PLANNING AND DEVELOPMENT BILL 2005

Committee

The Chairman of Committees (Hon George Cash) in the chair; Hon Adele Farina (Parliamentary Secretary) in charge of the bill.

Clause 1 put and passed.

Clause 2: Commencement -

Hon DONNA TAYLOR: Clause 2 deals with the commencement of the act and proposes that the act come into operation on a day fixed by proclamation. Subclause (2) states that different days may be fixed for different provisions. I understand that it is normal procedure for regulations to be drafted after a bill has been passed; however, have any such regulations been drafted, and when are they likely to be completed?

Hon ADELE FARINA: No. The normal procedure is to draft the regulations after the bill has been passed.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Terms used in this Act -

Hon PAUL LLEWELLYN: In my second reading contribution, I talked about the need to include a definition of "sustainability". I will not talk about that at length, because I covered the field quite well yesterday. It is true that there has been a long-standing debate about the wording and meaning of "sustainability". However, there are well-established concepts. This is not something new. The word "sustainability" is commonly used by the general public. I believe that there is a general understanding in the community that sustainability relates to environmental, economic and intra-generational equity, which refers to equity between people who are currently alive. Inter-generational equity refers to equity between generations; that is, we should leave the place in a better condition than we found it.

The CHAIRMAN: Order! Before Hon Paul Llewellyn continues, the question before the Chair is that clause 4 do stand as printed. Hon Paul Llewellyn is speaking to the amendment that deals with the word "sustainable". I ask him to formally move the amendment standing in his name; he can then talk about sustainability as much as he likes, because that will be the subject that we will be dealing with.

Hon PAUL LLEWELLYN: I move -

Page 8, after line 3 - To insert -

"Sustainable" means -

(a) decision-making processes that effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;

(b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

(c) the principle of inter-generational equity applies - i.e. the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;

(d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making; and

(e) improved valuation, pricing and incentive mechanisms should be promoted.

Thank you, Mr Chairman, for providing guidance on these matters. I will probably continue to need guidance on these matters in four years.

The CHAIRMAN: I advise that it will be less courteous and more severe then.

Hon PAUL LLEWELLYN: I will go through my amendment to the definitions clause. I will read very deliberately because it adds light to this debate and does not in any way limit the application of planning legislation. It reads -

"Sustainable" means -

(a) decision-making processes -

That is what this bill is about -

> that effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;

The next paragraph concerns a very important matter -

> (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

Quite frankly, the planning bill interacts on a regular basis with environmental law, and the precautionary principle, which is what this alludes to, should stand. In other words, if a person is 80 per cent sure that something will happen, he does not have to wait until he is 100 per cent sure and the damage has already occurred. The precautionary principle is the one assurance that the next generation will not inherit the damage caused by this generation and that, in fact, is the basis for reviewing decisions.

I can see why the government would be unhappy to put a definition like this into planning legislation. It holds it accountable on the 80 per cent; that is, if it is 80 per cent sure that each year it will do something bad or good, then it should assume a precautionary approach.

The next paragraph of my amendment cannot be disputed. Planning is about the future; the next generation's rights to have the benefits and enjoyment that this generation has. It states -

> (c) the principle of inter-generational equity applies - i.e. the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;

That is not something that any planning bill should shy away from. The next paragraph reads, and again it relates to conservation -

> (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making; and

Quite frankly, there is no future without ecological integrity, and there should be as a first principle of any planning legislation the intellectual integrity to bring forward these principles and put them into the books.

The final paragraph of my amendment reads -

> (e) improved valuation, pricing and incentive mechanisms should be promoted.

What this alludes to is that very often no value is put on the environment, ecological services or amenity, for example. In this case it seems quite inappropriate that the government should shy away from adopting a definition of sustainability that has been used in federal statutes, and has been cross-referenced into a number of state statutes. Indeed, it is a definition that we should embrace in this statute. In fact, if we do not embrace it now, we will be compelled to do that at a later date.

Hon ADELE FARINA: Hon Paul Llewellyn's amendment derives from the definition in the commonwealth Environment Protection and Biodiversity Conservation Act of "ecological sustainability", which primarily focuses on the environmental impacts. We believe it is far too narrow, particularly for a planning bill. The government regards sustainability as a more ambitious and positive statement, with genuine integration of economic, environmental and social impacts; not one that simply focuses on environmental impacts.

For the reasons I outlined in my reply to the second reading debate, it is not appropriate to be rushing in a definition of "sustainable" at this late stage after a very extensive consultation process, and for which there is not agreement on the actual definition proposed. For that reason the government will oppose the amendment.

Hon PAUL LLEWELLYN: I am delighted to hear that the government is on a campaign to have an ambitious sustainability agenda. That is something the Greens (WA), as members know, have pioneered and have perhaps seeded the idea. We have a very good understanding of what it means to actually promote sustainability in this state, because we have put that issue on the agenda.

We are operating under a precautionary principle when we propose that it be included in this legislation. I challenge the concept that somehow this proposal for sustainability will narrow the debate. Paragraph (a) of my amendment states that "sustainable" means decision-making - decision makers are involved in framing this legislation - processes that effectively integrate both long-term and short-term economic, environmental, social and equitable considerations. Where is the lack of scope in that? Perhaps the minister will tell me by way of interjection - I have learnt this technique - where this lack of scope is in the economic, environmental, social and

equitable considerations. It is true that this has been taken out of a federal statute. By using the federal statute, the Environment Protection and Biodiversity Conservation Act, we are saying that there can be no economy or social order without protection of the environment. The two systems cannot be separated. It is staggering that in 2005 we are still having a kicking and fighting argument on the suggestion that we should separate the concept of ecological integrity and sustainability from social and economic sustainability. There is no economic economy without ecology. It is a fundamental principle. We live in the natural environment and we live within natural services.

Every single planning decision that is made under this legislation interacts with ecological services. When people put forward a subdivision to increase from one to two the number of houses on a quarter-acre block, that has atmospheric implications, it will require water, services, materials and energy. All those services are ultimately derived from the environment and ecological integrity, and we are experiencing this right now. We are experiencing a massive expansion in the metropolitan region at a time when there is a depletion of water resources. I argue that the reason we are expanding our ecological footprint and exceeding the capacity for free ecological services to be provided by the environment is that we lack planning integrity, because we do not have this definition in our statutes. We would not be having this argument about whether there is enough water for Perth if this provision were in our statutes and if the planning authorities had to take into account this and future generations. We would not be having the transport crises that are emerging as a result of increasing petrol prices if planning agencies had to take into account the fact that we cannot rely on there being cheap oil forever. We cannot rely on there being resources to build railway lines and roads to provide that water infrastructure in the future. We cannot rely indefinitely on those services being available. The materials, the energy and the water are derived from ecological services and from the environment.

There is a concept called carrying capacity, which relates to the capacity of any system to accommodate an activity; in this case it is the number of houses per square metre and the requirements for servicing them. We are exceeding the carrying capacity of the Swan coastal plain and the south west region as we speak. Even though only 1.8 million people live within that precinct, we are exceeding its carrying capacity. Of all the places in the world, Western Australia is very well endowed with natural assets. In nearly 200 years a small group of people has managed to exceed the carrying capacity of their own regional system. That is why we need a sustainability clause in a planning and development bill. There is no excuse. It is a lame excuse for the government to say that it is difficult to define and that it will set an ambitious target. Give me a break! This community, the society and governments have had many years to come to terms with the fact that we are exceeding carrying capacity. The government says it will produce a sustainability strategy that has no teeth, that has no targets and that has no absolute commitment to winding back our ecological footprint.

Underpinning the reluctance of governments and government agencies to embrace this definition is their reading of "sustainability" as "liability". They think it will cost us; they think that investment in efficiency will cost us. However, we know that better and more sustainable intelligent design of the cities will not cost us - it will save us. This is a responsible inclusion in a planning and development bill. It is not irresponsible and ambitious.

Frankly, I have just hit on it! This is an ambitious amendment. The government's agenda is not ambitious. The government's agenda is in fact small-minded and shrinking. This amendment is the ambitious target or the reference point - that is, responsibility to combine long-term and short-term economic, environmental, social and equitable considerations - and the government is shrinking from that, not embracing something bigger. It is dishonest of the government to come into this house with the notion that it will put this aside and come up with something more ambitious.

Okay, my heart has stopped racing. This is not just a matter of intellect; this is a matter of moral integrity and responsibility. I have been an activist in the south west region for 30 years and I have seen the systematic depletion of the capacity of that region. Thirty years ago I completed my first degree in environmental science and biology, and then we were talking about exceeding carrying capacity. The Greens do not have many resources in this house. It would be much better if Hon Giz Watson were sitting next to me today and we could have a division on this matter. Perhaps someone will support a division. That is what happens. We have not had the capacity to give this matter adequate consideration, and I have nine seconds left to say that this one -

Hon Simon O'Brien: You can get up again.

Hon PAUL LLEWELLYN: How do I do this?

The CHAIRMAN: You just keep speaking. I will ask the question again. Other members may wish to speak.

The question is that the words proposed to be inserted be inserted.

Hon DONNA TAYLOR: While the opposition has some sympathy for the propositions put forward by Hon Paul Llewellyn, for the reasons outlined by the parliamentary secretary, the opposition does not support the

amendment. The opposition believes that the bill sufficiently covers the notion of sustainability. I think - I stand to be corrected - that state planning policy 8 and its framework of general principles cover the area of sustainability. On that basis we will not support the amendment.

Hon PAUL LLEWELLYN: Now I will come clean. I cannot get hold of Hon Giz Watson, and that is fine. She is off doing very important parliamentary business, as members can imagine.

Hon Ljiljanna Ravlich: I know where she is.

Hon PAUL LLEWELLYN: The honourable member could go and call my colleague. Otherwise, I could put out a challenge. I have no idea of the protocols of this house, but I will put out a challenge that somebody else support this division. How do I do this? I will be on my knees praying that somebody else will support this division. It is not absolutely essential, but I will go one more time to the substance of this proposal.

Hon Donna Taylor said that somehow the concept of sustainability is adequately dealt with in this bill. I cannot see that. I say again that I think it is not ambition but shrinking that is driving the proposal to vote against such an eminently sensible amendment to a planning and development bill. On that basis I will sit down.

Hon ADELE FARINA: It is important for me to reiterate one more time that the government has a strong position on sustainability. In fact, no government has done more on sustainability than this government.

Hon Paul Llewellyn interjected.

Hon ADELE FARINA: It simply is the case. The bill recognises sustainable land use and development. As passionate and as strong as this government is on the issue of sustainability, it is equally strong on the issue of consultation and bringing stakeholders with it. It is simply inappropriate at this late stage of the debate to try to introduce an amendment of this significance without having undertaken a proper consultation process. Members must also recognise that this is a consolidation bill, and major amendments simply do not form part of a consolidation bill.

The definition that the member has moved forms part of the commonwealth environmental legislation. Although the first paragraph refers to economic, environmental, social and equitable considerations, the following paragraphs qualify that on the basis of environmental considerations. I am sure that many stakeholders in the community will have a contrary view on an appropriate definition of "sustainability". I reiterate that we have not had consultation and we do not have the agreement of all stakeholders on this definition. The government is going through a separate process with the exposure draft of the sustainability bill to address this very issue. It is simply inappropriate and premature to introduce such an amendment at this point.

With regard to the comments of Hon Donna Taylor about the statement of planning policy on sustainability, yes, it is statement of planning policy 8. However, it has been renumbered to statement of planning policy 1 to ensure that it has prime position in the hierarchy of the policies of the government. I reiterate that the government will not support this amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 5 to 9 put and passed.

Clause 10: Membership of board -

Hon PAUL LLEWELLYN: I refer to you as Mr Chairman in this case.

The CHAIRMAN: Correct. If the member wants to discuss his amendment rather than the generality of the clause, he should, in the first instance, move the amendment standing in his name. Then he can talk about why he wants to insert certain words.

Hon PAUL LLEWELLYN: I move -

> Page 11, line 18 - To insert after "fields of" the words "sustainable development".

I have a series of amendments on this issue. The amendment relates to the membership of the board of the Western Australian Planning Commission. Sustainability is not mentioned in the criteria for eligibility to be a member of the Western Australian Planning Commission. Even though one of the purposes of the board is to promote sustainability, there is no mention of it. If this amendment were agreed to, the subparagraph would then provide that one member is to be a person nominated by the minister as having practical knowledge of and experience in one or more of the fields of sustainable development, environmental conservation or natural resource management. That will expand the purpose of the Western Australian Planning Commission to include somebody who has specialised knowledge and understanding of sustainable development. Academic courses at certain universities run sustainability agendas. We have had that debate. The state sustainability strategy had a

very big debate about what it means. Now is the time to put it at the forefront as part of the machinery of the decision-making process that we use to determine planning and development for the state. It is a simple matter. However, sustainable development has been left out. Why has it been left out? Why is sustainable development not an explicit criterion in the selection of members of the board? There are people who represent the interests of regional local governments, metropolitan local governments, coastal management - which is a good thing - property development and urban and regional planning, the clutch of financial and business fields, environmental conservation, resource management and heritage. However, if we want to give legs to the purposes of the act, we need people on the board who are trained academics and who are intellectually across the concept of sustainable development. I will not say that this is all too hard. I am the person who will take a stand for intergenerational equity and for the carrying capacity of the systems. I am not just a person who is interested in the environment as a tree-hugger or whatever.

Hon Ljiljanna Ravlich: Like you used to be.

Hon PAUL LLEWELLYN: I have hugged a couple of trees. The minister should be careful.

Hon Ljiljanna Ravlich: Was it good for you?

Hon PAUL LLEWELLYN: It was really nice. The minister is very naughty. I am not a person who has a single interest in a particular species, but a person whose conceptual framework is sustainable development. I have a background in regional planning, economics and environmental science. It is a pity; the minister has got me. I do not know how to do this and I will need help. The reference to heritage interests should be removed from that clutch of requirements and placed in the provision on community and heritage interests. We tend to regard heritage interests as the built environment. There is evidence throughout the act that when we refer to heritage interests, we are not talking about natural heritage or our heritage of natural systems; we are talking about the heritage of the built environment.

The CHAIRMAN: At the moment the committee is dealing with amendment 7/10, which seeks to insert the words "sustainable development". We must dispose of that question before we move on to consider the member's further amendments, one of which deals with the deletion of the words "heritage interests". We cannot confuse the insertion of the words "sustainable development" with the deletion of further words.

Hon PAUL LLEWELLYN: Respectfully, I was trying to expedite the process by rolling them all into one, but I will not do that.

The CHAIRMAN: It is not a case of expediting the process. They are separate and distinct questions, and they must be dealt with separately so that members can make up their minds on the specific amendments. The member can generalise, and that is what he has done per se to this point. However, we must dispose of the amendment to insert the words "sustainable development" before we move on.

Hon PAUL LLEWELLYN: In short, the Greens (WA) propose that a member of the Board of the Western Australian Planning Commission be chosen explicitly for his or her experience and knowledge of sustainable development, , among other qualifications. Had the Greens' amendment been accepted, sustainable development would have been defined and, therefore, its meaning would have been clear. As the bill stands, we only think we know what it means. Nonetheless, the Greens' amendment would be a sensible contribution to the legislation.

The CHAIRMAN: Hon Paul Llewellyn has moved -

> Page 11, line 18 - To insert after "fields of", the words "sustainable development".

A comma must be included after the word "development" in the member's amendment.

Hon ADELE FARINA: I am a bit confused by the member's amendment. This legislation seeks to add an additional three members to the board of the WA Planning Commission . One member will represent economic development views, another will represent environmental perspectives and the third will represent social views. The member's amendment will narrow the objectives of the bill. The three elements of sustainability will be covered with the addition of three members each representing one of those areas. In addition, the totality of the membership of the WA Planning Commission board will comprehensively cover sustainability. For those reasons the government will not support the amendment.

Hon DONNA TAYLOR: The opposition does not support this amendment; we feel it is unnecessary. Given that a person to be appointed will have knowledge and experience in one or more fields of environmental conservation and natural resource management, we believe they will also have knowledge of sustainable development.

Hon PAUL LLEWELLYN: The danger is that we are making a lot of assumptions about whether people have specific knowledge of sustainability. My amendment will not narrow the bill's intent; it will expand it.

Sustainable development is a formal, recognised area of academic inquiry. We should not shrink from the opportunity of including on the board someone with that capability. It is generally true that people who have environmental, conservation and resource management experience may also have this unique capability of providing policy frameworks on sustainable development. The government's rejection of the amendment indicates its desire to continue to fragment the way in which we think about sustainability. That is why planning and development has ended up in the pickle it is in. The state government has an extraordinary sustainability agenda! It has taken quantum leaps towards reducing the ecological footprints of Western Australians; the fact that Western Australia has expanded its emissions profile by about 75 per cent over the past five years is evidence of that! I say that with my tongue planted firmly in my cheek. However, we are fragmenting the analysis and compartmentalising the way in which we think about the environment and about economic sustainability. The government has fallen into the very same trap that it claims it is getting itself out of. Its attitude is to deal with just the environment, then just the economy and then just society. However, with an agenda of sustainability, we must take up the challenge of integration. It would be beneficial to appoint someone to the board who could take up the challenge of integration. Sustainability is one criterion among a number of criteria. If a person is appointed whose perspective is sustainability, given the purpose of the bill, it will change the character of the WA Planning Commission. Clause 14 provides for the functions of the commission, and reads -

> The functions of the Commission are -
>
> (a) to advise the Minister on -
>
> (i) the coordination and promotion of land use, transport planning and land development in the State in a sustainable manner;

Let us bury our heads further in the sand by rejecting this amendment! Eventually that approach will catch up with the government and it will get the message, as it has on many moral issues, including hugging trees. Moral integrity, not fragmented analysis, and the very good sense of following integrated thinking will lead to better planning. I cannot help taking this stand. I come from a discipline of economic regional planning. It makes no sense to me to fragment the way in which a board membership is compiled that must give guidance to the minister, without even one member being appointed who can perform the role of an integrator. The government is shying away from that approach rather than embracing it. The government proposes that the board membership will include both a country and a city member. Why? They clearly have differences, and that could be reasonable. However, that different representation will fragment the views on the board by involving not one community but two. The board will include members who represent environmental aspects, social views and economic perspectives. They all have competing interests. However, country people, metropolitan people, the environment and social and economic issues should not be regarded as competing interests. They should have one purpose; namely, to move forward with integrity for this and future generations. That is what planning is about. The parliamentary secretary can argue cogently that my amendment seeks to narrow the field, is irresponsible and somehow would cramp the government's style. That is nonsense, and the government will eventually realise that. The board would benefit from the appointment of an integrated thinker. Without such a person, it will comprise tree huggers, rampant developers, a rabid city dweller and a rabid country dweller, who will end up fighting because they will have no common purpose. Neither their roles nor sustainability are defined. The composition of the board that the government proposes will set up board members to fight for their own patch. The tragedy of parliamentary institutions is a consequence of parliamentary democracy, which enables people to play their differences against each other. Although differences are good, fighting over them does not foster integrity and forward thinking. That is why the vote in this chamber ends up being split three ways, and the Greens find themselves in between the left and right parties. The Greens do not see themselves as either left or right but as a party whose thinking is streets ahead. In saying that, I am showing some minor arrogance. However, I am afraid that is why the Greens are in this place. They are here to put on the agenda integrated thinking about the future - economic, social and environmental - for this generation and the next generation and for the country and the city. The government must think about that or perish. I appreciate that the Labor government has a social and an environmental agenda in its sustainability strategy. However, those agendas tend to compete against each other.

A professor from the Doshisha University, Kyoto, visited Western Australia and said that he wanted to see our sustainability strategy. He asked me to show him around it and explain how it works. I said, "It's a great document. It's like background music." The sustainability strategy is like background music: we do not notice it after a while, and we all get on with doing the job. The virtuoso of business goes off in one direction, the environmentalists pull in another direction, and the social activists who support mental health and justice issues pull in another direction. They are all fundamentally interconnected. Professor Wada walked away feeling very despondent about my view of the sustainability strategy. We could not point him to a coherent set of structures

that were giving the sustainability strategy legs. On my part, it was an embarrassment to have to disclose to him that we had a great document but a government that is running rampant in one direction and increasing the economic, social and environmental liability of this community. We are exposing this community to massive environmental, economic and social liabilities because we are not prepared to put in place sustainable integrated thinking. This is close to the heart of the Greens, so we must put it on record and have the debate. It is not about saying that people are wrong; it is about moving forward in the hope that some of what we are saying in this place will have an impact on what the government and the opposition think about where we are going. I would like at least one person in the WA Planning Commission to have the role of integrating the thinking for the long-term future of Western Australians.

Amendment put and negatived.

The CHAIRMAN: Amendments 8/10 and 9/10 are on the supplementary notice paper. I say to Hon Paul Llewellyn that there is no need to move amendment 8/10, because if amendment 9/10 is successful, amendment 8/10 will be a Clerk's amendment. It is quite proper that it is listed on the notice paper because that signifies an intent, but that will be handled by the Clerk, to make sure the subparagraph is grammatically correct, if amendment 9/10 is carried. If Hon Paul Llewellyn wants to move amendment 9/10, I will give him the call.

Hon PAUL LLEWELLYN: I move -

> Page 11, lines 19 and 20 - To delete "or heritage interests".

This is a good education for me. Without the resources that are available to both houses of Parliament, I constructed all these amendments myself, with the aid of 0.2 of a staff member. I put in the commas and full stops -

Hon Barry House: We get the same resources as you do.

Hon PAUL LLEWELLYN: I know it is hard for opposition members, but there are so many more of them. However, that is another matter. We are working on that. We have had a little setback lately, but we are working on that matter.

The CHAIRMAN: I say to Hon Paul Llewellyn that the amendments listed on the notice paper are in a proper form. It is just a matter of procedure that there is no need to move amendment 8/10, because that will be dealt with should amendment 9/10 be carried.

Hon PAUL LLEWELLYN: I follow that. I was actually having a whinge, and that is unfortunate. The Greens' amendment would move "heritage interests" into the part of the bill that deals with the built environment and social matters. Heritage interests tend to be defined entirely in terms of the built environment. We think of heritage, and we think of this building and the built environment and cultural environment. That is how we frame heritage in common language. It seemed reasonable to put it into that clutch of requirements of people who represent social and built environments. I will not go into that at length. My honourable colleague has just walked into the chamber and has missed all the votes, but that is okay, because members were very gracious and did not support our amendments. We have defined heritage interests in terms of the cultural and built environment, and not in terms of natural heritage. To my mind, and in the mind of the Greens, natural heritage fits into the other area of the bill. That is why I moved that amendment. I suspect that someone will talk against that and we will lose the vote. However, that is okay; we will have a go.

Hon ADELE FARINA: Hon Paul Llewellyn is reading subparagraph (vi) as dealing with the built environment. That is not my reading of it and is certainly not the intent of it. It really refers to the provision of social and community services. It is the government's view that the issue of heritage interests does not fit best in that subparagraph and that it fits more appropriately where it currently sits in subparagraph (v), because heritage is more closely aligned with environment. I would have thought that the protection of environmental heritage would be dear to the member's heart. We are playing semantics to a large extent in that we are covering the issue of heritage either way. The member wants to align heritage to the built environment; we want to align it more to the natural environment, and we believe it sits there more appropriately. Therefore, for those reasons, we will not support the amendment.

Hon DONNA TAYLOR: For the reasons outlined by the parliamentary secretary, the opposition does not support the amendment. We are happy with "heritage interests" being placed in subparagraph (v). We believe that is the most appropriate place.

Amendment put and negatived.

The CHAIRMAN: We now move to the next amendment standing in the name of Hon Paul Llewellyn; that is, amendment 11/10. The reason I say amendment 11/10 is that amendment 10/10, while properly listed on the notice paper, will become a Clerk's amendment if amendment 11/10 is carried.

Hon PAUL LLEWELLYN: I will not proceed with that amendment, because, clearly, it is all part of the previous debate. We can move on.

The CHAIRMAN: Amendments 10/10 and 11/10 will not be moved.

Clause put and passed.

Clauses 11 to 14 put and passed.

Clause 15: Powers -

Hon DONNA TAYLOR: I will refer to two parts of the clause. Subclause (2)(f) states -

> on terms and conditions approved by the Minister and the Treasurer, participate in any business arrangement and acquire, hold and dispose of shares, units or other interests in, or relating to, a business arrangement;

Subclause (4) states -

> For the purposes of subsection (2)(f) the Minister and the Treasurer may approve terms and conditions in respect of a specific business arrangement or class of business arrangement or in respect of business arrangements generally.

I seek some clarification with regard to accountability. Although there is an approval mechanism involving the Treasurer and the minister, will these business arrangements be required to be included in the annual report?

Hon ADELE FARINA: The provisions have not changed; they are identical to the current provisions. Under the Financial Administration and Audit Act, the WA Planning Commission is required to provide financial reporting as part of its annual report, so that would happen as a matter of course. Whether the level of detail that the member is seeking would be explicit in the annual report, I am not sure; it may not be. However, it would certainly be possible to access that information if required.

Clause put and passed.

Clauses 16 to 20 put and passed.

Clause 21: Secretary -

Hon DONNA TAYLOR: Will the secretary always be required to be a public servant?

Hon ADELE FARINA: Currently the secretary is a public servant. Under these provisions the secretary may be a public servant but will not be required to be a public servant.

Clause put and passed.

Clauses 22 to 24 put and passed.

Clause 25: Continuation of statements of planning policy -

Hon BARRY HOUSE: I did not get a chance during the second reading speech to raise the issue of state planning policies. In the south west region we are very familiar with state planning policies and region schemes, because they have been widely used in recent years. There has been some controversy about the Leeuwin-Naturaliste Ridge Statement of Planning Policy, because when the draft policy was released it was referred to by the various authorities during planning applications as though it were the adopted policy. That was challenged in various quarters. However, the problem was that although the challenges were investigated, time went on and the SPP was finally gazetted, and by that stage the applicants felt that they had been done an injustice because the provisions in the draft SPP had been used to counter the proposal that they had put forward in their planning application. I ask the parliamentary secretary to comment on that.

Hon ADELE FARINA: Clearly a draft statement of planning policy does not have the same weight as a statement of planning policy that has been gazetted. However, once a draft statement of planning policy has gone out for public comment, the WA Planning Commission, its committees and the tribunal are able to give due consideration to that policy. Therefore, even though a draft statement of planning policy does not have the same weight as a statement of planning policy that has been gazetted, it is a relevant consideration.

Hon BARRY HOUSE: The parliamentary secretary used the words "give due consideration to". From my understanding, a draft statement of planning policy is not a legally enforceable document. Therefore, how much weight can be given to a draft statement of planning policy?

Hon ADELE FARINA: That is a difficult question to answer, because it will depend upon the circumstances of the particular case. The member is right; a draft statement of planning policy is not a legally enforceable document. However, the particular weight that may be given to that draft document as a relevant consideration

will depend upon the circumstances and the nature of the rezoning or matter being dealt with. Therefore, it is not easy for me to answer that question in the abstract.

Clause put and passed.

Clause 26: Preparation of State planning policy -

Hon DONNA TAYLOR: Subclause (1) provides that the commission may, with the approval or on the direction of the minister, prepare state planning policies. I understand that this is a new provision, because this is the first time the minister has been given the power to direct the commission to prepare a statement of planning policy. Why has that change been made?

Hon ADELE FARINA: Hon Donna Taylor is correct; this is a new provision. This provision enables the minister to direct the WA Planning Commission with respect to the preparation of statements of planning policy. However, under section 18 of the current legislation, the minister can generally direct the WA Planning Commission in any event. Therefore, we are not introducing anything particularly new; we are just making it clear that it can apply also to the preparation of statements of planning policy.

Hon DONNA TAYLOR: My next question also relates to the preparation of state planning policies. In my second reading contribution, I mentioned that concerns had been raised with me about how state planning policies are becoming more specific than they used to be. Will the parliamentary secretary explain - she might have mentioned this in her summing-up of the second reading debate and I might have missed it - whether there are any constraints on the way these policies are developed? How specific can the policies be? Are there any guidelines to that effect?

Hon ADELE FARINA: Clause 27 limits the scope of what can be dealt with in SPPs.

Hon DONNA TAYLOR: Concerns have been raised with me that rather than being broad principles, the policies sometimes stipulate specific guidelines.

Hon ADELE FARINA: Clearly, the limitations set out in clause 27 do not extend to the matter raised by Hon Donna Taylor. However, it is important to appreciate that when we develop statements of planning policy, we go through an extensive consultation process. Depending on the nature of the matter that we are dealing with, it may be appropriate to go into more detail than would otherwise be the case for other areas of planning policy. There is no specific limitation. It very much depends on the subject matter and what results from the consultation with stakeholders.

Clause put and passed.

Clauses 27 and 28 put and passed.

Clause 29: Approval of Governor -

Hon DONNA TAYLOR: Subclause (1) reads, in part, that the Governor may approve a state planning policy "with or without such modifications as the Minister may recommend". That provision may already apply in the existing legislation. What types of modifications can be made by the minister? Perhaps the parliamentary secretary can provide some examples.

Hon ADELE FARINA: That provision is not new and is contained in the existing legislation. My advisers cannot recall an instance in which the minister has modified a statement of planning policy as suggested by the clause; therefore, I am not able to provide a specific example. To date, modifications that have been made to draft statements of planning policy have been made as a result of the consultation and submission process.

Clause put and passed.

Clauses 30 to 32 put and passed.

Clause 33: Planning schemes continued -

Hon BARRY HOUSE: Part 4 of the bill includes clauses 33 to 67 and deals with region planning schemes. In the south west region, the Peel region scheme has been gazetted and the greater Bunbury region scheme is a work in progress. These have been and continue to be somewhat controversial. What are the boundaries of the metropolitan region scheme under the Metropolitan Region Town Planning Scheme Act 1959? Do they include the Peel region scheme, and will they include the greater Bunbury region scheme - if and when it is gazetted - and subsequent region schemes?

Hon ADELE FARINA: The boundaries of the metropolitan region town planning scheme are defined in the Metropolitan Region Town Planning Scheme Act. The consolidation of these bills will not change those boundaries. The existing boundaries for the metropolitan area, the Peel region and the greater Bunbury region will not change at all.

Hon BARRY HOUSE: Will the parliamentary secretary confirm whether the metropolitan region improvement tax, which is applied to metropolitan boundaries, will not be applied to the Peel region scheme, the greater Bunbury region scheme and subsequent schemes?

Hon ADELE FARINA: I am very happy to confirm that that is the case. The moneys that have been made available for the purchasing of properties in the Peel and greater Bunbury regions have been made available through the consolidated fund.

Hon BARRY HOUSE: Therein lies a problem, because the planning process is proceeding without any in-built mechanisms for compensation for the impact on private property, land resumptions, purchases and so on. The allocation of a certain amount of money from the consolidated fund has occurred at the whim of the government. As the parliamentary secretary knows, compensation is a major issue in the two schemes to which I referred. The issue of compensation is viewed differently by different people and depends on the direction from which a person is coming. I must admit that I have a great deal of sympathy for private property owners in this argument, because they are pitted against the might of the government, which is a very difficult exercise. They have not asked for their properties to be rezoned, which is the effect of a region scheme. They want the current zoning, which allows for the usage of their properties, to continue to be applied. They place a different value on their properties from that offered by the new zonings. The most contentious new zonings are environmental zonings, in which the public can deem that a particular area be resumed into a scheme for environmental purposes, whether it be zoned wetland, regional open space or remnant vegetation. Many of those zonings are quite legitimate, and I do not dispute that, but many of them are not. The process does not deal very efficiently with this. Most private property owners who are impacted upon usually end up paying the price for what is deemed necessary in the public good. There has to be a better mechanism through the planning laws to deal with this. I know this bill is the planning framework and for that reason we should be talking about these things.

A lot is still to be played out with the greater Bunbury region scheme and some very contentious issues have been raised about the impact of this region scheme upon private property owners. Over the years we have done a lot of work in this Parliament to open up the issue for examination. Regrettably I have not seen the result of any of that work coming through in legislation. I live in hope that one of these days the ground rules that determine our planning laws will be reconsidered to take fairer account of the way in which private landowners are affected by a regional planning scheme, in this instance, other planning mechanisms and government actions across the board.

Will the parliamentary secretary give the chamber the current timetable relating to the greater Bunbury region scheme? Various bits and pieces have been happening over the last months, but I am interested in the current timetable for that scheme.

Hon ADELE FARINA: Answering the last question first: we expect the greater Bunbury region scheme to be introduced into Parliament at the end of this session. Maybe we are a little optimistic, but that is the expectation of the time frame we are working to.

I refer now to the issue the member raised about compensation for properties that are impacted upon by rezonings under region schemes. I do not think the member is suggesting that we should extend the metropolitan improvement tax mechanism into the country region scheme. Anyway, it would be ultra vires the act to do that.

The member mentioned the need for a pot of money to be available for the payment of compensation. There is, and it is made available through the consolidated fund. The government has clearly said that when a landowner's property is impacted upon by rezoning under a region scheme, the landowner can approach the government for voluntary acquisition of that property. The government has come to an arrangement whereby it will pay the market value for the land prior to the change in the zoning proposed by the region scheme, plus five per cent. That five per cent is not required by statute; it is something that the government has offered in addition to the market value following some of the issues that have been raised in consideration of the greater Bunbury region scheme. With regard to compulsory acquisitions, the landowner will be paid the market price plus 10 per cent. The member's concerns about money not being available do not have any basis. Clearly, the government has made a commitment, and when it has been approached by landowners wanting it to acquire their property, that has happened immediately following agreement on the value of the property. There really is no issue there.

The member raised an issue about wetlands, and that deals with the draft wetlands environmental protection policy in circumstances in which that wetland may not have been picked up under the region scheme as a recreation reservation. That raises the question of how that landowner goes about being compensated. That issue is outside the scope of this bill and, therefore, it cannot be addressed today.

Hon BARRY HOUSE: The minister raised a couple of points. Hon Donna Taylor referred in this debate to the committee's report, which I am sure members are familiar with. One of the recommendations of that report was

to look at changing, by way of legislation, the compensation provisions in the planning area to bring them into line with the compensation provisions of the Land Administration Act. This bill provided the opportunity to do that, but it is not to be. I would certainly like to see those changes implemented at some time down the track. The parliamentary secretary explained the difference in the compensation provisions. For compulsory acquisitions, the compensation is based on land value, plus 10 per cent. Under the current provisions of the region scheme, the compensation is based on market value, plus five per cent. Often there is an argument about market value and how the government did not have to offer the additional five per cent, and that is the point of contention with a lot of people. It is at the whim of the government whether that premium - if we can call it that - is or is not paid. The fact that the compensation provisions are made under this scheme, whereby the government makes an allocation from consolidated revenue, rather than having an in-built mechanism - for example, through the metropolitan region improvement tax, whereby money is generated to meet that need - means that the individual is pitted against the might of government. That may not seem to be much of a problem for government administration across the board, but it is a major problem for an individual landowner who is faced with this situation. It can become a serious situation for which there is not a clearly established process for generating funds, as is the case in Perth with the metropolitan region improvement tax. In this case there could be some argy-bargy between the planning minister and the Treasurer about allocating money. The Treasurer of the day might be mean and nasty and decide Treasury will not allocate anything from consolidated revenue to this exercise and so the battle begins at that level. Of course, the battle is a real battle for the individual landowners who have to fight the planning authorities, and they often feel that they have to fight everyone else as well.

The other point is that although the wetlands policy is not directly related to this legislation, it will come into play at the same time as the regional planning scheme's extension. The landowners feel they are being hit with a double whammy, and many of them are. That is the point of contention, and the regional planning schemes are playing their part in that. I am merely flagging that I would like this Parliament to consider these issues and bring them forward in legislation. Throughout our committee's deliberations we became aware of lots of individual cases in which there was contention between the individual and the state. We have a lot of sympathy for some of those individuals. When there is not an established mechanism to deal with that matter it is a problem, because it becomes a decision for the minister of the day, and that is not necessarily the best way to deal with an issue. The greater issue is compensation. Many people feel aggrieved when their land is identified in the interests of the public good, whether it is for open space, recreational or environmental purposes, or for roads and railways. They feel aggrieved that they are not being fairly, justly and adequately compensated in a timely manner. The regional planning schemes have a major role to play in that scenario.

The DEPUTY CHAIRMAN (**Hon Ken Travers**): Before giving the call to the parliamentary secretary, I inform the chamber that, in view of the President's earlier comments, my preference is to be referred to as either Mr Deputy Chair or Mr Deputy Chairperson.

Hon ADELE FARINA: Thank you, Mr Deputy Chair. At the public meetings I stood beside Hon Barry House on this issue, and I am sure we have met with the same constituents. It is an issue that we both know very well. I do not think it is correct to say that landowners are being adversely affected because an improvement tax does not apply to the Peel and greater Bunbury region scheme. If we had gone through that process, sufficient money would not have been available immediately within those funds to pay out landowners who were affected and who wanted to be bought out immediately. Making the money available from consolidated revenue and having a cabinet decision that enabled access to those funds from consolidated revenue has opened up a much larger pot of money. Voluntary purchases are done at the time the landowner decides that he wants to sell the land to the government. There is a timing element over which the landowner has some control. As to the amendments that the member is suggesting at this time, the bill is very much a consolidation bill and the sorts of amendments suggested would be considered major amendments. It would not be appropriate to consider them at this time. The government takes on board the issues that the member has raised and at some future stage when it is amending the consolidated act it will look at them in greater detail. I believe that the government has gone quite a way towards addressing the concerns of landowners with the various measures that it has introduced through the consideration of the greater Bunbury region scheme.

Hon BARRY HOUSE: Mr Deputy Chair, it sounds as though you should have four legs -

The DEPUTY CHAIRMAN: I was lobbied by members to go for the title "Chairwoman" on the basis that these terms are non-gender specific, but I do prefer "Chair" or "Chairperson".

Hon BARRY HOUSE: Mr Deputy Chair, this is my last point. What proposals are in the pipeline for the extension of regional planning schemes in this state? Is there a time frame attached, who is the next cab off the rank and what are the procedures for rollout of the regional planning schemes in the near future?

Hon ADELE FARINA: The commission has not resolved at this time to consider any other regional schemes.

Clause put and passed.

Clauses 34 to 52 put and passed.

Clause 53: Approval of Governor -

Hon GEORGE CASH: Subclause (2) states -

> The Governor may approve the scheme or amendment with or without such modifications as the minister may recommend and the Governor thinks necessary to make and the Governor is by this subsection authorised to make such modification.

Clause 29 also contains a provision dealing with the approval of the Governor and it also deals with the capacity of the Governor to make certain modifications. Can the parliamentary secretary explain to me the public policy behind the Governor having the capacity to make modifications to a scheme? Is there some special public policy that requires the Governor to be involved and are there any other acts that the parliamentary secretary is aware of that enable the Governor to make modifications to schemes, regulations etc?

Hon ADELE FARINA: This provision reflects the current provision in the legislation as set out in section 33(3)(i). My instructions are that that was simply the style of drafting when the provisions were drafted. There was no real policy objective or any mischief that was sought to be addressed; it was simply a style of drafting and it has continued. To the best of my knowledge, the Governor has not, to date, exercised that power. I do not know whether that same provision applies in other acts, but that does not mean that is not the case.

Hon GEORGE CASH: The parliamentary secretary said that this follows the existing legislation and it has been picked up and included in this legislation, but there does not seem to be any explanation of the public policy behind it. The parliamentary secretary did say that at this stage she was not aware of the public policy, but could she endeavour to find out why, in planning law, it is necessary for the Governor to be empowered to make modifications, given that the office of Governor is not usually drawn into these matters; that is, matters in which the Governor, of his own volition, is able to make modifications generally to either schemes or other matters? What is the public policy behind this matter, given that the Governor, as I understand it, would not claim to be an expert in planning matters or planning law? By way of an aside, I did suggest to Hon Paul Llewellyn that perhaps he should lobby the Governor about the question of sustainable development, if the Governor has the capacity to make modifications.

The DEPUTY CHAIRMAN (Hon Ken Travers): I hope that Hon George Cash was not reflecting on the Governor in his comments!

Hon George Cash: No. I said it as a humorous aside - humorous to some!

The DEPUTY CHAIRMAN: That is the way I interpreted it, and Hansard can now be sure that that was the case.

Hon ADELE FARINA: I understand that under the Interpretation Act, the Governor has the power to act on the advice of the Executive Council. A situation may arise in which a minister makes a decision but the Executive Council does not support that recommendation, and the documentation provided to the Governor has both the recommendation of the minister and the recommendation of the Executive Council. This provision would cover those circumstances. The Governor could adopt the region scheme, or whatever he might be considering at the time, on the advice of the Executive Council, rather than on the recommendation of the minister.

Hon GEORGE CASH: On the matter that the parliamentary secretary has raised, if the Executive Council made a recommendation to the Governor, it would be most unusual for the Governor to not act to either agree or disagree with the proposition. I am not aware of any situation in which the Governor, of his own accord, can decide what he wants to do and then do it. The point I return to is that if it is convenient, the parliamentary secretary might want to come back in due course with the specific public policy reasons that the Governor should be authorised to make modifications to planning schemes, because I can think of no other act in which the Governor is given similar power.

Hon ADELE FARINA: I understand that under section 60 of the Interpretation Act, the Governor is required to act on the advice of the Executive Council. The inclusion of the provision at clause 53 will require the decision to be made by the Executive Council so that the Governor can act on it, rather than for a decision to be made purely by the minister without referral to the Executive Council.

Hon George Cash: That appears to be the case in clause 53, but clause 29 appears to be written differently.

Hon KEN TRAVERS: For the enlightenment of members and Hon George Cash, more than four years ago, when members opposite were in government, there was a circumstance with an omnibus amendment for the

northern suburbs. From my recollection - I would need to check the facts - after having gone through the processes and being signed off by cabinet, the Governor withdrew one of the subamendments of the omnibus amendment for four blocks in the Yanchep area. It was a very unusual process. Without understanding all the details, I suspect that that circumstance may be the sort of situation that is being referred to with this issue. It was specifically the Governor who withdrew that amendment at a very late stage after further lobbying, and obviously on the advice of the Executive Council, but not necessarily the cabinet, and the Premier of the day. I do not recall the details. I was not a member of cabinet at the time. However, there certainly has been a circumstance in which this provision has been exercised by a previous government.

Clause put and passed.

Clauses 54 and 55 put and passed.

Clause 56: Scheme or amendment may be disallowed -

Hon GEORGE CASH: Members will be aware that section 42 of the Interpretation Act, and in particular subsection (2), deals with the method and procedure for laying regulations, rules and by-laws before the Parliament and with the disallowance of particular instruments. Will the parliamentary secretary explain why clause 56 is written in the form in which it is written, given that it deviates from section 42 of the Interpretation Act? Why does the government not rely on section 42 for the disallowance of schemes or amendments?

Hon ADELE FARINA: My advice is that there is no particular reason other than that this provision has been carried over from the act, which act was drafted prior to the enactment of the Interpretation Act. Because this is a consolidation bill, those provisions have simply been carried over. Certainly, if the member is of the view that this provision needs some modification, we will consider that matter when we look at making amendments to the consolidated act. At this point, after the negotiations, we are trying to consolidate and streamline the planning process in the one bill, and we want to make as few amendments as possible to facilitate that process. The provision has simply been carried over from the legislation as it stands.

Hon GEORGE CASH: I understand the parliamentary secretary's answer. However, I do not think this bill will necessarily do all the things that the parliamentary secretary is saying it will do. It may be a consolidation bill, but that in itself does not avoid the opportunity to make changes that would make it better legislation. For some time there has been confusion with the use of these disallowance provisions in specific acts, rather than the standard disallowance procedure as set out in section 42 of the Interpretation Act. Interestingly, the parliamentary secretary has said that this provision was developed prior to the enactment of the Interpretation Act. The Interpretation Act is a 1984 act, but that is as a result of a number of rewrites over a period.

The disallowance provisions referred to in section 42 of the Interpretation Act go back to probably well before the planning legislation developed its individual form for the disallowance of schemes or amendments. Surely it would be a matter of convenience for all if a standard practice applied to the disallowance in Parliament of regulations and schemes. For instance, either the Land Administration Act 1997 or the Western Australian Land Authority Act 1992 has its own unique method of disallowing certain measures. It adds to confusion. More than that, standing order 153, in relation to section 42 of the Interpretation Act, causes the disallowance of regulations to be moved pro forma and, as a result, a train of action is set in place. Given the way this clause is written, a specific motion will need to be moved to disallow a scheme. In other words, it will not be able to be moved pro forma. Given the limited time of Parliament for dealing with various issues, some members might use the provisions of this clause to disadvantage planning in general across the state. Some uniformity in disallowing instruments would be of benefit. I am merely informing the parliamentary secretary as a matter of record so that when we get away from the consolidation phase of this bill, consideration might be given to bringing the disallowance of amendments to schemes in line with section 42 of the Interpretation Act, and that might assist everyone.

Hon ADELE FARINA: Further to my earlier comments and further instructions, I can advise that under the Interpretation Act, regulations have effect as soon as they are made and are then disallowed. Under the planning legislation, regional schemes do not come into effect until after the disallowance period has passed. There is a difference. However, I take on board Hon George Cash's comments. The matter is not something we would like to amend on the run without consultation with all stakeholders. However, we might consider further refining it if stakeholders consider that to be necessary.

Clause put and passed.

Clause 57: Minor amendment -

Hon DONNA TAYLOR: This clause deals with minor amendments to regional planning schemes. Subsection (1) reads -

> If a proposed amendment does not, in the opinion of the Commission, constitute a substantial alteration to a region planning scheme, that amendment -
>
> (a) is not required to be submitted and approved in accordance with the procedure prescribed in Division 3; and
>
> (b) instead, may be submitted and approved in accordance with the procedure prescribed in this Division.

I appreciate that this clause reflects an existing provision in the Metropolitan Region Town Planning Scheme Act. Will the parliamentary secretary clarify whether the Planning Commission follows guidelines to determine what is a minor compared with a major amendment?

Hon ADELE FARINA: Yes; it is policy DC 1.9, "Amendments to the Metropolitan Region Scheme". If the member would like a copy, I am happy to provide one later.

Clause put and passed

Clauses 58 to 68 put and passed.

Clause 69: General objects of local planning scheme -

Hon PAUL LLEWELLYN: My foreshadowed amendment raises the question of whether the government is happy to nail its flag to the mast about sustainability. Should we direct the people generating planning schemes to consider sustainable development rather than assume that everyone involved will think about sustainable development with a warm, inner glow in their hearts? The Greens believe subclause (1) should read -

> A local planning scheme may be made under this Act with respect to any land -
>
> (a) with the general objects of making suitable provision for the improvement, sustainable development and use of land in any local planning scheme area;

I understand that the government is committed to reviewing the matter of sustainability and to seeking community consensus on its meaning, and that it intends to introduce a coherent and proper definition of sustainability into all the statutes in Western Australia. I understand that the minister will take care of all the Greens' concerns and, in the second phase of consolidation, will incorporate sustainability in every level of legislation.

Hon Adele Farina: That is not actually what I said. I said that the Premier has circulated an exposure draft on a sustainability bill and that the definition of sustainability will be dealt with through that process.

Hon PAUL LLEWELLYN: We live in hope that that will be done. In good faith, the Greens have put on the record that they believe sustainability is a core issue at the heart of this Planning and Development Bill, if we are to take at face value its purpose. Apparently, the minister and the Premier, with diligence and in good time, will incorporate a clear sustainability agenda in all the statutes in Western Australia. I understand that, after a long period of public consultation, development and community consensus, the government will formalise the definition of sustainability and build it into the planning and development legislation.

Although I will not move the amendment, I place on the record that the Greens believe sustainability should be defined accurately and be given some legs in statute, rather than referred to as a matter of lip-service.

Clause put and passed.

Clauses 70 to 75 put and passed.

Clause 76: Minister may order local government to prepare or adopt local planning scheme -

Hon BARRY HOUSE: When Hon Richard Lewis was the Minister for Planning, he tried to implement a five-year renewal of local planning schemes. I am not sure whether that is or has been a statutory requirement.

Hon Adele Farina: It has been.

Hon BARRY HOUSE: Okay. Some of the enforcement is a little lax.

Hon Adele Farina: There is no enforcement provision in the current legislation.

Hon BARRY HOUSE: Some of the local planning schemes of which I am aware are nine years, 11 years or 14 years old. Does the parliamentary secretary have a comment on that?

Hon ADELE FARINA: The member is quite correct. There is a five-year review requirement in the current legislation. A number of local authorities have been very lax in implementing that five-year review. Sometimes that is due to the frustration they feel when undertaking a scheme review, because those reviews can be quite controversial, particularly if there has been a long gap since the last review and some significant catch-up changes must be made. That can be quite a tortuous process. Once they have gone through it, they are not inclined to start the process again immediately after they have finished it. There are a few issues. The minister recognises that a number of local authorities have not done the five-yearly review of their schemes, so the schemes are out of date. Under this legislation, the minister will have the power to order local authorities to review their schemes. In addition, the minister will make resources available through the Department for Planning and Infrastructure to assist those local authorities with the review of their schemes.

Clause put and passed.

Clauses 77 to 101 put and passed.

Clause 102: Local interim development orders -

Hon PAUL LLEWELLYN: Will the parliamentary secretary explain why the minister is not compelled to make an interim development order but "may" do it? The context of this is that given the protracted nature of putting together planning schemes, interim development orders become almost the order of the day. Therefore, they become an important instrument for local government.

Hon ADELE FARINA: The reason the word used is "may" rather than "must" is that the existing town planning scheme continues to operate while the review of the town planning scheme is being done. There may be some instances in which an interim development order is required. However, given that most town planning schemes are now being reviewed more regularly, it is less likely that an interim development order will be required. Therefore, the word "may" rather than "must" has been used, because the underlying existing scheme continues to operate.

Clause put and passed.

Clauses 103 to 111 put and passed.

Clause 112: Declaration of planning control areas -

Hon GEORGE CASH: Will the parliamentary secretary tell us how this clause differs from the existing legislation? Given that it effectively overrides local authority planning control, has there been a significant backlash from local authorities about the fact that it overrides their planning process?

Hon ADELE FARINA: The provisions in the bill have not changed from those in the current legislation. The local authorities, through the Western Australian Local Government Association, were consulted extensively on this provision, as they were on the rest of the bill, and they have raised no objections. The provisions are used mainly when there is an intention to reserve land further down the track. A development control area is put in place so that there can be development control over the area in view of the fact that the intention is to put a reservation over the land. It also opens up the opportunity for compensation to be paid immediately.

Hon George Cash: Fair and just compensation.

Hon ADELE FARINA: Absolutely.

Clause put and passed.

Clauses 113 to 115 put and passed.

Clause 116: Commission may approve or refuse application -

Hon GEORGE CASH: This clause provides the commission with the power to approve or refuse an application, but it does not specify a period in which the commission must act. Will the parliamentary secretary indicate what the norm is in these matters and why a particular time is not stipulated to require the commission to conduct its activities within that given period?

Hon ADELE FARINA: There is no reason that a time period is not stipulated. We have simply carried through the provision in the current legislation. During the consultation process with stakeholders, no issue was raised about the fact that no time period has been specified. However, under the region scheme, the WA Planning Commission is required to consider an application within 60 days. As a matter of practice, that is applied by the WA Planning Commission across the board and applies also to determinations with regard to development control areas.

Clause put and passed.

Clauses 117 to 134 put and passed.

Clause 135: Approval required for subdivision -

Hon DONNA TAYLOR: The WA Planning Commission 2004 annual report refers to the percentage of applications processed within statutory time frames and states that it was 67 per cent in 2003-04 and 69 per cent in 2004-05. Is information available for 2005-06?

Hon ADELE FARINA: I referred to that in my second reading response. The figure is 73 per cent, and that is notwithstanding a 12 per cent increase in the number of applications received.

Clause put and passed.

Clause 136: Approval required for certain transactions where land not dealt with as a lot or lots -

Hon DONNA TAYLOR: I refer to page 20 of the explanatory memorandum, which states that there has been an extension of time from 10 years to 20 years. I seek some clarification about why that has occurred.

Hon ADELE FARINA: The extension in that provision from 10 years to 20 years relates to the approval of leases. Experience has shown that there are very few circumstances in which leases of under 20 years duration either are refused or have conditions imposed. Therefore, it is simply an exercise in trying to streamline the planning approval process.

Clause put and passed.

Clauses 137 to 144 put and passed.

Clause 145: Endorsement of approval upon diagram or plan of survey of subdivision -

Progress reported and leave granted to sit again.

Sitting suspended from 12.57 to 2.00 pm