COMMUNITY TITLES BILL 2018
COMMUNITY TITLES AMENDMENT (CONSISTENCY OF CHARGING) BILL 2018

Cognate Debate

Leave granted for the Community Titles Bill 2018 and the Community Titles Amendment (Consistency of Charging) Bill 2018 to be considered cognately, and for the Community Titles Bill 2018 to be the principal bill.

Second Reading — Cognate Debate

Resumed from 23 August.

HON DONNA FARAGHER (East Metropolitan) [7.58 pm]: I am delighted to say a few words about the Community Titles Bill 2018 and the Community Titles Amendment (Consistency of Charging) Bill 2018, which we will deal with cognately. I am the lead speaker for the opposition on those bills, and the opposition supports the legislation before the house.

To be clear, in essence my comments will be on the Community Titles Bill, which is obviously the substantive legislation. That bill provides for a new form of land tenure—that is, a single parcel of land that can be subdivided into individual sub-schemes. In essence, the proposed new scheme provides for multiple sub-schemes that sit underneath an umbrella community scheme. The sub-schemes are referred to as community titles schemes and the bill provides for two new forms—community titles land schemes and community titles building schemes. Both can be incorporated under the umbrella community scheme. These sub-schemes will have their own community corporation, which I understand will operate in a similar way to a strata company. Through this legislation, community schemes will be able to be subdivided into tiers to a maximum of three tiers, or layers, if I can put it that way. I will say a little more about that in a moment.

Under this arrangement there will be a capacity for shared ownership of common property by all owners, but also use of common property owned by owners of particular community titles schemes. It is clear from what I have outlined that a level of complexity is attached to these community schemes, which are a new concept to Western Australia. However, they will clearly provide a new opportunity from a planning and development perspective. They may or may not be embraced fully, but it will be a new option for Western Australia and I think they certainly have merit. The explanatory memorandum and the bill are very comprehensive in their detail. However, I want to thank in particular an officer from Landgate, Sean Macfarlane, for providing me fairly quickly with a more general breakdown of the community scheme tiers and a hypothetical example. Given that this legislation will institute a new type of land tenure and new types of schemes, it is helpful that we as a Parliament understand how it will work in practice. Mr Macfarlane has kindly agreed to me referring to those. I do not have a clean copy, but I am sure the minister's advisers will have one. Hopefully, in his response the minister can table a copy of the diagram that is attached. I think it would be useful for the house.

I will talk about the community scheme tiers, which I briefly mentioned at the beginning of my contribution. Community schemes can be subdivided into up to three tiers of sub-schemes or community titles schemes. There is a level of complexity to this, but it is important that we get an understanding of how the system will work. A tier 1 scheme is the community titles scheme at the very top of the tree. That includes tier 1 lots, tier 1 lots that have been subdivided into a tier 2 scheme, tier 1 common property, and the parcel for the tier 1 scheme, which encompasses the land and buildings of the whole community scheme. As I understand it, that is the umbrella. A tier 2 scheme is a community titles scheme created by the subdivision of a tier 1 lot. A tier 2 scheme includes tier 2 lots for that tier 2 scheme, tier 2 lots for that tier 2 scheme that have been subdivided into a tier 3 scheme, tier 2 common property for that tier 2 scheme, and the parcel for that tier 2 scheme, which encompasses the land and buildings of that tier 2 scheme. A tier 3 scheme is a community titles scheme created by the subdivision of a tier 2 lot. A tier 3 scheme includes tier 3 lots for that tier 3 scheme, tier 3 common property for that tier 3 scheme, and the parcel for that tier 3 scheme, which encompasses the land and building of that tier 3 scheme. That probably does not make much sense to a lot of people because it does not use an example, but that is how it will operate.

I have been provided with an example of how it will operate. For example, the tier 1 scheme, which is the top of the tree—the umbrella, if it might be put that way—for the community scheme, would contain all the land and buildings within the community scheme. In the example that has been provided by Landgate, it could include tier 1 common property, which is the driveway leading in to the community scheme and a community piazza. Tier 2 scheme A, which is on one side, is the residential part of the community scheme. That would include common property for that scheme, which might be a clubhouse or a swimming pool that is used by residents in a residential tower or townhouses, which will be the tier 3 scheme. Two sub-schemes are underneath the umbrella. In this hypothetical example, one is residential and the other, tier 2 scheme B, is the commercial and retail part of the community scheme. That would include tier 2 common property, for example, commercial and retail parking, and the retail complex, which is at the tier 3 level—again, going down another level—and the office tower. Within that tier 3 scheme

might be a residential tower, the apartments within that tower and the common property. On the other side might be residential townhouses.

It is quite clear that the opportunity presented through this legislation and this form of land tenure is the ability to create a mix of residential apartments, for example, with residential towers, office towers and other complexes—a whole range of elements. Each will have its own segment, but will be equally tied into one another. It is a little complex and I think it would be useful for the minister to table something for the benefit of the house and anyone who takes an interest in this. Some information is in the EM, but I think that the example provided to me might be useful.

An important element of the schemes is the requirement for the Western Australian Planning Commission to approve a community development statement. That is a new planning instrument. Referring to the explanatory memorandum, it will set out —

> the planning requirements for the scheme: including, the subdivision and development approvals required, the purposes for which the land may be used, the staging and development sequencing of each subdivision or development, the utilities requirements for the scheme, the works to be completed and other relevant matters for a community scheme …
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> The requirement for approval of a community development statement before a community scheme can be registered, ensures that the planning requirements for each community scheme are considered in detail at the start of a project and that people wishing to buy into a community scheme have detailed information about the planning of that community scheme.

I think that is a very important element. The matters I have referred to from the EM are more fully canvassed in clause 25 of the bill, "Content of statement". Clause 22 of the bill outlines the requirements on the WAPC to refer the application for a community development statement to the relevant local government in whose district the land is situated and each public authority or utility service provider that may be affected by the subdivision of the land. The bill also provides for a local government to which an application is referred to advertise the application for public comment. Clause 22(2) of the bill states —

> A local government to which an application is referred may, and must, if the Planning Commission so requires, advertise the application for public comment.

I indicate that this clause has caused me a little concern. We are up to supplementary notice paper 3—we will come to that part a bit later. There is an amendment standing in my name. The reason for my concern is that although the community titles scheme and the arrangements being put forward through this Community Titles Bill do not necessarily identify the size of a development, I think that, as a general rule, it lends itself very much to larger scale developments, which obviously can have an impact on the surroundings, communities, residents and the like. It is my view that we always need to make legislation clear and that if such a proposal is being put forward, it is proper that it should be advertised for public comment. There should not be a "may"; it should be "must" when the Planning Commission requires that. I say that for a couple of reasons. Certainly, within the Planning and Development Act, for amendments to local planning schemes, for example, I think with the exception—I will be corrected here—of very basic amendments, generally, there is a period of public comment. In my memory box, 42 days is a trigger point. It is important when we deal with these sorts of matters that there is an opportunity for public comment. Far too often, when we do not consult on certain things or communities are not given an opportunity, that can obviously lead to some concern. If, however, the legislation requires that consultation occur, we are giving people that opportunity. Whether or not people take the opportunity and there may not be any contention about the matter, they will have been given the opportunity to have their say. Ultimately, a decision will be made by the Western Australian Planning Commission. I will come to that in a moment. From a general practice point of view and given that in many ways this is intimately attached to the Planning and Development Act, a mechanism that requires the local government to advertise an application, if I might put it that way, for public comment is appropriate. As a consequence, clause 22(4) states —

> The regulations may specify a minimum period that must be allowed for comments to be made.

Obviously, given I am proposing we make it "must" not "may", there will be a subsequent amendment. We will come to that in the Committee of the Whole House. I wanted to outline why I think that is important.

As I have previously outlined, the WAPC must be satisfied that the proposed community scheme is an appropriate form of subdivision for the land in question. Clause 23 identifies matters that the commission must have due regard to, including relevant state planning policies; comments received under clause 22, which is the clause I have just referred to; and planning schemes or interim development orders that have effect in the locality in which the land is situated. Ultimately, if the Planning Commission is not satisfied that it is an appropriate form of subdivision, it must refuse the application. The refusal requires a written notice to be provided to the applicant and the reasons for the refusal. It is clear—within the bill, the explanatory memorandum and the minister's second reading

speech—that no subdivision approval can be given until this statement has been approved and finalised by the WAPC. Given this is a new planning instrument, I was keen to understand the involvement of the Department of Planning, Lands and Heritage in the development of this bill. I understand from advice from Landgate—the minister might want to confirm this—that the Department of Planning, Lands and Heritage has indeed been closely involved and that it is very supportive of the bill. In fact, I think a planning officer might have been seconded to Landgate for a period to ensure that the appropriate framework was established. More generally, the bill encompasses matters surrounding termination proposals and provides that the State Administrative Tribunal will be the focal point for dispute resolution. This is similar to changes dealt with under the strata titles legislation, which we have finally just concluded; albeit, I indicate that amendments are proposed on the third supplementary notice paper to ensure consistency across the two pieces of legislation.

Overall, as I have already mentioned, this new form of land tenure provides new opportunities from a planning and development perspective. Although it is true that mixed-use developments already exist in Western Australia, this bill seeks to provide a more transparent framework, which, hopefully, will overcome some of the inherent difficulties and shortcomings that can arise under the current system. Indeed, the briefing material provided to me by Landgate identified some of those challenges, including that retail and residential owners can have very different interests. Owners do not like paying for common property that they do not use and, as a result of these and other matters, disputes can be both common and costly. It is for these reasons and for the framework established through this bill that we believe the new schemes have strong merit and that we support the legislation.

I do, however, want to end on one point. As I have already mentioned, I note that there is a third supplementary notice paper—albeit, I acknowledge that the second one was as a result of my amendment—which details a number of government amendments. They principally deal with Henry VIII clauses, matters surrounding the termination of schemes and other measures to ensure that the bill is in sync with the strata titles legislation and the amendments that we agreed to in the committee stage of that legislation. I want to say, though, with all due respect to the government, in my view, these amendments were very late to be circulated. They were tabled after Parliament had begun today, around half past two. The minister may take a different view. I raised concerns yesterday about some of the matters within the bill and whether the bill was now consistent with the changes that had been made or were about to be made to the Strata Titles Amendment Bill. I am very pleased to see that the government has now issued these amendments. The minister may well tell me that the government was always intending to issue these amendments. All I will say is this: if that is the argument that will be put—I am not sure whether that is what the minister will say—the government had a week when Parliament was not sitting and yesterday to inform me and other members in this place who wish to speak on this legislation that these amendments would be on the supplementary notice paper. There are four pages of amendments and another supplementary notice paper has come out this afternoon as a result of further concerns that were raised. As I say, I acknowledge that the government is now moving those amendments but, again, it is due only to further discussions behind the Chair. I remain unconvinced that the government intended moving these amendments. No-one informed me that these amendments were being prepared; I learnt about them only after further discussion. I just say that it is not my intention to unnecessarily hold up legislation, but to be provided with three or four pages of amendments at such late notice, in my view, is not good enough.

The government is very fortunate that in this instance, much like the strata bill, it has had very good officers to provide assistance to it to make sure that this could be done and fixed, because at the end of the day we support the legislation, and we want to make sure that good legislation is passed here. I certainly want to make sure, after we spent hours and hours dealing with the Strata Titles Amendment Bill 2018, that we have a Community Titles Bill that is consistent and deals with the issues such as the Henry VIII clauses that were identified, the termination proposals and the like. I indicate that although we will very much support the legislation and the amendments on the supplementary notice paper when we get to them, it would have been good to have a higher level of preparation so that we are not working off this at such short notice. Nonetheless, with all that in mind, I indicate again that the opposition will support the legislation. I look forward to the Committee of the Whole stage when I will ask a couple of questions to ensure consistency of approach so that people can read *Hansard* if there are ever any issues with that. We will deal with those amendments as we come to them.

HON ROBIN CHAPPLE (Mining and Pastoral) [8.20 pm]: Once again, I would like to thank the minister's advisers, Tom Wilson, Kelly Whitfield and Sean Macfarlane. They have put hours into answering our questions on these bills, the Community Titles Bill 2018 and the Community Titles Amendment (Consistency of Charging) Bill 2018, and indeed the Strata Titles Amendment Bill 2018. It was very much appreciated, and as we have moved through and seen many versions of amendments today—as Hon Donna Faragher pointed out, we are now into issue 3 of the supplementary notice paper—again, their assistance in working through those has been valued. One of the things that arises out of the level of debate we have had on both sides of the house with the advisers and the minister is that we have been able to see that a number of amendments have come forward. As Hon Donna Faragher

stated, they have been a little late in the piece, but I understand that that is no particular fault of anybody other than the fact that matters brought to the attention of the minister and the advisers led to many of the amendments. When we come to the Committee of the Whole stage we will support the amendments moved by Hon Donna Faragher about the issue with the words "may" and "must".

This is a cognate debate of the Community Titles Amendment (Consistency of Charging) Bill 2018 and the Community Titles Bill 2018. The substantial bill is the Community Titles Bill. It introduces a new form of land title called "community title". Community titles enable strata schemes within strata schemes of up to three tiers. The entire development must accord with a community development statement and be approved by the Western Australian Planning Commission. A community title is intended to precipitate mixed use. Historically, we have had a problem and these two cognate bills deal with it. Different users have different common property and by-law needs—for example residential versus shop, versus office, versus leisure facilities, or versus tourism and short-stay accommodation. There are limits to what strata schemes in their current form can do to manage the competing needs of different users. The usual strata one-size-fits-all model, whereby the same common property and by-laws apply to everyone in the scheme, does not take into account the needs of different users; for example, shops might resent paying for a residents' pool, residents might resent paying for a shop's public liability insurance and parking, and both of them might resent paying for short-stay accommodation cleaning contracts. The alternative model of multiple strata schemes on a single estate with easements and cost-sharing deals between them is also not ideal. It allows specific common property and by-laws for each user group, but it chops up the estate into bits; fences between strata schemes can make pedestrian access difficult, and access for large vehicles—for example, delivery trucks and house-moving trucks—impossible. Community title aims to be tailored to mixed uses; everyone shares and contributes to certain common property. Each user group also gets certain other common property just for them, plus by-laws suitable for their use. Each tier has its own body corporate to administer common property. The bill contains various provisions aimed at achieving cooperation between the tiers. The ideal outcome is workable urban villages subject to planning controls. The bill applies to new subdivisions only. It does not apply to land that is already subdivided by a strata scheme or is a caravan park or a camping ground. This means that for current strata schemes with mixed use disputes there are two options: use the improved process delivered by the Strata Titles Amendment Bill 2018 to resolve the disputes, or terminate the existing strata scheme, subject to the Planning Commission's approval, to create a new community titles scheme instead. It is difficult but possible.

The substantive bill contains a review clause. The minister is to review it after five years and table the report in each house. The very short Community Titles Amendment (Consistency of Charging) Bill 2018 allows regulations made under clause 187(1) of the substantive bill to prescribe a fee that is a tax; not just cost recovery. This mirrors the existing Strata Titles Act and provisions in WA's other fee-charging acts. The intention is to ensure that Landgate's expenses in running its registers are reliably covered instead of fluctuating with the property market. The head of power to prescribe such a fee expires on 31 December 2019, but the substantive act provides a process for this to be postponed for up to five years. This can happen repeatedly. The process of postponement is that every five years the minister is to carry out a review of how the fees are being calculated and table the report in Parliament. The minister can recommend postponement, if satisfied of the need for it, on the basis of that report. The Governor can make that proclamation on the minister's recommendation. The postponement proclamation is disallowable as if it were a regulation, so it will come before the house as a tabled paper. Neither bill has attracted controversy. Community title is a new form of tenure; no current owners will be affected.

Moving on, we come to the potential issues. There are only two matters that I would like to raise and I seek the minister's response in his reply to the second reading. The first matter is that the form that a community scheme takes will be governed by the content of its community development statement, approved by the WA Planning Commission. I ask the minister to confirm whether there is a strong intention that the Planning Commission will not approve community schemes that are effectively gated enclaves.

The second matter I would like to raise is that clauses 23 and 24 indicate that the Planning Commission cannot make a decision to subdivide or approve a community development statement that is inconsistent with the state planning policy, planning scheme or interim development order that applies to that location at that time. I ask the minister to confirm that this includes "State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region", which aims to integrate protection and management of Bush Forever areas with land-use planning and decision-making. Having concluded those two questions to the minister, I indicate that the Greens will support the bills and will be supporting the amendments, although I will have some further questions during Committee of the Whole.

HON RICK MAZZA (Agricultural) [8.30 pm]: I rise to speak in favour of the Community Titles Bill 2018 and the Community Titles Amendment (Consistency of Charging) Bill 2018. It gives me great pleasure to contribute to the second reading cognate debate on these bills. It is widely accepted that strata laws have needed to be updated in this state. Seven of the leading industry bodies representing the property development and property management industries in Western Australia support the passage of this legislation. When passed, these bills will be the most

significant strata title reform to property law in Western Australia in 20 years. The bills will complement the Strata Titles Amendment Bill 2018, which passed this house today.

The legislation has been a long time in the making. It has been considered for development since 1997 when the Community Titles Advisory Committee was established. The Strata Titles Act 1985 does not permit the creation of more than one scheme on a single piece of land, which brought about these proposed changes. The bills will allow a single freehold parcel of land to be subdivided into as many as three tiers, which has been described by the previous two speakers. That provides a lot of flexibility for developers and for community living. As they say, a picture paints a thousand words and the advisers had some very good slides on how mixed-use commercial property with residential or different classes of residential property could be undertaken under the tiers to allow communities to develop. A lot of people these days like convenience. If they can live near a shopping centre with a cinema and everything else that goes with it, that would certainly make life good for them. Currently, where there is mixed-use development in some strata title complexes, particularly where an office block may have residential developments on the top floor—there are a number around Perth—there is always tension between the residential and the commercial or retail parts. That is mainly because even though there is a unit entitlement calculation of the costs of outgoings, generally, the residential development people will say, "Those repairs that are being done really relate to the commercial side of it. We shouldn't have to pay for them." There is also the vice versa situation in which a penthouse on the top floor may develop a leak in the roof and the commercial section will say, "That's the residential part on the top floor. We shouldn't have to pay for that." At the moment, that is all under one strata title with the unit entitlement. Technically, they all have to share those costs of repair or maintenance under those schemes. These bills will give some flexibility so that one tier can look after its own expenses. A mixed-use commercial shopping centre, which has its own requirements, can be independent of that.

There has been a bit of commentary about the amendments that have come through today and I have had a brief look at them. It appears to me that some of them are to do with being consistent with the Strata Titles Amendment Act when a strata title is terminated. I will have some questions in Committee of the Whole about whether just one tier can be terminated for redevelopment or whether the entire three tiers or two tiers have to be terminated. For argument's sake, say there is a commercial shopping centre and, over time, the residential portion becomes tired or needs redevelopment. Can one tier be terminated and redeveloped? That is something I can ask in the Committee of the Whole stage.

Community titles allow for a clearer and cleaner system. They enable effective sharing and management of common facilities between two different land tenures. Community titles in Western Australia in particular are becoming increasingly important because of the increase in precinct development within Perth city. Previous projects such as Elizabeth Quay and the Perth City Link could have benefited from these community title schemes. A core principle of this legislation is making it easier to build a vibrant, diverse community, which is a good thing from my point of view. South Australia introduced reforms in 1996 and former Property Council of Australia WA executive director Lino Iacomella, in an article by Andrew Heaton on the website Sourceable, said —

> Western Australia has been the only state which does not have legislation which enables community titles.
>
> He says this is holding the sector back in terms of its ability to create greater housing choice and liveable communities…
>
> "Our antiquated strata laws are stifling sustainable growth in and around suburban centres and strategic infrastructure investments like train stations while stalling urgent urban regeneration," Iacomella said."

I have known Lino Iacomella for over 20 years. He was first with the Real Estate Institute of Western Australia and later with the Property Council. I hold him in high regard so I think his comments are valid. I take those comments on board. It is clear to me that the development industry does not currently enjoy the flexibility afforded by the availability of these schemes in other states.

The proposed development period for a community scheme is 10 years, which would definitely provide enough time and flexibility for developers. In effect, this proposed legislation will modernise strata legislation and bring us into line with other Australian states with community schemes, such as those in New South Wales, South Australia and Queensland. We have been left behind but we are finally catching up. Community schemes have been successfully implemented in other states and I see no reason that we cannot have them in Western Australia. The Community Titles Bill will introduce a measure pertaining to scheme managers, which I think is very important, requiring them to have a written contract with a community corporation and giving the community corporation power to terminate the contract in specific circumstances. The bill will also require scheme managers to lodge periodic returns at Landgate, containing aggregated information about the scheme they manage. The bill also controls what managers must do with community corporation funds. The 22 May 2017 government media release "Strata reforms to support vibrant communities" states —

- The trend for community living is growing with 40–50% of current land subdivision strata development;

Executive chair of Activate Perth, Anne-Maree Ferguson, speaking to the ABC on 1 February this year about an article titled "Bring people back to Perth", said —

> Residents really want a sense of community and connection… So they are looking for a streetscape in which they feel safe, in which they feel their children can play and where they can meet neighbours…

Community titles schemes can be a step towards such an environment, with greater housing choices and shared facilities. Disputes between parties and community titles will be resolved by the State Administrative Tribunal. I have no problem with that, especially if disputes can be resolved quickly to ensure the tribunal does not become congested. The population of Australia and Western Australia is set to dramatically increase in number over the coming years and is forecast to see an increase in community-style living. As per information from LandCorp, an increasing number of Perth residents are resisting large homes in suburbia and opting for higher density living quarters close to public transport.

A 15 June 2018 WAtoday article quoted Urban Development Institute of Australia WA chief executive Allison Hailes as saying —

> "Perth is evolving, and … it is imperative that our strata legislation keeps up with the times and supports this evolution," …

That commentary falls into line with what these two bills aim to do: create livable communities that can also factor into the vision of developing Metronet station precincts. The urban sprawl that stretches some 150 kilometres in Perth has a footprint twice the size of Tokyo with only a fraction of its population. As the Property Council's "Creating Great Australian Cities" study warns, Perth cannot afford to keep expanding but must contain development within its current borders. Lead researcher Greg Clark said Perth will —

> … need to accommodate its growth within the existing geographical boundaries that it has created if it wants to be affordable and offer the right environment for modern city jobs."

However, I realise that these urban sprawl locations now exist. They will become only more prevalent in years to come and must be catered for to match the development front.

I wholeheartedly support the Community Titles Bill 2018 and the Community Titles Amendment (Consistency of Charging) Bill 2018. I think this legislation is very good for the future of Perth, particularly; this is an inner-city mixed-use development. There may be applications in other regional centres throughout the state, but generally this high-density living concept is probably more suited to the Perth CBD or areas in close proximity. It is about time we had some flexibility within our strata title system. Notwithstanding the amendments that were made to the Strata Titles Act through the Strata Titles Amendment Bill 2018, the Community Titles Bill will probably have a more significant impact on changes around strata title developments and community living in the fact that people will be able to have a mixture of options in respect of living in those locations and recreating there in their leisure time. With that, I support the bills.

HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment) [8.40 pm] — in reply: I thank members who have made contributions this evening to the second reading debate of the Community Titles Bill 2018 and the Community Titles Amendment (Consistency of Charging) Bill 2018: Hon Donna Faragher, Hon Rick Mazza and Hon Robin Chapple. As some members have pointed out, other jurisdictions have had community schemes in place for many years. Community schemes are certainly considered to be a key part of modern strata legislation and they are used to great effect to build vibrant, sustainable and diverse communities. I agree with the comments by Alison Hayes that Hon Rick Mazza quoted. These bills will keep us up with the times and, in fact, probably ahead of the times in some regards, so it is certainly exciting in that sense.

After extensive consultation, the government is confident that this legislation will provide an exciting model for community schemes in Western Australia. Its principal purpose is to provide for a new form of land title, a community title, based on new subdivisions by a community scheme. As Hon Rick Mazza pointed out, the conversations on this legislation commenced in 1997, so it is indeed a long time coming. Community schemes can play an important part in delivering more vibrant communities, particularly in activity centres, urban corridors and around station precincts. Community schemes will provide for well planned, larger-scale land subdivision and development projects by enabling a single freehold parcel of land to be subdivided into as many as three tiers.

The intent of the cognate bills is to retain consistency and simplicity in the way Landgate charges fees for title registration. As a safeguard, the cognate bills will be subject to the same sunset clauses as similar Landgate legislation, whereby this arrangement will lapse after a maximum of five years, unless continuation is deemed appropriate following a statutory review.

Hon Donna Faragher referred to some documentation that was provided to her in the briefings and I think Hon Rick Mazza also referred to the same documents, so I am happy to table them. One is about community

schemes, another is about community scheme tiers, there is an example of a three-tier community scheme, and there is a brief case study of a community scheme. I am happy to table those; I will require a copy back, please, because I dare say they will be needed during Committee of the Whole House. I table the documents.

[See paper 2120.]

Hon STEPHEN DAWSON: I also want to confirm for Hon Donna Faragher that yes, indeed, Landgate collaborated fully with the Department of Planning, Lands and Heritage in the drafting process for the bills.

I turn to community schemes' improved mixed use. Although there are many examples of mixed-use strata schemes, with mixed retail and residential elements in a building, retail and residential owners have very different interests. Owners simply do not like paying for facilities and common property that they do not use. These bills will allow for a building to be subdivided by a community scheme that has separate sub-schemes, called community title schemes, in the building. The residential part of the building can operate under one sub-scheme, the retail part under another sub-scheme, and the residential owners in this community scheme have a say in how their sub-scheme is run through the sub-scheme's community corporation. They are also subject to the by-laws of their own sub-scheme; have access rights to the common property of their sub-scheme, which they own and maintain; and do not have to pay to maintain the retail common property in the retail sub-scheme. These sub-schemes within the building will have a degree of autonomy but cannot be catered for in the strata scheme.

Hon Donna Faragher also commented about the amendments on the notice paper. I can say that it is certainly the government's intention that this legislation should be consistent with the Strata Titles Amendment Bill. As Hon Donna Faragher knows, many, many conversations have been held behind the Chair, today and in recent days and weeks, about the Strata Titles Amendment Bill and this legislation. Obviously, the same advisers were involved in both.

Hon Donna Faragher: They were very good advisers.

Hon STEPHEN DAWSON: Absolutely, and I want to acknowledge the contributions by Hon Donna Faragher and Hon Robin Chapple in particular, who mentioned the quality of the advisers who provided briefings on these bills. I want to also extend and put on the record my thanks for the great work they did. It was always our intention that these bills should be consistent with the strata bill and amendments were made available as they became available. This legislation will provide a more transparent and accountable framework for creating and managing strata.

In response to Hon Robin Chapple's questions, the Western Australian Planning Commission does not intend to approve community schemes that are gated communities. Hon Robin Chapple also asked whether "State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region" would be binding on the development and subdivision of community schemes. Generally, a state planning policy must be given due regard in planning decision-making under the Planning and Development Act. Under clause 24(1), community development statements must not be approved if they conflict with a state planning policy. The term "conflict" is not defined under the legislation and would be subject to interpretation as appropriate in the circumstances of the proposal, having regard to the subject matter, form and drafting of the SPP. Under clause 19(2), once a community development scheme is registered when the scheme plan is registered, the community development scheme is binding on planning decision-makers during the development period for the community scheme. If the approved community development statement adopts SPP 2.8, subdivision or development applications will only be approved during the development period if they are consistent with the CDS and therefore consistent with state planning policy 2.8. Hopefully that addresses the member's questions. I appreciate the contribution from Hon Rick Mazza and his support for the bills.

This will modernise strata legislation and, as I said, we believe the bills keep us up with the times. With those words, I commend the bills to the house, noting that there is a significant number of amendments on the notice paper. Members will obviously get an opportunity to discuss them and, indeed, other things under clause 1. With that, I commend the bills to the house.

Questions put and passed.

Bills read a second time.