

**CITY OF PERTH BILL 2015**

*Committee*

Resumed from 24 February. The Chair of Committees (Hon Adele Farina) in the chair; Hon Helen Morton (Minister for Mental Health) in charge of the bill.

**Clause 1: Short title —**

Progress was reported after the clause had been partly considered.

**Hon HELEN MORTON:** Yesterday, Hon Lynn MacLaren asked me to review some of the issues about this bill that have been raised by the South Perth local government authority, and to provide a response. I am anticipating those are the questions that Hon Lynn MacLaren would ask if she were in the chamber now, so I will go through the work that we have done to provide her with that information.

First of all, she asked about the role of the Executive Director of Public Health in relation to this. The Executive Director of Public Health currently has exactly the same responsibilities and authority over Kings Park as is provided for in this bill. The Health Act provides the Executive Director of Public Health with those powers over any area that is not within a district. The Health Act is being replaced with the Public Health Act, and those powers are being transferred to the legislation that governs Kings Park. These powers relate only to the purposes of protecting, promoting and improving public health. I will just give some examples of that. The issues would be, for example, if there was some kind of a public health concern in Kings Park around some water that was not acceptable. In that case, the Executive Director of Public Health has the power now, and would in the future, to close down the part of the park affected by that water. That is the role of the Executive Director of Public Health.

The second question was why 3 000 residents should be forcibly moved to the City of Perth. A decision on boundaries must have regard to what is the best overall outcome, and naturally not everybody will be happy with that outcome—but as the majority of this chamber agrees, the boundary changes are patently in the best interests of the state and the community.

The third question was: what effects will this have on the City of Subiaco? According to the City of Subiaco, the 1 347 rateable properties will contribute \$2.2 million in rates and another \$800 000 in waste charges. The direct cost of delivering services to those properties has been estimated by the City of Subiaco to be \$1.6 million. The officer's report to the council of 19 January states —

The projected shortfall can be reduced further subject to further organisational changes and consideration on the level of services provided by the City, with the view of reducing costs.

Subiaco will remain a very wealthy council.

The fourth issue was about the keeping of minutes by the advisory committee. Clause 15 sets out —

The Committees may regulate its procedures in whatever manner it thinks fit.

The fifth point was about the current conflict between clauses 16, 17(2) and 21(3) on future boundary changes. I am advised that there is no conflict. Clause 16 states that after 1 July 2016, only an act of Parliament can make changes to the boundaries of the City of Perth. Clause 21(3) reinforces that: an order cannot be made under the Local Government Act to change the boundaries of the City of Perth. Clause 17(2) allows the making of a section 2.1 order or any other order. There are a number of reasons for making such an order, including to deal with the transfer of assets between the two councils, and clause 17(3) clearly states that such an order cannot be made if it is for one of the purposes listed in clause 21(3)—that is, a boundary change.

The sixth point was about the propriety of using this bill to impose changes on all local governments. I think I addressed that, but I will reiterate. This bill deals with local government matters. It is common for a bill to amend other bills, as in this case, with three acts being amended and one being repealed. It is the right of Parliament to determine what is appropriate within a bill.

**Hon ROBIN CHAPPLE:** I would like to thank the minister for her response to my colleague's questions. I would like to give notice that I have had some amendments drafted that will come forward shortly, and some of them touch on the matters that the minister has just raised. I suppose one of the underlying issues that I think I can discuss in the clause 1 debate is that this legislation sets up provisions for the City of Perth Committee that enable much of what takes place in the committee to be at a very senior political level from the government's perspective. It does not enshrine the right of the Lord Mayor of Perth to call a meeting of the committee; it is purely that of the Premier. The mere fact that the committee can determine whether or not it wishes to take minutes flies, I feel, in the face of normal democracy, as here we will have an entity that will have significant oversight or powers in relation to the City of Perth that by their very nature could be described as clandestine.

So, one of the amendments I will move is that minutes be kept of those committee meetings, and also that the Lord Mayor be in a position to call meetings and it not merely be the whim of the Premier of the day, whoever he or she may be.

I think that at one level that outlines our concerns. We have other concerns about different aspects and maybe I will just touch on them prior to the amendments being moved. We would like to see the Ministers for Planning and Transport on the committee, because we feel that if there is to be meaningful development of the Perth CBD under the Perth city council, those two ministers need to be included on that committee. Also, we do not really support the chief executive officer of the department of the public service principally assisting the Minister for Local Government in the administration of the Local Government Act 1995 being on that committee, as identified in clause 12(2)(f). We actually see no function in that person and neither do we see the chief executive officer of the City of Perth being formally on the committee, but obviously the Lord Mayor may invite the CEO or any other senior officer from the Perth city council onto the committee. Those are the some of the issues we will look at.

We will move to amend clause 14 stating that the Premier is to decide when the committee is to meet, so the Lord Mayor is the person who can call for those meetings. In clause 15, which states that the City of Perth Committee may regulate its own procedures, we will look to insert a provision for the necessity of minutes being taken. This will provide some oversight. We note that in the other place on 17 November 2015, the minister said that it would be entirely up to the committee whether it takes minutes. As a member in the other place stated, there needs to be ministers on the committee and the record needs to be kept, and those records should be FOI-able in the future. We are about open governance, whether it be at local government level, state government level or federal government level. There are those issues.

There is another issue in relation to clause 26. Concerns are consistently raised by the City of Vincent, the Town of Victoria Park and the Town of Cambridge that clause 26 specifically identifies that nothing within the original City of Perth Restructuring Act, which included them, can be carried forward. We are saying that nothing in this clause shall have any effect on the status of those entities.

On clause 28, we want to look at the provision relating to the Executive Director of Public Health having powers granted in him by section 12 of the Health Act 1911 in respect of Kings Park. They are some of the amendments that I understand will be on the table before us very shortly. The essence of what these amendments are aimed at is to make the process more publicly transparent and open so that the broader community, not just the residents of the City of Perth, can be assured that it is. We have already indicated that we do not oppose the concept of the City of Perth Bill, because we believe the capital city needs its validity established in a legislative framework. We have identified that we believe many components of the bill are contrary to the notions of good governance, and we will, through amendments, try to rectify those.

**Clause put and passed.**

**Clause 2: Commencement —**

**Hon SIMON O'BRIEN:** As to commencement, 1 July looms large as the date that certain things become effective, as everyone familiar with the bill knows. Similarly, in talking about things prospectively being in force from 1 July, clause 17 contemplates that the existing City of Perth boundaries will continue until 30 June 2016. That is sensible enough. I would have thought that this sort of legislation would need to be in place earlier than the next week or two in order to make all the arrangements necessary to ensure a smooth transition. There has already been discussion in the public domain about, for example, the impacts of the new boundaries and how they will affect arrangements in the City of Subiaco. Will there be time for everything that has to happen, including things that have statutory time frames, between now and 1 July? The chamber probably needs some reassurance about that.

**Hon HELEN MORTON:** The councils have been working together on this, and the City of Perth has informed the minister and the people working on this initiative that there will be a smooth transition. The issues raised by Hon Simon O'Brien are being well managed.

**Hon SIMON O'BRIEN:** I thank the honourable minister for that reassurance, because of course we would not want to pass a bill that contains specific date provisions that will become black letter law if it would cause difficulty and chaos. It is a great relief to know. I am trying to make the best of this, Hon Sue Ellery.

**Hon Sue Ellery:** I can tell!

**Hon SIMON O'BRIEN:** Giggling by interjection!

It is good that we have that reassurance; it gives comfort. I was not aware that the local governments of the existing Cities of Perth and Subiaco were communicating to ensure a smooth transition. If anything, I have

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received indication to the contrary. Perhaps I misheard. I want to clarify this final point so that can all go forward with confidence.

**Hon HELEN MORTON:** I am advised that the Cities of Perth and Subiaco have been working together on this. The City of Perth has indicated that insofar as it is concerned there will be a smooth transition and that it can see no issues that will hold up the process that will occur from 1 July. The City of Subiaco has corresponded with the City of Perth and written it a letter outlining the staffing issues that it will be progressing with the City of Perth. I can assure members that the cities are working together on this, and we have been advised that there will be no reason for this not to go ahead on 1 July.

**Hon Ken Travers:** But have you had that assurance from the City of Subiaco as well as the City of Perth?

**Hon ROBIN CHAPPLE:** I pick up on the interjection of Hon Ken Travers. Does the minister understand from the City of Subiaco that it is happy with the arrangement and will be able to carry out the transfers necessary in a timely manner?

**Hon HELEN MORTON:** I understand that the City of Subiaco has indicated that it will not make a public statement until the bill is passed; however, I would reiterate that the Cities of Subiaco and Perth are working together on this, and the only statement we have on the record is from the City of Perth.

**Hon SIMON O'BRIEN:** I am as keen as anyone to get this bill progressed, but this is an important point. Given the contradictory information that has been sent to a whole range of members, including me, has anyone at the government's disposal—perhaps the Department of Local Government and Communities—got on to the City of Subiaco and asked it whether anyone is communicating with the City of Perth? A letter was sent at some point, but who is talking to the City of Subiaco? I ask that just to make absolutely sure. I know the local government department, working as it is through difficult times, would want to make sure that there was a belt-and-braces approach on this, and that one of the local governments is not cheerfully saying, "Oh yes, everything's going to be fine; we're looking forward to expanding our territory", while the other is not cooperating. It could become problematic. Having said that, I am not trying to cause problems; I am trying to anticipate them so that we can make sure they are dealt with before they start to bite. That is why I am a little concerned about the early start date. What is wrong, for argument's sake, with 1 January being adopted as the date? This bill has been sitting on the notice paper for months and months, and we have caught up with the date anticipated in the bill. I am sure it would be no skin off too many people's noses if it were to drop back in the interests of a smooth transition and so that problems with administration could be well and truly ironed out before the rubber hits the road.

**Hon HELEN MORTON:** I reiterate what I have said. The City of Subiaco has actually written to the City of Perth and provided details of staffing transitional arrangements. Leaving the commencement until next January will obviously have a significant impact on the financial year and financial issues. The July commencement is much more convenient. I am also assured that people from the minister's office and the Department of Local Government and Communities have had continuing involvement and discussions with the City of Subiaco. I have in front of me a list of 15 different contacts that have taken place with the City of Subiaco over that time.

**Hon Ken Travers:** Can you table it?

**Hon HELEN MORTON:** I am not sure whether it is confidential.

I am happy to table a wad of correspondence between the City of Subiaco and the minister's office. I am not sure whether it includes correspondence from the Department of Local Government and Communities. I think it is just between the minister's office and the City of Subiaco. I am happy to table that.

[See paper 3864.]

**Hon HELEN MORTON:** I want to reassure people that this matter is not something that has not been continually progressed over time, albeit, as I pointed out in my second reading response, there has been some reluctance on the part of the City of Subiaco to engage fully in the process.

**Hon ROBIN CHAPPLE:** I would dearly love to see some of the correspondence that the minister is talking about because I think it might be quite illuminating, from what I have seen of some of the correspondence already. It would not give me the confidence to say there has been meaningful dialogue. I do not know how we would resolve that.

**Hon Simon O'Brien:** I reckon there would have been frank and meaningful correspondence!

**The CHAIR:** I do not think that sighting those documents is going to help the member much with his decision on the adoption of the commencement date clause, but those documents are being photocopied and will be distributed when available.

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**Hon LYNN MacLAREN:** In her response to my earlier query, the minister mentioned the transitional arrangements and the cost. I think the minister mentioned a cost implication for the City of Subiaco of \$1 million. I do not think we have had enough detail about the transitional arrangements and whether the costs that the City of Subiaco might incur in the short term have been agreed to be met, and whether it was considered to stagger the commencement of the bill so that the impact on the City of Subiaco would not be extreme in the first instance.

**Hon HELEN MORTON:** I said that, according to the City of Subiaco, the 1 347 rateable properties will contribute \$2.2 million in rates and another \$800 000 in waste charges. The direct cost of delivering services to these properties has been estimated by the City of Subiaco to be \$1.6 million. The officer's report to the council on 19 January states that the projected shortfall can be reduced further—remember that this is the officer's report to the council—subject to further organisational changes and consideration of the level of services provided by the city with a view to reducing costs. Subiaco remains a very wealthy city council. I will reiterate a comment that I made in my second reading response: this is one of two metropolitan local government authorities in which the cost of staffing is greater than the revenue from rates. As has been identified by an officer's report to the council, these projected shortfalls can be further reduced with organisational changes and consideration of the level of services provided in the city.

**Hon LYNN MacLAREN:** We are talking about shifting staff. The staffing needs of the City of Subiaco may well alter after the commencement of the bill, and the staff of the City of Perth may be increased. From a big picture perspective, we can see that the government might think that that is all right; it just shifts the responsibility. But look at it from the perspective of the staff who are actually employed by the City of Subiaco, who may well be transferred or—it was indicated that there may be too many staff—have their contracts ceased. A transitional approach to this, under which we can be assured that individuals will not lose their jobs because we are changing the boundary of a local government in a big scale way with an act of Parliament, has to be such that the staff in the City of Subiaco can be assured of their employment and that they will complete the contracts that are currently in place. Likewise, the contracts for services that Subiaco has entered into, such as waste management, which may include that area of the city, will need to be adjusted, and time will be needed to allow for the adjustment of those contracts so that there is no financial penalty for the City of Subiaco because the state of Western Australia wants to change its boundaries. It is still not clear to me what the transitional arrangements are, whether the commencement date is appropriate, and whether enough time has been allowed in the commencement of the legislation to enable those transitions to occur so that no individual is out of a job and no company contracted by the City of Subiaco is able to make a claim against the city because it no longer requires that company's services. What further information can the minister provide us about the transitional arrangements and the financial concerns of the City of Subiaco being addressed before the commencement of this legislation?

**Hon HELEN MORTON:** I will respond initially with some of the comments that I made during my second reading response. The Local Government Act 1995 already sets out the rights of local government employees whose positions are affected by boundary changes. That is already set out in the Local Government Act. Nothing in this bill will change that; it still applies. The occupants of positions that are no longer required due to the boundary change have two years of guaranteed employment, or they can receive 12 months' payout or the balance of their contract, if that is fewer than 12 months. As there is no change to that entitlement as a result of the bill, it is not necessary to put anything into the bill because it is already covered under the Local Government Act. The chief executive officers of the two local governments have met to discuss issues around assets and liabilities, which includes staff and contracts et cetera. That work is already in hand between those two organisations through the work of their CEOs.

**Hon ROBIN CHAPPLE:** I thank my colleague, in a way, for raising the questions she has raised, because it has enabled me to have a bit of a look at some of the letters about consultation that have gone back and forth. A snapshot of them all would appear to show that consultation has not been progressing particularly well. I refer to a letter of 14 May 2015 from Hon Tony Simpson, MLA, to Ian Hill, chief executive officer of the City of Subiaco. Quite clearly, there were some two or three months during which no correspondence about questions being put forward was received. On 25 May, the City of Subiaco responded, in part, as follows —

We refer to our letter of 6 March 2016 and while consultation with the affected local governments and other communities to take account of their views was promised by the Premier and you —

That is, the Minister for Local Government —

this is yet to occur.

We are very much aware of the concerns of the City's South Ward residents and are therefore seeking support from your colleagues and the Opposition for any legislation to be voted down until such time as

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the case for change is appropriately made and communicated, and the affected residents have the opportunity to vote on the matter.

In essence the relationship, and quite clearly the consultation on both sides, does not seem to be that sound; it seems to really be ad hoc at best. Although the minister said that everything is rosy and that everybody has been consulted, this sheaf of letters dating from 25 February 2015 through to 29 October 2015 seems to indicate that even after letters had been written to the Premier and the Minister for Local Government, the relationships and the protocols between the City of Perth, the City of Subiaco and the minister and the Premier do not seem to be all that wholesome. I am really making the point that if everything was going quite well, the correspondence would seem to indicate the opposite. Does the minister have another position that she wishes to put to the committee?

**Clause put and passed.**

**Clause 3 put and passed.**

**Clause 4: Objects —**

**Hon SIMON O'BRIEN:** I have a question about clause 4 that relates to the objects of the legislation. Who drafted these, and what was the process that gave rise to them?

**Hon HELEN MORTON:** The drafting was done by parliamentary counsel, as the member would be aware. Rarely do we ever get to draft a piece of legislation without parliamentary counsel doing it for us! With regard to the consultation process that led to that, as the member knows, a working group of people were involved in the lead-up to this. It was established early in the process and included representatives of the Cities of Perth and Vincent, the Minister for Local Government and the Department of Local Government and Communities. The working group was established to guide and make recommendations on the content of the legislation. One of the first tasks was to identify the key stakeholders who should be involved and, if I recall rightly, I made a comment about it being modelled on the Adelaide City Council legislation. The City of Perth Committee, for example, is modelled on the Adelaide City Council's Capital City Committee. In respect of the objects, which we are now looking at, the working group had a fair say in what they should be.

**Hon ROBIN CHAPPLE:** I am dealing with the objects of the legislation, and quite clearly the legislation is about the City of Perth. Clause 4 reads —

The objects of this Act are —

(a) to recognise, promote and enhance —

(i) the special social, economic, cultural, environmental and civic role that the City of Perth plays because Perth is the capital of Western Australia; and

In all of that, obviously there is an effect on the City of Subiaco, yet nothing in the objects looks after the poor old City of Subiaco's interests as they are affected by this. Although it is quite clear that these objects refer to the City of Perth, all the very good and salient points raised in the objects in paragraphs (a) to (d) do not seem to address the City of Subiaco. Although I acknowledge that the objects are valid, quite clearly they are not being applied to the neighbouring City of Subiaco, and I ask why not?

**Hon HELEN MORTON:** I am very happy to provide a response to that. This is the City of Perth Bill 2015. Equally, it does not mention anything about the local government authority of Sandstone, which I used to belong to; it does not raise the Shire of Kalamunda; it does not raise the City of South Perth; and it does not include any other local government authority in the entire Western Australian community. It is about the City of Perth.

**Hon KEN TRAVERS:** Could the minister explain to us why, under clause 4(d), the government seeks to "revise" the boundaries of the City of Perth when, in the short title, it seeks to "redefine" the boundaries?

**The CHAIR:** Minister, would you like to borrow my dictionary?

**Hon Ken Travers:** I'm surprised Hon Simon O'Brien didn't ask you that.

**Hon HELEN MORTON:** Yes, I know. I looked up Google when the issue of "redefine" came up, and I think I made a comment on that. Either of those words is applicable under the circumstances.

**Clause put and passed.**

**Clauses 5 and 6 put and passed.**

**Clause 7: Perth is capital of Western Australia —**

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**Hon SIMON O'BRIEN:** In case you need to be reminded, Madam Chair, or anyone else needs to be reminded, I touched on this question, which comes up again in clause 7. Clause 7 itself simply states, "Perth is the capital of Western Australia". There is a Perth in Scotland that some of us have actually been to. I was taken aback when members all over the place put their hands up and said that they had been there. Even more exotically, Hon Ken Travers confessed that he had been to another Perth in Tasmania. I have previously —

**Hon Ken Travers:** Move to delete "Perth" and insert "Margaret River" and then the Parliament would have to move!

**Hon SIMON O'BRIEN:** No law would necessarily say that the Parliament has to meet in the capital, I do not think, but we do by custom. If it were Margaret River, who knows? Some members might gravitate there; the south west region is a nice place, but best avoided in preselection season!

**Hon Ken Travers:** Some may never leave!

**Hon SIMON O'BRIEN:** "Perth is the capital of Western Australia" is the assertion in clause 7, and I do not want to disagree with that in any way, shape or form!

*Sitting suspended from 1.00 to 2.00 pm*

**Hon SIMON O'BRIEN:** I will get straight to the point. On balance we probably should allow clause 7 to stand as printed because it seems a very fundamental statement of fact. As has been put to me in none too convincing fashion over the last year, if the reason that we need this bill is that we do not have capital city legislation in this state—if one accepts that premise, and the house apparently has—it seems fair enough to have a clause that states "Perth is the capital of Western Australia". That seems fair enough. In my second reading contribution I touched on this, pointing out it is fairly superfluous because every schoolkid in Perth, Scotland, knows that there is a Perth right here, and they know that it is the capital of Western Australia. There are probably wandering nomads in the middle of Asia who are well acquainted with the fact that Perth is the capital of Western Australia, but if we are to have a capital city act, we probably have to declare what clause 7 purports to declare. Although the bill states that Perth is the capital of Western Australia, and we would reasonably infer from that that it is not Perth in Tasmania, Scotland, Calathumpia or anywhere else; it is Perth here—our Perth—I will ask what seems to be an unlikely question. My question may prompt those who have an intolerance for me as a member of this place, presuming to subject legislation to scrutiny rather than just rubberstamping it, to say "Oh, der!" But I am going to ask the question: why, in this clause, do we refer to something called Perth and everywhere else it is the City of Perth? What are we talking about when we say "Perth"? Is it the City of Perth; is it the greater Perth area, whatever that is? Perhaps we will redefine what that is. Is it the Perth metropolitan area; is it the Perth conurbation stretching from south Geraldton to Bunbury? What is Perth and why is it referred to as simply "Perth" in a bill that otherwise refers to everything as the City of Perth, a local government area?

**Hon HELEN MORTON:** Perth encompasses much more than the City of Perth. I live in Perth. I live in Kalamunda —

**Hon Simon O'Brien:** But you don't have an act of Parliament that says that!

**Hon HELEN MORTON:** Hang on; let me finish. I am on my feet. The member has had a long say on this.

**Hon Simon O'Brien:** You haven't heard the end of it either!

**Hon HELEN MORTON:** I live in Perth. When I go to the eastern states and tell people that I live in Perth, they know where I live. Then they might ask where I live. I might talk about the Shire of Kalamunda or, if I was living in the city of Perth, I would say I live in the city of Perth. There is actually a difference. Here we are saying that Perth is the capital of Western Australia.

**Hon SIMON O'BRIEN:** That does not satisfy the committee stage of a bill in this house. The minister at the table, as a private citizen, says "Perth just means Perth; we all know what it is." What does it really mean? I will tell the chamber what it means because I do know. The answer is to be found in clause 37 of the first edition of the bill that is before us, which was deleted before it got to this place. If members refer to that, clause 37 as it then was, was the clause to allow a back-door way for a government seeking to force amalgamations to do so by providing certain things in and around a capital city—the City of Perth, as redefined in the bill. It would get special treatment when it came to advice from the Local Government Advisory Board about changing boundaries—that is, the special things that anyone has to have regard to because it is the City of Perth—and certain other requirements will not apply. What was accepted in the past as established procedures for boundary alterations can be distorted to suit, as it happens, the whim of the government of the day; it can change it to suit itself. That was the purpose of clause 37 before we got this version.

The previous clause 37 has not come to this chamber, so I will tell members what was proposed to come to this chamber. Clause 37 of the City of Perth Bill 2015, bill 135-1, read —

**Schedule 2.1 clause 5 amended**

This is an amendment to the principal act, the Local Government Act 1995 —

After Schedule 2.1 clause 5(2) insert:

- (3) In carrying out a formal inquiry into a proposal that directly affects the district of Perth, the Advisory Board is also to have regard to the special significance of the role and responsibilities of the City of Perth that flow from Perth being the capital of Western Australia.

The awareness of that now defunct clause is the true explanation for why there is a dichotomy in this bill. It refers extensively to all the special treatment that has to be given to the City of Perth but then, curiously, it refers to Perth as the capital of Western Australia. The clause was about getting around certain provisions that this Parliament has put in place over generations. It is to circumscribe the activities of those who want to redraw local government boundaries to suit themselves without reference either to this Parliament or to the ratepayers who are affected. That is what clause 7 before us is all about. Because clause 37 has now gone, I suspect that clause 7 is just what it appears to be—a largely superfluous and pointless statement of the bleeding obvious. Or is it? I do not know that we have the capacity on the floor of this Committee of the Whole to explore this in a way that I would have liked to have seen it explored by a standing committee. This is what the scrutiny of legislation is all about. What are the effects of our house agreeing to these several clauses, including clause 7, and what impact will that have in the future? How will it apply if we just have this place called “Perth” and it can mean whatever we want it to mean? How far will the function of the other provisions in the bill—when Lisa and Colin get together and have their City of Perth Committee—extend? I would have liked to have explored that a bit more, but we do not have a standing committee inquiry—more’s the pity.

**Hon Peter Collier:** No, the house has ruled on that one.

**Hon SIMON O'BRIEN:** The house has ruled on it in its wisdom! The house has ruled on it so we will not know—but there is doubt. Now with all that in mind, we do not have recourse to examine this properly—the house has decided that—and now we have yet again an unsatisfactory explanation for what the proponents of the bill are trying to do with this apparatus. Is it a case of just saying the bleeding obvious—Perth is the capital of Western Australia—or does it actually mean something? Again, members might want to adopt the attitude that if it is absolutely meaningless, there is no harm and we should pass it. If members think that it is a good thing to fill up the statute books with that, they can do so; or they might adopt the view—some might say cynical, but based on experience—that maybe there is something else afoot and it might not have all gone west with the old clause 37 from the original draft. Having said all that, I cannot disagree with the general premise that Perth is indeed the capital of Western Australia.

**Hon Ken Travers:** When you say “Perth”, what do you mean?

**Hon SIMON O'BRIEN:** Good point, because no-one else is prepared to tell us. Every time I ask a question about this bill—what is its purpose; what are we trying to fix?—I get told that it is self-evident; that is, we do not have one of these acts and we need one because other mainland capitals have one. That is what I have been told the whole way through. Now I am just being told, “Perth—you know! It’s Perth, isn’t it?” Again, as with everything else, including the attitude of the opposition towards this rather important bill, I do not think that is good enough.

**Hon LIZ BEHJAT:** In relation to what Hon Simon O’Brien just said, the long title of the bill states that it will be an act to recognise Perth as the capital of Western Australia and the special significance of the role and responsibilities of the City of Perth that flow from that. Would it not be necessary to have somewhere in the bill confirmation that Perth is indeed the capital of Western Australia?

**Hon HELEN MORTON:** Hon Liz Behjat summed up, in a short time, the answer to what Hon Simon O’Brien went on about for a reasonable length of time. I ask Hon Simon O’Brien to cast his attention to clause 4, “Objects”, which confirms what Hon Liz Behjat said. Clause 4(a) states —

to recognise, promote and enhance —

- (i) the special social, economic, cultural, environmental and civic role that the City of Perth plays because Perth is the capital of Western Australia ...

My previous comments were not meant to be lighthearted, but to be instructive as to why we have both the City of Perth and the broader identification of Perth as the capital of Western Australia.

**Hon PETER KATSAMBANIS:** The discussion on this clause has piqued my curiosity about the existence of any other legislative provision on the Western Australian statute book that designates Perth as the capital of Western Australia. I think everybody knows that I am a small government type of guy; I do not like lots and lots of legislation. I would imagine that one provision in the statute book somewhere that designates Perth as the capital city of WA would be appropriate, and if that does exist—I am asking the minister whether it currently

exists—it would be fair to continue that sort of designation in any act that relates to anything else around Perth or the City of Perth.

**Hon HELEN MORTON:** Yes, in the Planning and Development Act.

**Clause put and passed.**

**Clause 8: Objects of City of Perth —**

**Hon SIMON O'BRIEN:** I am just wondering who pulled the discourse of subclause (1) together. I described it earlier as a second-rate draft press release in part. What school of thought got together to pen these words? Was there collegiate activity with good wordsmiths working together to come up with this particular form of words or was it just that someone somewhere was tasked to write something that means this sort of stuff?

**Hon HELEN MORTON:** It was the working group to which I previously referred, which includes the City of Perth, the City of Vincent, the Minister for Local Government and the Department of Local Government and Communities. The working group got feedback from a variety of stakeholders. The views referred to by Hon Simon O'Brien came from the development work of the group of people to which I referred.

**Hon SIMON O'BRIEN:** That is great; I am glad to hear there was at least some consultation about the bill. Who received the draft “objects”? Who were the stakeholders? Were the local members of Parliament involved? In fact, this is the capital city of Perth—perhaps I missed something; were members of Parliament consulted, because this is something that affects all of us? If the town, city or shire, or whatever it is called, of Vincent was involved, what about the City of Fremantle? How widely was this consultation taken out? Who was the draft run passed by?

**Hon HELEN MORTON:** This is about the City of Perth act. I do not think Fremantle is in the City of Perth.

**Hon Simon O'Brien:** Is Vincent?

**Hon HELEN MORTON:** Vincent was involved because of its involvement in putting this together. At one stage I think Vincent was going to be included, but then it was not. It had an interest in it right from the start. Do not forget the working group consisted of a mix of business, government agencies and peak bodies, both industry and ratepayers.

**Hon ROBIN CHAPPLE:** Was the City of Subiaco involved?

**Hon HELEN MORTON:** The City of Subiaco is not in the City of Perth. Consequently —

**Hon Simon O'Brien** interjected.

**The DEPUTY CHAIR (Hon Brian Ellis):** Order!

**Hon ROBIN CHAPPLE:** The response given by the minister was flippant in the extreme. Obviously, the City of Subiaco is heavily involved because part of the town of Subiaco is going into the City of Perth. It is not something it wished for, but it is so; therefore, one would have thought that it was inexorably involved in the process more than the City of Vincent. Why was it not involved?

**Hon HELEN MORTON:** As I said before, the City of Vincent was going to be included and in the end was not. The City of Subiaco was not going to be included and is not. This is the City of Perth. The involvement of people through the stakeholder group was around aspects of the City of Perth Bill 2015 that related to the objects and the purpose, which is what we are talking about now. We are not talking about the boundaries at this stage; we are talking about the objects of the bill relating to the City of Perth.

**Hon ROBIN CHAPPLE:** Clause 8(1) states —

The objects of the City of Perth are as follows —

- (a) to provide for the good government of persons in the City of Perth, including residents, ratepayers and visitors;
- (b) to represent the community and encourage community participation in decision-making;

Those are two really important parts of the “Objects of City of Perth”. As members will have seen, my proposed amendments enhance those two statements in large part. This is a question for the minister. If the objects of the City of Perth are to provide for good government of persons in the City of Perth, including residents, ratepayers and visitors, when the committee meets twice a year, why will no minutes be kept and why will there be no provision for access to the decision-making or involvement of that committee to provide good governance of persons of the City of Perth, including residents?

**Hon HELEN MORTON:** I think the member has two things mixed up. At one stage he referred to the committee and on another occasion he referred to the City of Perth, as in the local government authority called

the City of Perth. The City of Perth is the City of Perth that has to provide the objects set out in paragraphs (a) and (b). The committee is not doing that work.

**Clause put and passed.**

**Clauses 9 to 11 put and passed.**

**Clause 12: City of Perth Committee —**

**Hon ROBIN CHAPPLE:** I move —

Page 9, lines 8 to 14 — To delete the lines and insert —

- (c) the Lord Mayor, who is the Deputy Chair of the Committee;
  - (d) the Deputy Lord Mayor of Perth;
  - (e) the Minister for Planning;
  - (f) the Minister for Transport;
  - (g) a Councillor of the City of Perth nominated by the Perth City Council.
- (2A) The Lord Mayor may invite the chief executive officer, or any other senior officer, of the City of Perth to attend a meeting of the Committee.

The reason for moving this amendment is that I want to amend the status of the Lord Mayor. Members will see that by the insertion of paragraph (c). Also, when it comes to the people who are stated below that, I am seeking to remove them then reinstate some other people involved, but also to alter the effect of some of those people. In essence, I am trying to ensure that the Lord Mayor is the deputy chair of that committee, because there is no definition of “deputy chair”. This amendment also seeks to reinstate the Deputy Lord Mayor of Perth. The chief executive officer of the City of Perth will be removed but then will potentially be reintroduced by request from the Lord Mayor in proposed subsection (2A), which states —

The Lord Mayor may invite the chief executive officer, or any other senior officer, of the City of Perth to attend a meeting of the Committee.

I put in there the Minister for Planning and the Minister for Transport because if this is about developing the City of Perth in the broadest sense, quite clearly two of the major fundamentals are planning and transport and should be heavily involved in that committee, which will be meeting with the Premier from time to time—twice a year at least—and, in essence, dealing with the government’s objectives, and the City of Perth’s objectives, for the city. I feel that the two additions of the Minister for Planning and the Minister for Transport bring good planning into that structure. They are missing in the current provision. Subclause (3) states —

The Premier may invite any Minister of the Crown, Parliamentary Secretary or other member of Parliament to attend a meeting of the Committee.

I think that those two ministers definitely need to be in that process rather than by invite.

**Hon HELEN MORTON:** The government does not support the amendment. For a start, this is an advisory committee. It is required to meet a minimum of two times a year. It is appropriate that the chair is responsible for inviting additional ministers. I could put up an equal argument about why the Minister for Tourism should be there, for example, or why the Minister for Disability Services should be there.

**Hon Ken Travers:** For homelessness?

**Hon HELEN MORTON:** Exactly. While we are looking at homelessness, the Minister for Child Protection and Family Support should be there. There are so many reasons any particular minister might need to be there at any particular time.

**Hon Simon O’Brien** interjected.

**The DEPUTY CHAIR (Hon Brian Ellis):** Order! The minister has the call.

**Hon HELEN MORTON:** The person who is most appropriate to invite those particular ministers at any particular time is the Premier, and that is how the bill is written. It is appropriate that the chair is responsible for inviting additional ministers or parliamentary secretaries. With regard to including the Ministers for Transport and Planning, this is not a planning committee nor is it a decision-making committee; it is an advisory committee. Of course there are other issues of strategic importance to a capital city that the member has overlooked, which we just identified—tourism, homelessness, disability access et cetera. The government does not support the amendment and, to be honest, does not believe that it makes that much sense.

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**Hon KEN TRAVERS:** On behalf of the Labor Party, I wanted to indicate that we also oppose the amendment. One of the reasons, as I said in my contribution to the second reading debate, is that this is capital city-like legislation, but I do not think amendments such as this will necessarily improve it. In terms of a simple drafting issue, there is a Minister for Transport today, but there may not be a Minister for Transport tomorrow. Normally we would put those things into the bill but that just makes it more complex and will not achieve the outcome that the member wants. We would include the minister responsible for the Public Transport Authority Act 2003 or the Main Roads Act 1930. That would be the normal way to draft the bill, because technically we could have different ministers for those two acts. I would prefer to see the minister responsible for the public transport act attending. I do not want the minister responsible for Main Roads to attend; I think we have enough roads in the City of Perth. There are a range of reasons we oppose the amendment that relates to the drafting and that is why the Labor Party will not support it. It is one of those issues that we need to take on face value that a responsible Premier will ensure that all the appropriate ministers are at the table to discuss those matters with the City of Perth, depending on what issues need to be discussed.

**Hon LYNN MacLAREN:** I have been at several meetings at which the development of the capital city has been discussed. I am a bit of a planning nerd and I go to some of the conferences and listen to how planners are taking a positive and modern vision for developing Perth. I think I have even been on some of the panels with the Minister for Planning that talked about some of those visionary suggestions. When the idea about a capital city committee came up, I know that the Premier was looking at the composition of the City of Adelaide's committee with a view to modelling the City of Perth Committee alongside Adelaide's. I bring to the minister's attention the membership of the Capital City Committee in South Australia. It is very simple and balanced and does not include public servants. It includes all elected members, because it is a decision-making body.

**Hon Helen Morton:** Did you say the Adelaide committee is a decision-making body?

**Hon LYNN MacLAREN:** Yes.

**Hon Helen Morton:** I beg to differ.

**Hon LYNN MacLAREN:** Okay. The membership of the Capital City Committee in Adelaide is the Premier or a minister nominated by him, and two other ministers who are nominated by the Premier—that makes three from a state government perspective—and then the Lord Mayor or if the Lord Mayor chooses not to be a member of the committee, another member of the Adelaide City Council nominated by council, and then two other members of the Adelaide City Council nominated by council. There are six individuals—three who are elected members from the City of Adelaide and three who are elected members and, presumably, in the cabinet of the SA state government. Why are we going down the line proposed in clause 2 for membership and not along this more streamlined committee that is proving to be successful in the case of Adelaide?

**Amendment put and negated.**

**Hon SIMON O'BRIEN:** If the Committee of the Whole was of a mind, it could even invite you, Mr Deputy Chair, to put clauses 12 to 15 as one question, not that it really matters.

With respect to all concerned, the previous amendment was dealt with in the appropriate way and was negated, even though it was intended as a constructive suggestion. I have two even more constructive suggestions to make. First, we do not need a City of Perth Committee or clauses 12 to 15. Second, we will go further towards achieving the goals, aims and objects of this bill if we do not have the committee. The apparatus provided for here will become an impediment to that which this bill seeks to achieve. This is bureaucrat heaven. This is a good refuge for those who want to create work where they do not need to, who want to create activity at the expense of progress, and who want to have legislation for the sake of legislation. A committee called the City of Perth Committee may have some merit if it were for a specific purpose or time line. We would need something like a City of Perth Committee on occasions, but it would be vastly different from what is proposed in the bill—for example, to get Perth ready to host an Olympic Games. Special arrangements would be required in that instance. That committee would be pulled together for a specific purpose with operations less challenging. However, this provision is for a standing committee without, we are told, decision-making power. I put to the Committee of the Whole and I put to the government, just to show that I can be helpful on these matters, that I am trying to show them a way to not tie themselves up in knots and to not defeat the very purpose, such as it is, that they are claiming will be a success. If the government is dumb enough to have a City of Perth Committee along these lines, it can stew in its own juice and in that of future governments, but I have a responsibility as a legislator to warn it of the pitfalls—so I will just do it. I will not get tied up in the detail of who should be on this committee. I touched on that in my speech in the second reading debate when I lampooned the very idea of why on earth the committee would specifically need a Minister for Local Government on it. It will be laid down in law that the Minister for Local Government must attend! Why would the government put such a thing into legislation when it is clearly not necessary? That leads us to the points raised in constructive fashion by Hon Robin Chapple: why would the committee not have the planning minister and the transport minister? I do

not want to get into that. However it is done, it can be made worse by specifying more and more things. The legislation contains something about vibrancy, so the committee had better have the minister for culture and arts, circuses and tourism or whatever. We can specify in legislation that we want the bloke standing at the bus stop outside Hoyts cinema if we like, but that is starting to get ludicrous. Of course it is ludicrous. The government does not have to specify these things. When it is done, it limits what can be achieved.

I will not get into any of those arguments beyond what I have already said about who should be on such a committee because my proposition is that we do not have one. Unless we see a need to create such a committee, in which case probably the Lord Mayor of the day and/or the Premier of the day ought to do it. They can call together a working group as required, call it a committee for the Perth Olympic Games or whatever it might be, and just get on with it. If a need is seen, they may be given some enabling legislation to actually do things, but not requiring them to meet. At the moment the committee will be set up with no well-definable purpose, and we are told it has no executive power and must meet twice a year—not three times, not 50 times and not once, but twice. Let us not get tied up. I could be difficult and ask how the government came up with two. The only reference I can find to meeting twice a year is when similar questions were raised in another place and the Minister for Local Government said something along the lines that he thought the Premier and Lord Mayor got together every six months—probably about twice a year for a bit of a chit chat. That is good; so they should, and they should meet formally on a whole range of things as well. And guess what? They do, as did Lord Mayors and Premiers before them, and no doubt those into the future will as well.

If this committee is established, it will strangle the process of leaders getting on and leading and doing what they are meant to do. If a need is identified for the state government and the City of Perth to work together on what is coming up—“Let’s gather everyone together next Monday and get on with it”—that is what happens now. Do members know what will happen if we have these provisions? The committee will say, “Hang on; we can’t do that. This is something that needs to be referred to the City of Perth Committee.” That is how legislated bureaucracy works. It is a brake on and an impediment to getting on with the things that have to be done. Some members might think this is heresy: “Simon, why on earth are you saying such a thing?” I am saying this in good faith. This will stop people from doing what they want to do. This chamber would be doing a favour for those who are responsible for working with this bill, if it becomes an act, by deleting clauses 12, 13, 14 and 15. They are not needed. The committee does not need to have arguments from here to eternity about whether it will keep minutes of its meetings and whether they will be FOI-able. Come on; talk about getting caught up with the minutiae that does not even matter! How about getting on with governing the state, running the capital city and showing some leadership? We do not need legislation to tell us to do that; it already exists. That is why we should oppose these four clauses.

**Hon HELEN MORTON:** The City of Perth was very keen to include this clause in the bill. It really wanted the Premier to chair the committee and for the Premier to be able to call in ministers as he saw fit on any particular issues that might arise from time to time. The Minister for Local Government is responsible for this legislation and, consequently, was seen as an appropriate member to be on the committee. Some of the issues that Hon Simon O’Brien raised, such as examples of major events or issues that might be raised in a committee, are somewhat accurate—more so than the rest of his comments—including the transfer of Elizabeth Quay to the City of Perth and the visit by the Queen. Yes, he is quite correct about the committee needing to meet a minimum of twice a year, but there is no reason it could not meet more frequently.

**Hon ROBIN CHAPPLE:** I listened with great interest to what Hon Simon O’Brien had to say and I never really considered that as a valid point. We are concerned that this committee might become, by some means, formal or otherwise, a significant driver in the future under a different government or a different administration at the City of Perth in providing direction to the Lord Mayor and/or the City of Perth.

I mostly want to touch on the functions of the City of Perth Committee, which are dealt with in clause 13. I have indicated previously that I will move some amendments about keeping minutes, and I referred to clause 8, “Objects of City of Perth”. It is really interesting to note that the objects of the City of Perth are referred to specifically in clause 13, “Functions of Committee”, which states —

- (a) to facilitate collaboration between the State and the City of Perth in order to further —
  - (i) the object set out in section 4(a); and
  - (ii) the objects of the City of Perth set out in section 8;

My understanding of what the minister said is that my views are superfluous because the committee would not do that. Could the minister please identify how that is so, if she has already said that the objects in clause 8(1)(a) and (b) are not part of the committee’s functions?

**The DEPUTY CHAIR (Hon Brian Ellis):** I remind members that we are dealing with clause 12, not clause 13.

**Hon HELEN MORTON:** One of the committee's functions is to facilitate collaboration around those sorts of things. The committee's function is about facilitating the collaboration.

**Clause put and passed.**

**Clause 13: Functions of Committee —**

**Hon ROBIN CHAPPLE:** Clearly, it is a function of the committee to facilitate the object set out in clause 4(a) and the objects of the City of Perth set out in clause 8. Those objects are to provide for the good government of persons in the City of Perth, including residents, ratepayers and visitors, and to represent the community and encourage community participation in decision-making. When we move to a further amendment of mine to clause 15, which seeks to provide that minutes of meetings should be kept, that in my view is certainly within the ambit of ensuring that this committee will provide for the good government of persons in the City of Perth, including residents, who have a right to know what that committee is discussing, deciding or, indeed, recommending to either the government or the City of Perth. Can the minister please identify whether her interpretation of a function of the committee is different from the functions of the committee as set out in clause 4(a) and clause 8?

**Hon HELEN MORTON:** I remind the member that this is an advisory committee, not a decision-making body. Its entire purpose is to facilitate collaboration; help promote opportunities that might be taken up by the City of Perth to do its job or to complete the work of the city; assist in the identification of various mechanisms that might be taken up by the City of Perth; assist, identify and promote these opportunities; and look at ways to develop and promote more efficient and effective transitioning arrangements for developments that are the responsibility of other relevant bodies. It is an advisory body, not a decision-making body. It is up to the relevant decision-making bodies to take on board what they want to take on board from the committee's work.

**Hon ROBIN CHAPPLE:** Clause 13(f) provides for the committee to identify and develop other opportunities to further those objects. If the committee is to identify and develop other opportunities, will it come forward with proposals from the government or from the City of Perth when discussions will take place, mutual decisions will be made about the identification and development of other opportunities that will then be carried forward by either government or the City of Perth? If so, why, as we have already heard from the minister in the other place, will minutes not be kept of that identification and development?

**Hon HELEN MORTON:** I understand that the minister in the other place—it is certainly his advice to me—has said that it is not that minutes need not be kept; it will be up to the committee to decide whether it wants to keep minutes. I would like the member to be clear about what the minister has indicated rather than ascribe words to him that he has not said. Secondly, I say again that it is an advisory committee; it is not responsible for making decisions about work that needs to be undertaken by an individual local government authority such as the City of Perth, the state government or other bodies that are responsible for making decisions and implementing those outcomes.

**Hon ROBIN CHAPPLE:** A committee will meet, one could almost say covertly, to identify development opportunities, which may or may not then come forward in a legislative regime of government or indeed come forward as a proposal or recommendation. This committee will then have the ability to determine whether it will or will not record its decision-making. I would have thought that the public and, more broadly, the ratepayers, of which there will now be an extra 3 000 in the precinct, should, by the requirement to keep minutes, have some idea about the proceedings that occur in something as significant as a City of Perth committee. To give any authority or any committee the ability to have meetings without recording minutes, flies against the very nature of how we ascribe organisations. I cannot fathom that an organisation will be established, albeit an advisory committee, that may not keep minutes.

**Clause put and passed.**

**Clause 14: Meetings of Committee —**

**Hon ROBIN CHAPPLE:** I move —

Page 10, line 21 — To insert after “Premier”

, or the Lord Mayor,

Given this is the City of Perth Bill 2015 to establish the City of Perth and at one level the committee will not provide any guidance, but at another level will be a fairly significant committee—we can read it whichever way we like—one would think that not only the Premier should have the ability to call a meeting, but so too should the Lord Mayor.

**Hon Simon O'Brien:** They can consider an application in triplicate after a due period of notice has been given or perhaps they can get on and do it as they have been doing it for years.

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**The DEPUTY CHAIR (Hon Brian Ellis):** Order, members! Hon Robin Chapple has the call.

**Hon ROBIN CHAPPLE:** Thank you. I appreciated the interjection.

The intent with this amendment is to provide some ability for the City of Perth, which may from time to time find there is a necessity, to have some discussion publicly or behind closed doors, with the Premier and other ministers. But in this case the City of Perth is restricted because the Premier will decide when the committee will meet. In, not this Parliament, but some other Parliament, it will obfuscate if there is some degree of relationship breakdown between the City of Perth and the government. Suddenly the City of Perth might not be in a position to call a meeting of the committee to try to resolve some of the issues around developing opportunities and those sorts of things that the committee has to deal with. This amendment merely seeks to provide for the City of Perth to be instrumental in calling those committees, not to be beholden solely to the Premier.

**Hon HELEN MORTON:** The government does not support the amendment. It is believed that it has been suggested by the member that the person within the committee, in this case the Lord Mayor, should be able to call a meeting when the Premier chairs the committee. I think it will undermine the chair's authority, but it is not necessary given we are talking about a minimum of two meetings a year.

**Hon ALANNA CLOHESY:** I indicate that the Labor Party considers that this level of detail does not need to be in the bill, so the Labor Party will not support the amendment.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 15: Committee may regulate own procedure —**

**Hon ROBIN CHAPPLE:** I move —

Page 10, line 24 — To insert after “fit”

, but shall maintain minutes as a record of its proceedings

This is fairly crucial for us. A committee is to be established that will meet to discuss a range of topics that we do not know. It will also be able to determine whether it keeps minutes. This is an interesting question for the minister. Will the committee determine whether it will keep minutes for specific meetings or for all meetings? If, as the minister said, it will be up to the committee, will it be up to the committee to keep minutes on an as-needs basis or to make a decision at the beginning of the year; for example, keep minutes for the two meetings held in a year or at the beginning of a five-year period, or not keep minutes? I have a problem with any authority or committee being established that does not specify the way it will operate. I assume that there will be times when it will make significant recommendations or opportunities will be identified by the committee that should be in the public domain otherwise we, the public of Perth, and the public of Subiaco —

**Hon Ken Travers:** Does the Constitution require you to keep minutes?

**Hon ROBIN CHAPPLE:** I would have thought it did.

**Hon Ken Travers:** I am asking—does it?

**Hon ROBIN CHAPPLE:** If you have an authority or any organisation, yes, minutes have to be kept. But here, we have been told by the minister we do not have to.

**Hon Ken Travers** interjected.

**The DEPUTY CHAIR (Hon Brian Ellis):** Order, members! Hon Robin Chapple is asking a question of the minister.

**Hon ROBIN CHAPPLE:** That is my question to the minister. Will the committee decide on a time-by-time basis whether it keeps minutes, or will it not keep minutes, full stop?

**Hon HELEN MORTON:** The committee will determine its own operating procedures as necessary. That is as plainly and simply as I can put it. This is not a decision-making body; this is an advisory body. As such, it will determine its own operating procedures as necessary.

**Hon ROBIN CHAPPLE:** I am sorry, minister, I am going to belabour the words “as necessary”. Many things may pass through that committee and if it is to determine what is necessary, it might determine that it has decided to have an early lunch, and it will put that in the minutes, yet when it determines that it will potentially restructure the foreshore or something of that nature, which is identifying and developing opportunities, that may not be recorded. The minister cannot say it is just some small committee because it has the Premier of Western Australia, the Lord Mayor of Perth and some significant advisers on it. It seems ludicrous to me that a committee is being set up that may not keep minutes. I come back to the point that I think it is almost

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unconstitutional to have a committee of this nature that will not keep minutes. I can say no more, but I cannot agree with the argument put forward by the minister that the committee will do it on an as-needs basis.

**Hon ALANNA CLOHESY:** I take the member's point that one of the functions of this committee is good government. One of the ways to ensure good government is through good governance. A whole lot of factors contribute to good governance, minutes being one of them. It is also good practice. There are a whole lot of ways to ensure accountability and transparency. They are operational matters of the committee and, as such, they go to a level of detail that do not have a place in the bill per se but might be better off placed in regulations. Because of the level of detail around governance that should really belong in the committee's regulations and operating procedures, WA Labor will not be supporting this amendment.

**Hon KEN TRAVERS:** On the issue of minutes, if the decision is taken to take minutes, and I expect it will be under the operational guidelines, can the minister give an assurance that they will be FOI-able?

**Hon HELEN MORTON:** Local government is subject to freedom of information legislation so if such a request was made and there was any question around whether it was going to be made public or not, or is subject to FOI, it would be determined by the decision-maker at that time.

**Hon ROBIN CHAPPLE:** With the Chair's permission, I am going to go to clause 15 because it is relevant to clause 14. Clause 15 states that the committee may regulate its procedure in whatever manner it thinks fit. Does that mean that those regulations will be able to be gazetted or does it mean they are merely internal regulations and have no oversight?

**Hon HELEN MORTON:** The work "regulate" in here refers to the verb in terms of this is what they are going to do: "regulate its procedure in whatever manner it thinks fit". It is not referring to regulations that would normally come through here and be cited in the Parliament, or anything of that nature.

**Hon ROBIN CHAPPLE:** We come back to clause 14.

**The DEPUTY CHAIR:** Can I just remind the member that we are on the amendment to clause 15.

**Hon ROBIN CHAPPLE:** We come back to clause 15; sorry about that. The committee may regulate its procedures but we will not know what those regulations are. Those regulations may determine whether it is going to keep minutes or not. Even the process of whether it is going to keep minutes will not be on the public record. In the nature of good governance and, as the minister has said, if the committee keeps minutes, they may be FOI-able. I think it is highly important for the state of Western Australia that the committee keeps minutes as a record. As Hon Ken Travers pointed out—I think the minister has agreed—they should be FOI-able. Without that, there is no ability for the general public, the community and the ratepayers of the City of Perth to be able to ascertain what, if anything, went on at the committee's meetings. I encourage members, although I think it is highly unlikely, to insert the following words after "fit" on line 24 of page 10 of clause 15—"but shall maintain minutes as a record of its proceedings".

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 16: Future alteration to City of Perth boundaries only to be made by Act of Parliament —**

**Hon SIMON O'BRIEN:** This clause came out of the blue. It provides that future alteration to City of Perth boundaries may be made only by act of Parliament. Again, I would like a brief explanation of why we are adopting this. When it all boils down, some proposed boundary alterations can be very controversial. It is not as though changes relate only to the City of Perth; it might be anywhere—between the City of Canning or the City of Gosnells or somewhere. We have processes through which one works to get the resolution to that question. I wonder why we require an act of Parliament for City of Perth boundaries but not for others for which we have previously made quite different arrangements. Perhaps the motive here lies largely on controversial matters like the Burswood peninsula, which are going to be controversial whether they are done through other means—a bill or however—as either way they will be controversial, and the government will not get away from that. I wonder why we are doing this. I ask the Committee of the Whole to consider whether we are saddling the future with something it really should not be saddled with. I conclude with this example, which is perhaps the opposite of a Burswood peninsula-type issue. What if for practical purposes after this bill comes in operation, we need a bit of a rejig along that Perth-Subiaco boundary and everyone agrees on moving a boundary a bit here or a bit there, or perhaps half a street north into Vincent, or something like that? Do we really want to rely on the passage of an act of Parliament every time this needs to happen?

**Hon HELEN MORTON:** This clause came about in the other place. It was felt that it reinforced some of the later clauses, and that is why it is built into the legislation. For example, the Lord Mayor has to be popularly elected. That is just an example of what comes up later. It was felt that this clause reinforced the requirement that

any potential boundary changes to the City of Perth could not be managed under the Local Government Act but needed to come through the Parliament in the way that it is now dealt with in this legislation.

**Clause put and passed.**

**Clauses 17 to 21 put and passed.**

**Clause 22: City of Subiaco may review ward boundaries and councillor numbers —**

**Hon SIMON O'BRIEN:** I know that a couple of observers of this debate would be awfully cross if we did not look at this, and members would be awfully cross with themselves if they did not stop and ask the question, too. This has been alluded to in different stages of the debate. For the sake of brevity, I am truncating this to the main points. The clause states, in part —

- (2) After this section comes into operation and before 31 March 2016, the City of Subiaco may carry out a review under this section of —
  - (a) its ward boundaries; and
  - (b) the number of offices of councillor for each ward.

The succeeding paragraphs of the next subclause further flesh out the nature of the review. From what I hear, and the City of Subiaco is not in my region so I am not that close to it, the City of Subiaco is not doing anything in this space.

**Hon Ken Travers:** They can't at the moment.

**Hon SIMON O'BRIEN:** The act is not in force. That was a very pertinent interjection and I thank the member for it. How is this going to work in practice? Is it just the case that that review will commence when this becomes an act?

**Hon Ken Travers:** They will have councillors that have a ward, and half the ward is gone. It shows the incompetence of the current government in its administration of legislation.

**Hon SIMON O'BRIEN:** I would not want to put it in pejorative terms, though oppositions might want to. It would be useful for the public record to see whether we can proceed with what we have here and everyone makes the best of it or whether we need to rejig the date.

**Hon HELEN MORTON:** This provision was inserted when the bill was first introduced into Parliament. Basically, it indicated that the City of Subiaco may undertake a review of that type prior to the legislation being enacted. Given that that time frame has now elapsed, the object will be for the City of Subiaco to undertake that review after 1 July. Although the provision is there to enable the council to do be able to do that, it is not a requirement for it to do that.

**Hon Ken Travers:** Minister, in this case it would have been a "will" or a "shall". It would have been expected that they would have done it. Often the term "may" is used —

**Hon HELEN MORTON:** It is about the council being enabled to do that if it wants to.

**Clause put and passed.**

**Clauses 23 to 25 put and passed.**

**Clause 26: City of Perth Restructuring Act 1993 repealed —**

**Hon ROBIN CHAPPLE:** I move —

Page 19, after line 4 — To insert —

- (2) Nothing in this section shall have any effect on the status of the City of Vincent, the Town of Victoria Park or the Town of Cambridge as districts under the *Local Government Act 1995*.

This is a provision to allay the fears of the Town of Victoria Park, the Town of Cambridge and the City of Vincent. If we go back to the original City of Perth Restructuring Act that is being repealed, it is clear that they were part of that proposal. There is concern in the community that clause 26 could impact on them at some stage. Although the City of Perth Restructuring Act 1993 will be repealed, there is a desire to ensure that those particular authorities would clearly identify that —

Nothing in this section shall have any effect on the status of the City of Vincent, the Town of Victoria Park or the Town of Cambridge as districts under the *Local Government Act 1995*.

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The insertion of subclause (2) would satisfy those authorities and give them some surety. That is the intent of that proposed insertion.

**Hon HELEN MORTON:** The government will not support this amendment because it is totally unnecessary. These districts are created under the Local Government Act and they will continue under that act. This bill has no impact on them. The Department of Local Government and Communities, in the development and progress of this legislation, wrote to the City of Vincent and the Towns of Victoria Park and Cambridge asking them to raise any issues they might have. They came back and talked a little about superannuation, but that has been dealt with. No other matters were raised during this process.

**Hon ROBIN CHAPPLE:** I thank the minister for her response. That in itself getting into *Hansard* provides some surety. I still support my amendment, but I thank the minister for her response.

**Hon ALANNA CLOHESY:** When clause 37 was debated in the other place, it was opposed by the Labor Party and therefore that clause was deleted. That, in effect, ensured there would be no annexation powers over Burswood peninsula and, as a consequence, this amendment is irrelevant. For those reasons, Labor will not support this amendment.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 27 put and passed.**

**Clause 28: Section 44A inserted —**

**Hon ROBIN CHAPPLE:** Before I move the amendment standing in my name, can the minister describe the effect of inserting proposed section 44A? What effect does subsection (2) have on the role of the Executive Director of Public Health in the administration of Kings Park? Can the minister give me a clear understanding of the nature of the Health Act 1911 and its implications?

**Hon HELEN MORTON:** I am unsure whether the member is asking me what the role of the Executive Director of Public Health is across the state or specifically in terms of Kings Park. For example, if there was an outbreak of food poisoning at Fraser's restaurant, which is in Kings Park, the Executive Director of Public Health would be required to investigate and perhaps close down the restaurant—not that I imagine that Frasers restaurant would ever, ever —

Several members interjected.

**Hon HELEN MORTON:** Oh, they did, did they?

**Hon Sue Ellery:** Yes, and some high-profile people had attended.

**Hon HELEN MORTON:** Okay.

**Hon Ken Travers:** Why would you use it as an example, minister? You should use generalities.

**Hon HELEN MORTON:** The member does not actually understand generalities. I have to give him quite specific examples. Another example would be if there was a problem in the water area of a children's playground and children had to be removed from it or it had to be closed.

Several members interjected.

**The DEPUTY CHAIR (Hon Liz Behjat):** Order! The minister has the call.

**Hon HELEN MORTON:** If the member really needs to understand what the Executive Director of Public Health's role is in these things, that is another question. But that is the role it has and that is the role we want to ensure it continues to have.

**Hon ROBIN CHAPPLE:** Does the Executive Director of Public Health not currently have those responsibilities?

**Hon HELEN MORTON:** Because Kings Park is being inserted into this district, which is now the City of Perth, the powers of the Executive Director of Public Health—who has those powers in areas outside of the district—have to be reinserted, so to speak, into this area of Kings Park. It will ensure that those powers continue whilst Kings Park is being amalgamated with the City of Perth.

**Hon ROBIN CHAPPLE:** As Kings Park is now in the City of Perth, does the Executive Director of Public Health have responsibility for public health matters in the City of Perth? I am trying to understand why we need this insertion. Surely the City of Perth is currently covered by the Executive Director of Public Health. The original Kings Park was covered by the Executive Director of Public Health. I am trying to find out why this clause has to be inserted in here when it already covers those two elements.

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**Hon HELEN MORTON:** Normally that authority is undertaken by environmental health officers employed by local government authorities. Because Kings Park will be placed inside the City of Perth, we want the Executive Director of Public Health to have that authority for Kings Park. We do not want environmental health officers undertaking that work inside Kings Park. This provision has been included because we want it to be retained by the Executive Director of Public Health.

**Hon ROBIN CHAPPLE:** I thank the minister for the answer. Why?

**Hon HELEN MORTON:** It is because it retains the authority of a class A reserve. An example of that undertaken elsewhere is Rottnest Island.

**Hon ROBIN CHAPPLE:** I will therefore not proceed with my amendments to clause 28.

**Hon SIMON O'BRIEN:** I thank the member and the minister for giving us that explanation, because I was wondering about the same question. Having worked out that the Executive Director of Public Health is already responsible for all these matters in Kings Park and that it has authority on all these matters in Kings Park now because it is not in the City of Perth or any other local government direction, and because the government is going through the exercise of putting it in the City of Perth, we now need separate legislation to provide that the Executive Director of Public Health will retain the authority he currently has anyway. Reaching this stage of the bill is like an episode of *Yes Minister*. It invites the obvious question: who made the decision that Kings Park needed to go from its current arrangements to be included as part of a local government district instead of its standalone status? I want to know who made that decision. I know the minister is keen.

**Hon Helen Morton:** I heard a great pause and I thought you must have sat down.

**Hon SIMON O'BRIEN:** I was just gathering my breath. I can if you wish?

**Hon Helen Morton:** No; you go for your life.

**Hon SIMON O'BRIEN:** Thank you.

The other thing I would like to get on the record is whether the Botanic Gardens and Parks Authority was consulted about this matter before the decision was made.

**Hon HELEN MORTON:** The answer to the last part of the question is absolutely.

**Hon Simon O'Brien:** They were.

**Hon HELEN MORTON:** Absolutely. The first part of the question was about who made the decision. Given that Hon Simon O'Brien was a minister for a reasonable length of time, he would be aware that these decisions are made in cabinet.

**Hon SIMON O'BRIEN:** My compliments to the minister; that was a magnificent avoiding of the question! But it is all right, we all know who made the decision.

**Hon Ken Travers:** Welcome to our world, Simon.

**Hon SIMON O'BRIEN:** Oh!

The only other matter —

Several members interjected.

**Hon SIMON O'BRIEN:** Excuse me; I am trying to make progress on this bill.

**The DEPUTY CHAIR:** Order! Perhaps if you address your comments through the Chair to the minister, there would be no need for objections on that side.

**Hon SIMON O'BRIEN:** I am sorry. I do most humbly apologise, Madam Deputy Chair. I was forgetting who is in charge. It will not happen again.

**The DEPUTY CHAIR:** Obviously you were, Hon Simon O'Brien.

**Hon SIMON O'BRIEN:** Sorry?

**The DEPUTY CHAIR:** I said obviously you were, Hon Simon O'Brien.

**Hon SIMON O'BRIEN:** Sorry, I did not hear your interjection.

I have a final question so that we can move on from this particular clause. The minister referred to the Botanic Gardens and Parks Authority most definitely being consulted about the move, which would have involved asking for its consideration about the pros and cons and all the rest of it. Will the minister table or make available the correspondence relating to that consultation?

**Hon HELEN MORTON:** Obviously, I do not have that correspondence here. It is not a matter of us being able to go and get that correspondence so that we can table it in time for the member to look at it. There is correspondence—I can 100 per cent assure the member of that—but it is not available for me to table.

**Clause put and passed.**

**Clauses 29 to 36 put and passed.**

**Clause 37: Sections 5.89A and 5.89B inserted —**

**Hon SIMON O'BRIEN:** This clause will no doubt be endorsed. It is an infamously numbered clause because we know about the original clause 37 which was, frankly, no ornament to the government—none whatsoever—but it was consistent with its approach to local government policy throughout this term of government; but enough of that for now.

The current clause 37 relates to a register of gifts and contributions to travel. I could have introduced the remarks I am about to introduce in several previous clauses that also refer to disclosure. It strikes me as passing funny—funny as in peculiar, not funny as in ha-ha—that in a piece of legislation that is intended to promote the dignity and prospects of our capital city, there are matters like this being thrown in at the last minute as amendments, not to the City of Perth but, as it happens, across local government. I do not think that is a very dignified or good way of going about things and perhaps given the way this whole matter has been conducted, therein it might be appropriate. It is a pity that the end result that we are approaching with the City of Perth Bill 2015 has so many matters in it that were not contemplated in the first place. It is just another picked up, on-the-run bill that will have far-reaching consequences. I will not seek to debate it. The place to do that might be if we had a bit more time to do that, but that would be doing it properly. As someone once said, and as Hon Norman Moore used to remind us, “If you have respect for the law and you like sausages, don’t watch either being made.” That is probably a fitting provision upon which to dredge that up and point out for the record that at least in my view if no-one else’s, this particular clause, like so many in this bill, is no ornament to the statutes of Western Australia.

**Clause put and passed.**

**Clauses 38 and 39 put and passed.**

**Schedule 1: Map of City of Perth (effective 1 July 2016) (indicative only) —**

**Hon KEN TRAVERS:** Can I get an assurance from the minister that the government has no intention and will not expand the Perth parking management authority to cover the area that is covered by schedule 1?

**Hon HELEN MORTON:** I know that there is a comment sheet on this and I am just asking for it. The Perth parking management authority is under separate legislation. Nothing in this bill will contemplate changes around Perth parking. I will give the member a fuller explanation as soon as my adviser finds that comment for me.

**Hon Ken Travers:** Yes, but will you give me an answer?

**Hon HELEN MORTON:** I will give you an answer.

Parking in certain parts of the City of Perth is governed by the Perth Parking Management Act 1999, which is administered by the Department of Transport. This act operates over an area of land that is shown on the map the member referred to in the Perth Parking Management Regulations 1999. The changes to the boundaries of the City of Perth will not automatically change the area over which that act operates.

**Hon KEN TRAVERS:** I thank the minister for telling me what I already know. The reason I ask this question is that the boundaries of the Perth parking management authority are basically a mirror of the boundaries of the City of Perth. I think there might be some minor issues at one place. What I seek from the government is a commitment that at some point in the future we will not see a change to the boundaries, and the justification for changing the boundaries to the Perth parking management authority area is because, “Well, we’re now just making sure that the Perth parking management authority reflects the new boundaries of the City of Perth.” I would have thought a pretty straightforward thing the minister can give us is a firm guarantee that the government will not do that and it will not seek to use the new boundaries of the City of Perth to justify expanding the Perth parking management authority area.

**Hon HELEN MORTON:** All I can say is that I am not aware that there are any plans in any department anywhere in the state government to change that —

**Hon Ken Travers:** I am not asking about plans. I am asking about giving a commitment that you will not use these boundaries as justification.

**Hon HELEN MORTON:** I am saying that that will not happen as a result of this bill going through.

**Schedule put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

**HON HELEN MORTON (East Metropolitan — Minister for Mental Health)** [3.46 pm]: I move —

That the bill be now read a third time.

**HON SIMON O'BRIEN (South Metropolitan)** [3.46 pm]: Just for the record, I will be opposing the third reading, consistent with what I have had to say. The bill as it emerges from the Committee of the Whole has been considered in some detail, but not as much as I would have liked. I do not know whether other members also have the view that perhaps it is regrettable that we do not have the capacity to explore all the avenues that we would like to explore in the Committee of the Whole House. The committee process displayed to us, though, is that there are a number of highly relevant questions that remain embarrassingly unaddressed. The latest one was about the Executive Director of Public Health on the Kings Park question. What a silly situation that is. It is completely pointless and completely unnecessary and it does not add to the value to our statute book or do anything for civic dignity. It is very unfortunate.

**Hon Ken Travers** interjected.

**Hon SIMON O'BRIEN:** Sorry?

**Hon Ken Travers:** It is all part of the bigger picture.

**Hon SIMON O'BRIEN:** A number of other matters have been raised. It was important during the course of the committee stage to get some undertakings on the record about a range of things, including the Perth parking management authority levy area about some of the intentions of government and so on, but no matter how hard we tried, we could not get what has alluded me for the last 12 months—that is, an actual case that even someone as dumb as me can understand as to why all of this is necessary beyond some vague representation that, “Some other cities have got a capital city legislation, so we should have it, too. It doesn't matter how we have mucked it around by putting bits in and bits out.” The community as a whole has not been involved in it, and we cannot identify anything that it will produce. In those ways, the Committee of the Whole stage was useful as we now consider the third reading and ask ourselves: Does this bill add to the dignity of Western Australia and its statute book? Does it assist the community to grow or is it just window dressing? Is it fair and is it just to all who will be affected? Is it seen to be fair and just to all who will be affected? Quite clearly the answer is no. It has been pushed ahead by a forceful head of government, and he has the backing to do that, including the backing of an opposition that incredibly, is going along with this course of action. If public attention was turned upon the Australian Labor Party, I do not think it would be able to come up with any better reason than the platitude of, “We recognise we could use capital city legislation.” What a lost opportunity. In fact I think it is worse than that; I think it is something that would have been best left undone given how badly I see it will be done. We have created some new unnecessary bureaucracy with a committee being set up that has to have certain people on it who have to sit twice a year and all the rest of it.

It is pointless legislation—totally pointless. That is what we have after a lengthy committee stage as we consider the third reading of this bill.

I will be voting against the third reading. There are probably several other members who will as well. That will give them the opportunity to say in future, “I told you so.” I think it is important that those of us who believe in what we believe in stand up even though we know we are going to get beaten on the floor of the house. I do not like getting beaten in any election, but this is significantly a test of the integrity of our system that it is worth standing up for, even if I gain the approbation of some of my colleagues. For all of the reasons that have been enunciated through the course of the debate, that is what I will be doing. I certainly hope that there will be at least some members who are prepared to do the same.

**HON ROBIN CHAPPLE (Mining and Pastoral)** [3.51 pm]: I always find it difficult speaking after Hon Simon O'Brien because he is a very eloquent speaker and has encapsulated in many regards what I and the Greens feel about this legislation. Let us come back to three fundamental points. The Greens are concerned that by the very nature of the boundary realignment that has been established, due process was denied to the City of Subiaco. As such, I, along with the Nationals, have a view that this establishes forced amalgamation, even though it is by a boundary realignment. It goes against the principles of what we believe in about participatory democracy; that is when the community at large should be involved in the processes. Clearly 3 000 ratepayers are being moved out of the City of Subiaco without their voice being heard. The other part of

**Extract from *Hansard***  
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this is that we are also establishing a committee that will be a very high-flying committee—it will be chaired by the Premier—that will have little or no oversight. It may or may not have minutes. It may or may not make regulations internally on whether it keeps minutes. That means that the material that quite often may go through that committee may not be FOI-able.

I point out that the Greens support the notion of a capital city. Almost by way of explanation, I refer to the comments made by Hon Simon O'Brien, that, indeed, we think this could have been much better. We believe that if it had gone to committee those who are aggrieved, who have been silenced by this process, would have had the opportunity to go before the committee and make their presentations. The Greens also will oppose the legislation. We do not oppose the principle of the City of Perth, but we oppose the way it is being done and we oppose what is, as Hon Simon O'Brien has pointed out, a really bizarre piece of legislation that is nonsensical in many respects.

*Division*

Question put and a division taken, the Acting President (Hon Liz Behjat) casting her vote with the ayes, with the following result —

Ayes (22)

Hon Ken Baston	Hon Kate Doust	Hon Peter Katsambanis	Hon Amber-Jade Sanderson
Hon Liz Behjat	Hon Sue Ellery	Hon Robyn McSweeney	Hon Sally Talbot
Hon Jim Chown	Hon Brian Ellis	Hon Michael Mischin	Hon Ken Travers
Hon Alanna Clohesy	Hon Donna Faragher	Hon Helen Morton	Hon Phil Edman ( <i>Teller</i> )
Hon Peter Collier	Hon Nick Goiran	Hon Martin Pritchard	
Hon Stephen Dawson	Hon Alyssa Hayden	Hon Samantha Rowe	

Noes (9)

Hon Martin Aldridge	Hon Dave Grills	Hon Rick Mazza
Hon Jacqui Boydell	Hon Col Holt	Hon Simon O'Brien
Hon Paul Brown	Hon Lynn MacLaren	Hon Robin Chapple ( <i>Teller</i> )

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Pairs

Hon Nigel Hallett	Hon Darren West
Hon Mark Lewis	Hon Adele Farina

Question thus passed.

Bill read a third time and passed.