

STRATA TITLES AMENDMENT BILL 2018

Committee

Resumed from 9 October. The Deputy Chair of Committees (Hon Adele Farina) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

Clause 83: Insertion of sections 4 and 5 and Parts 2 to 14 —

Progress was reported after clause 83 had been partially considered.

The DEPUTY CHAIR (Hon Adele Farina): I draw members' attention to supplementary notice paper 80 issue 2, dated Wednesday, 10 October 2018. I understand that we have completed clause 82 and the question before the committee is that clause 83 stand as printed. When the house was last in committee on the bill, there was some discussion of whether the house should immediately postpone consideration of clause 83. I remind members of the order of the Council, when proposed part 12 of clause 83 was referred to the Standing Committee on Legislation, which states —

the house may proceed with consideration of the bill, other than the matters referred under paragraph (a), —

That is, proposed part 12 —

but the Committee of the Whole shall not agree to a resolution to report the bill to the house until after the Standing Committee on Legislation reports on the referral of proposed part 12 and any related matter;

Therefore, the Committee of the Whole may consider clause 83 up to proposed part 12, at which point further consideration of the clause must be postponed. The Committee of the Whole may then proceed to consider the remaining clauses of the bill before returning to consideration of clause 83 after the legislation committee's report has been tabled. I hope that clarifies matters.

Hon DONNA FARAGHER: Could I seek some clarification so that we are all working on the same path? That is my understanding of how we could proceed. Given the fact, though, that section 83 covers some 200 pages, I seek your guidance about the best way that we might be able to deal with this, because clause 83 contains proposed parts 4, 5, 6, 7 et cetera. Just to assist, am I able to refer to proposed parts within clause 83, at 6, 7, 8, 9 and 10? There are also amendments on the supplementary notice paper that fall within this clause. Are members happy to proceed?

The DEPUTY CHAIR: That is certainly one way that we could proceed. An alternative is that I could move clause 83 proposed part 1, clause 83 proposed part 2. I seek the guidance of the chamber about how it wants to proceed. I am here to facilitate the chamber.

Hon STEPHEN DAWSON: That would be the best way to move forward. If you can move proposed parts at a time, then when we get to proposed part 12, as you say, it is my intention to move the motion that the further consideration of clause 83 be postponed. I will deal with that at that time.

The DEPUTY CHAIR: If members are agreeable, I will proceed on that basis. I will allow some flexibility if a question runs over a couple of different parts, with the exception of part 12.

Proposed sections 4 and 5 put and passed.

The DEPUTY CHAIR: The question now is that clause 83, parts 2 to 7 will now be considered, unless any member wants to speak to a clause before part 7?

Hon RICK MAZZA: I seek your guidance if I am out of sequence here. I am looking at page 238, proposed section 144(1)(b)(ii). Am I too far ahead?

The DEPUTY CHAIR: No, that is part 2, so I will put the question. Do you have a question relating to proposed part 2 that you would like to put?

Hon RICK MAZZA: Yes, I have a question on proposed section 144(1)(b)(ii). It is about education or other qualifications.

The DEPUTY CHAIR: I will just put the question to the house. The question is that clause 83 part 2 stand as printed.

Hon DONNA FARAGHER: Can I get some clarity here? I am sorry, Hon Rick Mazza; I just want to make sure I am clear. I understood from the suggestion that effectively we would be working from page 124 of the bill and moving along from clause 83 and then go through proposed parts 4, 5, 6, 7, 8, 9, 10 et cetera. I had understood that that was the way we were going to work through from page 124. Otherwise, we are going to be going back and forth across a range of parts or proposed sections. I perhaps prefer to refer to them as proposed sections—otherwise, I think we are going to get ourselves very confused.

The DEPUTY CHAIR: There is confusion here, because if members look at the top of page 238 of the bill, which Hon Rick Mazza referred to, they will see it says part 2, but looking at the body of the bill, we get to proposed part 3 at page 136. I will have to ask us to go through this very, very slowly. If members could just indicate the page at which you want to raise an issue so I can work out what part of the bill that is before I put the question. Does any member want to speak to any matter before page 238?

Hon DONNA FARAGHER: I would like to speak at page 126. For what it is worth, I just think it would be a lot easier if we effectively went page by page like we normally do with a bill, albeit—I reiterate that this is the problem with a bill such as this, minister—it is one clause that goes for so many pages. It would still be easier that we go through methodically page by page. That is my humble opinion, Madam Deputy Chair. I am going to leave it in your most capable hands.

The DEPUTY CHAIR: In an effort to get us through this, I will move each provision of the bill on a page-by-page basis and ask for members' forbearance, because I also note that we have a proposed amendment at page 134, which is well ahead of the indication by Hon Rick Mazza. We have moved the first part and has been passed, so we are all now at part 2 at page 125 of the bill. The question is that clause 83, page 125 do stand as printed. I am trying to do as members are asking; we asked for it page by page.

Hon STEPHEN DAWSON: Let us do it page by page, but the proposed sections are the information that I think we can all benefit from. The intention is to still move the whole proposed part—to do a proposed part at a time before we get to proposed part 12. But if we can deal with proposed sections, I think that would make it easier for Hon Donna Faragher and it will also make it easier for me and my advisers.

The DEPUTY CHAIR: Can I just clarify that you are asking me to put the question that clause 83, proposed part 2, proposed section 6 stand as printed? Is that correct?

Hon DONNA FARAGHER: Yes. On page 125, proposed section 6 is "Legislative framework" and proposed section 7 is "Strata titles schemes". If we can go through in that way, I can refer to each. For example, my first questions are about proposed section 8, which is at page 126. Does that help?

Proposed sections 6 and 7 put and passed.

Proposed section 8: Freehold schemes and leasehold schemes —

Hon DONNA FARAGHER: I appreciate the chamber's forbearance on this and how we have worked through it. I think we are all on track.

Proposed section 8 refers to freehold schemes and leasehold schemes. My specific interest is in the leasehold schemes, which is the new concept that is being brought in as part of this bill. The minister gave quite a detailed response about these new schemes. After the briefing that I received, I think I have a fairly good understanding of how it is, but I think we need to get some information on the record. I might ask some general questions that might help us to move forward. How is the expiry day determined? Is it from the date when the lot is created and registered?

Hon STEPHEN DAWSON: I am advised that it is from the date that the scheme is registered.

Hon DONNA FARAGHER: If I can give a hypothetical example: if the scheme has 10 lots within it, it is my understanding that they would all have the same expiry day because the scheme will expire on one day. It is not a question of the timing of when a lessee signs the lease; it is the date on which the leasehold scheme comes to an end. Is that correct?

Hon STEPHEN DAWSON: Yes.

Hon DONNA FARAGHER: It is my understanding that the expiry day can be postponed, but that it cannot be postponed for a longer period than 99 years.

Hon STEPHEN DAWSON: The member is correct.

Hon DONNA FARAGHER: My understanding is that if a lessee wants to sell the lot at any time within the lease period, they can do so and the new owner would be provided with all the relevant information about the lease period or expiry day and all other matters relevant to the scheme.

Hon STEPHEN DAWSON: Again, the member is correct.

Hon DONNA FARAGHER: Can I confirm something about the day-to-day role of the lessor? This goes back to a point that I made during the second reading debate, which the minister responded to in part. Some concerns have been raised about how this new scheme might operate and that as a scheme gets closer to its expiry day, maintenance might be reduced, allowing the buildings to, effectively, become run down. My understanding is that is unlikely to be the case. I have to make sure I have my terminology right between lessors and lessees. It is my understanding that the lessor does not have a role in the day-to-day management of the scheme, if I might put it that way. Effectively, they would not be in position to allow buildings to become run down to a point of potential

demolition, which is a concern that has been raised. Could the minister provide us with a bit more detail on that and confirm what role, if any, a lessor would have in the day-to-day management of the strata?

Hon STEPHEN DAWSON: The management and control of the scheme building is the responsibility of the strata company. Members are the owners of the lots. They are the owners—the lessees—under the strata lease. Does that make it clear?

Hon DONNA FARAGHER: Might the minister repeat that?

Hon STEPHEN DAWSON: I will find a more fulsome briefing to read out and put on the record. What I have said so far is that the management and control of the scheme building is the responsibility of the strata company. Members of that strata company are the owners of the lots. I will explain how leasehold schemes will work. A leasehold scheme is essentially a strata or survey-strata scheme that is set up for a fixed term of 20 to 99 years, as we have previously discussed. The scheme and all the lots exist until the expiry day. The owner of the lot has a long-term lease of the lot—a strata lease, which is a useful option for affordable housing. The owner of a lot in a leasehold scheme can transfer the lot and the strata lease or mortgage the lot without the consent of the lessor, who is the owner of the leasehold scheme. The owners of the lots are members of the strata company. They decide how to run the leasehold scheme. On the expiry day for a leasehold scheme, the scheme, lots and strata leases cease to exist and the owner of the leasehold scheme—the lessor—regains full ownership of the land and buildings. The ordinary rules of the act mostly apply to leasehold schemes. Leasehold schemes can be strata or survey-strata schemes. Leasehold schemes have a strata company, which must maintain the common property. The owner of a lot is a member of the strata company. They must comply with by-laws, can vote at general meetings, can serve on the council and must pay contributions to cover the cost of running the strata company. For a leasehold scheme, there is a separate title for the parcel. The owner of the leasehold scheme is the registered proprietor of the parcel and is entitled to the reversion on the expiry day. That is the lessor.

Hon RICK MAZZA: I am a little bit confused about the terminology between the owner of the lot and the lessee and those that are members of the strata company. From what I understand from the minister's explanation, the owners of the lot provide a lease to the leasehold. Is it the leaseholders who are members of the strata company or the lot owner—the lessors—who are members of strata company?

Hon STEPHEN DAWSON: I am told the lot owner is the lessee under the strata lease and the owners of the lots are members of the strata company.

Hon DONNA FARAGHER: Can I just double-check, though. I appreciate it is the lessees who effectively have the day-to-day management because they are the owners of the lots, but my question relates to the lessor. I appreciate that at expiry day the lots are transferred back to the lessor, but I am keen to understand whether the lessor has any day-to-day role in management of the strata, because that concern has been raised. I think I know what the answer is going to be; that is why I am asking the question.

Hon Stephen Dawson: By way of interjection, the answer is no, unless, for example, they own a lot.

Hon DONNA FARAGHER: Of course. Okay; that is understood. I think the fact that the lessor will not have a role in the day-to-day management will give some comfort to those people who may have concerns about how this new concept will work. So, people's concerns that the lessor may choose not to put money into maintenance costs and all those sorts of things will not be the case. I think that the answer that the minister just provided will allay some concerns.

If I could then ask a question on the postponement of the expiry day, which is referred to in proposed subsection (3)(g). I understand that if the leasehold by-laws provide for postponement of the expiry day, the expiry day may be postponed if the postponement is within the framework set out in paragraph (d), which relates to the expiry being somewhere between 20 and 99 years. I believe it would be the case that the strata company or the owners would obviously have to agree to the postponement. Does that agreement have to be the full agreement of all owners?

Hon STEPHEN DAWSON: It is by way of a special resolution. I have been given further advice that it is by way of a special resolution of 75 per cent of the owners.

Hon DONNA FARAGHER: Without knowing every intricacy of special resolutions, do special resolutions normally require 75 per cent agreement or is this a new requirement?

Hon STEPHEN DAWSON: A resolution of the strata company with at least 75 per cent of the lots in favour must be passed. It is not actually a special resolution; it is a resolution with at least 75 per cent of the lots in favour of the change.

Hon RICK MAZZA: When the minister says that 75 per cent of the lots is a special resolution —

Hon Stephen Dawson: It's not a special resolution.

Hon RICK MAZZA: When the minister is talking about the lots, he is not talking about the unit entitlements? Is there a unit entitlement within leasehold schemes?

Hon STEPHEN DAWSON: There is a unit entitlement in the leasehold scheme, but that unit entitlement is not looked at when the 75 per cent vote is required to postpone the expiry day.

Hon DONNA FARAGHER: Can I just clarify. I presume that that would be the same process for other matters that might come before the council of owners, if I might put it that way, whether it relates to this or another matter. It does not relate to unit entitlement, but it relates just to the lots. The minister referred to it as per lot in this case, if I might put it that way, but is that the same when we deal with other matters that the strata company might have to deal with?

Hon STEPHEN DAWSON: I am told that resolutions for a leasehold scheme are the very same as for a freehold scheme, with the exception of this. This is different. So, apart from this issue, for everything else the resolutions required for a leasehold scheme are the same as would be required for a freehold scheme.

Hon DONNA FARAGHER: Why is this one not the same?

Hon STEPHEN DAWSON: It goes to the question of the life of the scheme. It was felt that 75 per cent was fair when we are dealing with the expiry of the scheme, essentially.

Proposed section put and passed.

Proposed sections 9 to 12 put and passed.

Proposed section 13: Strata titles —

Hon STEPHEN DAWSON: I move —

Page 134, lines 6 and 7 — To delete the lines and substitute —

- (7) When a strata title for a lot in a freehold scheme comes into existence it confers on the owner of the lot —

This amendment to clause 83, proposed section 13(7), relates to the second suggested amendment in the letter tabled yesterday by Hon Donna Faragher from the Strata Community Association WA, dated 18 September 2018. Proposed section 13(7) provides what rights are conferred on the owner of a lot for a freehold strata title scheme. The owner of a lot in a freehold strata title scheme is defined in section 3(1) to include the registered proprietor of the fee simple estate in the lot, the person who is registered as the proprietor of the life estate in the lot, or the mortgagee in possession. SCAWA's letter points out that the rights conferred on the owner of a lot by proposed section 13(7) 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.

To clarify the situation, proposed section 13(7) will be amended as per the amendment on the supplementary notice paper to provide that when a lot is created, it confers certain rights on the owner of the lot. It is important to note that a strata lot can only be created by registration of fee simple land. This means that every time a strata lot 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.

I should make the point that a number of conversations have occurred behind the Chair over the past few weeks. I acknowledge conversations involving the Greens, Hon Rick Mazza and Hon Donna Faragher that have caused me to bring forward these amendments this evening.

Hon ROBIN CHAPPLE: In relation to the amendment that we are dealing with and also the amendment that we will be dealing with shortly, I need to understand and get clarification from the minister. When he says that when the freehold scheme comes into effect, it confers on the owner of the lot, is it the intent to confer to a registered proprietor? I think it needs to be clarified that this could also be a registered proprietor or is a registered proprietor.

Hon STEPHEN DAWSON: I will answer it this way. Again, the owner of the lot in a freehold strata title scheme is defined in section 3(1) to include the registered proprietor of the fee simple estate in the lot, the person who is registered as the proprietor of the life estate in the lot, or the mortgagee in possession. It is important to note that a strata lot can only be created by registration of fee simple land. This means that every time a strata lot is created, the only person who can be the owner of the lot at the point in time when the lot was first created is the registered proprietor of the fee simple.

Hon DONNA FARAGHER: I sent these amendments on the supplementary notice paper to the Strata Community Association because they obviously reflect discussions. It would appear, with the exception of the point raised by Hon Robin Chapple, that this amendment effectively deals with the second point of its letter. With that in mind, we will support the proposal to delete the lines and substitute the new subsection.

Hon ROBIN CHAPPLE: Again, after clarification, I thank the minister. We have worked with him on this and we will be supporting the amendment.

Amendment put and passed.

Hon STEPHEN DAWSON: I move —

Page 134, lines 21 and 22 — To delete the lines and substitute —

- (8) When a strata title for a lot in a leasehold scheme comes into existence it confers on the owner of the lot, subject to Part 4 Division 5 —

Again, I will put on the record an explanation for this amendment. It amends clause 83, proposed section 13(8), and relates to the second suggested amendment in the letter tabled by Hon Donna Faragher yesterday from the Strata Community Association WA, dated 18 September 2018. Proposed section 13(8) provides what rights are conferred on the owner of a lot in a leasehold strata title scheme. The owner of a lot in a leasehold scheme is defined in proposed section 3(1) to include the registered proprietor of the strata leasehold estate in the lot or the mortgagee in possession. Section 138 will be amended to provide that when a lot is created, it confers certain rights on the owner of the lot. This is to mirror the amendment to section 13(7).

Amendment put and passed.

Proposed section, as amended, put and passed.

Proposed section 14 put and passed.

Proposed section 15: Subdivision approval of strata scheme —

Hon DONNA FARAGHER: This is slightly different. This is a clarification question and relates to the subdivision approval of a strata scheme. Is this consistent with current practice; and, if not, what are the changes, if any?

Hon STEPHEN DAWSON: It is slightly different. This clause clarifies the requirement under the current act to obtain Western Australian Planning Commission approval of a strata plan or amendment of a strata plan for the subdivision of land by a strata scheme. It also clarifies that the planning commission may impose conditions when granting subdivision approval; and further, that a strata plan or amendment of a strata plan cannot be registered until such plan has been endorsed with the unconditional approval of the planning commission. It further clarifies that the regulations may exempt strata plans from needing planning commission approval.

Hon DONNA FARAGHER: I should obviously know this, being a former planning minister, but can the minister tell me what is the current role of the planning commission with respect to subdivision approvals of a strata scheme?

Hon STEPHEN DAWSON: It is almost the same but we have made it absolutely clear that a strata plan or amendment of a strata plan cannot be registered until such plan has been endorsed with the unconditional approval of the planning commission.

Hon Donna Faragher: So currently that is not the case?

Hon STEPHEN DAWSON: No, it is not always clear. We are clarifying it and making it very clear that this can happen.

Proposed section put and passed.

Proposed section 16: Application of Planning and Development Act —

Hon DONNA FARAGHER: Again, I presume this relates back to proposed section 15. Is this consistent with current practice or is this a new section?

Hon STEPHEN DAWSON: While my adviser gets some further information, this proposed section clarifies that specific sections of the Planning and Development Act 2005 do not apply to strata schemes, and that specific sections of the Planning and Development Act 2005 apply to strata schemes that contain a vacant lot. That is the current position. I am advised that this provision omits a reference to section 136, and later on we have a consequential amendment to section 136 in the Planning and Development Act.

Hon DONNA FARAGHER: Without having the Planning and Development Act in front of me, what is section 136 and why has it been omitted?

Hon STEPHEN DAWSON: We do not have the answer in front of us so we will take the question on notice and provide an answer to the member.

Proposed section put and passed.

Proposed section 17 put and passed.

Proposed section 18: Planning (scheme by-laws) condition —

Hon DONNA FARAGHER: Could the minister give me an example of what a planning scheme by-law might be or might include?

Hon STEPHEN DAWSON: An example would be where a new scheme is created and the planning decision-maker may want to set aside part of the common property as visitor parking, for example.

Proposed section put and passed.

Proposed section 19 put and passed.

Proposed section 20: Approval for postponement of expiry day for leasehold scheme —

Hon DONNA FARAGHER: This comes back to the issue of the expiry day for leasehold schemes. As I understand from a previous discussion on an earlier section, if 75 per cent of the lot owners agree, then the expiry day can be postponed. I presume that they would make that resolution first and then the resolution needs to go to the Western Australian Planning Commission. Is that how it actually works? I want to know at what point the planning commission becomes involved.

Hon STEPHEN DAWSON: Again, like with the rest of the bill, it is complicated. When the owner of the leasehold scheme registers the scheme, they can include within the by-laws an option to postpone the expiry day. This also requires the consent of the planning commission. With the consent of the owner of the leasehold scheme and the planning commission, the strata company can also make a by-law that includes the option to postpone the expiry day. For the postponement of expiry day option to be included in the by-laws, the strata company must pass a resolution with at least 75 per cent of the lot owners in favour of the option, and the strata company has to serve the resolution on the owner of the leasehold scheme.

Hon RICK MAZZA: I have a question on the postponement of the leasehold. If a by-law provides for the postponement of a term, then I expect that the lessor would receive a payment for that extra time. If the lessor agrees in the by-laws to extend the term for another 10, 15 or 20 years, then surely the lessor will want compensation for that extended term and to be paid a fee. If only 75 per cent of the unit holders need to agree with that and 25 per cent do not want to pay the extra fees, what protections are there for the 25 per cent of the unit holders who do not want to pay a fee for a postponement?

Hon STEPHEN DAWSON: If the by-laws require a fee to be paid by lot owners to the owner of the leasehold scheme to postpone, the amount paid by each owner of a lot must be in proportion to their unit entitlement. If the owner of a lot does not pay, the owner of the lot can surrender the strata lease to the owner of the leasehold scheme. Those people would not be forced to pay but they would simply surrender the lot at the time of the original expiry day. For those who went on, obviously the fee would be paid.

Hon DONNA FARAGHER: Sorry, minister. Can we go through that again? With respect to the point raised by Hon Rick Mazza, is the minister saying that compensation would be payable to the lessor if the lessees, by resolution, requested that the expiry day be pushed out? Is the minister saying that compensation is payable to the lessor?

Hon Stephen Dawson: A fee is payable; it is optional.

Hon DONNA FARAGHER: Can the minister explain the fee to me, please?

Hon STEPHEN DAWSON: I am told that the fee will be set in the by-laws. Again, I will put this on the record. If the by-laws require a fee to be paid by lot owners to the owner of the leasehold scheme to postpone, then the amount paid by each owner of a lot must be in proportion to their unit entitlement. If the owner of the lot does not pay, then the owner of the lot can surrender the strata lease to the owner of the leasehold scheme. If a decision is made to postpone—if the by-laws allow it—then a fee would be required to be paid. But if the owner does not want to pay, they would surrender at the original expiry day. They would not get the extension of the postponement date. They would surrender at the original expiry day. For those who were paying the fee and wanted to continue, they would continue—they would get the benefit of the postponement date.

Hon RICK MAZZA: The fee paid to the lessor could be a long time down the track—up to 99 years. It is in the by-laws. What parameters are there around what fee can be charged? Obviously, if a fee is agreed today, in 99 years it will be pretty worthless, so there must be some mechanism around what fees can be charged that are reasonable for a postponement.

Hon STEPHEN DAWSON: I am told that it will be specified in the by-laws. The by-laws can be changed only through a resolution without dissent. Nothing specifies an amount; what is specified is that the amount paid by each owner of a lot must be in proportion to their unit entitlement. That is all we specify. We do not specify an amount, but there is a process.

Hon RICK MAZZA: What is preventing a lessor who wishes to regain possession of a leased strata lot from asking an outrageous price as a postponement fee? What protections are there for those leaseholders, if any?

Hon STEPHEN DAWSON: When an owner buys the lot in the first place, they will see the fee set out in the by-laws. It will be there, plain and simple. Those by-laws can be amended only by a resolution without dissent. The owner will know from the very beginning what the fee is, because it is set out in the by-laws, and it can be changed only by a resolution without dissent. That is the safeguard.

Hon RICK MAZZA: I have some problem with that because, as I pointed out earlier, some of these schemes can be for an extended period—let us pick 50 years, for argument's sake. The minister is saying that the by-laws, from the beginning when the lessee buys into the lease scheme, determine what the fee would be for a postponement.

Who knows what market values are going to be in 50 years, or the depreciation of money? Surely it is not locked in stone in the by-laws from day one when the lessee purchases a lot? Surely at the time that the lease is due to expire, there must be some way of determining a fair market value for a postponement of the lease?

Hon STEPHEN DAWSON: I am told that the by-laws could provide a formula in the first instance. They could also include other arrangements such as being based on an independent market valuation. The by-laws allow for both those things. The fee itself does not necessarily need to be prescribed in the by-laws. There can be a formula in there or, as I said, an independent market valuation.

Hon DONNA FARAGHER: Going back to what the minister said, if we take 75 per cent and someone is in the 25 per cent who does not agree, they would effectively give up their lot —

Hon Stephen Dawson: Surrender.

Hon DONNA FARAGHER: They would surrender; a much better word, minister. They would surrender their lot at the time of the original expiry day. I presume on that basis, with respect to the fee, that the distribution of the fee would be recalculated according to those who agree to the change to the expiry day. I presume that the 25 per cent who do not agree—I am just using that figure as a hypothetical—are obviously not going to pay a portion of the fee to postpone the expiry day. Can I get some clarity about how the fee is recalculated, if that occurs?

Hon STEPHEN DAWSON: There is no recalculation. The owner of the leasehold scheme becomes the owner of the surrendered lots. If it is 25 per cent and they decide not to continue, not to postpone, it is not the case that the 75 per cent would pay 100 per cent of the fee. They would pay only their share of it, because the surrendered lots become the property of the owner of the leasehold. No-one is getting hit for extra because somebody else decided not to participate.

Hon DONNA FARAGHER: So that I am absolutely clear, because the lot has been surrendered to the lessor, they get those back, and I presume they can do with them what they will. I will come back to that part in a moment.

Hon Stephen Dawson: The amount paid by each owner of a lot must be in proportion to the unit entitlement, but obviously the owner of the leasehold does not have to pay themselves.

Hon DONNA FARAGHER: Is that based on 100 per cent?

Hon Stephen Dawson: No.

Hon DONNA FARAGHER: Is it still covered across all of the lots?

Hon Stephen Dawson: It is covered across the lots, yes, absolutely.

Hon DONNA FARAGHER: So, there is no change there.

Hon Stephen Dawson: No.

Hon DONNA FARAGHER: All right, I have got that. What happens with the lots returned to the lessor? Let us do a hypothetical. Say there are 10 lots and two are returned. Can the lessor then sell those lots to someone else under the terms of a new expiry day? Is that correct?

Hon Stephen Dawson: That is correct.

Hon DONNA FARAGHER: I will take the interjection as indicating it is correct. If I can just go back to proposed section 20, just so I am absolutely clear about the role of the planning commission. We have gone around in a bit of a circle here, so I just want to end at the point we started. I want to be clear about the role of the planning commission. I think the minister said—but I am not sure—that the by-laws at the very beginning of the whole scheme can include the ability to postpone the expiry day. I am not sure whether I picked this up correctly, but did the minister also say that if it is not in the by-laws at that time, the initial point, then at a subsequent time the lessees or the strata company can put in place a new by-law to enable an expiry day to be postponed, and in that instance, I understand, it would then have to go to the planning commission for approval? Have I got that right?

Hon STEPHEN DAWSON: The member is correct, except a person would have to go to the planning commission in both cases. Is that clear?

Hon Donna Faragher: Yes.

Proposed section put and passed.

Proposed section 21 put and passed.

Proposed section 22: Approval under planning (scheme by-laws) condition —

Hon DONNA FARAGHER: This relates to the approval, again, under planning scheme by-laws. My question relates to local government. Could the minister give me a couple of examples of when local government would become involved?

Hon STEPHEN DAWSON: An example is when a development application is lodged. The local government may decide that an area of the common property should be set aside for, say, remnant vegetation. If the land has remnant vegetation on it and it gets set aside, that is an example.

Proposed section put and passed.

Proposed section 23: Requirement for local government approval —

Hon ROBIN CHAPPLE: I return to the point of there having to be approval by each local government. We know that the joint development assessment panels have a role in some cases of overriding local government. How is that catered for in proposed section 23, or is it not?

Hon STEPHEN DAWSON: I am going to provide that answer at the next sitting of the house. Before I ask to report progress, I want to provide an answer to Hon Donna Faragher in relation to the debate yesterday. Hon Donna Faragher asked why clause 16 deletes the reference in section 21F to unanimous resolution. The reason this has been done is that under the current act, when there is a requirement for resolution without dissent, there is usually a further statement that when the scheme is a two-lot scheme, the resolution required is a unanimous resolution. This has resulted in many provisions under the current act being unnecessarily long.

Progress reported and leave granted to sit again, on motion by Hon Stephen Dawson (Minister for Environment).