

**SWAN AND CANNING RIVERS MANAGEMENT AMENDMENT BILL 2014**

*Consideration in Detail*

Resumed from 19 June.

**Clause 6: Section 11 amended —**

Debate was adjourned after the clause had been partly considered.

**Mr C.J. TALLENTIRE:** We were in the midst of debating the nuances of this clause. We note the insertion of a reference to the Land Administration Act. I seek advice from the minister on what the actual limitations are in relation to the Land Administration Act. The insertion provision reads —

... the placing of the care, control and management of the River reserve with the Trust is only for the purposes of section 23 and does not otherwise limit the functions of the CEO under section 33.

That is despite the Land Administration Act 1997. My understanding is that the Land Administration Act has a prevailing value over many other pieces of legislation. I think the minister needs to clarify the hierarchy of which act takes precedence over another and how the Land Administration Act overriding the Swan and Canning Rivers Amendment Bill—if it is the case, as I think I am reading it here—would relate to the powers of the trust. I am concerned that we could see some conflict between the objectives of the Land Administration Act and those of the trust, albeit a trust that has been severely depleted of its powers—gutted, in fact. I am concerned that the insertion of this clause, through the Land Administration Act, could put the Department of Lands, which is one arm of government and the agency that has administrative responsibilities for that act, and, indeed, the Minister for Lands and the Minister for Environment, as the minister with ultimate responsibility for this act and the activities of the Swan River Trust, at odds with the trust. We seek clarification on that point and also some definition around what it means that the purposes of section 23 of the Swan and Canning Rivers Management Act are not being compromised in any way.

**Mr A.P. JACOB:** Section 23 of that act relates to the functions of the trust. In responding to the question, this clause actually does the opposite: it gives this legislation primacy in the first instance in and relating to what is written there in proposed new section 11(8A). Indeed, the opening words of that new section state —

Despite the *Land Administration Act 1997*, the placing of the care, control and management of the River reserve with the Trust is only for the purposes of section 23 —

Section 23 outlines the functions of the trust. In essence, the Land Administration Act vests the river reserve in the trust and this allows the CEO to then manage the river reserve on the Swan River Trust's behalf.

**Mr C.J. TALLENTIRE:** I thank the minister for the explanation, but I note that under the Land Administration Act many different penalties can arise if a development proposal proceeds without the necessary decision-making authorities having given their accord, and I think that is also the case with the Planning and Development Act. Is the minister saying that the trust is given the overriding powers and what the trust says can override those other acts? The minister has named the Land Administration Act, but I wonder why he has not also named the Planning and Development Act if this is the nature of the power that he wants to vest with the trust in this instance. Alternatively, is the minister saying that there is already some provision elsewhere in this bill that enables the trust to work with the Planning and Development Act, or is he saying that that act now overrides the powers of the trust anyway? I really want the minister to address the two issues in relation to the powers under the Land Administration Act. The minister is suggesting that the trust will override those, but why has he not also made some reference to the powers that come through with the Planning and Development Act?

**Mr A.P. JACOB:** In making the changes to the Swan River Trust that we have previously announced and that we are obviously activating through this legislation, we have continued to use the Conservation Commission as the model, and this clause essentially sets up the Swan River Trust as the vesting body for the management of the Swan and Canning Rivers reserve area. The trust will be the vesting body, with its powers to manage that land delegated to the CEO on the trust's behalf. That legislation does not seek to deal with property controls; it specifically deals with the Swan River Trust being that vesting body.

**Mr C.J. TALLENTIRE:** I note the minister's point that his intention is to model the new Swan River Trust on the Conservation Commission and, indeed, I think he also said, on the Marine Parks and Reserves Authority. Yet again in this debate I find it necessary to go through some of the essential differences that exist between the original intent of the Swan River Trust and what the intent of the other bodies, the Conservation Commission and the Marine Parks and Reserves Authority, might be. One glaring difference, one really stark difference, is that when there is delivery of town planning schemes—those very important documents that are developed under the powers of the Planning and Development Act and also local government acts—those planning schemes have enormous sway over the nature of land uses in a particular area. It is my understanding that lands are vested with

the Conservation Commission and lands and waters vested with the Marine Parks and Reserves Authority. When planning schemes are developed, maps with colours shaded over them show different land uses—there might be a rural zone or there might be an urban development site. It is made very clear which land is vested with the Conservation Commission in the development of those town planning schemes, so much so that it could be said that when a nature reserve or national park is vested with the Conservation Commission, the involvement of the other legislation does not arise. That is very different from the role of the Swan River Trust, and that is exactly why we come back to this point: the powers that the Swan River Trust currently has must be preserved because the Swan River Trust has to have a capacity to bring together local government bodies and those elements represented in the metropolitan region schemes. To bring all that together, there needs to be a powerful Swan River Trust; we do not want a body, as is being suggested here and also in proposed section 23, that is simply an advisory body that develops policies. That will not be a body that can work on the complexity of issues and the difficult task of bringing together different land uses as designated by the town planning schemes and the metropolitan region scheme. I seek the minister's clarification of his reliance on saying that the Conservation Commission provides the perfect model for how the future Swan River Trust will look and operate, and how that can possibly work, because the nature of the work is so different. As I have said, the Conservation Commission operates in an environment in which clearly designated areas are not the domain of the local government authority. By contrast, the Swan River Trust operates at the very coalface of that planning and decision-making that comes through the planning schemes and the metropolitan region scheme. It is totally different. This is a perfect example of why the minister is making such a major mistake here in diminishing the powers of the Swan River Trust. It just shows how at some very early stage the minister got the wrong idea about how this change could be implemented; the minister misunderstood things and thought that it was just necessary to have another body like the Conservation Commission or the Marine Parks and Reserves Authority, when in fact the situation is very different. I find that the misunderstanding here really gets to the heart of the dispute.

**Mr D.A. TEMPLEMAN:** The member for Gosnells is on a very important line of thought, and I would like to hear more from him.

**Mr C.J. TALLENTIRE:** We need to get to the heart of why we have this dispute in the chamber today. We know that the Swan River Trust has had a very important role to play. We on this side of the house have a view that its powers should, if anything, be increased so that it can provide that overarching catchment management role. Later today we will be discussing the Peel–Harvey catchment and the need for integrated catchment management. In developing the Peel–Harvey Catchment Management Bill 2014, we gathered all kinds of advice from scientists and policymakers talking about the importance of integrated catchment management. Yet in this clause we see that the minister is imagining that we can just move the Swan River Trust into a different role—that is, an advisory body, a vesting body. That was never the intention of the original legislation. In fact, I fear that the amendments that the minister is making to the Swan and Canning Rivers Management Act are not consistent and they will not go far enough with what he wants to achieve. If he simply wants to make the Swan River Trust this advisory body, he is doing that within the framework of a bill that was designed to give those overarching integrated catchment management powers to the trust. He will have problems down the track.

I ask the minister to please allay my concerns or elaborate on this point that he is simply using the Conservation Commission and the Marine Parks and Reserves Authority as his model. If he thought things through, he would see that there is no parallel between the way these bodies should operate. I seek some detail from the minister on how he sees the role of the Swan River Trust having this direct parallel role to the Conservation Commission or the Marine Parks and Reserves Authority, especially when we consider their totally different planning circumstances. The Minister for Planning is sitting behind the minister. He would be able to explain how significant the planning responsibilities are for the Swan River Trust. They are totally different from those of the Conservation Commission. I seek an explanation from the minister.

**Mr A.P. JACOB:** I know what the member for Gosnells is getting at, but he is largely debating the entire premise of the bill and the policy direction that the government has taken. We have done that a number of times in this place—indeed, during the second reading debate and a few other motions as well. I bring us back to the specific clause that we are debating, clause 6, which relates directly to amendments to section 11 of the Swan and Canning Rivers Management Act 2006. Section 11 specifically deals with the river reserve defined, reserved and vested in trust. The amendment at proposed subsection (8A) to section 11 clearly performs that function as part of that definition of the river reserve and its vesting role.

**Mr C.J. TALLENTIRE:** The minister has said that this clause is essentially about the vesting role. We are talking about those bits of the river—the river bed, riverbanks and the river foreshore—that are currently vested with the Swan River Trust. I need the minister to explain the capacity of this new Swan River Trust, which will simply be an advisory body. How will it work with the local governments? We must recognise that local government is in a state of flux, and that is putting it mildly. There are obviously huge changes afoot for the local governments that surround the Swan River. We must also recognise that there is enormous development

pressure, and the most valuable land in the Perth area is probably that land that immediately abuts and is in close proximity to the Swan River. The minister is saying that the land will be vested with the Swan River Trust but it is only an advisory body. He is also saying that it is the body that will ensure a harmonious working environment and a harmonious decision-making process between the views of local governments and the directive of the metropolitan region scheme. How will that work? What happens if the advisory body has a different view from a local government? Whose view will prevail? My impression is that the Swan River Trust's view will not prevail because the minister has gutted it. It has been dropped down to simply being an advisory body.

Let us imagine the sort of proposal that a local government might put forward. It could be for a major casino—a high-rise development—right on the banks of the Swan River. Maybe it would be a spectacular type of development but it might not be one that people would necessarily endorse. We already have one of those and it is at least reasonably set back from the river itself. Supposing this conflict arose between the objectives of a local government and the Swan River Trust. What way would the decision go? How would the minister resolve any conflict of view? How would he ensure that the community view is properly heard? How would he ensure that we have the very best of decision-making, not decision-making that is about some brute force that one body might have over another—a brute force that would be reduced to the argument around the dollar value of a particular activity? There may be some huge development proposal that might not be to everyone's liking but to the liking of the proponent, which has enormous financial resources. If we compare the brute force of that proponent, perhaps working with local government, with the capacity of the Swan River Trust, which is simply trying to do its job of defending the environmental values of the Swan River, it is pretty clear which one is going to win. I ask the minister to clarify for me what the decision-making process would be. How would the Swan River Trust be able to operate on an equal footing with those very powerful and financially resourced organisations that would then seek to work with local governments to get their projects built wherever they like along our river system?

**Mr A.P. JACOB:** Again, that did not relate to the clause that we are debating. I cannot see that we will make much progress if we seek to debate the entire bill and its entire premise from clause to clause. We are debating clause 6 of the bill, which amends section 11 of the act relating to the river reserve definition or its vesting in the trust.

In answer to the question of how disputes will be resolved—hopefully, we will not keep going down tangents on every single one—that is back at section 6 of the act. We are on section 11. Since it was raised, I will quickly deal with the issue of who is ultimately accountable. That is me, or whoever is the Minister for Environment at that time. In some cases, the minister of the day may need to consult with other ministerial colleagues who are also very accountable. I reject this premise that that somehow makes it less accountable. I would say that it makes it more accountable because I am responsible to the electorate and the government is responsible to the electorate and, indeed, accountable to Parliament. This entire premise increases accountability. As is outlined in section 6, in the event of a dispute or ministers being unable to come to an agreement, the Governor will decide in that case.

**The SPEAKER:** Member for Gosnells, I just want to remind you to stick to the business of the clause, please.

**Mr C.J. TALLENTIRE:** Thank you, Mr Speaker.

I note section 11 of the Swan and Canning Rivers Management Act that the clause is seeking to amend, refers to, and indeed its title is, "River reserve defined (Sch. 1 and 4), reserved and vested in Trust". I will do my best to make it clear to the minister that my point is related to this issue of vesting, as the title of section 11 states. The clause seeks to amend section 11 of the act, which is all about vesting. My question to the minister was about the potential for conflict between local government roles and Swan River Trust roles. The minister has in some ways clarified what I was asking. He said that ultimately he is the one who is responsible, and then that we would have to refer back to some other sections of the act. However, the fact is that the minister will be getting advice from the Swan River Trust based only on his direction. The Swan River Trust will not be developing advice that it has sought to gather or commission. That is a significant change. I am happy for this to be my final point on this clause, but the minister keeps making the point that there is a parallel between the Conservation Commission of Western Australia and the Swan River Trust because he is making the Swan River Trust this vesting body. If that is the case, why is the minister talking about the Land Administration Act and not about anything to do with the Planning and Development Act? I really do believe that those other bodies, those local governments that are involved in the ownership or have vested in them land that adjoins the river, use those powers under the Planning and Development Act. Those bodies are not mentioned at all in section 11 of the act, yet the section is all about vesting. How can we ensure that there is no conflict between the objectives of the Planning and Development Act and the objectives of the Swan River Trust?

**Mr A.P. JACOB:** As I have said, the examples I have used of the Conservation Commission and the Marine Parks and Reserves Authority are relevant substantially as they pertain to clause 6, which is to amend section

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11 of the act. I have read out a number of times what that particular section of the act relates to. There is, therefore, a clear parallel in regard to this section. Issues around planning and development control are actually dealt with in part 5 of the act.

**Clause put and passed.**

**Clause 7 put and passed.**

**Clause 8: Section 22A inserted —**

**Mr C.J. TALLENTIRE:** The eighth clause of the bill inserts an authority, and states —

**CEO entitled to attend board meeting**

The CEO, or a nominee of the CEO, is entitled to attend any meeting of the board and to take part in the consideration and discussion of any matter before a meeting, but cannot vote on any matter.

In the second reading debate we touched on the issue of the location in the Department of Parks and Wildlife of the unit, branch or division that currently makes up the Swan River Trust staff. That location is important and it is directly relevant to this insertion, because the minister has raised the issue in the insertion that the CEO might attend board meetings. I am curious to know how often the minister thinks the CEO would attend a board meeting of the Swan River Trust. I think it is far more likely, as the insertion provides, that it will actually be a nominee of the CEO, and that that person will have access to the resources of those Swan River Trust staff—previously known as Swan River Trust staff and now to be known simply as Department of Parks and Wildlife staff. However, what structure does the minister envisage will enable that person to obtain that information? At some times during this debate the minister has made the point that the Swan River Trust staff will have access to the full complement of expertise in the Department of Parks and Wildlife. I think, in saying that, the minister suggested that Swan River Trust staff will even be scattered through the Department of Parks and Wildlife. I am worried that we will not have that ready assemblage of good information directly relevant to this person, be it the CEO or the CEO's nominee, who would be attending the board meetings. It is very important that people attend meetings as well briefed as possible. Indeed, one of the advantages of having government officers attend board meetings is that they can bring very well constructed, concise and well-presented information. We must bear in mind that everyone else sitting around the table—all those other members of the Swan River Trust—will be there in an advisory capacity and also in a voluntary capacity. They will not have the same resourcing that the nominee of the CEO will have. It is therefore important that it is clear. I think in previous discussions the minister suggested that the domiciling within the bigger agency of the Swan River Trust is actually something of an operational matter and that he will leave that to the CEO to work out. I do not think that answer is good enough, because it is so crucial that we have good information flowing through to the board. After all, this bill is about turning the Swan River Trust into an advisory body. We are therefore looking here at a clause that works out how the nominee or the CEO will participate in those board meetings. It is essential that they have the best quality advice, and if that advice is not readily assembled, it will be a serious problem. The only way, in my view, that that advice can be readily assembled is by having a dedicated unit in the agency or a dedicated branch—perhaps even a dedicated division within the Department of Parks and Wildlife. Can the minister clarify how that structuring of the agency will work? I think it is reasonable that the minister has had the opportunity to debate, discuss and go into some level of detail with the director general of the Department of Parks and Wildlife. We both know the director general well and find him a very approachable man—a man who I am sure would be very keen to discuss this sort of issue with the minister. How is it going to work that the minister will get to the board meetings the very best information possible?

**Mr A.P. JACOB:** These are very similar to the questions asked the last time we were going through the consideration in detail stage, dealing with issues around the website, for example. We would not ultimately seek to structure the way a department's website would look through that piece of legislation that empowers those functions, nor would we go down to the operational extent of allocating where certain staff positions may be in an organisation through the act. I certainly note the comments of the member for Gosnells, and they will certainly be noted for anybody who may read this debate. However, the comments do not actually relate specifically to the clause. Also, we would not seek through legislation to make those sorts of definitions anyway; they will come after the bill has passed through this place and been proclaimed.

**Mr D.A. TEMPLEMAN:** I think the minister is being a bit flippant there. This clause relates to the relationship that the CEO will ultimately have with the Swan River Trust board. Therefore, questions with regard to the CEO's entitlement to attend board meetings and the influence the CEO may have are relevant questions. The sorts of questions I will be asking the minister about this clause, for example, are about the way this clause reads. My understanding is that the chief executive officer could have at every single board meeting a nominated attendee, because the CEO decides whether he wants to be at every board meeting himself or whether he wants an officer there. A protocol would need to be set up to inform him when meetings are held. A natural protocol to

establish would be that whenever the board of the Swan River Trust met, the CEO of the department would need to be notified about the board meetings. I am interested in the minister's comment about how the CEO or his nominee might influence the agenda of the board meetings under this clause and under future clauses. There are also issues regarding the minister's capacity to give directions to the trust's board, as highlighted in proposed section 28C. I am very interested in the protocols that this clause would need to create for communication with the board through the CEO's office and the CEO's nominee. I know that we do not always like to use hypothetical scenarios, but it is quite feasible that under this clause—I note that there is no voting right—there is nothing to stop the CEO or his nominee from attending a board meeting unannounced, although I assume protocols would be established for the board to meet once a month on a particular date. Nothing in this clause would prevent the CEO and/or his or her nominee bringing to the board's attention agenda items for discussion and/or for determination, bearing in mind that that representative could not vote. This matter goes to the root of the autonomy of the trust, and that is the point that the member for Gosnells has been making on a number of occasions at the consideration in detail stage.

I would like the minister's response to those matters. I am not trying to say that the CEO would interfere, but an overzealous CEO might be worried about the trust and would want to keep an eye on it, and this clause will allow the CEO to do that. I would like the minister to comment on that and not bat it away as a frivolous comment, because it goes to the root of the autonomy of the board. When I was the Minister for the Environment, I attended two or three meetings of the board, but, they were formal protocolled attendances. This is a proposal to give the CEO the entitlement to attend any meeting and have a nominee if he or she does not attend, and that is an important matter that the minister should respond to.

**Mr A.P. JACOB:** I do not in any way seek to—I cannot remember the term the member for Mandurah used —

**Mr D.A. Templeman:** It was “frivolous”.

**Mr A.P. JACOB:** I do not in any way seek to do that at all. I am trying to address the queries that relate to this clause, which will be section 22A of the Swan and Canning Rivers Management Act should this bill pass in its current form. Members have put forward two propositions. The member for Mandurah put the hypothetical that the CEO or the CEO's nominee could overtly influence the board's direction, and the member for Gosnells asked how we will make sure that the board is resourced and informed. That will be done by making sure that it has the staff and capacity in the organisation, which is what this clause effectively activates. This specific clause is reasonably self-explanatory. It is also very common practice and is, in fact, the practice as it currently stands. The general manager would attend Swan River Trust board meetings, and this clause will simply allow the CEO or the CEO's delegate to attend those meetings.

**Mr C.J. TALLENTIRE:** The minister said that the general manager would attend the meetings, but there is a huge difference between a general manager of the Swan River Trust, who is highly knowledgeable on all matters to do with the Swan River Trust, and the director general of the Department of Parks and Wildlife, who also is currently highly skilled, and I am sure that future appointees will be similarly skilled. That person would always come to his role on the board with a very different perspective. It is hard to reconcile the two.

**Mr A.P. Jacob:** It is the CEO or a nominee of the CEO. In practice, how that would happen, I imagine, is the CEO would attend from time to time, but the reality is that the more regular staffing resource would be the nominees, who generally would work in a more specific area related to that.

**Mr C.J. TALLENTIRE:** I thank the minister for that clarification, because it gets to the point I really want to raise. Most of us in this room at some time or another have served on government boards—one could say that the Swan River Trust is a board like other government boards—and we know that a lot of the knowledge, documentation information that is brought to the table that informs a board's discussion, is prepared and presented by the secretariat. I come back to the point that they are remunerated in a small way. That is mentioned in a previous section of the act that provides, on the recommendation of Public Sector Commissioner, some remuneration and offset for travelling expenses. The point is that these are people with busy professional lives. They are reliant on the quality of the secretariat to provide information in advance of a meeting so that that they can read and deliberate on the agenda papers, and so that they can phone somebody in the agency who will provide them with clarification if something is not quite clear and who will just help with the administration. I am sure an enormous amount of government time is spent ensuring that members of a board, or a body such as the Swan River Trust, receive their agenda papers on time. I imagine that is a mammoth task, as is the hiring of courier services and such things. It is an expensive and time-consuming business, but nevertheless essential, to ensure there is a good-quality secretariat that can provide that support.

There is an interesting confusion about the secretariat. On the one hand, I imagine that the secretariat will be made up of staff who report directly to the director general and will be employees—correct me if I am wrong—of the Department of Parks and Wildlife. On the other hand, the minister is saying that the people who provide

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all the information and report to the director general will be reporting to a person who does not have a voting role on the Swan River Trust board. By doing that, the minister is suggesting that he wants to limit the capacity for government control over the operations and decision-making of the Swan River Trust. The minister is limiting that role and wants it to be a community-led organisation, which is commendable. However, there is a dispute about the extent of that power because the minister is keeping it at the advisory level—although the minister would dispute that.

The information presented to board meetings of the Swan River Trust will be prepared by people who report directly to the director general of the Department of Parks and Wildlife. How is that the provision of impartial advice? The minister is creating a situation in which the most powerful person sitting at a meeting of the Swan River Trust may not have a voting right, but they will be the person who controls the agenda. Why is the minister allowing that situation to arise?

**The ACTING SPEAKER (Mr I.M. Britza):** I remind the member that he is giving a wide berth to the clause we are talking to. This is not a second reading debate. The member brought his comments back just at the end, but up until that time I was not sure what this had to do with clause 8. I am listening intently to ensure the debate relates to the clause we are discussing.

**Mr A.P. JACOB:** Should this bill be proclaimed, how this will operate will largely be an operational matter. I do not envisage that how it operated under the Swan River Trust will be much different from other boards that sit under the Department of Parks and Wildlife. However, bringing my answer back to this clause, this clause activates the opportunity for the CEO or his representative to be a delegate to the board without voting rights. It is an eminently sensible proposition, which I suspect members opposite agree with.

**Mr C.J. TALLENTIRE:** I do not think the minister has addressed my point, which is that the most powerful person sitting at the table will be the CEO, even though he or she will not have a voting right. I will give an example of why I think that is a real concern. The CEO has responsibility for a huge agency, the Department of Parks and Wildlife, with all kinds of responsibilities right across the whole state and very focused on visitation and facilities in our national parks. That is all great work and all good stuff.

**Mr A.P. Jacob:** The clause refers to the CEO or a nominee of the CEO. I answered an earlier question that it is likely to be a nominee of the CEO and probably an element of the secretariat that is attached to the board, so I have answered that on several occasions.

**Mr C.J. TALLENTIRE:** The minister is not picking up on the fact that that nominee who will be reporting directly to the CEO might essentially have a conflict of interest; whereas, presently, we have an arrangement that the deliberations of the Swan River Trust will always be focused on the Swan River, and without any fear of a compromise it will endeavour to do the best for the Swan and Canning Rivers based on the efforts of the 60 or so staff who are employees of the Swan River Trust. The minister is creating a situation in which the CEO or his or her nominee might think that a piece of research, an activity, a program or liaison with community groups that other board members might like to see done should be directed to the department's activities in the Kimberley or on the south coast, because there are limitations on resourcing. The minister is creating a situation in which the capacity for those trade-offs and compromises becomes much greater because the Department of Parks and Wildlife has statewide responsibilities.

I will explain why the minister is making a mistake here. If we were to stick with the current arrangements with the Swan River Trust with a dedicated staff, we would not have that same level of conflict that will occur here because the minister is appointing the CEO or his or her delegate to the board. We have established that the CEO is the most informed and powerful person sitting at the table. The CEO could end up providing a contrary view to the advice received, for example, from marine biologists that an algal bloom monitoring program is crucial and the CEO might suggest that these marine biologists do activities on the south coast instead. What happens when those sorts of trade-offs are being made? I fear that the CEO or their delegate will be constantly caught out by that, instead of the current simple arrangement that is nicely focused and dedicated to the Swan and Canning Rivers. The minister is risking a dilution of the capacities of the Swan River Trust, which is a great shame. Can the minister explain what provision he would make within the administrative arrangements to avoid this? I know that the minister has said he does not want to talk about the administrative arrangements, but there must be some check in this legislation that prevents that internal conflict on how resources are applied. The minister must include that somewhere in this bill, otherwise we can only conclude that he is happy sometimes for decisions to be made whereby loss of resourcing for the Swan River Trust will occur and a bit more resource will be applied to a body elsewhere in the state—to use the example of how aquatic marine scientists might have their capabilities applied. Where is the check in the system?

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**Mr A.P. JACOB:** All of those matters are dealt with largely in other areas of the bill, and I am happy to discuss them when we get to those clauses. We have addressed all the concerns about this clause and we are now debating the bill at large. I encourage members opposite to put the clause if they wish to oppose it.

**Mr C.J. TALLENTIRE:** I was disappointed to hear the minister's response because we are focused here on the appointment to the board of the CEO. We have realised that the role of the secretariat is crucial. The minister said that he will deal with these issues in later clauses and has suggested there is a check in the system but it is in another part of the bill. It is only reasonable that the minister points me to that, given that this is central to how the Swan River Trust is resourced and it does not risk losing capacity to other parts of the Department of Parks and Wildlife. Could the minister indicate where I can see that check in the system, because it is certainly not in this clause? All we see in this clause is the potential for confusion between the objectives of the Department of Parks and Wildlife and the Swan River Trust, and a very serious muddying of the waters to use an aquatic analogy. I fear that we do not have that check. I have not noticed anywhere in this bill the check in the system that I am asking the minister to foreshadow so that we can move on from this clause and I can feel relaxed that we are not inserting a clause that sets us up for a conflict, whereby each time that conflict has to be resolved will see the Swan and Canning Rivers the loser and perhaps elsewhere in the state will be the beneficiary. I do not want to see any loss anywhere, of course, but I am worried about the loss of the Swan River Trust's capacity to undertake studies or provide community support—important activities such as planning and stakeholder liaison. I am worried that the secretariat will provide advice that is suiting the intentions of the CEO and not the objectives for the Swan and Canning Rivers.

[Quorum formed.]

**Clause put and passed.**

**Clause 9: Section 23 amended —**

**Mr C.J. TALLENTIRE:** Clause 9 goes to the central diminution of the Swan River Trust's capacities. It amends section 23 of the act and has an extraordinary definition of the trust's new capabilities, which are around developing policies and taking on an advisory role. I note that in previous discussions the minister said that this is simply a machinery-of-government change. I seek from the minister some clarification on this dramatic change in the powers of the Swan River Trust, which degrades it to an advisory body that has some capacity to develop policies. We need some discussion around what level of policy we are talking about here. Are these statutory policies that will be given the power of law or are they simply policies that could be referred to from time to time as is seen as convenient? I seek the minister's clarification. The act will be dramatically changed. This bill deletes section 23(a), (b) and (c). Section 23 reads, in part —

The functions of the Trust are —

- (a) to protect and enhance the ecological and community benefits and amenity of the development control area and to control activities and development in that area;

This bill deletes section 23(a) and instead provides that the function of the Trust is —

(ab) to develop policies —

- (i) for the protection and enhancement ...

We are taking the trust away from being a real delivery body and relegating it to being a body that develops policies. Why would the government do that? The state of Western Australia has invested so much money in establishing a body that can develop things and make programs happen. I know it has done very good and extensive survey work on community views about how the Swan and Canning Rivers can be protected and enhanced. The trust has gone to the trouble of getting that feedback and finding out what stakeholders see as essential and what kind of programs are needed. The trust has come up with all sorts of monitoring programs, dolphin watch programs and programs that involve cleaning up parts of the river and revegetating river foreshores. The government and my side of Parliament have done a brilliant job in establishing this body that has that capacity "to protect and enhance the ecological and community benefits and amenity of the Riverpark". We have done that job, yet the government wants to remove it from the legislation. The government wants to reduce the capacities of the trust so that its role is simply to develop policies on those sorts of things. What a dramatic change. We will tragically lose the capacity that we have built up in government. Why would the government do that? I just cannot see the upside to it.

Previously, the minister's argument has been that this is simply a machinery-of-government change and that I am really worrying unnecessarily. The minister says that everything that the Swan River Trust does today will be done tomorrow by people working in the Department of Parks and Wildlife. However, this amendment shows that that is absolutely wrong. That is not the case at all because the government has dramatically changed the powers of the trust. In this legislation the government has taken it away. The government has told the trust to

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only develop policies and not to protect and enhance the rivers. How can the government let that happen? The minister's machinery-of-government argument that the bill is only changing the reporting regimes would have some validity if this clause was not presented in the bill.

**Dr A.D. BUTI:** I am interested in hearing more from the member for Gosnells.

**Mr C.J. TALLENTIRE:** The government is dramatically changing the legislation. If the government had left the arrangements as they were, with the staff in the Department of Parks and Wildlife with the power to protect and enhance the ecological and community benefits, that would have made the world of difference to this legislation. This clause shows that the government does not want the Swan River Trust to be empowered in that way any longer. The government wants it only to come up with policies. That is a serious weakening of the capacity of the trust. It is nothing to do with the machinery of government. It really is a tragic loss. When we think of all the resources we have put in over the years to develop the trust's capacity, it highlights what a loss it is.

The minister needs to respond to that. I will perhaps come back to him to talk more about the actual nature of the policies, but that is secondary to the fact that the government is getting rid of the Swan River Trust's powers through these proposed deletions.

**Mr A.P. JACOB:** In addressing that specifically, this bill deals with the Swan River Trust. The act as it stands empowers the trust, as the member said, for example —

- (c) to carry out works and provide facilities for the purposes of protecting and enhancing the ecological and community benefits ...

The trust was never the one physically doing it, clearly. That work will continue. This bill relates to how the trust as a board and a body continues. As we have debated in previous clauses, although it is probably more relevant to this one, the trust will continue as a vesting and advisory body and it will do good work to develop policies in that space and the operational arm will be delivered through a larger, amalgamated and dedicated environmental agency.

**Mr C.J. TALLENTIRE:** I do not think the minister is answering the real point here. The minister is suggesting that the trust did not get its hands dirty and go out there. I know that as a matter of fact that is wrong. I certainly have seen trust members out there; that is a side point really.

**Mr A.P. Jacob:** That is not what I meant.

**Mr C.J. TALLENTIRE:** The trust has that capacity and that responsibility; it is in law that it has to do those things. It had responsibility. To make a body such as a trust responsible for the protection and enhancement of the ecology of the river is very good lawmaking. We clearly have a board and laws that make it responsible for some activity, and we can see whether it is progressing and whether programs are happening. It has great government accountability. There is still so much work to do; we cannot say that we have achieved everything and we do not need to do this anymore. I am sure the minister would agree that the challenge is as real as ever. The government is saying that it is happy for the trust to simply develop policies around these areas. The minister is not explaining—perhaps he will get to this—how those policies will ever measure up to the trust's current role, which involves doing these things and making sure that they occur.

**Mr A.P. JACOB:** We have debated the broad intent of the bill ad nauseam. It is clearly understood that there are differing views on either side around that intent and the way we proceed. I accept that members opposite oppose this clause, but I stand by the clause and I am happy to agree to disagree on it.

**Mr D.J. KELLY:** I am not sure that it is good enough for the minister to stand and say he is happy to agree to disagree. The purpose of Parliament is to debate these issues. The fact remains —

**Mr A.P. Jacob:** The consideration in detail stage is not the time to debate the broader issue ad nauseam.

**Mr D.J. KELLY:** If the minister wants to get to his feet, he can; otherwise, if the minister does not mind, he should let me finish.

As I see it, clause 9 goes to one of the fundamental problems with this bill. On this side of the house we see that these types of amendments gut the Swan River Trust of its essential character. It is very unpopular to abolish something that is as valuable to people as the Swan River Trust. A way to get around that is to simply gut the trust of its fundamental nature. To me, that is what this clause will do. The minister said in his second reading speech that all existing functions of the Swan River Trust have been retained. When I read that, I thought: the Swan River Trust will still do what it previously did; it will just do that as part of the larger department. Clearly, from reading this clause—unless I have read it completely wrong—it seems that the minister is fundamentally changing what the trust can do. Under the current act, the Swan River Trust has powers in its own right to act and protect the catchment. The minister is reducing it to an advisory capacity, in large parts, to the minister. That

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means, for example, that all the Swan River Trust can do, if it is capable of properly researching an issue, is to come up with policies and advice. It cannot do anything in its own right. That relies on people further up the chain to take action.

It looks as though the minister's second reading speech has been misleading, if I have read the bill right. The proposed amendment to section 23 guts the Swan River Trust of its essential character. All that is left is the name "Swan River Trust" so that no-one will criticise the Minister for Environment for abolishing the trust. He will be able to run around and say he has not abolished the trust, but he has done it in all but name. People want a strong Swan River Trust with a degree of independence; that is, after having looked at an issue, it can take action in its own right rather than simply make policy. If somewhere else in the bill will give the Swan River Trust these functions, I would be happy for the minister to point it out. My reading of this legislation is that it guts the essential nature of the trust.

**Mr A.P. JACOB:** I will read out specifically what I said in my second reading speech —

All existing functions of the Swan River Trust have been retained, with decision-making responsibility and operational management to be transferred to the parks and wildlife CEO.

That is all picked up at proposed section 33 of what will become the Swan and Canning Rivers Management Amendment Act. I am happy to debate that at that time. All those matters that the member for Gosnells raised, as highlighted in my second reading speech, will be retained under the act but they will be retained under the powers of the CEO, which is proposed section 33 of the act. We are currently debating proposed section 23 of the act, "Functions of Trust".

**Mr D.J. KELLY:** Thanks for clarifying that. When the minister said in his second reading speech, "All existing functions of the Swan River Trust have been retained", he did not mean they are being retained by the trust?

**Mr A.P. Jacob:** You are reading half a sentence. Read the rest of it.

**Mr D.J. KELLY:** It is very clever. The minister can put whatever —

**Mr A.P. Jacob:** You are not even reading a full sentence.

**Mr D.J. KELLY:** Is the minister on his feet? No.

**Mr A.P. Jacob:** You are taking my interjection!

**Mr D.J. KELLY:** If the minister wants to interject, by all means.

The minister was being clever in his second reading speech. He could have said in his second reading speech that all the functions of the Swan River Trust have been retained but the decision-making is somewhere else. What the minister should have said in his second reading speech is that he has taken away from the Swan River Trust decision-making in a range of areas and given that to someone else, the CEO, and left the Swan River Trust simply as an advisory body to the minister, with very little powers. If the minister wanted to be up-front in his second reading speech, that is what he should have said. The second reading speech has been crafted in a way that it appears, on first read, to say that the Swan River Trust will continue to have those functions.

If that is what clause 9 does, I do not think any community sector involved in the management of those catchments would think that is a good idea. I do not think anyone would think taking away all those functions from the Swan River Trust and putting them in the hands of the CEO is a good idea. One of the risks the minister runs with doing this—if the government proceeds with it—is that all those community groups that give of their time and effort to protect the Swan River will see it as a kick in the guts. They will say, and rightly so, that the government is pulling the rug out from under the Swan River Trust. If the government does not support the Swan River Trust, why should community groups bust their gut on a Sunday morning picking up rubbish and surveying the ecology of the rivers? Why should they do that if what the government is really about is weakening the protection of the river by weakening the Swan River Trust? The minister might say he has a different point of view, but I challenge him to point to a single community group currently working in this area that thinks converting the Swan River Trust to a mere advisory role is a good idea. Point to one that supports this amendment. I would be interested to hear it because I cannot hear anyone out there saying they support this. It is pretty arrogant of government and it is pretty arrogant of a minister to say, "We're going to make these changes. We know all the valuable work that the community puts into these rivers. We know those people are not going to support what we're doing but our view is that is the best thing for the river, so we're just going to ram it through." Who on earth thinks it is a good idea to do this to the Swan River Trust?

**Ms J. FARRER:** Are Noongar people invited to sit on that board and how are policies implemented?

**Mr A.P. JACOB:** As it stands, one member of the board should have knowledge of Noongar interests. That will not change under this amendment bill.

**Mr C.J. TALLENTIRE:** The minister is saying there would be capacity for the views of the Noongar community to be heard through a member of the board. We again come back to the issue that it is only about developing policies. That is the new function. Previously, the trust had the capacity to do things such as honour and protect Noongar culture, which we know is strongly connected to our Swan and Canning Rivers. But now the minister wants to allow only policy development around that. I guess the minister will tell me later that there will be provision in the act for the department to undertake protection and education work, and the honouring of Noongar culture, but that is removed from the body that is developing it. The minister is saying that the trust will develop policies, but he has not gone into any detail about how those policies will be developed and what degree of binding obligation there will be on an agency or on government to respect those policies. To use the very important example of the Swan River Trust developing policies that honour and protect Noongar culture, how will those policies be implemented and in what way will they be binding? That is my particular concern. I am aware of other areas of government in which policies are developed. For example, under the Planning and Development Act, a statement of planning policy is almost, but not quite, legally binding, and that seems to be a high-order level of commitment. I know there has been much discussion in government about making those statements of planning policy legally binding, and mechanisms are found to make them legally binding, sometimes using the Environmental Protection Act, and I will touch on that when we debate the Peel–Harvey catchment legislation. How will these policies be developed? Can the minister please use the very important example of policies that are designed to protect and honour Noongar culture? How will these policies be implemented and in what way will they be binding upon government?

**Mr A.P. JACOB:** There will still be a policy development function as part of the trust body's operation. Again, a number of issues that the member for Gosnells raised are picked up in other areas of the bill, and I fear that we are straying into debating the act in general. Picking up on the member for Kimberley's question, one of the objectives of the act and principles to be regarded is to recognise the interests of the Noongar community. There are a number of references throughout the substantive act, and no amendments to any of those references have been proposed in the legislation that we are debating.

I also caution the member for Gosnells because, ultimately, the debate is about the functional arm of the Swan River Trust becoming a part of the Department of Parks and Wildlife. I do not think anybody could make any suggestion that the Department of Parks and Wildlife as it currently stands does not have incredible capacity in that space and is doing absolutely amazing work on Indigenous land use agreements, joint vesting and joint management right across the state. The department does exemplary work in that area, and, again, it might be an opportunity for both groups to come together for a better outcome.

**Mr C.J. TALLENTIRE:** Just to follow up, the minister still has not told us how these policies—excellent as they may be when they are developed—will be binding on government. He is telling us that we can be sure that the department will follow them because they will, in all likelihood, be developed by people within the department—although, in fact, the law states that they are developed by the trust. I think we can be reasonably confident that they will be respected by the Department of Parks and Wildlife, but how will they be legally binding beyond the Department of Parks and Wildlife? The policies that the Swan River Trust develops may, for example, relate to the speed of craft on the river. If the Swan River Trust develops a policy using its expertise that, for the benefit of the foreshore environment in the electorate of the member for Bassendean, a speed of four knots is the maximum permissible, tolerable speed at which craft can move and not cause unnecessary wash that damages the foreshore vegetation, how will that policy be adhered to across government? I do not see any provision in the bill that enables the very important work that the Swan River Trust should be the leader on to become legally binding on other agencies or on the community at large, yet that is exactly what the community is asking for. When I attended the Swan River Trust forum that was held in the electorate of the member for Maylands only a month ago, one of the key things that was raised—it was a point that had been raised at a previous meeting that the member for Maylands had conducted in her electorate with members of the community who enjoy the Swan River foreshore area—was a concern about the speed of craft on the river and how, unfortunately, some people do not respect the current speed limits. I think there was a concern that the current speed limits are probably too high. The real problem is that people do not respect any of those speed limits and cause unnecessary damaging wash that leads to the erosion of vegetation along the riverbank, the last bit of vegetation being washed away, the erosion of recreational areas and more nutrients entering the river. The eventual solution, I suppose, would be a very ugly one. People would say that all the riparian vegetation has been lost, so all we can do is create some sort of canal wall along that section of the river. That would be a terrible situation, but it could be stemmed if policies were developed and implemented properly. Can the minister please tell me how the policies that will be developed by the Swan River Trust will be binding on not just the Department of Parks and Wildlife—I agree with the minister; I can see how that relationship could work—but also other arms of government? How will the policies ensure that the speed limits on the river are amended to reflect what the natural environment can withstand?

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**Mr A.P. JACOB:** In very simple terms, I do not seek to make policies of the trust binding on government. It is actually that simple. I do not seek to do that; nor is the act seeking to do that. Policies are generally a guide to decision-making. The trust will have a role in formulating decisions. In the example used by the member, the Department of Transport also would have a role. The policies will simply be developed as a guide to decision-making and they certainly will not be binding on government, and it is not my intention that they will be.

**Mr C.J. TALLENTIRE:** I think the minister has just highlighted what a sad piece of legislation this is. Not only is he reducing the capacity of the Swan River Trust, but also he is failing to hear the requests of the community for the expert advice of a body such as the Swan River Trust to have influence over an organisation such as the Department of Transport. I think the minister would acknowledge that the Department of Transport does not have ecological expertise, knowledge of foreshore protection standards or knowledge of what speed limits the river can withstand, so why is he missing the opportunity to make the policy development work of a body with expertise in the river's needs binding on other agencies such as the Department of Transport? Surely that is exactly what people expect of our debate in this place—that we improve things. What is the point of having staff from the Swan River Trust located in the Department of Parks and Wildlife tell us that the current speed limits on the river are too high and cause serious damage to the river foreshore, that that causes massive erosion and that eventually the consequence of that will be limestone river walls along every metre of river? What is the point of us missing this legislative amendment opportunity to give those policies a more binding effect?

We know we have the expertise there; we can listen to that expertise and develop the policies, and we should be seeking to make them binding on departments such as the Department of Transport, to pursue that example further. Why is the minister not following up on that? Do not just tell me that was never the intention. What is the point in trying to represent the community and say that the government wants to improve things if it is missing opportunities like this? It is very hard to get legislation on the parliamentary agenda, and the minister is missing a golden opportunity. Why would he miss that opportunity? The community outcry over and evidence for wanting this is there to see; people want our river foreshore environment protected but they do not want to see river walls constructed everywhere along the river. The minister is missing the opportunity to enable these policies to have a binding capacity over other agencies. Why is he doing that?

**Dr A.D. BUTI:** I would like to return to the question asked by the member for Kimberley. The minister's answer was that the voices of the Noongar people can be heard through a representative on the board; surely that is insufficient. As we and this government know through negotiations over the Single Noongar Claim, which the government has done some good work on, the Swan River is an incredibly important river system for the Noongar population for its symbolism and religious and historical significance. As the minister would know, various boards are made up of people who have expertise applicable to that situation. The Minister for Planning is well aware of the composition of the boards of redevelopment authorities. Would it not be more appropriate and fitting for the government's reconciliation package with the Noongar population for the board to have on it a Noongar representative so that the views of the Noongar people are not filtered through someone else? In Australia we seem to have a history of filtering Indigenous views through the white lens. Why not have an Indigenous representative on the board who knows the actual significance of that large body of water, rather than just saying that their views can be heard in some way? If we thought a board should have a lawyer on it, we would not put an articulated clerk on it and say that the omitted solicitor's views can be filtered through the articulated clerk; we would actually put the solicitor on the board. That is why the minister should be putting a Noongar on the board. I think that is the rationale behind the question asked by the member for Kimberley.

**Mr A.P. JACOB:** In response to that, my answer before was that what has currently been the case is not being changed. Picking up on the comments, I do not broadly disagree, but the Swan and Canning Rivers Management Amendment Bill 2014 before us is designed to specifically address these areas. I have worked to keep it narrow in that area, which is the operational areas essentially amalgamating with the Department of Parks and Wildlife, and some slight changes around the broader function of the board. I certainly hear what the member for Armadale is saying, and I know there is a lot of very good work being done as part of the South West Aboriginal Land and Sea Council for the native title settlement in a broader sense, and it may be that some of that work gets picked up and brought back into this. But this bill does not seek to address that, and it does not change any of the functions that have existed to this point. We are certainly very open to looking at and picking up a lot of things in the future to make sure that we are activating them in the best space, but we are not seeking to address them in this bill.

**The ACTING SPEAKER:** I remind members that the clause is about the functions of the board, rather than the composition of the board. Bear that in mind when you are speaking to this clause.

**Mr D.J. KELLY:** I take the minister to clause 9(c), which amends paragraph (g) of section 23. That amendment deletes "monitor and" from section 23(g). The act states that one of the functions of the trust is —

- (g) to monitor and report to the Minister on —
  - (i) the state of the development control area; and
  - (ii) development on and adjoining the development control area;

I wonder about the sense of removing “monitor and”. The act gives the trust the ability to monitor the development control area and report to the minister on development issues, basically. If the minister takes away from the trust the ability to monitor development issues, is he not, in effect, limiting the trust’s ability to report to the minister? I would have thought that the Swan River Trust’s ability to monitor was one of the substantive roles of the trust; it can actually go out and monitor what is happening around the development control area. That then gives it the ability to report to the minister, presumably on issues of concern. I wonder why the minister has taken out the ability to monitor; presumably, that will mean that the Swan River Trust will be reliant on information gathered by third parties for it to report to the minister. Unless I have misunderstood, this seems to be another example of the minister gutting the Swan River Trust of its independence and the grunt it has to do its job. Under the act it can, of its own volition, independently monitor what is going in the development control area, and on the basis of that work, it can raise issues with the minister that are of concern to it. It seems to me that, again, the minister has taken the legs out from under the trust by taking away one of its functions. Why would the minister take away the Swan River Trust’s ability to monitor, unless he wants to water down the reports it gives? If I have read it wrong, I would be happy for the minister to point out my error, but on the face of it, it seems to be another example of the minister weakening the Swan River Trust’s ability to defend the catchment.

**Mr A.P. JACOB:** I draw members’ attention very quickly to proposed section 33(1)(f), “Functions of the CEO”. The member will see that the monitoring function is picked up at clause 14 of the bill, which is proposed new section 33 of the Swan and Canning Rivers Management Act. I acknowledge that the Swan River Trust board members, in many cases, play an active role, but the reality is that the operational monitoring is done by the operational staff and that data is provided to the Swan River Trust. That will continue.

**Mr D.J. KELLY:** Under the current arrangement, the trust will have its own staff that it can direct to do the monitoring, and that work will form the basis for the reports that it provides. The minister is now saying that the monitoring will be done by people who are not under the trust’s direct control; that seems to me to be completely counterproductive. If we still want the Swan River Trust to report to the minister on what is going on in the area of development control, surely giving it the ability to do the monitoring makes sense. If we are to take away its ability to monitor, we might as well take away its ability to report. Let us put it in a practical sense: if the trust decided that it wanted to monitor the impact the Elizabeth Quay development is going to have on the river, would it have the ability under this structure to ensure that the monitoring was done, or would it have to ask the chief executive officer or someone else to do that monitoring so that it could produce a report? I know the minister got slightly distracted, but can he see the point I am raising? If, for example, the trust became concerned about a development such as Elizabeth Quay and it wanted to report on that to the minister, as things currently stand it could presumably make its own decision to have that monitoring done and the monitoring would then allow it to make a report to the minister.

**Mr A.P. Jacob:** It would be a function of the CEO. That’s what the bill is changing.

**Mr D.J. KELLY:** So in future, if the trust is concerned about the impact that Elizabeth Quay will have on the river, will it have to rely on the CEO to make a decision to carry out the monitoring?

**Mr A.P. Jacob:** Yes.

**Mr D.J. KELLY:** Does that not then mean that if the CEO, who is not responsible to the trust but to the minister, is not interested and decides not to do the monitoring, the trust will not be able to perform its function? It seems to me that that is the whole point of having an independent Swan River Trust. If, for example, it is concerned about the health of the dolphin population in the Swan and Canning Rivers and decides that it should report to the minister, it may decide that before it reports it should carry out some monitoring so that it has a basis upon which to draft the report, so it has that monitoring done. In the situation just described by the minister, if the trust becomes concerned about the health of the dolphin population and decides it needs to do some monitoring, it will have to ask whether the CEO can you do this monitoring. It will then be up to the CEO to decide whether that monitoring gets done, and the CEO may decide not to do that monitoring, so the trust is then unable to provide advice to the minister about the health of the dolphin population.

**Mr A.P. Jacob:** No, the trust is still able to provide advice.

**Mr D.J. KELLY:** If the minister wants to get to his feet, I am happy for him to answer that.

Can the minister outline whether I have those two scenarios correct—the dolphin population and Elizabeth Quay?

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**Mr C.J. TALLENTIRE:** My question is similar to the member for Bassendean's, and I think we will have to come back to those very important points that the member for Bassendean has raised. The issue of deleting section 23(i) in the current legislation —

**Ms M.M. Quirk:** He's not listening, member; he's texting on his phone.

**Mr C.J. TALLENTIRE:** This is an important point, minister. The government is deleting the power of the Swan River Trust to provide advice to the Western Australian Planning Commission. The minister will say, "Oh, don't worry, the CEO will provide that advice through section 33." Yes, I see that, but the issue is that the CEO is already part of the Western Australian Planning Commission. The government is creating a situation in which the minister will be advising himself. How can that be good governance? One of the purposes of the Swan River Trust being independent and able to provide quality, impartial advice, and one of the reasons for including section 23(i) in the act, which the government is seeking to delete, was that the government would receive separate advice. Why would the government create a situation in which a person receives advice from people within their agency, but they are advising themselves because they are already in the Western Australian Planning Commission? That is a ludicrous situation and will further erode community confidence in government structures if people advise themselves on decisions for which they have an interest in.

The Western Australian Planning Commission is an enormously powerful body; it makes decisions on all the subdivision in this state, and those are the very things at the heart of people's concerns about the development proposed along the Swan River. The WAPC will have a particular point of view, and that point of view will be informed by the views of the agency and by the individual views of members of the WAPC.

**Mr A.P. Jacob:** Proposed section 23(m) states —

to perform any other function vested in it by this Act or any other written law.

I am speaking here to the marked-up copy of section 23. Sometimes it is easier to address it there. With respect to that, under the Planning and Development Act, the trust is empowered to provide advice directly to the WAPC.

**The ACTING SPEAKER (Mr I.M. Britza):** Excuse me, members, could we have reduce the level of chitchat in the chamber, please?

**Mr C.J. TALLENTIRE:** It states —

to perform any other function vested in it by this Act or any other written law.

That does not allay my concern, minister. The fact is that the WAPC includes the director general of the department, so that view is already represented. The minister is saying that the advice can be provided through that person —

**Mr A.P. Jacob:** No; I'm saying it can be provided directly.

**Mr C.J. TALLENTIRE:** Provided directly to the director general?

**Mr A.P. Jacob:** No, directly to the planning commission.

**Mr C.J. TALLENTIRE:** But the Western Australian Planning Commission includes the director general already.

**Mr A.P. Jacob:** That's how it currently stands.

**Mr C.J. TALLENTIRE:** No, because it is currently the Swan River Trust that provides the advice to the Western Australian Planning Commission.

**Mr A.P. Jacob:** And that will continue.

**Mr C.J. TALLENTIRE:** But it will do it —

**Mr A.P. Jacob:** No.

**Mr C.J. TALLENTIRE:** The Western Australian Planning Commission will receive advice from the person who is now effectively the CEO of the Swan River Trust staff, whereas before the CEO received advice from his or her department —

**Mr A.P. Jacob:** It is a function vested to it under another law, so it exists under the MRS as a function of the Swan River Trust, so it's picked up at proposed section 23(m).

**Mr C.J. TALLENTIRE:** The vesting of the powers of the Western Australian Planning Commission do not relate to the metropolitan region scheme. The fact is that we are reducing the quality and range of the very important advice coming through to the Western Australian Planning Commission.

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**Dr A.D. BUTI:** Mr Acting Speaker, I am interested in what the member for Gosnells is saying and I would like to hear a bit more.

**Mr C.J. TALLENTIRE:** The quality of advice that is given to the Western Australian Planning Commission will be reduced. Currently the Swan River Trust provides the advice. Now the advice that would have come from people working in volunteer capacities as members of the Swan River Trust while working in their day jobs, providing technical advice and getting some of that information —

**The ACTING SPEAKER:** Members, can you keep your conversations down, please?

**Mr C.J. TALLENTIRE:** Admittedly, formerly they would get their advice from the secretariat; we have discussed that issue. That is a concentration of the source of quality information into a unit within the Department of Parks and Wildlife. The government is now reducing things further, because whereas previously the Western Australian Planning Commission was able to receive advice from this external body—the Swan River Trust—the government is now saying that the conduit for that information will be the director general of the Department of Parks and Wildlife, who is already part of the Western Australian Planning Commission. What the minister is doing is reductionist. He is eliminating the diversity of advice that comes through to the WA Planning Commission when it seeks to make those very complex and controversial decisions about things such as subdivisions that are immediately adjacent to or on our river foreshore. He is reducing the diversity, quality and range of advice that will come into those important decision-making points. What a shame.

Debate interrupted, pursuant to standing orders.

[Continued on page 4617.]