

**LAND ADMINISTRATION ACT 1997 — AMENDMENT TO CLASS A RESERVE 22429 —
DISALLOWANCE**

Motion

Pursuant to standing order 66(3), the following motion by Hon Phil Edman was moved pro forma on 27 March —

That proposal 11/2011 — amendment to class A reserve 22429, tabled in the Legislative Council on 23 November 2011 under section 42(4)(b) of the Land Administration Act 1997, be and is hereby disallowed.

HON PHIL EDMAN (South Metropolitan) [7.33 pm]: The proposal facilitates the building of Mundijong Road west of Mandurah Road. That project will have significant benefits for the Rockingham–Kwinana region and is one that I have been pursuing for some time. I would like to talk about that time, which dates back to before I was a member of Parliament and I was a candidate in the federal election in 2007. The City of Rockingham had applied to the federal government for \$6.7 million in AusLink funding for the extension of Mundijong Road. The City of Rockingham was successful in obtaining that money, which thankfully was put into the City of Rockingham's bank account before the federal government went to the polls. But there was a time limit on how long the local government had to use that money after being granted that funding.

In 2006 the Rockingham Kwinana Development Office was chaired by the member for Rockingham. Its job was to basically purchase the land so that the City of Rockingham could extend that road. The \$6.7 million provided by the federal government was for the construction of the extension of the road. The City of Rockingham felt quite fortunate to receive that cheque, and I remember Hon Simon O'Brien and Tony Simpson, MLA, were with us when the cheque was presented to us by the federal government.

After the matter of this class A reserve has been finalised, the City of Rockingham can proceed with its tender process; however, the tender cannot proceed until the prospect of disallowance has been extinguished by the effluxion of time or if moved by resolution in the negative. The City of Rockingham is keen to proceed as soon as possible, as it has had to twice ask for an extension of the AusLink funding. The Mayor of Rockingham, Barry Sammels, and, I believe, the chief executive officer of the City of Rockingham, Andrew Hammond, have flown to Canberra on two occasions to ask for a time extension in relation to the building of this road. The current state government has had to find the money to purchase the land and negotiate with the different landholders to buy that land so that the City of Rockingham can proceed. The federal government has imposed a deadline on the building of this extension. I would like the house to deal with this motion now, so as to avoid a period of uncertainty and a possible delay of two months. My purpose in moving this motion is to remove the impediment by having the question of disallowance resolved, and in so doing I am of course asking the house to vote against this motion for disallowance.

Mundijong Road is vital as a major artery for the south-eastern part of Perth; it also helps commuters in the Rockingham and Kwinana area get to the city. I think it has been timed, and commuters will save 10 minutes' travel time once the extension is built. It will also be a major entrance statement for the City of Rockingham. At the moment we have Safety Bay Road as the entrance statement to Rockingham, and we have a beautiful substation that was put there by the former government. That land was supposed to be for a school, not for a substation; we missed out on the school and got a substation. As well as providing a time saving for freight and the general public who reside in that area, it will give us an exciting new entrance statement for the City of Rockingham. It is also important to note that it will help the Defence Force in relation to getting to HMAS *Stirling* and Garden Island. I guess it is important for the state.

If the former chair of the Rockingham Kwinana Development Office had done what was needed at the time, which was to actually purchase that land, we would not be in the situation we are today of having basically run out of time. We do not want to run out of time, because there is the risk that every cent of the \$6.7 million that has been sitting in the City of Rockingham bank account since 2006—on which I believe it has also earned interest—could go back to the federal government, and the state of Western Australia could miss out on it altogether. We do not want that to happen. The City of Rockingham needs to start this tender process.

Point of Order

Hon LYNN MacLAREN: Mr Deputy President, maybe you can help me navigate this, but is it a point of order that the member has put something on the notice paper and now he is speaking against it?

The DEPUTY PRESIDENT (Hon Col Holt): There is no point of order. According to the Land Administration Act, section 43(1), the only way in which there can be a resolution to this matter is for a disallowance motion to come to Parliament, and to vote against it.

Debate Resumed

Hon PHIL EDMAN: Thank you, Mr Deputy President.

In relation to Mundijong Road in this class A reserve, we have just heard the debate, which we have not finished, on Roe Highway 8 and the graceful sun moth and so forth. I point out to members that in relation to this road, and in relation to environmental considerations, this proposal will take approximately 2.4 hectares from the class A reservation. The regional reservation, which this is a part of, covers over 2 200 hectares. So the excision will remove only 0.1 per cent of the total area. The affected area is not of environmental significance. The Department of Environment and Conservation issued a vegetation clearing permit in October 2011, which is valid until January 2014. There is no significant flora or fauna in the affected area. I also point out to members that the City of Rockingham advertised the lifting of the reservation for three weeks to 19 September 2011. No submissions were received, and there was basically anecdotal evidence to say that residents welcomed the extension of this road. I have not had any emails from any of my constituents to say they do not want this extension of Mundijong Road.

Hon Ken Travers: So why did you move to disallow it, then, if you want it?

Hon PHIL EDMAN: I will say it again for the benefit of those who were not in the chamber at the time. My purpose in moving this motion is to remove the impediment by having the question of disallowance resolved. In so doing, I am of course asking the house to vote against this motion. I am bringing this on now, because the disallowance will have to sit on the table for 14 days, and because we will not be sitting in April, that will mean that it will not come on until 1 May. So, by 1 May, the City of Rockingham could be in a bit of trouble with the federal government in relation to the AusLink funding, as I have already said.

Hon Max Trenorden: And 1 May is Labour Day!

Hon PHIL EDMAN: There we go! So it will be 2 May, then, Hon Max Trenorden, when we are back in the house.

In conclusion, I am asking the house to support the extension of Mundijong Road, and I ask the house to do that by voting against the motion.

HON SIMON O'BRIEN (South Metropolitan — Minister for Finance) [7.43 pm]: The government supports the motion put forward by Hon Phil Edman. I would like to make some observations in offering that support. Firstly, this procedure is a bit unusual, in that we do not see it happen very often. Hon Lynn MacLaren asked how usual it is for someone to move a motion and then ask everyone to vote against it. The fact of the matter is, as Hon Phil Edman has pointed out, that the proposal to excise some land from a class A reserve for the purpose of building this extension of Mundijong Road is dealt with under section 43 of the Land Administration Act, which provides for a disallowance procedure in respect of any such proposed excision. There is a time after the proposal is tabled during which notice of motion to disallow may be lodged in either house. That impediment to proceeding to the finality of the excision of the land from the reserve—in this case, for the purpose of building a road—cannot be resolved until the disallowance machinery has been dealt with by either the effluxion of time and no motion being forthcoming or the resolution in the negative of a disallowance motion, such as we have before us now; that is, that a disallowance motion be not agreed to.

The honourable member has outlined the situation whereby the City of Rockingham wants to get on with the tenders and ultimately put out a contract to get on with building this road. He has indicated that the federal government, which has provided some funding, has granted a couple of extensions to the city to accommodate delays in getting this construction underway. So, in addition to all that the state government has done to make sure that land is available and what have you, we can do our bit by making sure that this further impediment is removed. Since Hon Phil Edman gave notice of this motion to disallow recently, another member has also moved to disallow the excision of this land. If that motion had come up in the normal course of events, and as we will not sit after Thursday until the first week in May, we would have had to allow for however many sitting days are required until the motion can be dealt with, unless it was dealt with beforehand. Either way, we would have been looking at a couple of months' delay, and that would be a serious matter for a council that needs to get on with the cycle of calling tenders and all that that involves. And that is before we even consider the benefits of this road that will accrue to the community.

With all of that in mind, we recognise that there is a need to remove the impediments to the resolution of this proposal. The house might decide to uphold the disallowance; it might say that it does not want to build the Mundijong Road extension. I hope it will not but, either way, the matter has to be resolved. The Liberal Party will certainly support Hon Phil Edman in opposing this disallowance motion. We are not voting against what he has moved per se; it is just that we agree that it is more convenient for the matter to be dealt with now, and the future decided, rather than to have a delay of several months.

I will close by offering a couple of observations about what Hon Phil Edman is doing, because this is typical of what I have observed about this member over a number of years. There was quite a silly article in a local paper down Rockingham way that referred to how many times members stand and speak in this place, as though that is some legitimate form of key performance indicator. Of course, it may or may not be legitimate. I pointed out that Hon Phil Edman does more for his electorate as a member of this place than a heck of a lot of other people. This is just typical of his way of getting things done, whereby he persists with a decent project and leads delegations of council members to Canberra to bang on doors and pester people until they give him the money to build the road he wants or whatever else he needs for his community. I have seen him do this a number of times. I have worked with him on a number of occasions. Hell's bells, I have even been the bloke who said, "For God's sake; let's go and do it because Phil is not going to give us any peace until we do." I want to acknowledge on the public record that this is what Hon Phil Edman does. He actually gets things done. When he notices that something is almost at the stage where it can go ahead—this will be a very useful road when it is built—and he notices that there might be a delay for several months for no good reason and it might jeopardise the thing at this late hour, what does he do? He finds a way to work within the law to bring it to the Parliament's attention at an early date so that we can resolve the matter. I think that deserves a fair bit of credit. It now seems a bit funny to say it, but I think we should all support Hon Phil Edman by voting against his motion.

HON LYNN MacLAREN (South Metropolitan) [7.51 pm]: I rise to support this disallowance motion, as one does when one sees a disallowance on the notice paper. In fact, when I put disallowances on the notice paper, usually it is because I want to disallow something, not because I want to not disallow something. I can understand that Hon Phil Edman has a way about him—as Hon Simon O'Brien said, he has a certain style. I am going to go along with that, and I am going to say: thank you very much for allowing us to debate this very important road, because, surprisingly, I am actually in favour of extending Mundijong Road. I think that is not a bad suggestion.

If anyone was across the detail of this, they would know that this alignment goes through a Bush Forever site. It is a ridiculous alignment. There is a much more sensible alignment along the railway and through the tip site, and there is no reason why this government should be putting another road—we have already talked about this today—through bushland. I am going to explain exactly what the value of this bushland is. I am not going to guess at 2.4 hectares; I am going to tell members it is 2.7 hectares. Hon Phil Edman neglected to mention that for a Carnaby's cockatoo with a roosting site within the 0.3 hectares, this is a really important 0.3 hectares. It is the detail on which we need to support this disallowance.

This has been going on for a long time. I have emails in my hand from 12 September 2010, after I sought input from my constituents about this road. Let me tell members that they were not happy with this road. I am sorry they did not copy members opposite into the emails, but they have advised me that there are serious concerns about this road alignment. It is not because of the beautiful idea that we could perhaps extend Mundijong Road, but the fact that it is cutting through bushland that some people value in this state—that is why I am standing up to speak on this issue. This is the wrong place to put this road. We are excising class A reserve, and it is not good enough that this government continues to excise class A reserve for roads. Even if it is only 2.7 hectares, it is 2.7 hectares that I am going to spend some of my breath tonight speaking about.

Some of my constituents were very interested in this proposal. They mentioned, "... it's a case of what corporate giants want they get from the corporate puppets of the Barnett government." That is what I have been told by my constituents. This is not just any old road going into Rockingham, which we do think is a good idea. This is a road which conveniently provides a nice buffer for BHP. Why does BHP need a little buffer? What is going on in their tailings? That is why I asked in November 2010 about just what was going on down there. As the realignment was necessary to provide a wider buffer between the road and the BHP Billiton Nickel West Pty Ltd tailings pond will the company contribute to this cost? I was advised on November 2010 that it would not be contributing to the cost, but the realignment is definitely going to benefit it. Then I asked: what substances can be found in this tailings pond? I was told that the evaporation ponds contain water circulated through BHP Billiton's Kwinana nickel refinery. Everything is fine! I had a drive around there, and I do not know how many other members have driven around there, but I hope they visit Beeliar wetlands first, because if they drive around the nickel tailings ponds, at the back of Kerosene Lane or something, they will find that it is a fairly desolate place. It is a place where I would not mind having a road! All that would have to be done is that instead of the road going this way through Bush Forever land, it could go that way down a railway reserve and down the back of the tailings ponds and down the back of the Rockingham tip site. I ask why the government is not spending \$6 million of commonwealth funds on that alignment, because I would perhaps be here supporting what Hon Phil Edman says, but in this case, Hon Phil Edman, I say, no.

One of the things that brought my attention to this issue was when this paper outlining the proposal was tabled in this house. It is supposed to have accurate information in it. This paper, which was submitted by the Minister for Lands, quite clearly states —

The Rockingham Kwinana Development Office has advised the Member for Rockingham and each Member from the South Metropolitan Region —

Of which I am one —

have been briefed all of whom have been supportive of the proposed.

That is an outright lie. Has Hon Kate Doust been briefed? She is a member for the South Metropolitan Region, is she not?

Hon Kate Doust: I am, but I have not had the opportunity to be briefed on it.

Hon LYNN MacLAREN: I know that today my fellow members of the South Metropolitan Region are not prepared for this debate because they have not been briefed, yet this tabled paper sat in this house as a true record of what was wanted to be done in that bushland and it stated that we were all fine with it, but I am not fine with it.

Do members know who else is not fine with it? Members will not be too surprised by this, but there are several black cockatoos that will not be fine with this. This motion will excise a class A reserve that is the potential habitat for, yet again, Environment Protection and Biodiversity Conservation Act-listed threatened Carnaby's, Baudin's and forest red-tailed black cockatoos. In this case, Baudin's black cockatoos do not hang around so much in the Beeliar wetlands, but they do in this place. Also threatened are black-gloved wallabies and quendas. According to the Minister for Planning's answer to my question of 10 November 2010, the alignment also impacts approximately 2.7 hectares of Bush Forever site 356. A couple of weeks ago on 16 March, the *Weekend Courier* ran a front-page story about the dramatic decline of Carnaby's black cockatoos in Baldvis. It states —

... Baldvis resident Anne Bellman saw the sky darken every evening as hundreds of them came to roost in trees on her property.

Now she's lucky to see a group of 20, ...

Results of the 2011 Great Cocky Count report released the same week were damning. The report summary found —

There was a statistically significant ... decline of 37% from 6,672 Carnaby's Cockatoos counted in 2010 to 4,222 counted in 2011, in the DEC Swan Region.

Hon Nigel Hallett: I tell you what, I'll send you all the Carnaby's cockatoos you want; I've got too many of them at my place!

Hon LYNN MacLAREN: Hon Nigel Hallett might still have some bushland where he is and that would be a great place to live I am sure.

If this species continues declining at this alarming rate we could see Carnaby's black cockatoos vanish from the Swan region in the next five years. The situation is really that serious; I am not overstating it. The results in Baldvis are even worse, with page 30 of the Great Cocky Count report detailing that up to 1 000 birds were displaced due to the harvesting of two pine plantations in the area. I saw that harvesting; it was devastating. In the article in the *Weekend Courier*, Kaarakin Black Cockatoo Rehabilitation Centre manager Chris Phillips states —

“We have rescued injured birds from Baldvis as they're forced to forage along the roadsides — and that's usually fatal,” ...

We have seen that recently. The government is proposing yet another road through two Carnaby's black cockatoo habitats, and as I say, that has to stop. The Minister for Environment admitted in question time last week that the Mundijong Road extension would result in the clearing of another 11.11 hectares of Carnaby's Black cockatoo habitat—completely unacceptable.

Hon Simon O'Brien: We could never build a road anywhere, is that what you're saying? It seems to be that way.

Hon LYNN MacLAREN: Hon Simon O'Brien, I have stated quite clearly that I have been in that area and I know that there is an alternative alignment. I am not saying that we should not have that road. I am saying that it is in the wrong place and I oppose the excision of a class A reserve, as I am supposed to do as an elected member of the state of Western Australia who really cares about class A reserves.

The minister failed to admit in question time last week that the proposed alignment also contains 16 trees that are considered suitable nesting habitat for Carnaby's, Baudin's and forest red-tailed black cockatoos, as documented on page 20 of the proponent's preliminary environment protection and biodiversity conservation documentation. Why did the Minister for Environment neglect to mention that 16 trees had been identified? I cannot answer that and I hope that the Minister for Environment will.

Chris Phillips from the Kaarakin Black Cockatoo Rehabilitation Centre called for a moratorium on the removal of trees. I believe that this is needed to halt the dramatic decline of this species on our watch. The opinion piece in Monday's *The West Australian* about the graceful sun moth demonstrated the low priority that Premier Barnett and his government place on wildlife conservation. I do not know how many members saw that opinion piece in *The West Australian*, but I found it shocking.

Hon Michael Mischin: Who wrote it? Is it an objective opinion?

Hon LYNN MacLAREN: If the Premier is going to seek to counter the statements made with direct quotes from him, I look forward to that, as do many Western Australians, because those comments were shocking.

The proponents argue that the clearing will be offset. However, the offsets proposed are existing forested areas, so the proposal will still result in a net reduction of feeding habitat for a species already in terminal decline. If members look at the documentation on page 27, they see that it shows that one proposed offset site is near Singleton, which is 20 kilometres away. How will that help the Baldvis cockatoo population? I do not know; I hope they can still get enough food to fly that far.

The clearing guidelines on table 2 of page 9 of the proponent's documentation show that the proposal is also at variance, or potentially at variance, with three of the 10 clearing principles outlined in the Environmental Protection Act. These are —

Native vegetation should not be cleared if —

...

(d) it comprises the whole or a part of, or is necessary for the maintenance of, a threatened ecological community; or

...

(f) it is growing in, or in association with, an environment associated with a watercourse or wetland; or

...

(h) the clearing of the vegetation is likely to have an impact on the environmental values of any adjacent or nearby conservation area ...

The Minister for Planning stated in question time on 10 November 2010 —

The current metropolitan region scheme alignment preceded both Bushplan and Bush Forever, the establishment of the Rockingham Lakes Regional Park, and the other seven metropolitan regional parks.

It is time that we revisited this metropolitan region scheme—we have been on that theme today—to take into account the presence of Bush Forever sites. I think that Hon Alison Xamon made crystal clear today what Bush Forever means in this state. I do not think that we should proceed with the government's business-as-usual approach. It is increasingly frustrating that no bushland is required to be cleared for this road extension; the road can be extended with minimal or no clearing by using degraded land. With a bit of remediation, the road could go through the evaporation ponds for BHP Billiton's Kwinana nickel refinery or the municipal tip and then down the rail reserve. What is the other option for those disused tailing ponds? Will they just remain an open area where hardly anything grows except wild grass, which itself is struggling? That is the perfect place for a road. That is how we need to be clever about land-use planning. Unfortunately, BHP Billiton has raised concerns about potential odour problems if the road were to pass near these ponds.

I commend the City of Rockingham for trying to find a way out of this. It paid \$69 242.80 for consultants to investigate options for the realignment. We probably need to look at how that money was spent, because this alignment is not acceptable. How any consultant could suggest that a road go through bushland instead of degraded, misused or disused industrial land is beyond me. The same day in Parliament, 10 November 2010, I asked the minister —

As the realignment was necessary to provide a wider buffer between the road and BHP Billiton ... will the company contribute to the cost?

I have already said that BHP said no.

It is clear to me that the Mundijong Road extension is in the wrong place. We should be supporting this disallowance motion that has finally been moved by Hon Phil Edman. We should say, "Go back to the drawing board." Yes, \$6 million should be spent, but not in clearing any more bushland. It is a completely wrong decision in this case. Mundijong Road has been identified by the Department of Environment and Conservation as an important road for flora, albeit not in that area but further down Mundijong Road. We know that tourists like going down the whole road when it is a flora road; they enjoy these roads. We know that there are endangered,

threatened communities in this area and we should be preserving them. We should be planting in that area and rehabilitating it. We should be putting that road where it belongs—in a transport corridor that has existing rail.

I will finish soon by saying that Hon Phil Edman has repeatedly said, through the newspapers, that this road will make a very nice entrance to Rockingham. He said it will be a really stunning entrance statement to the City of Rockingham. The people I have talked to in the region say that this road will carry freight. It will truck sheep from the hills to the port. This road will be used as a port access road. If the good citizens and residents of the City of Rockingham are being sold this road as a beautiful entranceway to the city and, instead, it will be used for freight, I think they too have been misled, just as this house has been misled by the tabled proposal. It was blatantly claimed that I and six other members in the South Metropolitan Region have no issue with this road. As I have said, we do have an issue with this road. I entirely support this disallowance motion. I hope that other members in this house who have heard this argument, who have heard some of the truth of what is behind this road, will agree with me that this is the time to say no, we do not want this road cleared, we do not want this bushland cleared and we do not want a road put through it. The line has to be drawn. I am asking members to draw it here and now.

HON WENDY DUNCAN (Mining and Pastoral — Parliamentary Secretary) [8.07 pm]: I rise tonight representing the Minister for Lands. I urge the house not to support this disallowance motion. The City of Rockingham proposes to extend Mundijong Road between Baldivis and Mandurah Roads to complete a road link between the Kwinana Freeway and the Rockingham city centre as part of the extension that will require an excision from class A reserve 22429. Class A reserve 22429, described as lot 1387 on deposited plan 218497, is set aside for the purposes of recreation and parklands, and is an unmanaged reserve. The proposed new road link will provide commuter access to the city centre and HMAS *Stirling* naval base via Dixon Road—a strategic freight route from both the east and the south, to East Rockingham and the Kwinana industrial areas. That is east from the South Western Highway via Mundijong Road, and south via the new Perth–Bunbury Highway and the Kwinana Freeway. More than \$6 million in federal funding has been secured by the City of Rockingham to build the five-kilometre extension to Mundijong Road, with the state government providing additional funding to enable this project to be completed. The City of Rockingham advertised the proposed excision within *The West Australian*, and signposted the area. No comments or objections were received from the public. The proposal was also published in *The West Australian* on 19 October 2011. At the conclusion of the 30-day period for comments or objections, no submissions were received.

This proposal to extend Mundijong Road between Baldivis Road and Mandurah Road will facilitate a good outcome for the local community and should be implemented as soon as possible. The Department of Regional Development and Lands has been advised by the Rockingham Kwinana Development Office that the proposal is well supported by the federal member of Parliament, Gary Gray, as well as state MPs Hon Simon O'Brien, MLC; Hon Nick Goiran, MLC; Hon Mark McGowan, MLA; Mr Roger Cook, MLA; Mr Tony Simpson, MLA; and Mr Paul Papalia, MLA. With this information and given that there have been no objections following the extensive advertising of this proposal, I urge members not to support this disallowance.

Adjournment of Debate — Motion

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [8.11 pm]: Unfortunately, when I provided information about today's legislative program to the Clerks today, I listed this disallowance as my number one item for business on today's notice paper, forgetting of course that, as a matter of course, any other disallowances are also listed on the notice paper. It was understandable that when members of the Labor Party saw the notice paper, they assumed that this disallowance was the same as all the others and would be dealt with when the time came for it to be dealt with, so they were not prepared to deal with this matter tonight. I have given an undertaking that we will adjourn the debate until tomorrow, and hopefully we can resolve it then. I think arguments have been made by members who support the disallowance and by those who do not support the disallowance. To be fair to members of the opposition, who have not had time to determine their official position on this matter, albeit some members in other parts do support the extension of the road, I move —

That the debate be adjourned to the next sitting of the house.

Question put and passed; debate thus adjourned.