for the lease up to 30 June 2015 will apply to the renewed lease. The rental review period for the renewed lease will continue to apply every five years in accordance with section 123(4) of the LAA.
>
> The next rent review for the renewed lease will be on 1 July 2019.
>
> This offer is made in accordance with sections 98(11)(b) and (c) of the Land Act and you may accept the offer at any time within one year from the date of this letter. If you do not accept this offer within this period, the offer will lapse and be void.
>
> Yours sincerely
>
> **Doug Shave MLA**

I have a couple of questions of the minister about this. I am not sure of the specifics of this offer. However, if the then Minister for Lands, Hon George Cash, wrote to the leaseholder of the Warroora pastoral lease in 1995, it seems that it is unlikely that he wrote to Ms Leonie Horak. I think I am right in saying that she was not the leaseholder at the time. I suspect that one of the reasons for this Bill and its provisions is that offers were made in 1995 to a number of pastoral leaseholders who were no longer the pastoral leaseholders at the time when Mr Shave, the Minister for Lands, wrote this letter. The Bill must pick up this changing reality in the pastoral industry whereby there has been a change of pastoral leaseholders. The offer, having been made but not accepted when it was renewed, caused a change of pastoral leaseholder. This Bill must validate the offer being made to a new leaseholder because of the lease having changed hands. I am not sure about the specifics of the Warroora station but I understand there may be other instances where that has occurred. I am interested to know whether the minister will table the details of how many people are in this category when he replies.

In 1995 the then Minister for Lands wrote indicating that -

> You . . . may apply . . . during 1995 as to the future of their lease beyond the current expiry date of 30 June 2015.

The minister was then able to make a fresh offer in the terms I have outlined. I received a copy of a response dated 14 July 1998 which states -

> Dear Minister,

> Further to your letter 24th December, 1997, offering a renewal . . .
>
> Mr. Garry Crowe, Pastoral Board, has advised that the lease term on Warroora will be 48 years and 9 months from 1st July 2015.
>
> We advise that we are happy to accept your offer of renewal of this lease.

That is a formal reply given by Leonie Horak for the Talanjee Family Trust, trading as Outdoor Investments Pty Ltd, in reference to the Warroora station. Beneath that formal correspondence is the concern that those pastoral leaseholders in that area are familiar with an extraordinary range of pressures placed upon them. They are endeavouring to maintain pastoral operations in an area which is adjacent to lands of great tourism and environmental interest. The leaseholders are under pressure from the tourists visiting the landscape. The pastoral lease area is adjacent to the Ningaloo Marine Reef, which was the subject of a select committee of this House upon which I served. From the committee work and my work as a local member of Parliament I am familiar with the enormous pressure that the coastline is under. The numbers of people wanting to visit that beautiful coastline to experience the wilderness and the feeling of nothing in that area - nothing is a much sought after commodity - places pressure on the coastline. It provides an opportunity to be away from everybody and everything and to enjoy the wilderness.

The marine park regime that came into existence, if my memory serves me correctly, operates under a management regime which put in place a 40-metre strip from the high-water mark that falls under the responsibility of the Department of Conservation and Land Management. The land is of greatest interest and significance to visitors to the area, of which I have been one on a number of occasions. It has been my consistent experience to have never seen a patrolling CALM officer in that area of conservation estate which is entrusted to it under that marine park regime, particularly where the pastoral leases are located. That is bad enough, but I note that the people who have now responded to the challenge of trying to manage their areas of land, which is of great interest to the tourists, have been the pastoral leaseholders who have converted that side of their operations into ecotourism business opportunities. They are small scale and have only a minimal impact upon the landscape.

The leaseholders try to respond to the large numbers of people wanting to visit. They try to provide basic facilities and channel the visitors to specific sites in ways that cause minimum damage to the fragile and pristine, beautifully attractive landscapes. The pastoral leaseholders interface with the public who are channelled into the homesteads. The pastoral leaseholders give the tourists maps of the pastoral lease and show them the roads on which they should travel, the paths they should avoid, where they should and should not camp and how not to light fires. They are given a comprehensive introduction into that landscape and are charged only a relatively small fee for access to the country. From memory, the fee is of the order of $15. From my experience, it seemed pretty good value for the opportunity people experienced. In return for that fee the pastoral leaseholders have been left with the obligation of pulling the visitors out of bogs when they have ignored the pastoralists' instructions about the roads on which they should travel. The pastoral leaseholders are regularly left to clean up the rubbish that is left behind by some of the people who visit those areas. In return, they must cordon off areas that might have come under too much pressure, clean the toilets and do all of the other things associated with trying to manage that area.

All of that has been done in the absence of support from those people who are charged with the responsibility under the Conservation and Land Management Act for the management of the landscape along that strip. The pastoralists are now being told, by virtue of this list, that CALM continues to hold an ambition that within two years of the enactment of this Bill it will notify the leaseholders of further areas of land that will be excised from their pastoral leases for public conservation purposes. They are alarmed by that reality, not only because of the impact upon the economic viability of their own operations, which now rely upon the commercialisation of the ecotourism experience, but also because they have a genuine concern for the conservation estate that exists in the areas in which they live and work. The low-key ecotourism has helped support their pastoral operations. They have real feeling and regard for their leasehold land. That is not only the case with Leonie Horak and her sons, but I am also familiar with people in stations to the north and on the Ningaloo pastoral lease. I met Jane and Billie Lefroy and I know of their deep feeling and regard for the landscape. That regard is generations deep and is entwined with the memory of their family, and, for Billie, with that of a husband. Understandably, they have a deep distrust of an agency that has ambitions in that part of the world, but which is yet to prove its credentials. It has yet to put resources or personnel on the ground to manage this environmental estate to the satisfaction of these pastoralists, who have high standards. Perhaps the high standards to which they now aspire may have developed only in recent years in many cases; nonetheless, they value and understand what they have and they want to protect it.

They have been presented with Government advice that the way forward is with this Bill, which will trigger a mechanism that will take away part of their pastoral lease - for which they have conservation and economic

goals and strategies - and put it under the control of the Department of Conservation and Land Management. The responsibility for the conservation management of these estates will fall on taxpayers. I share the suspicion of these pastoralists that the Department of Conservation and Land Management will never, under any Government, Liberal or Labor, have the resources to manage these areas of land using CALM staff. Western Australia is a vast State.

Hon Greg Smith: Will you bring forward amendments to make it much harder for CALM to get hold of the land?

Hon TOM STEPHENS: I would welcome amendments to this legislation that create an opportunity for a varied response that includes people, as well as CALM, in the protection of the environment of this State. A large number of people could participate in conservation and land management in this State. Pastoral leaseholders are one such group. Another similar group is made up of the Aboriginal people who live in various parts of this State. Those groups could be included in the land management and conservation strategies by virtue of agreements struck between them and the State. They are ideally suited to it. I am not saying that, historically, they were always suited to that role, or that all of them are now suited to it. There are some even today, not only among the non-Aboriginal station owners, who have yet to display a level of engagement in the management of their land-holdings that would inspire confidence in the maintenance and protection of the conservation values of that land into the future. However, many more members of the community have learnt to appreciate conservation values. The fact that communities have moved towards understanding the values of conservation -

Hon J.A. Scott: Thanks to us.

Hon TOM STEPHENS: I give the Greens (WA) credit for doing a good job and contributing to that process. I am happy to sing the praise of the Greens. However, as the community develops a greater awareness of "green" issues, the Greens run the risk of becoming more green to establish their role in the world.

Hon Ken Travers: Leave it there.

Hon TOM STEPHENS: I should leave it there. I gave some praise, tempered with a small whack across the head! I am sure the community's attitude has improved due to the work done by the Greens. However, as a result, the Greens are at risk of needing to become increasingly extreme in response to the changing consciousness of the wider community.

I have not seen this Government offer a variety of approaches and responses to these questions that show adequate regard for the willingness displayed by station owners such as these. Why is there not a firm offer from government, through a response and commitment from the Minister for Lands, not just of excisions that remove such land from pastoral lease operations, but of leases that contain covenants and that are differentiated from the rest of the pastoral operations? In addition to that, covenants could be attached to adjacent land in such a way as to allow the pastoral leaseholder -

Hon J.A. Scott interjected.

Hon TOM STEPHENS: I was not aware of that; nonetheless, such leases should be able to be rolled over to allow the current owners to enter into agreements with the State to pursue the land management strategies that protect the conservation values of that land and that allow opportunities for ecotourism where appropriate. That is yet to be placed firmly and fully on offer. In introducing this legislation the Government has failed the community by not firmly spelling that out either in the statute or by making a firm public commitment.

Hon Greg Smith: That would be very difficult to enshrine in legislation because every case is unique.

Hon TOM STEPHENS: Men have walked on the moon and travelled into many other areas of outer space.

Hon Simon O'Brien: Members opposite are off the planet! I am warming to your theme.

Hon TOM STEPHENS: I thank Hon Simon O'Brien. It is not beyond the wit of even this Government to draft legislation to embrace some of the issues that Leonie Horak is calling on us to do as legislators. If the Government cannot do that, a more appropriate response to this legislation would be to refer it to a standing committee so that it can draft amendments that will provide those opportunities for the pastoral community. I see the dates under which we are operating. The Government has made commitments to the pastoral industry that we will get continuity and certainty for pastoral leaseholders during this Government's present term. It missed out on doing that in its previous term. It has almost missed out again, despite having made a commitment to pass this Bill. I appreciate that sending it off to a standing committee may delay the Government's ability to meet the commitments it has already made. If it will not allow a committee to review the Bill, it has an entire department; albeit stripped of many of its resources, with skilled and talented people who can draft legislation that will respond to the fears and concerns of people such as Leonie Horak about this Bill being passed.

I also have concerns; they are not just those of Leonie Horak and her neighbours. Some of her neighbours with whom she is working are Aboriginal station holders. I have not spoken directly to them but Leonie tells me that they have a similar view to her in this matter. I have no reason to doubt that. Leonie Horak is not alone in her fears about this Bill. I have had a lot of contact with people in the pastoral industry about this Bill. There is one particular exchange of correspondence that I want to draw to the House's attention. I have a document that I believe is significant. Among the list of stations that the Government has ambitions to excise is Fossil Downs pastoral lease. I have a copy of a letter signed by the then Minister for Lands, Hon George Cash, to Mrs A.C. Henwood, Director, WNM MacDonald Pty Ltd, PO Box 15, Fitzroy Crossing. It is in response to a letter that Mrs Henwood wrote on 14 November 1995 regarding Fossil Downs and the factors affecting the lease. In part, it states -

> As indicated in your letter, it is not possible to offer lessees an improved form of tenure . . .
>
> It is yet to be established whether the term of subsequent leases will be limited by those of the current leases . . .

That is a comment in response to the native title issue.

It continues -

> The reference in the Department of Land Administration (DOLA) publication of May 1994, to an excision of between 10,000 to 13,000 hectares from Fossil Downs, appears to be incorrect. Recent advice from CALM and DOLA indicates that all the proposed extensions to the Geikie Gorge National Park have been completed. At no stage was it ever intended to exclude land from Fossil Downs for addition to the National Park. Any distress caused through the publication is sincerely regretted.

That would appear to have been a very comforting letter from Hon George Cash, the then Minister for Lands, to Mrs Annette Henwood. It was written some years ago in response to fears that she had resulting from a publication produced in May 1994 that identified 13 000 hectares to be excised from Fossil Downs. The publication contained a map that showed an area of land covering the station around the old Fossil Downs pastoral lease and taking out all of the station's key assets. It included the main stockyards, watering points, horse paddocks, mustering yards and the homestead as part of the proposed excision. Fossil Downs has a particular place in the cultural and architectural heritage of the State and the region.

The McDonald family built the homestead. It is a beautifully built, famous homestead of great heritage value. Annette Henwood is a member of that family. Her family has been there for four generations. I think they arrived in the Kimberley just prior to the Duracks. These are not fly-by-night operators, but people who are there for the long haul. They have a great interest in the conservation of their station. In 1994, they were suddenly told that a section of land would be taken from their station, which would include the homestead. They were relieved on 14 November to receive the letter from the Minister for Lands, Hon George Cash. Annette Henwood outlined her concerns in the letter to which the minister was responding. She wrote -

> As no doubt you are aware Fossil Downs' leases have been in our family for some 113 years, and remain the only property in the Kimberleys to be still in the hands of the original lessees . . .
>
> In 1989 EXIM altered their boundaries prior to the sale and subdivision of their leases to create several new properties, ie, Larawa, Bulka and Mt Pierre. Since the proposed new Mt Pierre Station adjoined a dog leg section of Fossil Downs, it was suggested that we tidy our own boundary at this time and this section could then be included in the newly created Mt Pierre. This was subsequently done. We did not receive any monetary payment for this transaction but surrendered it to facilitate a new workable lease.
>
> Unfortunately in the subsequent paperwork it was pointed out to us that our old leases had to be surrendered and a new lease issued to us.
>
> We did at the time express our regret in losing our old lease numbers that had been held for so very long but we were told it was unavoidable.

I do not see why anything is unavoidable; nothing is unavoidable if someone is prepared to do something about it. It continues -

> The new lease was issued to us on the 17th July 1989 giving us a term of 25 years 11 months and 15 days to the 30th day of June 2015. We are now told that through this simple transaction we will be penalized to the extent that instead of being eligible for the possible 49 years, we will only be eligible for the lesser period of 25 years 11 months and 15 days. In summary we feel that an act of good faith has severely penalized a property that should in all honesty receive the maximum benefits entitled to its record.

I absolutely agree with Mrs Henwood. The family surrendered land from their pastoral lease to fix up the boundary for Mt Pierre. No doubt the Mt Pierre community are very grateful for the goodwill that was shown by the Henwoods in making available that section of Fossil Downs. However, the Henwoods have been penalised by having their pastoral lease renewed only to 2015, because of the interplay of their act of goodwill with the Native Title Act. I would encourage the Minister for Lands to try it on. I do not believe the Native Title Act should work to the disadvantage of pastoral leaseholders such as these because of an act such as that. I would be amazed if the full resources of anyone would be brought to bear to try to prevent the full rolling over of a pastoral lease. If I had the opportunity of being the Minister for Lands, I would want to see that lease rolled over to its full length, which they previously had and to which they should be entitled. It is unconscionable that they should be disadvantaged in that way. The full resources of the Government should be brought to bear to ensure that they are not disadvantaged.

They then raised those other issues when they were told that the proposals would take out sections of their pastoral lease for the Geikie Gorge National Park, which already covers a very extensive area and includes a large proportion of examples of Devonian reef. It continues -

> For these reasons we would like to suggest that it would be unnecessary and very costly for you to resume this area of Fossil Downs. Perhaps we should mention here, that Fossil Downs itself has a great deal of history attached to it and our homestead area is classified National Trust. We truly believe that we are very good custodians of both our land and history.

They were delighted to receive the assurance of the Minister for Lands, Hon George Cash, at that time. However, it appears that that assurance counts for nothing, because now they have been given the new list stating the Government's ambitions on its operations. According to table 3, Fossil Downs is back on the list. Despite the previous assurances given to them, which they took in good faith, the Government is now telling them that their lease cannot be renewed, even for that restricted period, because Fossil Downs will have to cop another excision for conservation purposes. From my understanding of Fossil Downs -

Hon Greg Smith interjected.

Hon TOM STEPHENS: That is what it says. However, it will not be renewed for the full period; it will be renewed for only the part period, which I find unacceptable. The assurances they received from the Minister for Lands, Hon George Cash, in 1995 now count for nothing. They have been told in the circulating document that there are ambitions to take a bit more from their lease for conservation purposes. This is another example of conservation ambition gone mad. The Geikie Gorge management strategies should be pursued, but not by telling people that their homestead or all their essential cattle yards will suddenly be taken off them to fulfil the conservation ambitions of the current Government or its agencies, if that is what that current list reflects. At the very least, what I have advocated for the group of stations in the Gascoyne should be the same reality as that available to people such as the Henwoods of Fossil Downs, and there should be a more appropriate response to that reality than just telling them that their lease will not be renewed until they agree to excisions of their pastoral lease.

The list includes places like Texas Downs. I can understand that; it is adjacent to Purnululu as well. At least those owners will have their lease renewed, unlike the poor Green family - Texas Downs being owned by the other Green family. One family is black and the other is white. I hope that is not the reason for the different treatment. The station lease of the Green family of Harvey will be renewed, but the Green family of Halls Creek, Osmond Valley will lose its pastoral lease. Those families have the same name and are neighbours, but one family is black and the other is white. One family's lease will be renewed and the other family has Buckley's. The very distinguished Green family from Halls Creek will lose its pastoral lease in 2015. There is also another set of similar stations, including El Questro.

I can understand that people have conservation ambitions for that landscape, but excision is not the only way to do it. The Government must provide a more imaginative response than that which has so far been provided within this Bill. I would like the Government to point out to me exactly which provisions in the Land Administration Act it will use to allay some of these concerns and to make available to these communities a more flexible response than that which appears to be on offer.

If this Bill goes through the House and becomes law, within two years of the proclamation of this Bill the Government will be obliged to have identified all the areas for excision for public purposes - specifically conservation purposes - and to enter into the negotiations over the remaining two years to effect excisions from those pastoral leases.

Those provisions would come into effect either in 2015 or, presumably, earlier if some other arrangement is agreed to between the Government and leaseholder parties. I seek an assurance from the minister that my understanding is correct. Pastoral leaseholders are afraid that what is being proposed will not only affect

excisions after 2015 but will also cause excisions earlier than that from pastoral leases. I am told that is not the case. More flexible arrangements should have been available for agreements between pastoral leaseholders and the Government for covenants on land which is the subject of joint management strategies between pastoral leaseholders and which has important conservation characteristics.

Hon Greg Smith: Perhaps we should arrange it so that the Department of Conservation and Land Management does not get it and it goes back to the Department of Land Administration.

Hon TOM STEPHENS: I am sure a sensible Government, administering CALM properly, would be able to get it to do its job. However, that does not mean the department must do everything itself; it should be able to enter into arrangements with other groups.

Hon Derrick Tomlinson: With consultants?

Hon TOM STEPHENS: It could enter into arrangements with people with an interest in land; it could share the responsibilities. Of course, CALM has statutory responsibilities, but they are also community responsibilities. Mining companies are obliged to manage the State's conservation objectives, but others with an interest in owning and retaining land can also share in those responsibilities. This Bill does not provide the variety of responses that should be seized upon now by the Government instead of waiting until 2015 to bring these issues to resolution.

The coastline identified by Leonie Horak and others has been subject to enormous pressure.

Hon Greg Smith: It is a very special piece of Australia.

Hon TOM STEPHENS: Yes, it is.

Within two years we will be left with the task of identifying those areas we want for conservation purposes. I am afraid that over that time the Government, whichever party is in office, will be confronted with a very large job. Unless we have a commitment from this Government that if it is in government during the two years following the enactment of this legislation it will allocate the resources necessary to identify the conservation estate that is to be the subject of excision arrangements or new arrangements with pastoral leaseholders and land-holders, we will be creating an enormous burden for taxpayers. If the Government does not do its job properly now in dealing with what should be included in these arrangements to achieve public purpose excisions, or other more flexible arrangements -

Hon Greg Smith: Are you implying that the Government might take too much or not enough?

Hon TOM STEPHENS: If this legislation is passed, we will be imposing a huge job on whoever is in government over the next two years. If the job is not done within two years, we will be imposing a huge cost penalty on future taxpayers of Western Australia. We will be creating an enormous problem if we do not identify within those first two years areas of land that should be excised to respond to community conservation and public purposes expectations. If this Bill is passed, a huge burden of fiduciary duty will be placed on government over the next two years.

Hon Greg Smith: You spent the last hour telling us that the Government should not be excising it.

Hon TOM STEPHENS: No, I said the Government has not provided the Parliament with a flexible arrangement. It is an inflexible statute that allows the excision option to be exercised within only two years. If it is not done within two years, taxpayers will be in trouble because of the huge financial penalties associated with trying to utilise part 9 or 10 of the Act, as happened in the Waterbank example. The community will be left with large costs. I seek some assurance that the Government will commit to the vast allocation of resources so that the Department of Conservation and Land Management and other appropriate authorities can do that part of their job. They are unable to do the other jobs they are charged with; yet, we are about to impose on them a huge task that must be completed within two years, without any flexible instrument. This is an imperfect Bill, and I hope my fears and concerns can be allayed. If not, this Bill should be improved by the skill and talent of members of this House through a standing committee.

Another table is entitled "Aboriginal living areas". I seek leave to have it incorporated in *Hansard*.

[The following table was incorporated by leave of the House.]

ABORIGINAL LIVING AREAS

- Communities granted land since 1993:

Yulga Jinna	-	Lease in perpetuity

Koora Bye	-	" " "
Wakathuni	-	" " "
Quartz Blow	-	" " "
Youngaleena Bunjima	-	" " "
Jimbalakudunj	-	" " "
Woolah	-	" " "
Jinparinyna	-	" " "
Daringunaya	-	Crown Reserve
Bungardi	-	" "
Mulunja	-	Extension to existing Crown Reserve
Kupartiya	-	Crown Reserve
Illengirri	-	" "

- The following living areas are being progressed as leases in perpetuity:

Kadjina	Boola-Njee
Ngallangunda	Mimbi
Windjingayr	Moongardie
Wuggabun	RB Junction
Dillon Springs	Biridi
Gulungoor Yamatji	Wamali
Windidda	Calamunda
Leda Wooloo	Ord Stage Two (19 communities)
Innawonga	Mirtunkarra
Gumala	Pananykarra
Munjarl	Bulanjar
Thoo Thoo Wandi	

- An extension to Crown Reserve at Wangkatjungka is also in progress.

Hon TOM STEPHENS: The document indicates Aboriginal living areas that have been granted since 1993 and those that are being progressed as leases in perpetuity. It states that an extension to crown reserve at Wangkatjungka is also in progress. Were any of these living areas excised from current pastoral leases and, if so, what section of the statute was utilised to achieve that? If they were not excised from a pastoral lease, what were the circumstances of each case that led to the granting of the lease in perpetuity? Upon passage of this Bill, what arrangements will apply in securing an Aboriginal living area from a pastoral lease? Is that considered a public purpose, or is another statutory instrument used to facilitate such an excision? If it is an excision for a public purpose, will all possible future Aboriginal living areas need to be identified within the next two years, and then negotiated in the subsequent two years, to guarantee they fall outside the requirements of parts 9 and 10 of the Land Administration Act, which could be a convoluted and tortuous path? I wanted to make sure those questions were put on the record during the second reading debate.

Would the minister spell out how many pastoral leaseholders were offered extensions, why some offers were not valid, and why they need to be validated under this Bill specifically? What other A-class reserves does the Government want to deal in, other that the Sunset Hospital site, since such dealings will be made easier by the passage of this Bill? Is there a specific proposal for the Minister for Justice to operate either a licence or lease for the purposes of a kiosk on reserved land? Is the minister currently proscribed from doing that by the provisions of the present Act, or was that just a hypothetical example, rather than a real intent? What other ministers will be able to lease land vested in them as a result of this Bill? Can the minister detail the regulatory regimes that will guide ministers after the freeing up of land conditions, and the new freedoms granted to them? I hope I have adequately dealt with the issues that have been raised with me by people with particular interests in this Bill. There is a clear need for this legislation, but I fear that the provision of certainty, continuity and security to pastoral leaseholders is being achieved here by an instrument not sufficiently flexible to enable an appropriate response to the legitimate needs and interests of the leaseholders. Those interests must be balanced with those of the wider community, the Government and therefore the taxpayers of Western Australia. I hope the case that the pastoral leaseholders have been trying to put to the Government has been understood and appreciated, and I hope the Government will respond with an explanation and with the appropriate amendments that will improve this legislation.

HON J.A. SCOTT (South Metropolitan) [5.28 pm]: This Bill is a conglomerate of different amendments to the original Act and other Acts. For the most part the Bill deals with generic administrative changes, many of which are sensible improvements to the administration of land. The jobs of the various agencies involved in land management will be made much easier by this legislation. Included in the generic claims is one highly specific amendment; it relates to Sunset Hospital, and for the life of me I cannot understand why it is included because it does not seem to be the same sort of legislation. The other amendments are generic and administrative, but this is specific and deals with the changes in the nature of a reserve. I do not think this amendment should be included. Other members have indicated that they feel it should be separated from this Bill, and I agree.

Like Hon Tom Stephens, I have spoken to Leonie Horak and those people who are concerned - this is one of their concerns - about the level of management if the land they have been managing for ecotourism comes under the control of the Department of Conservation and Land Management. As we know, CALM does not have many officers in that part of the world, and the idea about covenants put forward by Hon Tom Stephens seems appropriate. It is an idea that has been used by the Australian Heritage Commission in Victoria, because I know that it was looking at setting up legislation to do the same sort of thing in Western Australia. I understand there was some resistance from CALM in that regard, and I am not sure what is happening, but when we have these far-flung areas that require looking after, it is important to involve local communities and also to monitor what is happening to ensure that it is being done to a reasonable standard. That is what these natural heritage covenants do in Victoria. Apparently they are very successful. Hon Greg Smith said that it might be complicated, but it seems to be working well in Victoria. I understand people are happy to get involved and put their toil and land into that process. This, of course, is leasehold land; it is not really their land as such, but it makes the life of government much easier and much cheaper. More importantly, it draws local communities into being conservation-minded and looking after that land. Hon Tom Stephens's idea is an excellent one in that regard.

Hon Greg Smith would probably agree that this is about people controlling their destinies rather than having things imposed upon them. When we look at these issues we must try to judge whether these people are being genuine and are not attempting to hold onto some personal advantage that is of no benefit to anyone else. If it is to the advantage of most people, I cannot see a problem with looking at that sort of arrangement, provided some monitoring takes place and these people have criteria to meet. I am sure that where agencies such as CALM are involved in assisting people to add to their knowledge of these sorts of issues, they can arrive at a very good arrangement for the management of that land. Therefore, the Government should look at that proposal.

Hon Norm Kelly's amendment clarifies a situation that arose during debate on the revocation of the reserve status of Hardey Park. I know that you, Mr President, indicated that if I withdrew that Hardey Park motion, a problem could have arisen. I did a little research and found out why that might have been the case. I understand that uncertainty could have been created regarding whether Parliament had supported that change; therefore, it might have placed at risk any investment to develop that land. Hon Norm Kelly's amendment will strengthen this Bill in that regard. At the same time, it will allow a greater level of scrutiny by Parliament and certainty in outcome.

Hon Norm Kelly: It makes it clearer to the public.

Hon J.A. SCOTT: Exactly. The Greens (WA) will support that proposal.

Hon Tom Stephens mentioned another important issue to the Greens; namely, the difficulty of identifying conservation land in that two-year period. Maybe that could be fixed by having some form of review to allow that period to be extended if required. It is not possible to carry out that process in two years unless most of the work has been done already. I note that it took considerably more than two years before the Perth Bush Plan came into being, and we are still messing around with it trying to ensure that land is protected. Currently it is not. Two years is not nearly enough time. Otherwise, it is a very good Bill. The amendment certainly satisfies Hon Norm Kelly. The Greens (WA) support the Bill and are happy to get on with the matters involved, with the inclusion of those issues I outlined. We will not support the Sunset Hospital clause, which does not belong in this Bill.

HON GREG SMITH (Mining and Pastoral) [5.39 pm]: I first refer to Hon Tom Stephens' comments on the time frame involved with this measure. All areas were identified about 1984. I have learnt as a member of Parliament that government departments or bureaucracies have an agenda, and whoever is in government and whatever goes on, they continue to pursue that agenda. I have a red book with me dated February 1993 that I believe is the latest status report of the Environmental Protection Authority. It includes every piece of land that the EPA eventually wants to put into reserve. It includes almost all the pieces of land on Hon Tom Stephens' list.

Hon Tom Stephens: Including Fossil Downs?

Hon GREG SMITH: There are areas in the Kimberley, Ningaloo, Exmouth, Cardabia and Warroora that were identified long ago as areas that the Environmental Protection Authority wanted to try to reserve. An interesting aspect in the report is the note about whether the reserve is complete, incomplete or being negotiated. It refers to "will be purchased" or "when leases expire". Therefore, there has been an agenda for this for 20 years.

Hon Tom Stephens: What date is that?

Hon GREG SMITH: This is the red book of February 1993. It contains a plan of areas that were identified and recommended long ago for reservation from 1976 to 1984 by the EPA. I was almost heartened to hear Hon Tom Stephens talk about making it difficult for the Department of Conservation and Land Management to get control of land because many other land issues come into play when it gets control of land. Local government has issues with CALM because it pays only a rate equivalent but in many cases does not have people on its property. Rubbish collection services have to be provided on CALM land that is used for camping purposes, and in many cases local government must pick up that responsibility. Before a lot of these properties are excised there should be some consultation with the pastoral leaseholders and agencies such as local government, CALM and the Department of Land Administration. I understand the point made by Hon Tom Stephens about keeping other animals such as chickens and even cats and dogs.

Hon Tom Stephens: What about a pig?

Hon GREG SMITH: Pigs too.

Hon Tom Stephens: A chook?

Hon GREG SMITH: I mentioned chickens. The amendment has been included in the Bill to deal with many other changes in the pastoral industry. Every member should be aware that traditional pursuits, particularly in wool-growing areas, are loss making ventures. I hope it will not be that way forever. However, people are looking for alternative methods of producing income. Goats have been almost a saviour of the pastoral industry in the lower Murchison area and in parts of the Gascoyne in the economic contribution they are making to the budgets of pastoralists. Exotic breeds of sheep, such as dorpers and damaras, are coming into the country and causing their own problems with the contamination of wool, for example. Issues are emerging of neighbours in dispute with each other about the type of sheep they have on their property and whether they will contaminate each other's wool. I am a great believer in the saying that what people do on their pastoral leases is their business. There are many arguments about boundary fences when sheep stray into a neighbour's place. If pastoralists do not want their neighbours' sheep on their property, it is their responsibility to ensure that boundary fences are in a condition to contain their livestock.

Hon Tom Stephens: Hang on, you've moved away from that point. Do you think it is appropriate to have such a broad-ranging clause that has no flexibility or subtlety in the way it handles small holdings of stock?

Hon GREG SMITH: In terms of the law, I agree with Hon Tom Stephens. However, I cannot honestly see the Pastoral Board pursuing someone for selling some eggs, or for having a few chickens or five or six pigs on their property. By the same token, if someone wanted to have 500 pigs they should apply for a permit for a full-blown piggery.

Hon Tom Stephens: If you happen to be in government next year you might be in coalition with a whole group of mad people who take on responsibility for land administration and who might do silly and crazy things.

Hon GREG SMITH: We have no intention of going into coalition with the Greens (WA)!

A few issues in this Bill cause some concern, but much of it is good and we should try to expedite the passage of the Bill. We have tomorrow and Monday to contact the Department of Land Administration, and I hope that Hon Tom Stephens may have some ideas of his own. We will try to ensure that this legislation gets through, because much of what it contains is important to the pastoral industry, in particular. We do not want to see this Bill frustrated or referred to a committee, so that we lose all the good things for the sake of the few things with which some people do not agree.

Debate adjourned, on motion by Hon Muriel Patterson.