

**COMMUNITY TITLES BILL 2018**

*Committee*

The Deputy Chair of Committees (Hon Matthew Swinbourn) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

**Clauses 1 to 15 put and passed.**

**Clause 16: Community titles —**

**Hon STEPHEN DAWSON:** I move —

Page 28, line 23 — To delete the line and substitute —

(6) When a community title for a lot comes into existence it confers on the owner of the lot —

**Hon ROBIN CHAPPLE:** Minister, at this point I would like to clarify that this means, again, the registered proprietor. We raised this matter during the debate on the previous legislation. We just need confirmation that this means the registered proprietor.

**Hon STEPHEN DAWSON:** I was seeking the call before Hon Robin Chapple stood up. I would like to place a number of things on the record in relation to this amendment, to provide clarity for people in the future. This amendment to clause 16 relates to amendment 2 that was suggested in the letter from the Strata Community Association WA, which has been referred to in this place over the past few weeks. Clause 16 provides the rights conferred on the owner of a lot for a community title scheme. The owner of a lot in a community title scheme is defined in clause 3(1) to include, first, the registered proprietor of the fee simple estate in the lot; second, the person who is registered as the proprietor of the life estate in the lot; or, third, the mortgagee in possession. SCAWA's letter pointed out that the rights conferred on the owner of a lot by section 13(7) of the Strata Titles Act, which is the equivalent of clause 16 of the Community Titles Bill, are rights relating to the fee simple estate, which a person who owns the lot as the holder of the life estate or as the mortgagee in possession does not have. In order to clarify the situation, clause 16 is being amended to provide that when a lot is created, it confers on the owner of the lot certain rights. It is important to note that a lot in a community title scheme can be created only by registration of fee simple land. This means that every time a lot in a community title scheme is created, the only person who can be the owner of the lot at the point in time when the lot is first created is the registered proprietor of the fee simple.

**Hon DONNA FARAGHER:** Based on the advice provided by the minister, which deals, as the minister mentioned, with the concerns raised by SCAWA, which we canvassed extensively during the debate on the Strata Titles Bill, and this obviously deals with it as well, the opposition will be supporting the amendment.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 17 to 19 put and passed.**

**Clause 20: Waiver of other requirements relating to plans or instruments —**

**Hon DONNA FARAGHER:** Clause 20(1) states —

The Planning Commission may, by instrument in writing, waive requirements for the preparation of particular plans or instruments under a planning scheme or interim development order for land that is or is proposed to be divided by a community scheme if satisfied that the preparation of the plans or instruments is not necessary taking into account the existence of a community development statement.

Can the minister give an example of what might be able to be waived? Can I presume that one of the reasons it might be waived is because it is set out in the community development statement? I just want some clarity in terms of what would be able to be waived.

**Hon STEPHEN DAWSON:** This clause gives the Planning Commission the power to waive requirements for plans or instruments if it is satisfied that they are not necessary in taking into account the existence of the community development statement. The Planning Commission must consult with each local government in whose district the community scheme is or is proposed to be situated before waiving the requirements for preparation of a plan or instrument. An example of what can be waived is a structure plan.

**Hon DONNA FARAGHER:** I thank the minister for that. I presume that would be on the basis that the structure plan would be identified in the community development statement. Is the minister saying it is because the details might be identified in the community development statement? I would have thought the community development statement would be the overarching statement, and that would guide the structure plan and any other planning matters, so I am not sure why that would be waived.

**Hon STEPHEN DAWSON:** I am told this can replace the need for a structure plan.

**Hon DONNA FARAGHER:** Under what circumstances?

**Hon STEPHEN DAWSON:** I am advised that is because the details in a CDS are the same types of details as in a structure plan.

**Clause put and passed.**

**Clause 21 put and passed.**

**Clause 22: Comments from local government and others —**

**Hon DONNA FARAGHER:** I move —

Page 37, lines 10 to 11 — To delete “may, and must, if the Planning Commission so requires,” and substitute —

must

As I outlined in my second reading contribution to this bill, I am concerned that, within the provisions of the current bill, there is some flexibility about whether an application will be required to go out for public comment. I do not intend to canvass that much more now, except to reiterate the two reasons that I believe this is important. First, there are connections within this bill to the Planning and Development Act. There are requirements with respect to amendments to local planning schemes and others that often require public consultation. Although this bill does not designate whether we are talking about large or small-scale developments, the reality is that it does lend itself to larger scale developments. As a result, if that is what is being proposed, it is reasonable to have a period of public comment. This enables anyone who has an interest to raise some concerns—good, bad or indifferent. There may well be no public comment on a particular proposal; there may well be plenty. Either way, it would ensure that there is that opportunity, and I think it is reasonable for that to occur, hence the reason I moved the amendment.

**Hon STEPHEN DAWSON:** The government believes that the amendments are reasonable and we are very happy to support them.

**Hon ROBIN CHAPPLE:** Again, I thank Hon Donna Faragher for raising these two issues. She will move a further amendment shortly. Again, we will support the proposition that “must” is far better than “may”. I thank Hon Donna Faragher for her amendments, which I point out have led to many others.

**Amendment put and passed.**

**Hon DONNA FARAGHER:** I move —

Page 37, line 20 — To delete “may” and substitute —

must

I want to thank the government, the Greens and the house for agreeing to my previous amendment. I think it is a useful improvement to the bill.

This amendment just seeks to change the word “may” to “must”. Essentially, it is as a result of the amendment that we have just agreed to. Given that an opportunity for public comment will now be a requirement, the regulations must specify a minimum period because obviously there will now be a period of public consultation. I suppose this is an additional amendment, just to make that clear.

**Hon STEPHEN DAWSON:** Again, I indicate that the government accepts this amendment. We also believe it is reasonable, so we will support it.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 23 to 84 put and passed.**

**Clause 85: Funds and investment —**

**Hon DONNA FARAGHER:** I note that subclause (2) states —

A community corporation must ensure —

(a) that there is a 10 year plan for the reserve fund that sets out —

(i) the common property and the personal property of the community corporation that is anticipated to require maintenance, repair, renewal or replacement (other than of a routine nature) in the period covered by the plan; and

- (ii) the estimated costs for the maintenance, repair, renewal or replacement; and
- (iii) other information required to be included by the regulations;
- and
- (b) that the 10 year plan is revised at least once in each 5 years and that, when revised, the plan is extended to cover the 10 years following the revision.

I think this is a useful requirement. My recall of the strata titles legislation is that it was only a requirement in terms of the size of lots. I think there was a requirement when there were 10 or more lots. I think I commented at the time—not that we reflect on what we have been discussing previously, but I think it is important—that I thought that this would be something that is useful irrespective of the size of the lots.

I fully support this clause. I am keen to understand why the government has taken this view that this is important for this legislation, irrespective of size, and perhaps did not take that same view with the Strata Titles Amendment Bill.

**Hon STEPHEN DAWSON:** While my trusty adviser provides some more detail, I place on the record that a community corporation must also ensure that there is a 10-year plan for the reserve fund and that 10-year plan is to be reviewed at least once every five years and when revised, the plan is extended to cover the 10 years following the revision. The clause provides that all money received by the community corporation is to be paid into an authorised deposit-taking institution account of the community corporation or trust account of a scheme manager and interest received on a fund is to be invested in the fund.

Clause 85 of the bill sets out a requirement for a community corporation to prepare that 10-year maintenance plan. The maintenance plan must contain information required to be included by the regulations. The regulations relating to the maintenance plan can specify what must be in the 10-year maintenance plan. The regulations can require a detailed building defect and assessment report for new schemes, particularly larger scale community title schemes. This point will need to be further consulted on. All community title schemes must prepare the maintenance plan. The difference from strata is that we needed to ensure the multiple sub-schemes have a high level of maintenance because they are all linked.

**Hon Donna Faragher:** Across the tiers?

**Hon STEPHEN DAWSON:** Yes.

**Hon RICK MAZZA:** If a strata corporation does not have a 10-year plan at any time, what penalties would be imposed on them for not complying?

**Hon STEPHEN DAWSON:** The member referred to strata corporations; I should just clarify that they are community corporations. There are no penalties but one owner can go to the State Administrative Tribunal for an order that the community corporation should comply. So, there is no penalty but they have the ability to go to SAT for that order.

**Hon RICK MAZZA:** Just so that I am clear on this, the community corporation is not required to lodge a plan with Landgate in any way; it is simply what they have in their administration, and this will only become an issue if one of the members happens to refer it to SAT.

**Hon STEPHEN DAWSON:** Yes, the member is correct.

**Clause put and passed.**

**Clauses 86 to 88 put and passed.**

**Clause 89: Functions as member of another community corporation —**

**Hon DONNA FARAGHER:** Would the minister step us through this clause? Clause 89(1) states —

If a community corporation is a member of another community corporation in the community scheme, the first mentioned community corporation has the following functions —

Those include participating in meetings et cetera. I will refer to the diagram earlier tabled by the minister, which might assist. I would just like some clarity. Obviously there is the overarching scheme, which is the tier 1, if I can use that term, and then we go into tiers 2 and 3. I want some clarity on how these community corporations will work, and how they will interlink with one another. I presume—if I have this wrong, obviously the minister will inform me—that members of tier 1 community corporation schemes can participate in tiers 2 and 3, but perhaps not the other way. If the minister could assist in providing some clarity around that, it would be appreciated.

**Hon STEPHEN DAWSON:** I am advised that a tier 2 corporation has voting rights, on behalf of the members in its tier 2 scheme, in the tier 1 scheme to which the tier 2 scheme belongs. The voting rights of a tier 2 scheme in the tier 1 scheme are based on the unit entitlement of the tier 2 parcel in the tier 1 scheme. A tier 3 corporation has voting rights, on behalf of the members in its tier 3 scheme, in the tier 2 scheme to which the tier 3 schemes

belongs. The voting rights of a tier 3 scheme are based on the unit entitlement of the tier 3 parcel in the tier 2 scheme. Just to provide some more clarity, I have two nice figures with some diagrams that I will happily table that set out how it works. I think it makes it clearer, and therefore answers the member's question. If a motion is to be decided at a tier 1 community corporation, the CCs that belong to the tier 1 CC vote first. If a tier 2 community corporation passes an ordinary resolution in favour of the motion, the tier 2 community corporation must vote in favour of the motion at the tier 1 community corporation general meeting. The value of the tier 2 community corporation vote is the relative unit entitlement of the tier 2 parcel, and so the tier 2 community corporation sends a proxy to cast the community corporation's vote. If the member sees this diagram, I think it will be clear. I can table this.

[See paper 2121.]

**Hon STEPHEN DAWSON:** I will need a copy back, please, for this debate.

**Hon DONNA FARAGHER:** It is lucky we do not have tiers 4 and 5, otherwise we would be here all night. Perhaps, if we could, I would like a quick glance at what has just been tabled. I do not know about you, but that got a bit confusing when we got up to tier 3.

**Hon Stephen Dawson:** That is why we have no tiers 4 and 5.

**Hon DONNA FARAGHER:** That is exactly right. While we are waiting, I will ask a useful question. I presume that Landgate will provide a great deal of education on this bill, because from the way it has just been described by the minister—I appreciate his response—one might say that it could be a little confusing. I hope that there will be both community consultation and perhaps details on Landgate's website and other areas within which people will be able to consider this in far plainer English language than perhaps the way we are discussing it right now. If the minister could assist in that process while I am just checking the tabled paper, that would be great.

**Hon STEPHEN DAWSON:** I am advised that there are already more than 100 pages on community titles on the Landgate website and that following the passage of the bill, that information will be updated.

**Hon Donna Faragher:** I am hopeful of that, particularly in relation to this clause.

**Hon STEPHEN DAWSON:** Absolutely. We are committed to consulting with key stakeholders to make sure that they have consistent information on the bill. Absolutely, there will be an education campaign with stakeholders in the sector.

**Hon DONNA FARAGHER:** I thank the minister for that. I appreciate the tabled paper that the minister has just provided. Can members bear with me to make sure that I have it right. From what the minister has just outlined, a resolution needs to be dealt with by the community corporation. Will the tier 1, the umbrella community scheme, vote first?

**Hon Stephen Dawson:** No. By way of interjection, they vote last. The lower tier starts first.

**Hon DONNA FARAGHER:** We will start that again. We will go with tier 2 first. We might have two tier 2s. They are related to the community corporation, which is a tier 1 scheme. The minister is saying to me that unit holders will pass a resolution, hopefully in favour of a particular motion, and that, as a result, it would then go to the tier 1 scheme, and they must vote in favour of the motion because they have obviously voted in favour of it at tier 2.

**Hon Stephen Dawson:** That is correct.

**Hon Robin Chapple:** What if they do not?

**Hon DONNA FARAGHER:** We will get to that, Hon Robin Chapple. Can I have a hypothetical example so that I am clear? What is an example of what they might pass an ordinary resolution in favour of? What would be an example of it then going to the community corporation at a tier 1 level?

**Hon STEPHEN DAWSON:** They could move a motion, for example, around the budget for the tier 1 corporation.

**Hon RICK MAZZA:** To run through this, is it possible to four tier 3 community corporation?

**Hon STEPHEN DAWSON:** Yes.

**Hon RICK MAZZA:** If we have four tier 3s and there are 10 unit holders in each of those four tier 3s, we have 40 unit holders. The unit holders in each tier 3 on the unit entitlements would vote, and then each of those four tier 3s would then have a vote in a tier 2. Then, depending on the unit entitlements of the tier 3s in the tier 2s, the tier 2s then, on the majority, would have a vote into the tier 1.

**Hon Stephen Dawson:** Yes.

**Hon RICK MAZZA:** Can there be more than one tier 1?

**Hon Stephen Dawson:** No.

**Hon RICK MAZZA:** What is the function of tier 1? To go back down the tiers again, if we have four tier 3s, can each individual tier 3 resolve issues concerning just that individual tier? That one tier 3 scheme will have issues that it votes on and the second tier 3 scheme will have issues that it votes on separately, as will the third and fourth tier 3 schemes. The general running of those tier 3 schemes operates independently. For more comprehensive issues surrounding the development, those votes would up to tier 2, and when it is the entire development, those votes would then go up to tier 1 to make the decision. Is that how it will operate?

**Hon STEPHEN DAWSON:** Essentially, yes. I bring the member's attention to the document I tabled a little earlier on. Hopefully, he has a copy. It shows an example of a three-tier community scheme. The example community scheme is a large site that contains a mix of residential apartments in a residential tower, residential townhouses, an office tower and a retail complex. The figure in the document depicts the structure of the scheme that we are talking about. The tier 1 scheme for the community scheme contains all the land and buildings within the community scheme. It includes tier 1 common property, which is the driveway leading into the community scheme and a community piazza. In this document, tier 2 scheme A is the residential part of the community scheme and includes the tier 2 common property for that scheme, which is the residential clubhouse and swimming pool used by the residents within the residential apartment tower and the residential townhouses. Have I answered the member's question?

**Hon Rick Mazza:** Yes.

**Hon STEPHEN DAWSON:** Excellent!

**Hon DONNA FARAGHER:** If we can use the example of the community scheme that the minister has referred to, the example has four tier 3 schemes—D, E, F and G. If scheme D and scheme E pass a resolution in favour of a motion, but scheme F and scheme G do not, what will happen?

**Hon STEPHEN DAWSON:** It is based on the unit entitlements. For example, if scheme D and scheme E have 42 units between them and scheme F and scheme G have 40 units, scheme D and scheme E —

**Hon Donna Faragher:** Are going to win.

**Hon STEPHEN DAWSON:** — are going to win.

**Hon DONNA FARAGHER:** The terms we just used are very technical! Is the minister saying that, effectively, majority rules?

**Hon Stephen Dawson:** Based on the entitlements.

**Hon DONNA FARAGHER:** If the majority, based on entitlements, agrees to going forward, the motion will then go to tier 2. In this instance, there is tier 2 scheme A and tier 2 scheme B, so the same will apply and finally it will get to tier 1.

**Hon Stephen Dawson:** By way of interjection, spot on!

**Hon DONNA FARAGHER:** It is tricky, is it not? I think I am clearer on it now, but I certainly encourage Landgate to have some education about this in more layman terms. I am pleased that the minister has indicated it will. It is a fairly complex issue. The reality is that it will be dealing with a whole range of people—from those who live in residential towers to those who are part of the office or retail complexes—whatever the scheme might be. I think it needs to be clear to all owners so they will be on a level playing field.

**Hon STEPHEN DAWSON:** Absolutely, it is complex, but it is a better system than we have at the moment. Certainly, it is our intention to make sure that consultation happens and that the correct information is provided to key stakeholders initially and then to the community.

**Clause put and passed.**

**Clauses 90 to 98 put and passed.**

**Clause 99: Compliance with scheme by-laws —**

**Hon STEPHEN DAWSON:** I move —

Page 125, line 26 — To delete “monitoring” and substitute —  
enforcing

Again, this amendment relates to amendment 1 in the letter from the Strata Community Association Western Australia in relation to the Strata Titles Amendment Bill. Clause 99 relates to the community corporation's role in complying with by-laws and enforcing compliance with the by-laws. The proposed amendment makes it clear that the community corporation has the obligation of enforcing compliance with the by-laws. The previous draft referred to monitoring compliance, which obviously is not as strong as enforcing compliance.

**Hon DONNA FARAGHER:** Based on the advice that has been provided by the minister and also the advice that was previously provided to me by the officers, I indicate that the opposition will support this amendment.

**Hon ROBIN CHAPPLE:** Again, we will support this technical amendment. It resolves a problem that previously existed. I think it is a good amendment and we totally support it.

**Hon RICK MAZZA:** I also rise to support the amendment, but I ask the question: if the community corporation does not enforce the scheme by-laws, what happens? Is there any penalty on it or is it something else that has to be dealt with by the State Administrative Tribunal?

**Hon STEPHEN DAWSON:** Again, there is no penalty, but one owner or one occupier can go to SAT.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 100 to 105 put and passed.**

**Clause 106: Voting and resolutions —**

**Hon DONNA FARAGHER:** This clause deals with voting and resolutions. Obviously, there will be some differences because we are dealing with the community titles scheme and the tier parcels. Can I get some clarity from the minister that, in a general sense, the voting and resolutions and the requirements that are set out in the bill are similar to the mechanisms in the Strata Titles Amendment Bill for dealing with matters?

**Hon STEPHEN DAWSON:** I am advised no. In community titles schemes there are two types of resolution, ordinary and special. A special resolution requires a vote of 75 per cent or higher. A resolution is passed as an ordinary resolution if the value of the votes cast in favour of the proposed resolution is more than the value of the votes cast against. That is clause 106(6). A resolution is passed as a special resolution if the value of votes cast in favour of a proposed resolution total more than three-quarters of the sum of the unit entitlements of the lots and tier parcels in the scheme, or for a community corporation with only two or three members, the value of the votes cast in favour is more than two-thirds of the sum of the unit entitlements of all lots and tier parcels in the scheme.

**Hon ROBIN CHAPPLE:** Does the minister have a graph?

**Hon Stephen Dawson:** No.

**Hon DONNA FARAGHER:** It feels like groundhog day a little!

I understand the issues in the tier voting as such. Why has the government chosen to have a different voting procedure in this bill, as opposed to the Strata Titles Amendment Bill?

**Hon STEPHEN DAWSON:** I am told—the member might laugh at this—this is a simpler approach than that taken in the Strata Titles Amendment Bill. With strata at the moment there are 300 000 lots. It is very difficult, so we believe this is a simpler approach than that taken in the strata bill.

**Hon DONNA FARAGHER:** Can the government not make the strata approach simpler?

**Hon STEPHEN DAWSON:** Not now.

**Hon DONNA FARAGHER:** Is the minister going to look at it in due course so we might sit here again one day and talk about strata titles and voting?

**Hon STEPHEN DAWSON:** There is a five-year review built into the legislation. Advisers tell me that it can be looked into over that time.

**Clause put and passed.**

**Clauses 107 to 116 put and passed.**

**Clause 117: Authorisation of functions of scheme manager —**

**Hon DONNA FARAGHER:** I have looked through these parts. I want the minister's confirmation that, essentially, a scheme manager will act in a way similar to that of a strata titles manager within the strata titles legislation.

**Hon STEPHEN DAWSON:** Yes, that is correct.

**Clause put and passed.**

**Clauses 118 to 141 put and passed.**

**Clause 142: Content of outline of termination proposal —**

**Hon STEPHEN DAWSON:** I move —

Page 167, lines 4 to 8 — To delete the lines and substitute —

- (i) provide, in accordance with the regulations, details of proposed arrangements for obtaining independent advice or representation referred to in section 159; and

The Standing Committee on Legislation recommended that clause 83, part 12, division 3, proposed section 175(1)(i) of the Strata Titles Amendment Bill be amended to require the proponent to provide in the outline of a termination proposal details of arrangements for the obtaining of independent advice or representation for owners of lots affected by the proposal in accordance with the regulations. The equivalent provision in the Community Titles Bill is clause 142(1)(i). The government supported the proposed amendment to the Strata Titles Amendment Bill and wishes to make a mirror amendment to the Community Titles Bill that is consistent with the Strata Titles Amendment Bill and recommendation 4 of the legislation committee.

**Hon DONNA FARAGHER:** The opposition will support the amendment.

**Hon ROBIN CHAPPLE:** The Greens will be supporting this amendment.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 143 put and passed.**

**Clause 144: Approval of plan of subdivision —**

**Hon STEPHEN DAWSON:** I move —

Page 168, lines 18 to 22 — To delete the lines and substitute —

- (4) The *Planning and Development Act 2005* applies to the application subject to —
  - (a) the modification that a reference to subdivision is to be read as including a reference to termination of a community titles scheme; and
  - (b) any other appropriate modifications.

This amendment is consistent with changes that we made to the Strata Titles Amendment Bill in response to recommendation 6 of the legislation committee, where the legislation committee quite rightly referred to the use of a Henry VIII clause. This amendment removes that Henry VIII clause.

**Hon DONNA FARAGHER:** I indicate that the opposition will be supporting the amendment. I understand this is one of three Henry VIII clauses in this bill and obviously we do not support those. What is being proposed here is the same language used in the Strata Titles Amendment Bill, so with that we support the amendment.

**Hon ROBIN CHAPPLE:** The Greens will be supporting this amendment. Again, it mirrors the amendment to the Strata Titles Amendment Bill and is well supported.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 145 put and passed.**

**New clause 145A —**

**Hon STEPHEN DAWSON:** I move —

Page 169, after line 30 — To insert —

**145A. Reference of full proposal to independent advocate**

- (1) In this section —  
*independent advocate* means a person to whom a full proposal is referred under subsection (2).
- (2) A community corporation to which a full proposal is submitted under section 145 must refer the proposal for review and assessment to a person who —
  - (a) is independent of the community corporation and the proponent of the termination proposal; and
  - (b) satisfies any requirements of the regulations regarding experience or qualifications.
- (3) The independent advocate must, in accordance with the regulations —

- (a) review the full proposal; and
  - (b) provide the community corporation with an independent assessment of the full proposal; and
  - (c) at a time and place arranged with the community corporation, make a presentation of its assessment open to the persons mentioned in section 145(3)(a), conducted so as to take account of the needs of any of those persons who have sensory or mobility disabilities.
- (4) The independent advocate must, in accordance with the regulations —
- (a) endeavour to identify any owners of lots in the community corporation's community titles scheme for whom arrangements for fuller or more extensive advice or representation are to be made under regulations made under section 159(1)(b); and
  - (b) advise those owners of their entitlements under regulations made under section 159; and
  - (c) if requested by those owners, refer them to independent providers of the advice or representation which they are to obtain; and
  - (d) if requested by those owners, assist them in obtaining benefits under the trust referred to in section 159(2).
- (5) In any proceedings before the Tribunal under Part 12 in which there is a dispute about whether an owner of a lot in the community corporation's community titles scheme is entitled to fuller or more extensive advice or representation under regulations made under section 159(1)(b) or is entitled to benefit under a trust referred to in section 159(2), the independent advocate may, in accordance with the regulations, represent the owner in the proceedings.
- (6) The regulations may prescribe how a person's independence is to be determined for the purposes of subsection (2)(a).
- (7) The community corporation —
- (a) must pay the remuneration of, and reimburse the expenses incurred by, the independent advocate; and
  - (b) may charge fees under section 158 to cover the cost of paying those fees and reimbursing those expenses.

**Hon DONNA FARAGHER:** I indicate that the opposition will be supporting this new clause 145A. Obviously, this relates to the legislation committee's report and reference to a full proposal to an independent advocate. This will ensure consistency between the two pieces of legislation. That is important. It is an important safeguard and we therefore support the amendment.

**Hon ROBIN CHAPPLE:** Obviously the independent advocate mirrors what is in the Strata Titles Amendment Bill and it will be well supported by the Greens.

**Hon STEPHEN DAWSON:** If I may, I had better indicate why I am moving the new clause. Of course the members who preceded me indicated that this is about mirroring amendments made to the Strata Titles Amendment Bill. As I said previously, we want to be consistent and obviously that amendment was made to the previous legislation being considered by the chamber in response to the thirty-seventh report of the Standing Committee on Legislation.

**New clause put and passed.**

**Clause 146: Content of full proposal —**

**Hon STEPHEN DAWSON:** I move —

Page 173, lines 14 to 16 — To delete the lines and substitute —

- (4) The regulations must prescribe matters relating to the determination of the market value of a lot for a termination valuation report, including a valuation methodology that takes account of —
  - (a) relevant recent sales history; and
  - (b) the highest and best use of the lot; and
  - (c) the value attributable to the owner's interest in common property.



Again, this amendment mirrors the amendments made to clause 179(4) of the Strata Titles Amendment Bill. The legislation committee recommended that clause 83 of that bill be amended to require that the regulations prescribe matters relating to the determination of market value of a lot for a termination valuation report, which takes account of relevant recent sales history, the highest and best use of the lot, and the value attributable to the owner's interest in the common property of the strata titles schemes. We want to be consistent in this legislation too.

**Hon DONNA FARAGHER:** I indicate that the opposition will support this; however, this is one of the examples in which we had a change from issue 1 of supplementary notice paper 81, which was tabled at 2.30 pm today, and then a little later issue 3 of the supplementary notice paper. This one was a late addition.

**Hon Stephen Dawson:** An error.

**Hon DONNA FARAGHER:** It was an error, was it, minister? Okay. Those are the minister's words; I think it might have been forgotten. Nonetheless, we got there in the end, and again, it is an important safeguard and one that was reflected in the committee's report. We will therefore be supporting the amendment.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 147 put and passed.**

**Clause 148: Vote —**

**Hon DONNA FARAGHER:** I have one question. I note that there is a proposed amendment on the supplementary notice paper, but my question relates to subclause (4), which states —

A person who is independent of the community corporations and the proponent of the termination proposal must be appointed to tally and count the votes ...

It is similar to a question that I asked on the strata titles legislation. Can I presume that the regulations will specify who will be deemed independent?

**Hon STEPHEN DAWSON:** Yes, the member can presume that and it will be done through clause 148(12). On that note, I ask the Deputy Chair to report progress to the house.

**Progress reported and leave granted to sit again, pursuant to standing orders.**