

METROPOLITAN REDEVELOPMENT AUTHORITY BILL 2011

Second Reading

Resumed from 31 August.

HON SALLY TALBOT (South West) [2.44 pm]: This bill, as many honourable members know, is the bill that wraps up the four existing redevelopment authorities into one Metropolitan Redevelopment Authority. This is a lengthy bill, and I thank the officers of the department for providing the briefing to ALP members, which we had earlier this week. It is also a bill that has been designated urgent by the government, I believe. I have some questions about why that is the case. I know that the technical answer to that is because the Armadale Redevelopment Act will lapse on 31 December 2011, and that, if all goes according to the plan—to the extent that one could ever say that the government had a plan that it was following—this bill will be enacted by that date. All that does, of course, is absolve the government from the responsibility of having to prolong the Armadale Redevelopment Act, which would be a relatively straightforward thing to do. The reason that I am raising this issue at the beginning of my speech is that it goes right to the heart of what we are actually doing here and now with this bill in this place.

As I say, this is a complicated bill, of some considerable length. The version that we are considering today has 104 pages and 156 clauses. Much of the bill deals with things to do with planning law that are quite complex. The bill was substantially amended in the other place. We know, of course, that there has been some problem that the government appears to have encountered in this place in the last few weeks of filling the notice paper. I think the Leader of the House has actually acknowledged that.

Hon Norman Moore: It is a fact of life. I cannot help it.

Hon SALLY TALBOT: It is a fact of life, absolutely, acknowledged by both sides of the house, and blamed, I understand, by the leader of the government, on some kind of problem with processes in the other place—about which, of course, we would know absolutely nothing. But it does seem to me —

Hon Norman Moore: I have not blamed anybody for doing things the way they do it. I am just simply reflecting the fact that that is how it is being done these days, and that is different from what it used to be.

Hon SALLY TALBOT: I accept that, Leader of the House. But the fact is that it is the government's responsibility to manage the business as it is introduced to this place.

Hon Norman Moore: That is right—it is managing what little business we have.

Hon SALLY TALBOT: I am not sure that anybody on the government side of this house would want to hold up what has happened in this place over the last four sitting weeks as any kind of object lesson in how to manage the business of this house effectively and efficiently.

Several members interjected.

Hon SALLY TALBOT: I am making a quite substantive point here, if honourable members opposite would contain their enthusiasm to interject —

The DEPUTY PRESIDENT (Hon Jon Ford): Order, members! I do not like interjections, members know that; and the member should not respond to interjections. If the member would address her comments to me, that would be helpful, I think.

Hon SALLY TALBOT: Thank you, Mr Deputy President. I make the point, Mr Deputy President, to you, that I am trying to go through some very important matters here, and I just want to draw that to the attention of honourable members. That is that because of the requirement in this place that bills sit on the table for seven days, we on this side of the house will work on the basis, at least for the next few weeks, that we will need to be prepared to deal with bills exactly seven days after they come up from the other place. And, indeed, that is what I was preparing to do. I was pleased—I have already acknowledged the assistance I received from the advisers—that we were able to arrange a briefing on Tuesday. I was less happy that, because of people's availability to provide the briefing, a substantial part of that briefing had to take place during a period when the house was sitting. That is never ideal and I am sure that members opposite would agree with me, because inevitably there are members of Parliament who would like to attend briefings but cannot when the house is in session. Nevertheless, I do think that we had an effective briefing.

The problem we had was that when we all opened our files at that meeting and pulled out our copies of the Metropolitan Redevelopment Authority Bill 2011, which we had all, of course, downloaded electronically, it turned out that we were actually looking at the wrong version of the bill, because the electronic version of the bill on the website had not been updated with the changes made in the other place. That only delayed the

practical proceedings for the briefing by a matter of 10 minutes or so while we were provided with copies of the correct version of the bill, and I did then establish that it was the correct version of the bill that was read into this place. I acknowledge that the government got it right as far as that went. But I do point out, because one day the government will be in the position when it is in opposition and receiving briefings from bureaucrats, that it is very unhelpful if the versions of the bill available online are not the current amended versions.

We then got to the end of that briefing and discovered that we did not have an updated explanatory memorandum. That is a much more serious problem, and I know Hon Helen Morton would agree with me that that is a very difficult situation. It then took me some time to establish that what we had been provided with—the old EM—was a version we could work with. I agreed, on that basis, that we would go ahead with this debate today.

I make those points because I want to put it before the government that we can only tolerate this up to a certain point. It so happens that we have been able to do quite a lot of work on the Metropolitan Regional Development Authority Bill, and we have been able, because of the way other business in this place was unfolding, to bring ourselves to this point fairly quickly. That will not always be the case. I just leave that with the government as some issues that it might want to look at. To summarise that point, if the government wants to get things through quickly and efficiently, and that means to proceed with business that we have to debate things exactly seven days after they are tabled in this place, we must have the correct version of the bill available to us online, and we must have a correct version of the explanatory memorandum, neither of which was provided to us in this case.

In relation to this bill, the government, as with a number of other bills we have considered recently, has made a big play of the fact that it has consulted widely with the various stakeholders. In this case, I understand that the government considers that it has undertaken adequate consultation with the Western Australian Local Government Association, and the Western Australian Tourism Commission—I would be interested to know whether the tourist industry has been involved in the consultations that the government considers to have taken place; with Treasury, and I will come to the reason for that in a moment; and with the four existing redevelopment authorities. It is interesting to me that no other stakeholders appear to have been consulted over this bill that introduces a very comprehensive planning power over the whole of the metropolitan area, and I would have thought that it would have been an appropriate measure to take to consult people like the South West Aboriginal Land and Sea Council. It is not clear to me that that has happened, and I would appreciate the minister with responsibility for this bill making some comment on that during the second reading response.

I mention the SWALSC particularly because it has come to my notice that the government might have been somewhat remiss—that is probably putting it politely—in its consultation over one of the biggest metropolitan redevelopment schemes that the city has ever faced; that is, the waterfront development. I realise that this bill is not part of the minister's specific portfolio, so I am not asking for any particular commentary on this point, but I just make the general point about consultation that when it comes to dealing with people who have tenure claims over an area, there is surely a question to be asked about the appropriate stage in a proposal at which those people with tenure claims should be involved. It is an issue I have raised before in this place in relation to the planning done particularly for the Camden Sound marine park, because the local traditional owners were telling me that they were not consulted at an early enough stage in that planning process to have what they considered to be meaningful input. The same thing is being suggested to me about the involvement of traditional owners in the Perth Waterfront development. I realise that the government is likely to come back and say it has done the appropriate level of consultation, but I put it to honourable members that when it comes to gauging reaction to the issue about whether consultation has been adequate, it is not sufficient to go to the government and get a response; there has to be an answer from the key stakeholders that confirms, or verifies, the information from government. It is not enough for the government to say, "Yes, we have consulted", when the key stakeholders are saying, "We haven't been consulted adequately, and we don't consider that we've been able to make the input we would have liked to this planning process." In relation to the waterfront development, I understand the specific issue is about some of those very culturally specific parameters that Nyoongah people put around their use of the waterways in the state, particularly the Swan River. I would have thought that governments of both persuasions would have learnt their lesson about this some years ago, because it has certainly been a topic of conversation ever since I have lived in this state, which is now well over 30 years.

Those key considerations involve things that might impact on the riverbed, things that might impact on the riverbanks, things that might impact on the height and depth of the waterway, and things that have an effect on the water quality. Those are all well documented as being of prime concern, and when I get reports that many of the traditional owners, if not all of them, consider that those basic criteria have not been addressed in the plans that are now quite substantially progressed for the waterfront development, I begin to worry about how the government claims that its consultation process over things like this is anywhere near what would be regarded as adequate. I shall return to this matter in a moment.

I just want to ask again why this bill has been designated an urgent bill. It does seem to me that these ideas have been around for some time about the ways we might use what has ultimately turned out to be quite a successful process. I think there is no question that the Subiaco Redevelopment Authority has delivered in spades what it was established to produce, and I think probably the same can be said for East Perth; as far as Midland goes, I guess there are still some stakeholders who have reservations about the processes, but all in all, from my colleagues who work specifically in that area, I gather that they have not been unhappy with the work of the Midland Redevelopment Authority. Then, of course, there is Armadale, which was established under quite significantly different parameters. I know the local member for Armadale, Tony Buti, is of the opinion that the work of the authority is absolutely intrinsic to the investment prospects and the general day-to-day operations of business in the Armadale area. It has all worked pretty well so far. Over recent years there have been times when we have considered the possibility of setting up redevelopment authorities over other areas of the state, precisely because they have been shown to be pretty effective mechanisms for bringing about the sort of changes that are deemed appropriate to certain areas. One of the things that the Labor government had under consideration for a period a few years ago was the Peel region. What I am saying is that there is nothing particularly broken about the system we have now. There are, of course, some sound, valid arguments for moving to a metropolitan-wide provision, and those are the arguments that we will discuss during the course of this debate. I have been through all those arguments quite carefully and I cannot find anything, other than the impending lapse of the Armadale Redevelopment Act, that says that we need to deal with these issues as a matter of urgency. That is a very important thing for honourable members to keep in the front of their minds.

One of the specific issues that is probably appropriately canvassed in the second reading debate, rather than further down the track at the committee stage, is exactly why the Metropolitan Redevelopment Authority will be better than LandCorp. I have had several discussions about this issue with various people who are far more au fait with planning laws and regulations than I am. The answer generally seems to relate to the fact that LandCorp has commercial functions that the Metropolitan Redevelopment Authority will not have, because the Metropolitan Redevelopment Authority will specifically have a public-purpose function. I ask for some response to the question about why that is the case. Would it not have been as straightforward, if not more straightforward, to make some amendments to the LandCorp act to give LandCorp a public-purpose function? Perhaps, as Hon Adele Farina quite rightly pointed out, it has a public-purpose function. I guess what I am getting at is: why could we not have strengthened the public-purpose function of the LandCorp legislation and regulations? After all, many people in this place and in the other place have been quite vocal in identifying some of the problems that currently beset us in the way that LandCorp is operating, particularly in regional areas. Any honourable members opposite who have been to regional areas recently and who have met with local government planners, the local chamber of commerce and industry or any of the activists in their communities who have concerns about planning and development will know that the things that are put at the top of the list of problems with LandCorp are the rate of land releases and the parameters and guidelines that affect what appears to be a very tardy and tedious process of land releases in communities that are screaming for a more effective way of doing things. I do not stand here and make that comment as a LandCorp basher, because, as honourable members know, I operate my office in the Peel region. The Peel region has probably been the beneficiary of one of the most spectacular achievements of LandCorp—that is, the development of the marina in Mandurah. I make the point to honourable members that one of the reasons that LandCorp was so effective in leading that development was precisely that it was the kind of development that was always going to be racked by the problems associated with high-risk ventures. It was going to be extraordinarily difficult and, indeed, had eluded people up to the moment when it was realised that LandCorp could fulfil that function. Who was going to provide that sort of lead-agency stability and security for a project that was expensive, had very complicated land release and development approvals, and needed to be done in a staged way over many years? LandCorp rode to the rescue on that and has so far delivered us a spectacularly successful product.

It seems to me that the problem now is that LandCorp is operating in other areas of the state under a very different set of assumptions. Indeed, it was pointed out to me recently, when I was wearing my shadow Minister for Lands hat, by one of the biggest developers in this state that LandCorp is now tendering for development projects and is accepting tenders from outside the state, effectively depriving local industry of the opportunity to participate in major projects involving planning, building and construction and awarding those contracts to people from outside the state when there is a genuinely held belief that that is an entirely inappropriate thing for LandCorp to be doing. In case honourable members are wondering, I am talking about some of the developments from Brighton north. If they have any particular interests in those areas, I urge them to talk to the developers who are working up there about the problems that they are experiencing with LandCorp. In places such as Collie, Port Hedland and Karratha, local government has been absolutely vociferous in its demands that LandCorp get its foot off the hose. Ten years ago they were trying to get people to go and live in those communities, and now people are sleeping in their cars because there is no other accommodation available. The release of land has been identified as one of the primary problems, and the blame for the delays is sheeted fairly and squarely at the feet

of LandCorp. I am suggesting that there seems to me to be plenty of scope for revisiting the LandCorp legislation and regulations. Perhaps as part of that, we could have looked to see whether LandCorp, as a statutory authority, could have fulfilled the function that we are now setting up a brand-new authority to deal with. The answer to that question is not clear to me, and I hope that the minister will be able to give some response to that later in the debate.

One of the other specific concerns I have about the bill is that the current system, as I have already acknowledged, does not seem to me or to many others to be broken. At the moment, major developments that take place under the authority of the existing entities have to go to cabinet for sign-off. What will happen with this new bill is that the Treasurer will, for the first time, be given a formal role. Members who are familiar with the legislation will know the clauses that give that formal authority. I know that this is a complex point, and I undoubtedly will never be able to prove that this is going to be the case, but I just put honourable members on notice that we will keep a very close eye on how these things unfold. With the Treasurer to be given a formal sign-off role, it appears to me that we have been given an opportunity to sidestep cabinet scrutiny—scrutiny that cannot be sidestepped under the existing acts and regulations for the four redevelopment authorities. Sometimes, of course, we have to look at existing legislation and regulations and concede that an error was made, either by virtue of oversight or, perhaps, because a different set of outcomes was expected from the ones that we have ended up with. I make the suggestion that it may have been the case that, in setting up the four existing redevelopment authorities, it was not an oversight to leave the Treasurer out of those provisions, because leaving the Treasurer out meant that inevitably those measures had to go to cabinet for sign-off. I understand that there is no formal provision in any legislation for cabinet scrutiny or cabinet sign-off. I understand that, but that is not the point I am making. The point I am making is that if that is one of the problems with existing acts, I need to be convinced that this is a better way of doing it, assuming that we are keeping openness and transparency at the front of our list of intentions every time we deal with a piece of legislation like this.

We have a few other specific concerns about the bill. These concerns are essentially reflected in the amendments that are about to appear on a supplementary notice paper. I am sorry for the delay in getting the amendments around. These amendments relate to a series of things that do not seem to me to be particularly problematic to resolve, and to one substantive issue that I want to lay in front of honourable members this afternoon in the hope that they will have the opportunity to reflect on it before we come back to the committee stage on another sitting day.

Hon Norman Moore: We won't be doing the committee today if that helps.

Hon SALLY TALBOT: I understood that; I thank Hon Norman Moore.

The first of these concerns relates to the representation on both the Metropolitan Redevelopment Authority board and the land redevelopment committees. It is about how the board and the committees are constituted. I know that some amendments were made to these provisions in the other place. That indicates to me that the minister is not unsympathetic to approaches about these kinds of issues. It does seem to me to be more than passing strange that we do not have a provision to put elected local government representatives on either the board of the MRA or the LRCs. I have an amendment on the notice paper that would make at least one member an elected representative. It seems to me that local government is going through a stage at the moment where elected officers are playing a very particular role in their local communities about representing local concerns. Those roles are very different from the roles played by local government officers. I make no particular judgement about the way in which things are unfolding except to say that, anecdotally, it has been brought to my attention a couple of times in the last few years that because we have seen the professionalisation of officers working in local government—professional local government officers—there is often a sense that local elected councillors feel under quite a deal of pressure to be able to deliver what their constituents are asking for. That level of expertise amongst local government officers is obviously a very good thing. I suspect that over time we might see more training and resources introduced for local government representatives to enable them to deal, with the degree of efficiency that they have brought thus far to the task, with an area that is becoming increasingly complex.

One good development of the last decade or so is that shire presidents and mayors of some of our major local government authorities are being properly remunerated for the task they do. I guess this goes to the heart of the agenda that is shared by both sides of the Parliament about the need to introduce some degree of rationalisation to the very large number of local government authorities we currently deal with—I think it is now 139. Some of those are very small. Some of the local governments in my area, like the Shire of Murray, the Shire of Waroona and the Shire of Harvey, are struggling to provide the kinds of services that are now demanded of local governments. There is no implied criticism of the job those small shires are doing in what I am saying; it is just a factual observation that the demands placed on small shires are now very great. I can happily report that in the area in which I work in the Peel region, we have a high degree of cooperation between at least the five shires that are represented by the Peel Development Commission. That is a fortunate outcome as far as service delivery and

development in the Peel region goes. Sadly, that is not the same in other areas of the state. The point I am making is that if we are going to leave both the board of the MRA and the LRCs open to being constructed in such a way that there is no elected member—a serving member of a local council—on those bodies, then I think that is troubling and problematic, so I have an amendment to rectify that.

Staying on the topic of the constitution of those two bodies, I ask the government to consider the question of term limits. At the moment, there are no term limits. While there are limited terms—three years for the board and two years for the LRCs—there is no limit on the number of times a person can be re-appointed or re-elected to those positions. I am not sure that is the right way to go. I draw the attention of members of the government to the fact that term limits apply to members of development commissions all over the state—this is my belief; if I am wrong, I will stand corrected. It seems to me that that was put in place for a very good reason; that is, we want to encourage new blood into these planning bodies all the time. If we revert to a situation in which somebody can serve for an unlimited time, we have to ask ourselves whether it would definitely be to the good of the local community that we could have an LRC with the same members on it for perhaps 25 years. I suggest that will probably not be the case. It may be that there is a good outcome from that. Again, I am not casting any aspersions on the capacity of individuals to make those contributions over that period of time, but surely overall we get a better outcome if we encourage new blood into these kinds of bodies, and I suggest that that new blood would be encouraged by the imposition of term limits. I am not particularly fixed on the term limits I have drafted in my amendment, but I ask the government to consider the basic proposition that is involved.

I have another concern, albeit a minor one, about the review provisions in the bill. I am glad, for a start, to see them there. I think review clauses could be appropriately added to more bills than we currently apply them to. The review clause included in this bill is an internal review to be carried out by the minister as soon as is practicable after the fifth anniversary of the commencement of that section. There is a list of things to which the minister must have regard. The State Administrative Tribunal Act was a very substantive act that was passed by this place about two Parliaments ago. That act contained a provision that the review had to be done by a standing committee. I was a member of the Standing Committee on Legislation at the time that review was completed and I think it was a very useful review and a good and sound provision to have in place. I am suggesting that with a bill of this kind of substance, this is exactly the kind of provision to include so that it can be appropriately reviewed by a standing committee. I have not specified which standing committee it should be referred to, for obvious reasons. In five years we might have a different format for our standing committees. We do not know what the workload of individual standing committees is at any particular time, so I have left that open. But I think that referral to a standing committee should occur with basically the same set of considerations that need to be noted in the review contained in the bill. I think a degree of transparency and accountability is brought to the considerations of a standing committee that does not pertain to what is essentially an internal ministerial review of an act of this substance.

The final reservation we have about the bill is a substantive issue, certainly for us on the Labor side of politics, and that is the employment status of the people currently working for the Armadale Redevelopment Authority. While the minister has had to leave the house on urgent parliamentary business, I am sure this is an issue that the advisers would have looked at quite closely and, hopefully, the minister has had a chance to consider the situation in the week that has elapsed between finishing the business in the other house and our considering the legislation here. I understand that people who work for the East Perth Redevelopment Authority are employed by EPRA, which is set up in its act and regulations as an employer. The transition provisions for EPRA employees to the new authority are relatively straightforward and unproblematic. The same can probably be said of the employees of the Midland Redevelopment Authority, who I understand, are employed by the Department of Planning. As public sector employees their employment conditions and entitlements can be transferred fairly seamlessly to the new redevelopment authority. I understand nobody is currently employed by the Subiaco Redevelopment Authority because it has effectively completed its work, so whoever was employed there has now gone back to where they came from or has moved on. However, the situation is very different for employees at the Armadale Redevelopment Authority who I understand are employed by LandCorp. That makes the transition provisions somewhat problematic. I have asked for additional information, which I have not at this stage received. I am perfectly willing to admit it might be due to my failure to have checked my emails since 10 o'clock this morning rather than any failure by the Department of Planning. I have sought that information about the award under which those people are employed, which I understand is a federal award. That is the point at which things become complicated for their transition arrangements to the new authority. What troubles me in particular is the six months that is allowed for that transition to take place. I will need some watertight assurances that there will be no diminution of those employees' entitlements and awards during that six months, and after that six months is up, in the drafting of their new employment contracts with the new authority, because it seems to me that in the way the bill is drafted, those employees are in a very vulnerable and precarious position as we move towards the end of the year. If the bill is not passed, they will need their employment conditions and entitlements reconfirmed under some kind of bill that extends the operations of the Armadale

Redevelopment Authority. If the bill does get through and is to be proclaimed to come into effect on 1 January 2012, there will be that six-month transition period when their employment status will be far from clear or certain. I ask the government to look very closely at the amendments I have proposed for that. I think it is clause 151 if anyone wants a short cut to it.

Before I wind up here I return to the question of consultation on this bill. I am referring now specifically to the body that is surely representative of the major stakeholders in getting all this right, and that is the Western Australian Local Government Association. I am referring here to some material that is already in the public arena, so members opposite who are interested in this bill have no doubt familiarised themselves with it. These are the serious concerns expressed by WALGA about the lack of consultation its members have been involved in. I am quoting from Mayor Troy Pickard, the president of WALGA, who states —

I am concerned that discussions with individual officers of the Association or confidential copies of draft legislation are considered to be consultation with the Local Government sector. This is not the case. The Association expected that there would be further opportunity for consultation directly with Local Governments on the final draft of the Bill, to ensure that all local governments had an opportunity to consider the proposed legislation in detail and provide feedback.

He goes on to say —

... it is disappointing that the Department did not extend the same opportunity to local government, in particular those local governments that are currently part of a redevelopment area, i.e. Cities of Subiaco, Perth, Armadale and Swan.

He was expressing his concern at the fact that when he contacted those local councils they did not know the bill was being treated as an urgent bill. He finishes his comments by saying —

I acknowledge that during Parliamentary debate, amendments to the Bill have been proposed and motions passed. Given this, I respectfully request that further debate on the Bill be deferred until Local Government has had an appropriate opportunity to consider the Bill, the proposed amendments and the framing of Regulations and provide a more comprehensive response.

Also on the public record are specific concerns very much along the same lines from the City of Subiaco and the City of Armadale. Those comments were made some weeks ago and were made public at that time, so I was familiar with them. Recognising that some days have elapsed between those comments and the bill coming on for debate in this place, I have had subsequent discussions with WALGA. To my consternation I find that WALGA is still talking about a lack of engagement with the local government sector on this bill. I am rather surprised at that because I would have thought that, given the previous comments I have just read into *Hansard* being on the public record, the government would have acted very swiftly to put out that bushfire before the bill came into this place. It appears that is not the case. I have no explanation for that. Maybe key people have been unavailable, letters have gone astray or perhaps the cheque is in the post or something. I cannot begin to speculate about that, but I know for certain, because as recently as yesterday afternoon I was told again by WALGA, that WALGA considers the government has not engaged in consultation with WALGA about this bill. WALGA has done its own consultations with the local governments that are currently part of redevelopment areas—the cities of Subiaco, Perth, Armadale and Swan specifically—to gather information about their experiences of being involved with the existing redevelopment authorities. WALGA considers that those consultations have provided some feedback, which is both relevant and constructive, on the proposals contained in this bill. The problem is that from the moment this bill comes into force, that feedback needs to be shared with other local government authorities that will find themselves in the positions that those four local government authorities have been in in the past. I would have thought that it would very much serve the government's interest if we could commence this debate with WALGA and the 139 LGAs in this state today. Not all of them are directly involved because this is specifically called the Metropolitan Redevelopment Authority Bill, and I will come to a couple of issues about that in a moment. I would suggest that even the local government authorities outside the metropolitan area would have appreciated the opportunity to look at the legislation and hear some of that feedback from the LGAs that have been part of the existing provisions. None of that has happened.

I understand that WALGA has prepared another submission. I do not know whether the minister has yet had a chance to see that further submission, but I know that it has been prepared specifically to clarify the outstanding issues on the operation of this bill and to clarify the fact that the proposed provisions of the bill are appropriate for all the local governments that are likely to be affected by the new legislation. I interrupt myself there to specifically ask why the bill is confined to the metropolitan area and whether the government intends that the bill operate in the Peel region. I am sure that honourable members opposite have seen the proposal from the Electoral Commissioner that transfers the City of Mandurah into the South Metropolitan Region. I have my own views about whether that is a sensible thing to do. On balance, my view is that it is probably not an appropriate

provision, so I have made the arguments for the proposal that Mandurah should be left in the region of the South West. I understand that that is also the submission made by the City of Mandurah and other interested people. I understand that every submission to the commissioners relating to the seat of Mandurah has argued that it should go back to the South West region. I make that point just to indicate that it is an open question about how we treat Mandurah in particular and the Peel in general at this point. Nevertheless, I think it is a question that the government needs to answer: Is Mandurah included; and, if so, why? Will that improve planning in the Mandurah region? If the answer is no, we need the equivalent set of explanatory details about why it has been left out because it is far from clear, and arguments have been aired on either side of that debate.

I guess the same argument would be made about other areas around the periphery of the MRS about how far the powers of this bill are supposed to extend. That only strengthens the case for WALGA to be given the opportunity to feel that it has been included in the consultations about this bill. Specifically, I understand that the five issues that WALGA considers are still outstanding and in need of further clarification are: first, the delegation of WAPC powers to the MRA; second, local government representation on the proposed redevelopment committees, the LRCs; third, the use of a single set of regulations to establish redevelopment areas that are not contiguous; fourth, consultation with local government on the local planning scheme and infrastructure requirements prior to the normalisation process occurring; and, fifth, local government engagement in the framing and development of the proposed regulations.

WALGA has good reason to be nervous about how things are panning out as per the undertakings that have been given to it already and are likely to be given to it in the future about the degree to which it will be able to have real and meaningful input into pieces of legislation of this kind and their effects. WALGA recently had an unsatisfactory dealing with this government. I am not talking about any private conversations here; it is well known amongst people who take an interest in the functioning of local government and the way local government deals with important changes to planning acts and regulations. I raised the matter in the house about a year ago when we were dealing with the Approvals and Related Reforms (No. 4) (Planning) Bill 2010. It was the subject of some concern to us on this side of the house that a great deal of the provisions in the bill were left to regulations that at that stage were not available to the house for consideration. There was a difficult period during the progress of that bill through this house when I as the lead speaker for the opposition needed some clarification from WALGA about whether it was still supportive of the bill. It had initially indicated its support but felt it had been treated so poorly by the government that at one point it was very close to the view that perhaps the bill should be referred to a committee or delayed in some way until it had gained further assurances from the government. We got over that difficulty because a specific commitment was given to WALGA that it would be around the table as an active participant in the final drafting of the regulations. To the bitter disappointment of local government, when it got to the point of participating in those discussions, it found that a series of absolutely key issues, particularly relating to improvement plans, had been taken out of the regulations because there was no head of power in the act to have the regulations made. That was regarded by many people in the local government sector as a major betrayal of good faith by the government in relation to the undertakings that it considered it had been given during the progress of that bill through the Parliament.

Local government is not just being precious about its request of the government to be given more time to get some of these things sorted out. The government has some way to go to restore confidence in the good faith of these undertakings it makes to local government. I put it to members of the government that assurances that local government will not be overlooked in the drafting of the regulations to go with this bill will not cut the mustard when it comes to getting WALGA on side at this stage of the proceedings because of what it regards as betrayal on that other act. I think it is absolutely crucial that we listen very seriously to what WALGA is saying. We should take those five major concerns and not go back to the drawing board but go back into negotiations with WALGA about how these things will be resolved to see whether they can be resolved to WALGA's satisfaction. The key point here is that we know we will not always agree; that is a standard fact of life when it comes to negotiations. We have to go into a negotiation or consultation with the clear understanding that we may not be able to deliver what the people we are negotiating with require. The fact is that if the government includes them in the discussions and gives them the right to have their point of view heard and taken seriously and considered, then wherever the negotiations end up, even if the government cannot deliver to those stakeholders, they will at least feel they have had the chance to have their point of view heard. The government, sadly, has not reached that point yet on the Western Australian Local Government Association's position on this bill.

We could have resolved this in a number of ways. I made a point of meeting with WALGA as late as yesterday afternoon to see whether the government had done anything to address those concerns that were raised well before the bill got in this place. I am very disappointed to find that has not happened. The way to address those concerns most effectively is to move for the bill to be referred to the Standing Committee on Legislation, which is our committee that was set up with the express purpose of subjecting complex bills to the kind of scrutiny they deserve and coming back to the house, almost always—this will be acknowledged by people on both sides of the

house—with a better bill. Another object that will be served if we pass this motion for the bill's referral to the legislation committee is about the basic function of this house to act as a house of review. I have already made the observation that because of the way that bills are progressing through the Parliament at the moment, there is frequently going to be a demand on the opposition to be ready to debate a bill seven days after it is tabled in this place. Of course, the convention is, and the standing orders give effect to, the fact that we technically “don't know nothing” about what has gone on in the other place. The government can have no recourse to the fact that there has already been extensive debate on these issues in the other place. We have to start from scratch when we start debating a bill in this place. That being the case, we are inevitably going to look increasingly to stakeholders to get their reaction to the bills that we are being asked to consider. I put it to members that in the case of a bill that relates specifically to planning law, planning regulations and the whole issue of the redevelopment of the metropolitan area, I am of course going to go to local government as one of the primary stakeholders.

As I have told members opposite, local government is telling me that they are not happy and they are not prepared to see debate on this bill progress until they have had those concerns addressed. Along with that increasing demand that we should be prepared to debate a bill within seven days, we will look at increasing the number of requests to refer to the Standing Committee on Legislation, unless—this is the crucial point—we can get the sign-off from the key stakeholders that they consider there has been an appropriate level of consultation and they are able to tell us the reasons that they think the bills are good and are going to deliver what they are supposed to be delivering in the sense of the policy intent. That is very clearly not the case with the Metropolitan Redevelopment Authority Bill.

Discharge of Order and Referral to Standing Committee on Legislation — Motion

Hon SALLY TALBOT — without notice: I move —

That order of the day 6, the Metropolitan Redevelopment Authority Bill 2011, be discharged and referred to the Standing Committee on Legislation for consideration and report not later than 24 November 2011.

I will give the government an indication of my thinking in choosing that date. I accept that the government wants to give the bill urgent priority and it will almost certainly not simply defer the bill on the basis that it will end up with a better bill some time down the track and bring in a bill that extends the life of the Armadale Redevelopment Authority, which expires on 31 December 2011. I am buying the government's argument that this is an urgent bill. I put it to the government that whatever we will achieve in the next few hours of debate, if we do not make this referral to the committee, will not result in a bill as good as the one that the Standing Committee on Legislation would be able to produce if we make this referral. What the Standing Committee on Legislation can do that we cannot do in this place is call all the key stakeholders in to get further information about how these functions are going to operate, about the pros and cons about moving in this direction, about how effectively the existing arrangements have been made and how they might be improved in the future. That is simply not an option that is available to us in this place. In a sense, I am saying that a referral to the Standing Committee on Legislation will enable that committee to do the work that perhaps the government could have done if it had taken a slightly different approach over the past three or four months. This referral will enable us to do that very effectively and come back to the house with not only a better bill, potentially, but also with the stakeholders on side that the Parliament of Western Australia has done the right thing and included their strongly held views on this piece of legislation. I put it to honourable members that reporting back to the house not later than 24 November will, in effect, allow us more than adequate debating time in this place to have a bill through the house without any undue delay well before the Parliament wraps up for the end of the year and, therefore, enable the bill to be proclaimed on the day that the government has in mind. With that I commend the motion for the discharge of the bill.

HON LYNN MacLAREN (South Metropolitan) [3.47 pm]: I rise to speak to the motion before us to send the Metropolitan Redevelopment Authority Bill 2011 to the committee. These comments are not in any way my second reading contribution; they go to the motion before us, which has been well argued. I thought that Hon Sally Talbot was very constructive in her comments regarding the legislation before us, and I support the motion to send it to the Standing Committee on Legislation. I have several amendments for this bill, and they are complex and relate to many of the matters in the legislation before us. I know that if the Standing Committee on Legislation has an opportunity to review the bill, it would not be left to that process of amending various clauses in this bill to try to address the issues that I see in it. I believe the main concern with this bill is the lack of separation and planning decision making from the development functions of the proposed Metropolitan Redevelopment Authority. I have a series of concerns, which I brought to the attention of the Minister for Planning. He and his officers have sought to address those concerns to some degree; however, there are several concerns outstanding. I was very pleased that Hon Sally Talbot was able to join me in my meeting with the

Western Australian Local Government Association yesterday, and I was hoping to have representatives from the other parties in this place as well to hear the message that they were giving us, which is basically that somehow, somewhere consultation had gone astray and had not really addressed the concerns that they had.

I would like to quote from the minutes of the City of Subiaco of 10 August 2011. As we all know, the City of Subiaco is one of the local governments that is involved with a redevelopment authority act. This bill proposes to repeal the redevelopment authority acts for the local governments of Armadale, East Perth, Midland and Subiaco. The City of Subiaco is, therefore, one of the local governments that would have particular standing in this regard.

The minutes of the City of Subiaco state in part —

STAFF RECOMMENDATION

That Council:

1. advises the Minister for Planning of its:
 - (a) extreme disappointment that the City of Subiaco, and local governments generally, were not consulted during the drafting of the Metropolitan Redevelopment Authority Bill 2011 and that an opportunity for interested and/or affected parties and other stakeholders to comment has not been provided;
 - (b) major concern about the lack of local government and independent representation on the Metropolitan Redevelopment Authority Board and Local Redevelopment Committees and the strong likelihood that the City will not have representation on relevant Local Redevelopment Committees controlling major development projects within the city;
 - (c) major concern about the ambiguity within the Bill, the extent of the Metropolitan Redevelopment Authority's powers and functions and the subsequent opportunity for the substantial erosion of local government powers;

Members can see that the three items I have mentioned are substantial issues. Those issues could potentially be easily addressed if the Standing Committee on Legislation were able to consider this bill in detail. The City of Subiaco also makes this point —

- (d) rejection of the inclusion of routine works by a public authority or local government as development. It is unacceptable for the City of Subiaco, or any local government or public authority, to be required to lodge a development application for public works that would normally be exempt from such a requirement;

I am sure members can see that this is an item that could have been addressed in the bill, now that it has been brought to the attention of the minister that it is indeed an issue for this local authority. Finally —

- (e) requirement that the provisions of the specific agreement between the City of Subiaco and the Subiaco Redevelopment Authority regarding the development of any land within the original boundaries of the Subiaco Redevelopment Area which was formerly owned and/or managed by the City of Subiaco continue to be honoured in full by the Metropolitan Redevelopment Authority.

The point that the City of Subiaco is making here is that the transitional arrangements in this legislation seem to be unclear, and it is wondering what is going to happen when this new authority is established. There are several issues in the bill that are unclear. It is beholden on this Parliament to review those issues and finetune this legislation in the Standing Committee on Legislation process.

The City of Subiaco then makes the point —

2. request that an urgent meeting be held with the Minister for Planning, City of Subiaco and local governments to discuss critical issues associated with the Metropolitan Redevelopment Authority Bill 2011 prior to it proceeding further in State Parliament.

I think that the local government in this case, the City of Subiaco, has made a very pertinent point about the lack of consultation and is attempting to address the concerns that it became aware of when it reviewed the bill. We need to give the Standing Committee on Legislation an opportunity to look at these issues more carefully.

The other issue that the Standing Committee on Legislation should consider in my view is that the planning reforms that have been undertaken so far by this government have been widespread and wide ranging. The way this bill interacts with those other legislative changes that this government has made needs to be clarified. Those

changes include the establishment of development assessment panels, and the establishment of a system of improvement schemes. In my own correspondence to the Minister for Planning, I questioned how those changes will interact and relate with the Metropolitan Redevelopment Authority that we will be establishing through this bill. The minister did go some way towards explaining that. However, that did indicate that it is a bit unclear in the bill how those various authorities and new planning instruments will interact. Therefore, I think that the Standing Committee on Legislation could do some work in looking into that matter.

It is my view and the view of the Greens (WA) that there is a lack of sustainability goals and clear purpose in the Metropolitan Redevelopment Authority Bill. The bill will result in further fragmentation of the planning system. I think members can see that it would not be a good outcome if we allowed that to occur.

There are some real issues with the separation of powers between the Metropolitan Redevelopment Authority, the Western Australian Planning Commission, local governments and the minister. We would like to see that clarified in the bill. As I have mentioned, in the seven days between the tabling of this bill in this house and our ability to debate it, we were able to uncover that, indeed, the Western Australian Local Government Association is concerned about the inadequacy of the consultation with local government. That is maybe the tip of the iceberg. I have also been approached by other people who are academics in the planning field and who are very concerned about the new powers that this bill will be introducing and how this bill will interplay with the WAPC.

Hon Sally Talbot has mentioned the membership of the Metropolitan Redevelopment Authority and the land redevelopment committees. The Greens share that concern. We strongly believe that local government should have representation on the land redevelopment committees, and that every local government that is affected by a redevelopment proposal should participate in those decisions. I believe the bill makes some reference to local government representatives potentially being on the board—maybe one representative. But it does not indicate that there should be a representative from each local government that may be affected by a redevelopment proposal.

We think that the minister may not have been in a position to foresee all of these issues that have been coming up. We believe there should have been more comprehensive consultation during the drafting of this bill, particularly with those local governments in which redevelopment authorities are already existing and functioning. We have a wealth of experience in Western Australia of how redevelopment authorities work, and where they are good and where there might still be some issues to iron out. Had that wealth of knowledge and experience been tested through the bill, we would be able to be more confident that the bill that we might hope to pass will be a good planning system for Western Australia, and one that will take us into the future without the problems of jurisdiction and representation that have been highlighted so far.

As I said, I had a very good briefing from the planning officers on this bill. But, as I am sure members can imagine, this is a very complex bill, and it has a number of layers, with a number of acts that will be repealed or amended through its passage. I think it is quite comprehensive legislation that should be thoroughly assessed by the Standing Committee on Legislation. The Metropolitan Redevelopment Authority Bill 2011 states that a redevelopment scheme under any of the repealed acts is taken to have always had legislative effect, and it validates things done under such a scheme. This bill is actually quite a powerful instrument, and it would be wise for us to review how it will play out

Hon Sally Talbot mentioned in her remarks to urge us to send this bill to the committee that the explanatory memorandum had not been made available to us in due time to be able to consider the clauses of this legislation. I have just asked for a copy of the second reading speech so that I can review Hon Helen Morton's comments when she tabled it last Thursday, and I have now seen the explanatory memorandum for the first time. There is probably information in here that would be relevant to our careful consideration of this legislation, and that members would probably want to review quite carefully. We have a really good system of standing committees in the Legislative Council; they are charged with taking detailed work away from this house, and, in the case of the legislation, doing some proper scrutiny of the legislation before us. I am delighted to now have this explanatory memorandum and to have the opportunity to review whether my concerns over the legislation have been addressed. I am still reviewing the Minister for Planning's response to my correspondence, which is quite lengthy and detailed and goes through and tries to address some of the issues I raised; however, I received this only yesterday, I believe, and so that really does mean that I am relying heavily on the stakeholders who have consulted with me. That takes me back to my beginning point about why I am supporting the motion to send this to a committee. It is because the stakeholders—the people I go to for advice on whether this legislation is a good way forward—have told me in no uncertain terms that, indeed, it is not; indeed, they have told me that they are very concerned about the lack of consultation, and that there are changes they can propose that would in fact strengthen this legislation.

I think it is important for me to state quite clearly that we can see that this bill will provide some benefits to streamlining metropolitan redevelopment in one single authority by using the skills and resources that have been developed through the experiences of the redevelopment authorities we have set up bit by bit. That makes a lot of good sense; it is very efficient, and I can see that it would be more effective in delivering some of the sustainability outcomes that we would like to see the planning system deliver. I think that direction is supported, and we would love to see legislation like this get up and work very effectively. The nature of our desire to send it to a committee is that it will be more effective legislation.

I reiterate my comments that the constructive nature of Hon Sally Talbot's careful assessment of this legislation is welcome, and I appreciate the opportunity to support a motion to send it to a committee. I can say no more than that.

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [4.04 pm]: I am clearly not the minister handling the Metropolitan Redevelopment Authority Bill 2011, so I am dealing with it now on behalf of Hon Helen Morton. She is, I think, currently boarding an aeroplane for a ministerial council meeting somewhere in another part of Australia, so I cannot ring her up and ask her whether she has any views about this.

What I would like to suggest to Hon Sally Talbot, if she is amenable to doing this, is that she withdraw her motion at this point in time, and that we continue with the second reading debate until such time as it is resolved one way or the other. If Hon Sally Talbot and Hon Lynn MacLaren are not satisfied with the minister's response at the end of the second reading debate, that would then be, at the beginning of the committee stage, an appropriate time to move the motion for it to be referred to a committee. I say that because the motion that has been moved by Hon Sally Talbot does not provide for the legislation committee to consider the policy of the bill. Standing orders require that if a committee is to consider the policy of a bill, it must be part of the motion. So, because it is not part of the motion, if this was to succeed, the committee would be able to consider only the detail, and indeed could make recommendations only in respect to amendments that would relate to the existing policy of the bill.

As members know, the second reading vote is in fact the vote by the house in respect of the policy of the bill, and the committee stage is when the chamber goes through all the details of the legislation to decide whether it agrees with the detail. But, as we all know, once the house has agreed to the policy of the bill, amendments must then be in the context of the policy. Based on the motion moved by Hon Sally Talbot, delaying it until such time as the house has made a decision after second reading would make no difference to what the committee might or might not do.

I am advised, but not in any great detail, that there are a number of reasons why sending this to a committee is not a good idea. There are some particular timing constraints attached to the bill that would lead to problems being created in the event that the passage of the bill was delayed until after 24 November. But I have to say that because I am not completely across all those issues, I am not prepared to argue that now. I am asking the member to withdraw it now and consider moving it later because if a member moves to send a bill to the committee and that motion is then defeated, they cannot do it again subsequently as we progress through the bill. At the moment I have to say that it would be the view of the government that if the member wishes to proceed with this particular motion now, in the absence of the minister handling the bill, I will have to recommend to my members to vote against it on the basis of the advice I have received so far. I am really saying to the house, let us defer that decision until such time as I can get more information and the minister handling the bill is in this place, and indeed members have heard the minister's response to the second reading debate, in which many of the issues that have been raised by the two members who have spoken may in fact be clarified to their satisfaction. That has been known to happen in the past; members raise issues during the second reading debate, and the issues that they raise are clarified to their satisfaction when the minister responds at the end of the second reading debate.

Hon Sally Talbot has been engaged in urgent parliamentary business, but I will, just for her benefit, quickly recap what I have been suggesting. The suggestion is that because the motion does not provide for consideration of the policy of the bill, it does not matter much when the motion to send it to a committee is debated—whether it is during the second reading debate, whether it is at the beginning of the committee stage, or whenever; it does not matter when it is done. Secondly, because the minister's response to the second reading debate may well clarify the issues raised by members to their satisfaction, there may no longer, in their minds, be a need for it to go to a committee. Thirdly, because, as I have said, I am not the minister handling the bill and I am not across the reasons the minister who is responsible for this bill in the other house, the Minister for Planning, does not believe this should go to a committee on a timing basis, if the member does not withdraw her motion now and allow us to continue the second reading debate, I would have to recommend to our members to vote against her motion for referral. What I am saying now is: let us not make a decision about that now because we do not have to; let us go through the process of the second reading, and if the member then feels the need to send it to a

committee at the beginning of the committee stage, for example, we can consider the matter then. It would make no difference in the context of what the committee would or would not be doing, because, as I have said already, the motion does not provide for the policy of the bill to be considered. I do not know whether the member can, by way of interjection, indicate whether she might be vaguely interested in that proposition.

Hon Sally Talbot: I was going to suggest that, perhaps, noting the time, we could just prolong this and I could come and have a chat to you.

Hon NORMAN MOORE: That sounds like an excellent idea, Mr Deputy President. On that basis, I ask that you leave the chair until the ringing of the bells.

The DEPUTY PRESIDENT (Hon Col Holt): Given the time, I will leave the chair until the ringing of the bells.

Debate interrupted, pursuant to temporary orders.

[Continued on page 7053.]

Sitting suspended from 4.10 to 4.30 pm