STRATA TITLES AMENDMENT BILL 2018

Second Reading

Resumed from 28 June.

MRS L.M. HARVEY (Scarborough — Deputy Leader of the Opposition) [4.43 pm]: On behalf of the Liberal opposition, I rise to make comments on the Strata Titles Amendment Bill 2018. The Liberal Party is supportive in the main of this legislation, but we have some concerns about certain aspects of it. Our members will articulate those concerns as they give their contributions to the second reading debate. We will also try to get some responses and a better understanding of what is very complex legislation; it is a veritable phone book in fact. One of the opposition's concerns and one of the questions we will be asking the minister is how much consideration was given to the amending legislation and whether there might have potentially been a way to simplify the legislation by taking out certain provisions and putting them in separate standalone legislation.

Looking at a lot of the changes mooted in the Strata Titles Amendment Bill, I can see that they have come from a long period of consultation that was substantially commenced under the Liberal–National government. The Standing Committee on Public Administration in the other place held a parliamentary inquiry in 2011, and a number of the recommendations of that inquiry have been picked up in this amending legislation, which is a good thing. We do not often see recommendations of parliamentary inquiries necessarily revisited by governments, but it is good to see that a lot of the recommendations in that public administration committee's 2011 report now appear as a new part of this legislation.

Indeed, the scenario has been of great interest to me; I have lived in a strata title apartment and for my sins was on the council of owners for the majority of the time that I lived there. I am quite familiar with the limitations of the existing legislation and, if you like, how the current legislation, prior to amendment, really enables conflict in strata title complexes to progress for long periods of time. A lot of clarity needed to be placed around certain aspects of this area of legislation.

Although some might find it somewhat surprising on behalf of a Liberal Party, we are pleased to see some regulation of strata managers appear in this amending legislation. When the original strata titles legislation was introduced to Western Australia, strata title complexes were fairly rare. The legislation was drafted in a different era for different times. Now, as we look around the Perth metropolitan area with the mix of housing, we are probably nearly at the point at which the majority of our housing stock will fall under this legislation or community titles legislation, because with the infill agenda progressing and with the densification of the metropolitan area, hopefully we will see more people in Western Australia choosing to live in apartments, and those apartments will need to be covered by this legislation.

One of the issues uncovered by that public administration committee report in 2011 was that there was pretty much nothing in the legislation to regulate and manage the conduct of strata managers. There are different forms of management structures around strata. For small developments, which might have only three to five units or villas, a council of owners can form a committee that gets together once a year to make decisions about who they will get their public liability insurance with, whether they will get the gutters repainted and all those sorts of things. Generally, those kinds of arrangements do not need a massive investment in a reserve fund for maintenance of common property, because often the only common property that needs maintaining might be just a driveway, a crossover or a structure such as that. But once we start getting into the larger complexes like the one that I used to live in—there are 44 apartments, a shared garage, and it is on the coast with salt air and the integrity of the building needs to be maintained—if the building is not maintained properly and there is no sinking fund to allow the constant contribution of owners towards a fund to look after large maintenance items, we can run into pretty serious issues. I was pretty pleased with the way in which our strata management occurred. We had a 10-year maintenance plan. That was because we had a good strata manager who actually did their job; it was not because legislation compelled strata managers to act in a particular way. We had a 10-year maintenance fund that had a reserve levy contribution per unit lot entitlement allocated to it. We had to replace a lift in the building at a cost of $500 000, but as a result of that very efficient and effective way of managing our building, we did not have to have any special levy or ask owners to dip into their pockets to pay for the replacement. We had been saving and planning for that and the money was sitting in a term deposit by the time the replacement of the lift was required for safety issues. Similarly, this was the case when the building was to be repainted. The money had been accumulated in the reserve levy and there was an understanding that the paint surface was going to fade over time and it would need to be replaced. Every few years or so there would be an integrity check on the paint, and if it was starting to wear, we would look at the decision of when the building would need to be repainted. Repainting a building of more than a single storey requires a fairly significant effort: cranes and scaffolding are needed, and painting older buildings is a $200 000 to $300 000 project. Having money locked away in a reserve levy so that

owners do not need to dip into their pockets to pay for maintenance when the time comes is really effective and proper financial management of a strata scheme. Under the existing legislation, a good professional strata manager will be trained and will do a proper maintenance plan over a 10-year period to make sure that things being replaced are maintained to a standard. They will look after ensuring that proper quotes are obtained for larger projects and that the owners' interests are being effectively looked after. Strata managers look after bank accounts with large amounts of money in them, sometimes $500 000 and sometimes millions of dollars, depending on the size of the development, but the current act does not compel them to have any financial management or accountancy skills. This new legislation provides for that. Indeed, this legislation introduces auditing of those large trust accounts from time to time. I think that is a very good thing.

Under the current arrangements, the only protection a council of owners has in the management of their strata manager to ensure they get what they are paying for is if they have been savvy enough to put together a contract. If a contract is put in place with some key performance indicators for the strata manager, ensuring he knows exactly the role he is supposed to perform for the council of owners on behalf of all the owners in a complex, and if people on the strata committee understand those things and are savvy about contracts, it is better protection of the strata manager's service. This legislation defines the framework of what is required of strata managers in the performance of their functions and duties on behalf of a collective or council of strata owners in a development. That is a really good thing. The legislation introduces some penalties for breaches of those responsibilities of strata managers. It introduces a provision for damages. So if the strata manager has been neglectful or has acted dishonestly or incompetently, there is an opportunity for the State Administrative Tribunal to award damages to the council of owners. The legislation also requires that strata managers and councils have professional indemnity insurance so that if there is an issue such as the one I described, in which financial loss might be experienced by owners as a result of incompetence or whatever it might be, there is an avenue to recover the loss through the indemnity insurance. That is a good thing.

Another area of concern, and I have heard this from lots of different people living in strata title developments, is that they are never aware of kickbacks that the strata managers might be receiving. It is well known in the industry that there can be quite substantial commissions paid to the strata managers by the insurance companies through the insurance contracts taken out on behalf of the council of owners for public liability and building insurance of large apartment complexes. An ethical strata manager in the existing environment will be up-front and declare those commissions, but this legislation requires strata managers to declare whether they are receiving any kind of commission or benefit from the awarding of any contracts they are responsible for on behalf on the council of owners. It is good to bring that transparency into a legislative framework.

I think the fact that strata managers have to have an educational qualification is a really good thing, and so is having a police clearance. That is a good thing for somebody who is going to be looking after other people's money. I think it is important that they have a police clearance to ensure they do not have a history of doing the wrong thing. Where I come from with that is that most of the committees formed to look after strata titled complexes are formed by a collective of owners who volunteer their time. They might have a variety of skill sets, but having been on a council of owners in a strata complex for many, many years, although skill sets can be quite wide and varied sometimes, we might end up potentially with a few people who have more time on their hands but not necessarily a good skill set to manage a complex set of books and a high-turnover business proposition. There is then more reliance upon the strata manager to provide the information needed, to do the research, if you like, and to provide advice on the operation of the Strata Titles Act to ensure that the decisions of a council of owners are not ultra vires the legislation. That can happen in certain circumstances when a council of owners might be considering a set of by-laws, for example, that they would like to introduce. If those by-laws are contrary to existing statutes, they could find themselves in some hot water. It is good to see regulation of strata managers and a requirement to have some educational qualifications in this legislation.

One of the areas that I think needed to be addressed by this legislation is the termination of schemes. We are not sure whether it has been addressed appropriately or not, and we will interrogate it during consideration in detail. This is one of those really vexed areas. I live in an area undergoing significant revitalisation, and under the existing legislation if there is not 100 per cent agreement on the termination of the scheme, it cannot progress—and it can be just one person holding out. The way that has been manipulated by the property industry is that there are these lovely brand-new apartment towers, and the council of owners in the apartment complex has purchased a villa in the complex in front of it so they can be the holder on the development occurring on the strata complex directly in front of them, thereby ensuring that their view can never be blocked. I understand this is the case right along Adelaide Terrace and St Georges Terrace, where owners in buildings purchase individual lots in the developments in front of them so they can ensure that those properties can never be redeveloped. I understand that that is not such a bad business decision on behalf of the owners who have purchased into the new developments, but it prevents a revitalisation of housing stock. It also prevents legitimate owners in a building in a good location who want to

redevelop and have a new complex, wind up their scheme and get a brand-new apartment in a new complex from doing so. We needed a mechanism to solve that problem to ensure that the loophole did not continue to be exploited.

The problem with the termination of strata schemes is that we also need to make sure there are significant provisions for the protection of individuals' rights. I will go into that in a little more detail. The legislation introduces a process for the termination of a scheme that includes cooling-off and consultation periods that will be governed by statute. That is a good thing, but when it comes to working out the sliding scale for consideration of the termination of the scheme—for example, what proportion of votes is needed to successfully wind-up a scheme—this legislation provides that for a duplex that has two owners, one of the owners needs to agree to the termination of the scheme. Then, subject to provisions in the amending legislation, there is an application to the State Administrative Tribunal for the winding-up of that strata scheme. The onus then falls on the remaining property owner, or an individual in the duplex who may not wish to redevelop, to engage with SAT to put their case as to why SAT should not wind-up that scheme. If there are three lots, two of the three owners need to agree. For anything four lots and over, 75 per cent of the owners would need to agree to the termination of the scheme.

Our concern with the termination clauses is about making sure we include some protections to look after the vulnerable people in our society. I do not know if the strata developments in my area are consistent with others, but what I have found in a lot of strata developments as I have doorknocked in my electorate is that there are a lot of little old ladies and single women living in smaller, boutique-type complexes. Indeed, that was the case in the apartments I used to live in; there were a couple of 90-year-old ladies there and it was a bit like their retirement village. It was a good location; they could walk to the beach and walk to the shops and the bus stop, and they did not need a car. It was a really good situation to be in, close to medical facilities and all the rest. If the decision was made to wind-up that scheme, I put it to the house that for those little old ladies—one in particular, who is now 97—a considerable effort would need to be made to assess the impact of forcibly removing an individual like that as a result of the winding-up of the scheme through SAT. For individuals in particular circumstances in which the address is their principal place of residence, specific consideration needs to be given to their being forced to move from where they have chosen to live. They may have lived there for quite some time. We have some concerns about that, and a number of opposition members will speak about it. Constituents have presented at our offices with concerns about termination clauses in this legislation.

We are also concerned about individual circumstances. For example, an individual with a particular set of health issues might not want the scheme wound up because of the distress it would cause them. For individuals with serious mental health conditions like agoraphobia, obsessive-compulsive disorder or anxiety, change can be extremely difficult and challenging. It is said that moving house is one of the most stressful things one can do, but to be forcibly required to move from one's house because a collective of property speculators may have bought up 75 per cent of the neighbouring units would put some individuals in a pretty precarious position in respect of protecting their right to live where they choose and to enjoy the amenity. That will always be a challenge when winding up schemes. There might also be individuals with housing modifications to accommodate disabilities. Consideration would need to be given to the requirement for them to then pay up-front in a new development the costs of a fit-out to cater to their specific needs. All these things need to be taken into consideration by the tribunal if it chooses to wind-up a scheme and there are individuals in very specific, difficult personal circumstances. We in this Parliament really need to ensure that there are protections in place in respect of their rights. Other members will go into a little more detail on some of those issues as they contribute to this debate.

I want to make it clear to the house that it is not the opposition's desire to in any way maliciously or mischievously delay the legislation. It has been put to me by people in the sector that that has been put to them by government members. That is not our intention. As I said earlier, this legislation is a veritable phonebook. It is complex legislation. I put it to members that not many people would be familiar with the existing strata titles legislation, let alone an amending bill that is 400 pages thick. We need to give this legislation due consideration and understand its ramifications. It is not time-sensitive legislation; there is no requirement to get it through to meet some kind of statutory framework around reporting or, if you like, the expiry of a bill. This is amending legislation that has come out of a long period of consultation and it needs to be given appropriate, due consideration by both houses of Parliament before it is passed. That is what the community expects us to do with it, and that is what we will do as part of our responsibilities as members of Parliament.

Going back to the 2011 report of the Standing Committee on Public Administration of the other place, it included a recommendation that strata managers should be licenced. I had it explained to me in the briefing that licensing was not included as part of the legislation because there are only a couple of hundred strata managers out there. Generally the fee for a licence is borne by the individuals who are subject to the licensing, so that would impose a significant financial burden on those 300 or so strata managers. They would have to pay for a licensing system

just for them, and the economies of scale would not stack up for them to have to cover the administrative costs of running a licensing regime. As I understand it, the solution proposed in the legislation was endorsed by two former Ministers for Lands—Hon Brendon Grylls and Hon Terry Redman—who shied away from a licensing structure in favour of a regulatory framework set in legislation for the management of strata managers, so I am pleased to see that that approach has been taken.

The 2011 report also recommended moving the administration of the Strata Titles Act across to the then Department of Commerce. I would be interested to know whether that was presented to the minister as a consideration. I think there might be some merit in moving it across for the reason that when issues are raised around strata titles and managers, it is generally more of a consumer protection–type issue. The consumers might be owners of units who have an argument either with each other, the management of the property, or a strata manager. That tends to be where the bulk of the complaints come from—by-laws being introduced that adversely affect particular individuals, and all these sorts of matters. They are more like a consumer protection or consumer affairs–type issue when a consumer is feeling aggrieved. It made sense, after reading that report, to consider moving the administration of this area to a consumer protection–type framework, because it is those sorts of agencies that are used to dealing with consumer complaints. I know from my experience as a committee member of a council of owners of units that I lived in that it is really difficult to get information from Landgate about the management and the administration of the Strata Titles Act. Not many people in Landgate have expertise of that act and certainly not many people in Landgate are experienced in taking matters through the State Administrative Tribunal. There may be some merit in that, but I would be interested to hear the minister's comments and whether that was indeed a consideration.

I would be interested to hear the minister's take on why leasehold strata title is being included in the Strata Titles Amendment Bill and why it is not being introduced in a separate bill. From what I understand of the legislation—indeed, the explanatory memorandum is quite direct about it—there will be a new form of landownership called leasehold strata title schemes. These are a new form of land ownership. I am concerned about leasehold strata title being rolled into the Strata Titles Act, because legislation should be simple enough for people to represent themselves at SAT. When I look at leasehold strata titles and the Strata Titles Amendment Bill, I wonder why leasehold strata titles are not being dealt with similarly to community titles and included in a separate piece of legislation in this place. Leasehold strata titles are not new to other parts of the world, but they are certainly a new concept in Western Australia. The idea that a person can buy a title that, in effect, is a right to a lease over a period of between 20 and 99 years, and that lease, by virtue that there is an expiry date at which time the title returns to the original owner who issued the lease, is a very different concept. There is a diminishing value to a leasehold title, because as the termination date of the leasehold scheme approaches, the value of that investment declines. I know that with government sites, for example, people will be have an opportunity to invest in entry-level apartments in home equity schemes and those sorts of things, so that they can actually get into a development and some form of homeownership. But those individuals may find that they are not being well informed at the front end and find that they are buying into something with a diminishing return, not something that will increase in value as time goes on. The current expectation of any property owner in Western Australia—or it was prior to a few years ago—was that a long-term investment in property would yield a higher value at the end of the investment cycle, and not a much lower value, or indeed zero value, which is pretty much what a leasehold title scheme will give an owner at the end of the lease period. It is a very different concept. It is very complicated. I note that the bill contains a big section on the application of duties in the sale of a leasehold title, which we will need to get some information on from the minister. What will happen as leasehold titles change hands over the term of the lease? Will a duty be payable as the value starts to bottom out towards the end of the termination of a scheme? How do we make sure that individuals investing in those developments are not adversely impacted by a higher duty than they would be expected to pay on something that results in a diminishing return?

Part of the reason for my concern is that some mum-and-dad investors invest in units as part of their superannuation strategy. We need to be clear about which part of the legislation will apply to them. If they lease their property and they do not have a sophisticated understanding of legislation, will they inadvertently waste time investigating the leasehold component of the Strata Titles Act instead of looking into the area of the act that they would be covered by if they had a particular issue around strata title. Simple legislation is usually the best. If we keep it simple, that is great. The more legalese, the less likely individuals can represent themselves and their interests at SAT, without legal counsel attending. Everyone knows—no disrespect to lawyers—that costs start mounting once people start having to engage lawyers to go to SAT to help them understand complex legislation. It will make it difficult for people and will inhibit people from getting involved in legal stoushes.

I acknowledge that the minister asked that we debate the Strata Titles Amendment Bill and the Community Titles Amendment (Consistency of Charging) Bill 2018 and the Community Titles Bill 2018 together. I did not want to debate two big phone book bills cognately because I think that they need to be considered separately. The two community titles bills and the additional legislation that covers off on enabling Landgate to generate fees and taxes above recovery need to sit within the community title legislation. But there are two very different concepts. The termination clauses in the community titles legislation, which we will get to at another time, are very similar to the termination provisions in the Strata Titles Amendment Bill. I do not have a problem with that, because community titles are new. People purchasing a community title understand that they are a new concept being introduced into Western Australia, after being tested in other states and jurisdictions over quite some time. As people purchase community titles, they will know that a termination clause applies to that title. The Strata Titles Amendment Bill will amend the existing framework around people who currently have ownership of strata titles. The framework for how the scheme that manages properties and how titles are terminated is changing. They are significant changes that will need to be communicated effectively to people once the legislation is passed.

Opposition members are also concerned about compensation that will be awarded after the termination of a scheme by application to SAT. What is fair and just compensation in those circumstances? As I alluded to earlier, some individuals might be facing very difficult circumstances and will be forced to relinquish their title in a scheme against their wishes. Will legislation contain sufficient safeguards to ensure their specific concerns will be taken on board before a decision is made to terminate a scheme? Once the decision is made by SAT to terminate the scheme, what is appropriate for those individuals who are being forced to move house against their will? The legislation states that, on termination of a scheme, the amount of compensation that needs to be considered is the amount that would be required to be paid by an acquiring authority under the Land Administration Act 1997 for taking of the lot without agreement. I understand that that section of the Land Administration Act relating to compulsory acquisition relates to compensation being paid to a landowner for compulsory acquisition of land by government for public purposes. That is a very different environment from property developers wanting to redevelop a site and what is fair and just compensation for people who are being forced to relinquish their property to allow a property to be redeveloped, with speculators and property consortiums potentially making a profit. When we look at what is adequate and just compensation for a property owner—a significant public purpose needs to be achieved as a result of that compulsory acquisition—we can see we have a very different set of circumstances around an appropriate valuation. If that land was part of planning changes, for example, those issues can be considered over time when looking at the valuation of the land. I put to this house that the valuation of land being compulsorily acquired for a public purpose should be a very different consideration from somebody being turfed out of their house because other people want to redevelop and make a profit. That is difficult. I acknowledge that there are some other tests and that the owner will not be disadvantaged due to their financial position as a result of the termination of the strata title scheme. It is hard to know what that disadvantage might be. It comes back to how the tribunal considers the needs of individuals.

In the example of a 97-year-old in failing health, a doctor and a psychologist could say that moving that person will adversely affect their health and impact on their longevity. A change like that could kill an older person. Hopefully, in a circumstance like that, the scheme would not be terminated. If it is, how does SAT make an appropriate assessment of the type of compensation that needs to be put in place around an individual like that? What are the appropriate costs that should be awarded to that individual to ensure that if they are going to move, they are moved in an efficient and compassionate way to a place where they feel very comfortable and one that will give them exactly the same amenity that they have enjoyed, and the same view. If they are on the ocean front, they need to move somewhere on the ocean front. They need to move into a development that is affordable to them over the long term.

It is all well and good for the government to say that it is winding up this scheme and people have to move but if people can move only to a development that might have double the strata fees, a self-funded retiree or a pensioner will bear that ongoing cost. Will those ongoing costs be included as part of the determination by SAT around appropriate compensation? The bill mentions settlement agents' fees, real estate agents' commissions, capital gains tax, GST, other taxes and duties, legal costs, removal expenses, and disruption and reinstatement of a business. One might be operating a home office from their strata title unit in a scheme that is being wound up. How does SAT determine adequate compensation for business interruption in those circumstances? What is the formula?

Like for like replacement, which I think is quite neat, is problematic. If someone resides on the fourth floor of a four-storey building that will be knocked down and replaced with a 22-storey building, will like for like replacement give them an apartment on the fourth floor? If someone is in the penthouse of that four-storey development, will like for like replacement give them a penthouse apartment? Someone in the penthouse of a four-storey building would expect to be in the penthouse of a 22-storey development if they are being forced to move from their building. How will the government value like-for-like replacement? If it is like-for-like

replacement and someone ends up being given first option of an apartment in a new complex, will that person be compensated for the rent that they need to pay for the duration of the construction of the new development? Or when a developer buys that person an apartment in a different strata complex similar to the one they are vacating that gives them pretty much what they had before so that the developer can demolish a building and put up a multistorey tower, is that like-for-like replacement? The bill says that the location, facilities and amenity of the replacement lot must be considered when compared with the current lot but there are still some issues around how we determine that and how we ensure that people are appropriately compensated when forced to move against their wishes.

In raising these issues, the opposition acknowledges that there was a requirement to fix that loophole in which investors in apartment complexes would buy a unit in the complex in front of them to prevent redevelopment. Something had to be done about that. There is no argument from anybody on this side of the chamber about that kind of practice. When it is a principal place of residence, we have a very different set of circumstances. I do not think I have too much more to add to that. I think I have covered the various concerns that have been raised.

I am pleased to see that the schedules have been renamed. Naming the schedules schedule 1 and schedule 2 is absolutely meaningless when we are trying to work out why particular resolutions and by-laws of a council fall into different categories. Naming one the governance schedule and the other an operational schedule is really sensible. When we understand how those particular resolutions are grouped, we can understand the requirement, for example, to allow for a by-law to be introduced, being a by-law without dissent and if it can have a financial impact, for example, on owners; or a by-law that can be passed by a resolution with 50 per cent of the owners agreeing to it and not more than 50 per cent disagreeing with it when it is not going to be too much of an imposition.

One of the areas that has been raised with us is by-laws for short-stay accommodation and those sorts of things. It is certainly an issue in the community. In my electorate of Scarborough, I think we have the largest number of Airbnb properties in all the suburbs of Perth. Having lived in a strata development that was always mixed use, with partial owner-occupiers and residents, which is what I was at the time, and short-stay accommodation providers, we now have Airbnb and others. Individual owners are managing short-stay accommodation facilities. Over time, we have found conflict come in. Back in the day, individuals were renting apartments for one night to have a rave party. Our building was targeted with that. That was obviously very unpleasant for shiftworkers like me who happened to live next door and had to listen to the thumping of a rave party all night. A by-law was introduced in our complex that meant short-stay residents had to stay three days or more. It limited the opportunity for the bucks' nights and the hens' night and the rave party people who would come in and pay one night's accommodation, disturb everybody's amenity, usually cause considerable damage to the apartment and then take off the next day with no concern about whether or not they recovered their bond because they had made money out of an illegal activity or out of a party. Under the strata law, ensuring that the short stay was at least three days was a really sensible thing to do. At the time there was a push from owners in that complex, and indeed other complexes along the coast, to ban all short-stay accommodation. We need to be very careful about that. In a special beach development zone, such as where I live, tourism is a really important component of the vibrancy of an area. If residential complexes ban all short-stay accommodation, it will mean that offerings to tourists are limited. I believe there is a referral in this legislation to ensure that the by-laws are consistent with other written statutes. I expect that would mean owners would have to consider planning schemes and other planning objectives of government and local councils when they are looking at putting by-laws in place to either ban or allow something. I think we will start to see in some of these well-placed residential developments some enterprising entrepreneurs who might get 30 rooms in a development, managed through Airbnb. One individual might live there and the other owners will get a return on their investment that way. That is more like a quasi-hotel. There is then the issue of whether that should be reassessed from a building perspective to ensure it complies with what other hotels would need to comply with if they were going to pretty much run a quasi-hotel in a development designed around residential use.

There are some issues with Airbnb. I acknowledge that the Strata Titles Amendment Bill is probably not the bill to address issues around short-stay accommodation. Although tidying up and making the by-law provisions easier to understand is a step in the right direction, there needs to be a state-level drive around the planning controls around short-stay accommodation. I can tell members, from living in a complex that has long-term tenants and residents butting up against short-stay accommodation, there is conflict. Personally, I loved having all the tourists staying there. I bought into a building to raise my family in because I liked the fact that it was busy. Tourists from different parts of Western Australia, Australia and the world came to stay. I often found there were a couple of overseas investors who were not there all the time. I was never really bothered by the noise. I just double-glazed my windows and got on with it, but other people were bothered by the noise.

Dr D.J. Honey: Turn the music up!

Mrs L.M. HARVEY: Yes. I was trying to get an invite to the parties, if the truth be known, when we moved in! Other people have different expectations and that needs to be taken into consideration. We end up with these conflicts in buildings—residents versus investors and all of these unhelpful issues that cause the annual general meetings to become interesting political episodes with lots of different characters on display, not unlike this chamber sometimes.

On that note, I will end my remarks. As I said, the opposition is pleased to see this legislation brought forward. Several drafts of this legislation were done by the previous government, but this legislation has substantially changed in many ways to what was left when the government changed hands in March 2017. I am glad to see that a lot of the recommendations of the 2011 inquiry from the other place have been picked up in this legislation. I know the property sector is really keen to see this become law. We are cognisant of that, but we also need to make sure that we have the right kind of tension and protections for individuals if they are winding up a scheme against their wishes.

Given the complexity of the legislation and perhaps the unfamiliarity that many members would have with it, it may well be appropriate to go into the consideration in detail stage of this legislation. I acknowledge that the minister offered to run two sittings of the Legislative Assembly so that we could have a select group of members interrogate this legislation. I like the concept of having a select group of members interrogate the legislation, but with a very small team of 14 members it puts us under a significant amount of pressure in trying to manage what would effectively be two chambers at the same time for the consideration in detail stage of the bill and perhaps other legislation. A lot of my members were really keen to have input into the legislation. That would have left us in a parlous state in the main chamber if most of our members wanted to engage in the consideration in detail stage of the Strata Titles Amendment Bill. That was our reason for not agreeing to that. A small team of 14 is the state we find ourselves in. We will interrogate this legislation appropriately. My suspicion is that in the other place it may well be sent to a committee depending on how across this legislation the crossbenchers are. I look forward to hearing other members' contributions.

DR D.J. HONEY (Cottesloe) [5.36 pm]: When I was reviewing the Strata Titles Amendment Bill 2018 and some of the commentary on it, I could not help thinking about the famous ABBA lyrics *Money, Money, Money*. The reason for that is I am concerned that the major advocates for this bill overwhelmingly stand to benefit financially from its passage. I am not talking more generally about the bill; I am talking more particularly about the dissolution provisions within it. I will come to that in the debate.

This is an enormously complex piece of legislation to review. Members in this house probably have not been through many bills like this. It is a thick and detailed bill. I had the good fortune of receiving a copy of the blue bill, which enabled me to see what had been changed. I echo the comments made by the member for Scarborough that it will be extremely hard to really properly analyse this bill in this place. It will have to have some form of review, whether it is a committee of this place or a committee of the upper house. I am very concerned that we will miss important issues. Some issues with the bill have been highlighted but I want to talk about only two issues today. I am certain there will be other issues of detail that we need to get right.

In saying all of that, I acknowledge that the minister and her staff have put in an enormous effort. I acknowledge Sean Macfarlane and the other staff who are in the Speaker's gallery who have gone to great lengths to inform members of the opposition, including myself, and reassure us about various aspects of the bill. I appreciate that there has been a great effort and, I might say, I appreciate there has been a genuine effort to take care of concerns that have been raised in New South Wales about vulnerable people. I want to be reassured that those provisions in fact do protect people.

As members all know, this legislation was a consequence of a lot of debate and discussion over many years. Debate culminated in the thirteenth report of the Standing Committee on Public Administration. The report states that just shy of 350 000 people will hold strata units in 2020. Therefore, when we consider this legislation, we should take into account that it will impact on not a small handful of people, but the better part of a quarter of our population. It will have a huge potential impact on the population in Western Australia. As outlined by the member for Scarborough, there is a large range of potential strata units. We all tend to focus on residential accommodation because that is the one we are really concerned about for individuals, but of course, this legislation also covers retail strata. I will talk a little bit about that later on. The legislation also covers the large majority of high-rise buildings in Perth and I appreciate that some of the changes in this bill are going to make people's lives a lot easier relating to those sorts of buildings. We need to give this due diligence given that it will potentially affect such a large percentage of the population.

I think most of the changes in the bill are genuine attempts to improve the management of strata title, and I said I would focus on just a couple. Two particular aspects concern me most greatly. The first is the termination of strata title schemes. Some may think a little unkindly, but they are sometimes referred to as the "boot-a-granny" clause in the legislation. Secondly, I am concerned about the introduction of the leasehold title scheme. From a personal perspective and at a much broader level, I am equally concerned about the longer term introduction of a leasehold title scheme due to its potential impact on our society. I will go into that in a little detail. It is a really profound change. I know that it is not deliberately hidden, but it is sort of hidden away in the detail of the bill. This is an extremely profound change.

To give members a little insight into my philosophy, for me the strength of a democracy is not measured by how often the majority prevails; rather, it is measured by how it protects the minority. I think that is particularly true for this piece of legislation. I am concerned that this legislation may not do enough to protect the rights of individuals or small groups. Let us get down to tin tacks. If we strip away the veneer on the clauses around the termination of strata title schemes, this bill effectively uses the compulsory acquisition powers of the state to terminate strata titles. In the larger part, that will be for the profit of individuals or a group. That is pretty profound. Effectively, we are going to legislate compulsory acquisition powers of the state. In the larger part, will not be because buildings are falling down; it will be because groups or individuals perceive that they can make a profit. That is really profound. We are going to put people out of their homes for other people to make a profit. I do not think anyone would countenance someone driving down the street and saying, "Hey, I like your house; I'm going to boot you out because I reckon I can subdivide it and make a big profit." I know there are protections, but, in effect, that is what we are doing if we take away all the veneer.

I have heard a lot of talk about the requirement of redevelopment of decrepit units and those which are falling down. I largely regard that as a nonsense or not a true point. As members would know, my electorate is a highly desirable location, particularly on the ocean side, and there are a large number of strata title units. For some time in anticipation of this law, speculators have been buying a partial majority of units in a number of those areas with the view—not to live there, but to make a profit by redeveloping them. They have been using the introduction of this legislation as leverage in part of that process. Overwhelmingly, the buildings are perfectly functional. The sole purpose of the proposed redevelopments has nothing to do with buildings falling down. It is purely that speculators believe that they can make a profit, and if they have to force people out of their strata title units—their own homes—they will do that so they can make a profit.

Let me make it clear that I have no problem at all with developers making a profit and that developers carrying out redevelopments play a really important role in our community. They have been responsible for some outstanding transformations in our community. I remember the redevelopment that Satterley Property Group did years ago down in the City of Kwinana. It really transformed the area into a much more liveable place. More particularly, I am not concerned about the way that responsible developers will use this legislation. To use the names of groups like Satterley Property Group or Dale Alcock Homes, they are highly responsible and their individuals are highly respected. I am absolutely confident that they would never seek to disadvantage an individual simply for profit. They do these things in a very proper way in which they acquire all the units and go through the process. It can be agonising sometimes, but they do it and do redevelopments. I am not worried about that, but I am very concerned about how speculators will use this legislation. I am concerned that speculators are going to force people out of perfectly good residences. This is a major pending problem in my electorate. In fact, speculators have been going around and saying that when this legislation comes in, they will be able to force people to sell if they do not have complete control of their units. They have been using that to threaten people or bully them into selling now because they have told them that when this legislation comes in, they will be able to force them to sell and that they will then get less money than they would if they sold their homes beforehand.

I am really concerned about the lower threshold for the smaller strata properties. Two units will be typically joined by a car park. If a neighbour thinks they can make a profit by increasing the density of their property, they can force a person to sell their unit under this legislation. I know there are protections, but, at the base of it, that is what they can do purely to make profit. People can be forced out of their family homes to make a profit. Regarding the protections, I have a letter from a supposedly reputable development company. It has gone to a reputable engineering firm, and that reputable engineering firm has said that a building will be uninhabitable in 10 years or less because concrete cancer is rife through the building. Does that not sound terrible? However, this letter was written in 2007—11 years ago. Those units are perfectly habitable. They are not falling down. There is nothing wrong with the structures. They are in perfectly good condition, yet one of the protections in this legislation is that a reputable building assessor will come in to assess a building and say whether it is fit for purpose. My experience is that many consultants tend to have a practice of giving the opinion that the person who is paying for the advice wants. That clearly seems to be the case here. Either the assessor was not competent or the assessor was giving the speculator the advice that they wanted. Eleven years later, their advice is completely unfounded and I suspect they

would probably give the same advice now; that is, that it will fall down in 10 years. I know the protections are there, but I am not sure that they will necessarily work.

Speculators are doing this right now. The member for Scarborough talked about vulnerable people. Last Friday in my electorate office I was approached by an elderly gentleman who has been contacted by a group that, on a speculative basis, has bought other units in his perfectly good, well-maintained property, telling him that he has to sell up now or else he will be forced out. I know the minister and others are sensitive to this issue, but for older people it is terrifying. He was really beside himself with worry. I spent a significant amount of time sitting with him and taking him through some of the aspects of this bill to reassure him that the minister's intention was that people like him would be protected. This goes to the state of mind of vulnerable people. They do not feel that they have any opportunity here; they are very vulnerable to people coming in with a wad of reports and other things and forcing them into doing things. This particular speculator is using this pending legislation as the lever to force that person to sell.

I am especially concerned about elderly vulnerable people, and older women have already been mentioned. Typically, couples will live in a house until one partner dies. More often than not, if they die of old age, the male dies first and the woman will move into a unit. That is where they want to go to live out the rest of their life in peace. For all members in this chamber, having to go to the State Administrative Tribunal would be no great thing; we have no great fear about it. We would be able to go there and advocate on our behalf. But for many older people—members will have seen this with their elderly relatives and the like—it is a terrifying and confronting prospect; it is not a simple thing. If a developer has one or two highly regarded, reputable lawyers, some other advisers and a consultant who is advising on the building, an elderly person may feel very unsafe and very insecure, and terrified that they will be pushed out of their home by SAT. It is an enormously confronting and daunting environment.

I believe the thresholds are way too low. Singapore is often quoted as the poster child of strata units. The thresholds in Singapore are significantly higher. If units are less than 10 years old, the threshold is 90 per cent. There needs to be a 90 per cent majority before there can be forced dissolution, or, relating it to Western Australia, people have to go through the SAT process. For units older than 10 years, it is 80 per cent, which I understand was the original threshold here. That seems to be a much higher threshold, and many members would know that in Singapore 85 per cent of all houses are government–owned, leasehold strata title units.

For this legislation to trigger the process to dissolve a strata title, someone does not even need to own a single unit in the building. Under this legislation, a speculator simply needs to put in an offer to buy one of the units to initiate the whole process. They do not even have to be a resident. They simply have to have a contract in place with which to buy in; if they do not succeed, they can exit from that contract quite simply, as many members would know.

[Member's time extended.]

Dr D.J. HONEY: I understand there is no limit on the number of applications; I am very happy for the minister to tell me if that is not the case. As I understand the legislation, a speculator can repeat this process every six months if they have a simple majority of the strata or of the voting entitlements for that strata property. As in the case of many of the units in Cottesloe that people have bought speculatively to redevelop, if they have more than half the units, they simply need to come back every six months. Obviously, if the majority of residents do not want to develop, the investors cannot do that, but for the strata units in my area—I think that may be reflected in general community—they can come back every six months. I tell members again that for vulnerable people, having this come up again and again—I have had this reported to me around aged accommodation—it becomes overwhelming. It makes their lives miserable and they feel constantly under stress and threat. I think that needs to be looked at seriously in this legislation. I think there needs to be a longer repeat interval before people can be forced to go through this process again; otherwise it just forms the basis for bullying vulnerable people.

It has been said that this is a way of having renewal and redevelopment in an area. This legislation contains no obligation whatsoever on the part of the person or group that compulsorily acquires the property to do any redevelopment. They can acquire that property, demolish the units and simply sit on the land for 10 years if they want to land bank it. Although property prices may have hit a Keating J-curve in my electorate of Cottesloe, property prices are very substantially depressed. Housing prices are depressed by, on average, $1 million on their peak value, and that translates into the price of units. In this case, someone can use this process to compulsorily acquire a unit and say that they are going to redevelop it, but they do not have to. There is no compunction on them to do that, and they can simply sit on it. It has been said that this is a tool for redevelopment, but it may be a tool for no development and for something lying vacant.

I understand that a vote to dissolve may occur in as few as 14 days. One of the issues raised with me by someone who was impacted by this was their ability to raise another option for the development of the land. I know it is not intended to be first come, first served, but many speculators are quite well resourced, and if they have a majority of the votes, if you like, for that strata unit, they could vote in as few as 14 days or some period close to that. That would mean that there is no real opportunity for people to come in and make another proposal.

As soon as SAT makes a decision that goes through, whether the other residents are vulnerable or not, those people are immediately homeless, depending on the arrangement made. If it is purely money, and those people do not have a home, they are forced to find alternative accommodation. I understand there is potential—it is not a guarantee—for like-for-like replacement, but it is still a major disruption. People might say like for like in the same place, but the possibility of getting like for like in exactly the same area is probably quite low, particularly in areas that are well sought after and where not a lot of property is available. In any case, even if someone got like for like, especially an older person, they would have to live somewhere else. Again, I know the minister and others would empathise with this, but it is a major trauma. It is easy for us to sit here and say that they can go and find a flat, but it is not; it is traumatic. It is quite paralysing for older people in an environment familiar to them and surrounded by people they know and care about. To pull them out of that is really traumatic. I was discussing with the member for Dawesville earlier that many older people are highly regimented, and if they usually go shopping on Tuesday and have to go shopping on Monday, it is quite traumatic for them. It is something for us to empathise with. It is a big concern for those people.

One concern raised by someone recently was the potential impact on pensioners or invalid pensioners. If a strata title is sold, they are forced out and they receive a payment for that, for most, depending on the value of the property, it could well exclude them from their pension because they immediately exceed the income test. While they have the asset as a dwelling it is not counted, but as soon as it is cash, it is counted. We need to consider that. If people have their property compulsorily acquired and receive a cash payment—it might be a very generous payment—that could immediately cancel their pension and other entitlements such as the Health Care Card.

Sitting suspended from 6.00 *to* 7.00 pm

Dr D.J. HONEY: Before the dinner break, I touched on the potential impact of the bill on pensioners. If someone on a pension received a cash payout as part of their settlement, they could be forced into the unenviable position of instantaneously losing entitlement to the pension and other entitlements, such as the Health Care Card. Most of the debate has been on residences; that is obviously the issue that immediately comes to mind in relation to the potential impact of this legislation. However, commercial strata titles could also be severely affected by this, in particular retail enterprises such as restaurants and cafes. Members would know that a lot of small residences, including some in my electorate, have small cafes or fish and chip shops at the bottom. It is very hard to see how they would get like for like if they were subject to forced sale. It is very difficult to see how they would be properly compensated. I am intrigued to understand what would happen to business goodwill because if the title that someone thought they had forever is terminated, they would have no business and no goodwill. The goodwill of a business is for many of those businesses the larger part of the value of the business. I am interested to see how like-for-like replacement would occur in that situation.

Given the time, I will move on quickly to leasehold strata titles. This is a major change. As I mentioned at the start of my contribution, although that provision is in the middle of the bill, it is a really profound change. It has not been part of our community and, to be frank, I do not think that most members of the community would want this to be common. I can really understand the argument for this provision on government-owned land. The arguments that have been put forward, certainly those in the briefings that I attended, have been good and sound; namely, if the government is developing land and allowing development to occur, such as around the Metronet project, it should have the opportunity in the future to renew and regenerate that area. That would give it the chance to provide lower cost social housing. I understand that. I can understand the situation for universities and the like. I refer to the example of Technology Park at Curtin University. Businesses do not want to invest in major capital infrastructure if they do not have some certainty on lease; a simple contract is not good enough. I am fully supportive of that change on government-owned land. However, I am utterly opposed to it on private land, and it is my understanding that this extends to private land. I will be brief given the time, but I do not want a society in which there is a wealthy, landed gentry and the great majority of the rest of the population, or a large percentage, are leaseholders who have a leasehold strata title. I refer to the people who live in the United Kingdom and other places that have that provision. Although there may be some illusion of lower prices at the start, in fact they end up paying the full freehold title value for a leasehold title but do not receive any of the benefits of owning the land, of the uplift in value of the land over time and of accruing value; in fact, it is a declining value. The government should remove this provision. If it is going to introduce this experiment, it should do it on government-owned land, not on private land. In areas in which R-codes have been increased, it is fully conceivable to have a situation in

which a divided block has a residence and a yard on a strata title that is sold as one unit, if you like, although it is on two separate leasehold strata titles. In that situation, private residences would fall under the scope of this legislation. Deep pockets will love this. They will love the fact that they own the land forever and that they alone get all the value of the land. Leasehold title is still subject to early termination in exactly the same way as all other titles. Again, I think people will find that profoundly disturbing.

In conclusion, I appreciate the efforts that have been made to improve the Strata Titles Act. It has been a laudable effort. The dissolution of strata title is a major concern. The low threshold for the approvals is a considerable concern for me. I believe that that should be 100 per cent for small unit lots, say less than five, and that we use the Singaporean model for larger properties.

I am concerned about speculators. I am not worried about reputable developers; they are good organisations filled with good people. They will try to do the right thing. But I know from examples that have been given to me that speculators will use this to their advantage for profit and will not especially care about the impact they have on people's lives. I wonder, minister, whether there is a possibility for extra safeguards for vulnerable people. I have already been through the problem of facing the State Administrative Tribunal. Perhaps we need an advocate for vulnerable people. I recognise that we may need a different approach for those who simply frustrate developments for their own purpose; I think that is a separate case. We cannot have people forced out of their home, especially the vulnerable. I am very interested to hear the minister's response to these points and to go through the bill in more detail during consideration in detail. There is an enormous amount of detail in the bill that we have to flesh out to make sure that people are not unfairly disadvantaged by the new provisions.

MR D.C. NALDER (Bateman) [7.07 pm]: Before I start talking about the Strata Titles Amendment Bill 2018, I note the state of the chamber.

[Quorum formed.]

Mr D.C. NALDER: In talking about the Strata Titles Amendment Bill 2018, I first acknowledge the good work done by the department and the minister's office. There is no question that a considerable amount of work has been undertaken. I am alarmed by the thickness of the bill, and that should be of concern to people. The bill is quite comprehensive and there is a lot of detail in it.

Firstly, I applaud the government, but I also state that the legislation probably needs to be broken down further, such that people can adequately grasp the level of detail that is required in this bill. As I said, there is a large amount of good and important work, and reform in this bill. However, the one underlying issue I see that is of paramount importance to the people of Western Australia, particularly people in my electorate, is ensuring that we protect property rights and home ownership. To touch on this a bit further, I want to go to a basic fundamental value in Australian society around home ownership, or property ownership, which is the basis of our society today. Further to that, the people of Australia, no matter where they have come from or their backgrounds, have had the opportunity over time to build up and own their own property. It has been a widespread objective of most Australians to ultimately own their own property and to live in their own home. One of my biggest concerns with any changes in this legislation is that we protect those people living in their own homes. My primary issue, which I will talk about in more detail, is around protecting particularly vulnerable people in our society who may not have the wherewithal or resources, who could be elderly, infirm or suffer health issues and ensuring that their rights to stay in their own homes are protected.

The member for Cottesloe highlighted the growing number of strata title properties. In my electorate, the number of survey-strata properties has grown, there are a lot fewer green title blocks than there used to be and a lot of properties are battleaxe or side-by-side blocks set up as survey-strata titles. My concern is whether the property owners understand some of the changes in this legislation. I will provide a little background on my concerns of those of my community. It really stems from some of the activities that have been occurring in my electorate over the last two to three years in particular with respect to some of the approvals that have been going through with council recommendations and approval from either joint development assessment panel or State Administrative Tribunal processes that do not fit with community expectations, particularly the advice provided to the community through the consultation process with council. I will touch on a couple of those issues, how they relate to strata titles and some of those concerns.

A constituent approached me regarding a property that they owned. They had been working overseas and owned a battleaxe property, or a survey-strata title, in Applecross. They wanted to develop that property. They had been to the council to talk about the opportunities for development within the Canning Bridge precinct, because their property is located in the H4 zone, which is designed as the transitional area with properties up to four storeys. The council advised them that they could not build a high-density development unless they amalgamated with the rear block. Interestingly, they approached the owner of the rear property, but they had just completed a single

residential development on their survey-strata title prior to the Canning Bridge precinct plan going through. The owner of the rear property was not interested and could not see a position in which they would be interested in redeveloping their property to build a high-density development for at least 10 to 15 years. They wanted to stay in their single residential home and they were happy with that. My constituent then went to the council and said, "I can't build a high-density development here, but given that my property is in a bad state of repair, I want to build a single residential development on this property." The council advised them that they could not build a single residential development. They told the council that could not build a high-density development because they could not get the land in order to do that and they wanted to build a two-storey single development. The council told them that they could not do that; the land has to be for high density.

My constituent approached me about it and I approached the council and then set up special meetings and so forth with the council. When I met with the council's chief executive officer and staff from the planning department, I asked, "Do you realise what you've created here?" They asked me what I meant by that. I said, "You've created a stranded asset that has no value. I am just talking about concerns around strata and survey-strata titles. If the owner of a property cannot develop it into either a high-density or a single development, the land has no use, and a stranded asset with no value is created." The council said, "Maybe we might look at buying the land, so the council owns the land." I said, "I hope you've got deep pockets", and they asked me what I meant by that. I said, "The majority of the properties in the area are survey-strata titled properties and the only properties that are really benefiting in this transition zone are those with rundown properties on full green titles that are allowed to be developed. Otherwise, property owners cannot do anything with their land." In the end, the council relented and changed its policy and allowed a single residential property to be developed, which, to me, was a commonsense approach. It should not have been a problem in the first place and it should not have required all those meetings, but they are now looking at going back over the Canning Bridge precinct plan and looking at the transition zone and what should be allowed to be built there. The council is now talking about allowing single residential developments in that transition zone; however, they must have the ability to be converted to high-density dwellings. To me, we should not have that in a transition zone. The council is still open for submissions at the moment and my office is in the process of working with people in the community to try to make a submission on what the council should consider to present to the council.

That is just the tip of the iceberg of things that have been going on across the Canning Bridge precinct that have impacted a lot of these property owners. There are situations in which very nice homes that are not very old are next door to very large blocks with large 1940s or 1950s homes that need redevelopment. Those blocks have now been sold, and during the consultation process the community was advised that properties in the H4 transition zone would be capped at four storeys. I went to the consultation process in South Perth and on the City of Melville side of the river and they said that technically they would be allowed to build only four storeys and technically those on the other side of the street can go to three storeys anyway, so it is only one extra floor and there is not that much difference. What they did not advise is that technically, if they use the word "technically", those four storeys could be six storeys and that they allowed extra height in this transition zone. When I asked the council why it had allowed the extra height, I was told that this is an up-market suburb and the council did not want minimal-height apartments; it wanted more up-market apartments to fit in with the local community. I said that made sense. Through the consultation process, other people within the community had asked questions about the sorts of density that would be allowed. They were told that there would be 10 apartments on a quarter-acre block. Some people were alarmed at that, but what we have seen approved by JDAP—some of these developments have gone to SAT—and so forth is essentially six levels at 19 metres high. There is a 1 070-square metre block on a 20 metre street frontage on Kishorn Street that has approval for 21 apartments that will be 19 metres high. This 20-metre wide block has to have a four-metre offset on either side, so this building will be now 12 metres wide and 19 metres high.

Mr J.E. McGrath: Is that near the highway?

Mr D.C. NALDER: No, it is on Kishorn Street, so it is two full blocks in from the highway and 1.5 kilometres from the train station.

They have allowed 21 apartments, but 20 car bays.

But they are not actually car bays. This is how they use the actual height that was permitted. They have created 10-by-two car stackers on escalators. If they use car stackers, it is not considered to be two floors. They have taken all the extra height on these two car stackers, and then all the apartment blocks are minimum height. I forget the actual measurement; it is 2.3 metres or something like that. For me, standing flatfooted, I could put my hand on the ceiling. Every one of the apartments has been approved on that basis. There is no consideration of overshadowing of the large single residential properties that are next door or in the line of sight from balconies and windows and being able to look directly into the backyards of next-door properties. The community has real concerns. If I take that further, the property behind it on Macrae Road, which runs parallel to Canning Highway—

it is the second block in—has an area of about 1 250 to 1 300 square metres and has been approved for 30 apartments. That development includes an undercroft for the car parking underneath, but it has been approved with a ramp that comes up to street level at 20 degrees. To give members an idea of a 20-degree ramp, if someone walks up Mount Street next to Kings Park, we are talking about a gradient of 12 or 13 degrees.

Mr J.E. McGrath: It would be 45 degrees.

Mr D.C. NALDER: It is a 12 or 13 per cent gradient.

Mr J.E. McGrath: From the bottom of Mount Street to the top?

Dr D.J. Honey: Yes.

Mr D.C. NALDER: Twenty degrees is steeper than that. This car ramp on Macrae Road is steeper than that. What is worse is that it does not get to a flat before it gets to the verge. Whilst it has been softened, it is still at an angle as it goes through the footpath. The path along which kids ride bikes and walk to school tilts down into this ramp; it does not come up to a level point. From a safety concern, I sit there and look at this and go, "What on earth are we doing? Why are we creating this environment?"

Back to the issue of the 20 car bays for 21 apartments, I said that there was no visitor parking. People coming to this development are going to park on the street. We are going to have cars all over our streets. I asked the city why it was doing this. The council has denied this since, but it said to me and others in our community, "But, Dean, there won't be cars in the future!" I did ask what parallel universe they were living in. I said that that may well be the case in 50 years or 100 years' time, but we have to get there.

Mr J.E. McGrath: Can I buy a cheap house in Applecross?

Mr D.C. NALDER: The member for South Perth will be able to. A lot of people are very concerned.

Mr D.R. Michael: It was your government's decision regarding multiple-unit developments.

Mr D.C. NALDER: Our government was the one that signed off on this. I am not trying to play politics. I am trying to say that there are concerns about strata title. If members want to play politics, I can go politics. I am actually trying to share some concerns of my community and the basis of their concerns. They are cynically thinking, "What are these changes to strata title? Are we going to be worse off?" I am saying that there are some serious concerns with what is being allowed through. There is a community push with the council. I was at a special electors meeting last night with about 300 residents, mostly from Applecross and Mt Pleasant; they were arguing for change. The council is throwing it open to submissions and will revisit this. We believe it needs to go a lot deeper.

I am highlighting the concern that my community and my constituents have with some of the laws that we have passed when we have not necessarily understood the full consequences of those decisions. When I heard during community consultation that the centre of the Canning Bridge precinct would be capped at 15 levels, I took it at face value. I did not go in and explore the background—that is my fault. I did not look at the fine print, where it says that this does not apply for public good. I would have thought that if something was done for the public good, there might be a five per cent or 10 per cent increase in what was allowed, but what we have seen, with no criteria or definition around public good, is the sign-off on 30 storeys. In one new development in the Canning Bridge precinct there is one tower at 30 storeys and two at 26 storeys. I am less concerned with height than with design, setbacks and all those things that go into it, but in this development there are 457 apartments. These cannot all open up onto Canning Highway. They actually open up onto Moreau Mews and Kintail Road. I do not know how the traffic is going to get out and move around. I am concerned that the council has not done the traffic motion or traffic studies. When I sat down with AMP Capital when we were looking at doubling the size of the Garden City development, it had to undertake a huge number of traffic studies on the impacts on Marmion Street, Riseley Street, Norma Road, Canning Highway, Leach Highway and North Lake Road. They did an enormous amount of computer-based modelling. They walked me through it. What they have done is fantastic; they showed the increased level of traffic, how it moves and what treatments were needed—sets of lights, intersections and so forth. I am worried that this level of work has not been undertaken by the council or the state government to ensure that our communities can cope with this increased densification. I am worried about where this will go.

I will tie it back into this bill. I am outlining why my community is concerned, and rightfully so. This strata titles legislation will allow a situation in which, with a duplex property, if one person wants to develop and the other does not, it can be forced on the person who does not want to develop.

[Member's time extended.]

Mr D.C. NALDER: What really concerns me is that I have a very large number of elderly people in my community. A number of them have become single as they have got older. They do not necessarily have the

wherewithal or support to ensure that they protect themselves. I am concerned that if a would-be developer bought a property at either the front or back of those people and then pushed it, we could have people forced out of the home they have lived in for 20, 30, 40 or more years and consider their castle. I will be seeking to ensure, through this legislation, adequate protection for vulnerable people. I asked the question through the briefing about the support for vulnerable people and was advised that the State Administrative Tribunal would take into consideration the circumstances around the removal of property. My concern is that if SAT is to take that into consideration, it is not an objective measure; it becomes a subjective measure. If we are going to be passing legislation in this place and making these rules, we need to be more directive to SAT on our expectation around the protection of people's rights, particularly when it relates to their principal place of residence. I understand the need if people are strategically buying blocks of land to protect their view and take an interest out there, but my concern is when it relates to a principal place of residence. A person may have physical or mental health issues, or may have other things that have happened in their life that will create a huge emotional distress if they are forced into a situation in which they need to relocate. Not everybody puts a financial value on their home. Not everybody puts a number on the value of their home. The value to them is far greater than any financial remuneration because of the emotional connection that they might have to that home and property. It is therefore incumbent on us in Parliament to ensure that property ownership and home ownership continue to be the mainstay of our society in Australia. I would really regret it if we were to create an environment in which that is threatened for people who would otherwise consider their home sacrosanct and a place that is theirs and not anybody else's. I call on the government to look at this part of the legislation. It needs to ensure that these protective measures are directed to ensuring that people's principal places of residence are protected where it is appropriate to do so. This requires work. There is no question that more work needs to be undertaken in this space. I really want to push this. I understand the need for development, the need for the city to progress and the need to provide greater densification around strategic corridors and areas close to the city centre and so forth. I understand that and I know that it needs to happen. I am dealing with the detail of ensuring that people's emotional connection to their home, when it applies to their principal place of residence, is understood and protected. I will be seeking an assurance from the minister on that issue. I look forward to her response and look forward to other people's contributions to this debate. We will be following this up in the consideration in detail stage.

MS L. METTAM (Vasse) [7.30 pm]: I rise to also speak on the Strata Titles Amendment Bill 2018. This bill has been in the planning stages for a number of years. I certainly welcome its introduction to the Legislative Assembly. The Minister for Lands is aware that I wrote to her seeking the urgent passage of this bill. I support elements of the bill as they relate to increased accountability and the fact that owners will be more empowered to improve common property, with 75 per cent voting, or a majority, for changes to strata. As I have heard, there is much support in my local community for changes to the quorum for annual general meetings as well as the legal recognition of electronic voting and teleconferencing. I look forward to further discussion in consideration in detail on the opposition's issues relating to protective measures surrounding a person's principal place of residence, which were raised by other members.

I come here today as not only the shadow spokesperson for tourism, but also the member for Vasse. In both roles I have heard from many people about the emerging and concerning issues surrounding Airbnb or the unregulated short-stay accommodation sector. I would like to highlight the issues around short-term accommodation in this bill. It is fair to say that the regulations in Western Australia and this bill in particular are quite different from the issues and concerns that were raised in New South Wales. I understand that in New South Wales, there may be an opportunity for a by-law to be passed or to be recommended by a strata group but it would require only one voice of objection or dissent to quash such a by-law to stop unregulated commercial short-stay accommodation in such a building. Legislation relating to strata titles in WA is quite different. At least it allows for by-laws to be created. It requires 50 per cent majority and no more than 25 per cent objections, which is a real positive. However, there is concern about the extent to which such by-laws could be held up in court. Specifically, I am talking about clause 46 of the bill. That relates to the invalidity provisions, which basically are about the extent to which the by-law may be overturned in court. These provisions underline some ambiguity. During the consideration in detail stage, I will be seeking some further clarification on the potential opportunity to clarify whether it is the intention of Parliament to uphold a voting majority's right to stop commercial short-stay accommodation if that is the will of the majority of the people in the strata. This is important because it is understood that strata does involve common property. I appreciate and understand that when people go into a strata complex, there is an understanding of the conduct or the environment in which they are living. There is a need for further clarification. I understand that this was an issue in New South Wales and such by-laws have been overturned in the past. I will be seeking a bit of a heads-up during the consideration in detail stage and look forward to the minister's comments on that as well.

I will now refer to the broader issue of Airbnb or registered short-stay accommodation properties and the scope for dealing with this issue at a later stage. I recognise and acknowledge that this is not the piece of legislation to

deal with it. I will take the opportunity to raise this really important issue. It also underlines the specifics of the clause relating to invalidity. From the outset, I would like to state that it is not in my interest to seek additional red tape on the broader issue of Airbnb, just a fairer application of the existing rules and a level playing field for all operators of unhosted properties. It is currently up to local government to manage short-stay accommodation. Unfortunately, there is no consistency across the state when we look at the 137 different local governments. There is an outstanding need for a statewide governing policy for this key accommodation sector. Concerns have been raised across the industry but also in residential areas but the concerns are not about mum-and-dad operators who are renting out a room or earning a bit of extra cash renting. It is really about those operators who are competing with wholesale properties, competing directly with hotels or commercial operators who employ staff and invest in compliance. It is understood that Airbnb and this short-stay market is here to stay. It plays a valuable role in adding some choice in the tourism sector, filling a gap in regional areas in particular where there are great fluctuations in tourism numbers and in some areas where there is not enough accommodation to support the growth in tourists. In pockets across the capital city but also in areas such as the Vasse electorate there is a great concern about the need for a more level playing field between the traditional hotel sector and this emerging short-stay accommodation sector. Similar to Uber, the government needs to prepare and update the old regulations to accommodate this emerging sector. We are seeing a raft of ambiguities and inconsistencies. There is a lot of confusion in the state about this issue at the moment. There are clear outstanding issues around investors in the hotel sector who are competing against those without the same sorts of compliance issues.

As I underlined earlier, we do not want to see more regulation, and particularly not for compliant operators. A holiday home rental company, for example, in my electorate of Vasse, currently takes between six and 11 months to register some properties and incurs significant costs from red tape. In light of the new bushfire management rules, I heard today that it can cost up to $10 000 to prepare a property. We certainly do not want to add additional regulations for those operators that are already registered and in the traditional tourism accommodation space.

A Bankwest Curtin Economics Centre study found that over the last 12 months the number of properties in WA on Airbnb has increased significantly. It is a growing industry and issue in WA. We now have more than 8 000 listings, which is an increase of 50 per cent. We know that many of our international visitors value it. In the Margaret River region, Singaporeans in particular like that accommodation option and 67 per cent of all international Airbnb users in WA are holidaymakers. In particular, the Singapore and Malaysian markets favour WA. The Bankwest report references Tourism Accommodation Australia, which —

> … reports that with 115 million international visitor nights

nationally —

> … the "unregulated accommodation accounts for four times the number of international visitor nights as regulated hotel, motel and serviced apartment accommodation"

That is quite significant. In the area of Vasse, which I represent, we are seeing a big impact on not only the existing operators, but also the residential amenity. There are suburbs where whole streets and whole areas are unregulated accommodation. In relation to this bill, we are seeing a large number of units in strata buildings being taken up by the unregulated accommodation sector. I have spoken to many people about the impact on existing providers and neighbourhoods and there is great support for the state government to take a leadership role in creating a fairer playing field.

Over the last few months, I have been overwhelmed by emails from various operators. I refer to one from Bushy Lake Chalets, which states —

> Please be assured that we are not against Airbnb or Holiday Home Operators, they are very much part of the market, however they must be regulated in numbers to assure our industry remains sustainable. The Tourism industry will not survive on AirBnb Operators alone once we have been forced to close our doors, many of these operators are part time short term operators here today and gone tomorrow, but crippling the long term operators on their way.

The email further states —

> As a Chalet Operator in the tourism industry we:
>
> - pay commercial land rates that are further elevated dependant on income generated from property;
> - pay commercial water rates
> - … electricity rates
> - … membership to associations …

- … GST …
- … tax on business income;
- Own a suite of expensive insurance policies to ensure coverage for our guests; and
- Conform to local regulation in regard to fire safety, food preparation, water quality etc

Then the email goes into what Bushy Lake Chalets is facing and competing against when a short-stay holiday home operator in the same tourism sector pays only standard land rates, water rates and electricity rates. The email states that a short-stay holiday home operator in the same industry —

- rides on the back of Traditional operators promotion of the region and the industry;

Commercial operators in our region pay a contribution towards marketing and promoting that area. That is a snapshot and an example of some of the feedback that I hear from the electorate. Another operator, Edge of the Forest Motel in Margaret River, states that —

> The problem is not Airbnb, it is the appropriate authorities failing to enforce their own legislations and taking the easy option by sticking their heads in the sand and doing nothing about this issue, except to continually increase costs on existing registered businesses—our Shire Rates have increased 40% in the past six years, unlike domestic rates which have only increased half that amount.

The email further states —

> We request that the State Government does not take the easy option by "deregulating" the accommodation industry in this State, when in fact they would not be "deregulating" the industry at all, but simply turning a blind eye to all the above issues and throwing traditional, tax-paying, law-abiding operators to the wolves.

Those comments are from Edge of the Forest Motel in Margaret River. It is very clear that there is an opportunity—not in this bill but in this planning space—to develop a more level playing field and for the state government to take the lead in this issue. We are looking at compulsory regulation for unhosted accommodation providers and some minimum standards. We must look at how to support those operators who are undertaking a heavy level of compliance and cost given that their investment in the industry is supporting not only local visitation but also international visitation.

We can look at where other states are at. New South Wales has really taken a lead in policy.

[Member's time extended.]

Ms L. METTAM: New South Wales' policy exempts shared accommodation where the owner or host is present, but looks at capping the number of nights in unhosted accommodation in greater Sydney. New South Wales has a mandatory code of conduct with a two-strike policy for serious breaches. The Queensland government has introduced an industry reference group, which has met a few times and now has broad agreement on a couple of key principles. Other states are looking at those sorts of things. Many would be aware that many other places around the globe, such as San Francisco and Greece, are also looking at, and dealing with, this issue.

Although I believe the issue is complex, I do not believe that the solution needs to be difficult. At a minimum, we should be looking at the introduction of a compulsory and simple registration process for short-term rentals, so they meet minimum standards, and a mandatory code of conduct. There are a lot of options out there but looking at this matter in relation to unhosted properties is important.

Finally, I will go back to the bill and Airbnb. It is important that there is some clarification around the invalidity clause and what that means and to what extent strata residents will be able to have their say in voting majorities on how their strata units are managed going forward. Regarding Airbnb and issues in the short-stay accommodation sector, we seek support for residents in their homes and the tourism industry. As the ultimate goal, we seek a level playing field for the accommodation sector. The challenge will be achieving that without adding burdens on those who are doing the right thing—that is, those in the tourism sector who have invested heavily in compliance, staffing and training. In relation to this amendment bill we seek assurance about the invalidity provisions to residents in current strata units and ensure that their voices are respected.

MR J.E. McGRATH (South Perth) [7.50 pm]: It gives me great pleasure to rise tonight to speak on the Strata Titles Amendment Bill 2018. Real estate agents in my electorate have been waiting for this. A few weeks ago, I ran into one on the bus going to see the minister's team play football. She said, "John, when will the strata title bill come into Parliament?" It is long overdue. Our government was looking at it; we did not get to progress it but it is very important. I will also say that I have not been to a briefing as comprehensive as the one given today by Sean MacFarlane from Landgate. He is a very talented individual.

It is very complex to get a handle on all the various dimensions of living in strata title buildings. For many Australians, including those in my electorate who choose to live in apartments and units, community living is becoming an increasingly common lifestyle option. Compared with a lot of other electorates, I have a fairly high degree of strata properties, and, because of its proximity to the CBD, that has been happening in South Perth for a long time. Over the years the industry has grown significantly in size and value. It is dynamic and often debated. It involves an increasingly large number of stakeholders. In many jurisdictions it has undergone legislative review and development. Legislative oversight on the strata title industry tends to be reactive to industry and stakeholder concerns. It has developed in different ways in different jurisdictions and sooner or later the debate was going to happen in Western Australia and here it is. I am surprised that more members are not talking about it. I hope the minister has not gagged them and said that she wants to get this through quickly. I know that she would not do that!

Ms R. Saffioti: Of course not.

Mr J.E. McGRATH: As the minister acknowledged in her second reading speech, the Barnett government, with the support of Landgate, initiated strata reform, which was no doubt overdue. Western Australia has more than 300 000 strata lots. Approximately 40 per cent to 50 per cent of all new land subdivisions are for strata lots, which is quite an impressive statistic. However, no major reform has been made to the legislation in around 20 years. It can be seen why the community is saying that something has to be done about this. The increasing availability of strata properties has created greater choice for consumers to access affordable housing. The member for Bateman said that every Western Australian's dream was to own their own house, but in modern times not every person is going to be able to buy a house on a block of land, so we have to provide an alternative opportunity. At the same time, people who buy or rent a strata title property have to understand that there will be limitations and restrictions on their living arrangements. During today's briefing our members made the good point about people who say that our house is always our castle. When people buy a strata property, it is not like buying a house on a block of land; they are buying under the terms and conditions of that strata, which is why some people do not like to buy strata and would rather buy a freestanding townhouse than one that is in a strata block of three. I understand that the intent of the legislation is to bring the types and structures of strata schemes in Western Australian into line with those in other jurisdictions.

We are all concerned for people who do not want to move out. Under this bill's provisions, for strata properties of a certain size, 75 per cent of the owners will be required to form a majority. I am not sure about duplexes, but I think that is a problem. With only one in two needed, I think that is problematic. As the size goes up, it gets to 75 per cent. I had a situation in South Perth with an old block of flats—it might have been built back in the era when "Bondy" was building apartments—that do not have balconies. The majority of the residents got together and said, "We can build balconies so we can go out and look at the views of Perth from our apartments", but they could not get everyone to agree. Some owners said that they could not afford it. They got together and said, "We will pay for the balcony for you and you can repay us when you sell or leave. We're prepared to do that for you", but they still could not get it over the line. I do not know whether this legislation would have an impact on or be applicable to something like that.

In today's briefing I liked the process that will be in place to offer some protection to people in the minority who might not want to leave. According to the explanatory memorandum —

> The amending Bill provides extensive guidance to assist the Tribunal in deciding whether the proposal is just and equitable. Vulnerable owners will also have access to funding for assistance to respond to the termination proposal.

We need to know how "vulnerable" will be defined. That is something for the State Administrative Tribunal to determine. At the briefing we were told that there might be cases in which the strata will not be ceased if SAT determines that someone will be unfairly impacted. If that is the case, and I know it will be in regulations, that is good. I also like the various stages that will have to be met as part of the termination proposal; it has a lot of safeguards and is a step-by-step process. Owners will have the opportunity to vote up to three times, but no more than three times. I guess that would mean that if they do not agree the first time, they could come back and vote again after thinking about it a bit more, or the conditions have changed, and the vote may be different. But for some reason, which the minister might explain at the consideration in detail stage, there are only three votes and that has been set.

The other issue that has been raised with me, which is a little out of left field, is disability access. It has been brought to my attention, and has happened in a case in South Perth, that under the current act it is difficult for anyone who own or rents a property under a strata scheme to make adjustments to the property to cater for disabilities. A lot of these buildings were built a long time ago, before requirements were put in place that

properties had to have ramps, disability access and such things. Under the current act, any changes that may affect a small part of common property need to be unanimously approved by the strata company or a council of owners. A lot of buildings in South Perth are under strata schemes and were built 30 to 50 years ago, without the obligation to provide disability access. A lot of old strata properties would not have complied with the standards that we now have for disability access. This creates a situation in which ageing residents in particular might be unable to undertake modifications to their property that may affect common property without unanimous agreement from their neighbours. This is a concern in that it could be raised as discriminatory against people with disability. In this context, some constituents have raised this with me. Four older constituents, two couples, live in a strata property in South Perth. One couple has a disabled son who wants to live with them and the owners are seeking to install, at their own cost, small lifts that can assist him in accessing their properties. In order to access their properties, they have to go up 17 steps from street level and a further 15 steps up to the bedroom floor. That is impossible for someone who is wheelchair bound and unable to do that. The units are not wheelchair accessible or useable and are therefore a significant challenge to anyone who has a mobility impairment. Without going into too much detail, this proposal will impact part of the unit complex defined as common property and it will trigger minor changes to the boundaries and re-subdivision provisions if part of the common property needs to be incorporated into private property. It is quite complex, because it impacts on the common property and it would mean that they would have to put a hole in the slab between the two floors. It is difficult; the other owners do not want to comply. Maybe we can talk about this in more detail during consideration in detail or in the minister's second reading reply. It is an issue, and I am sure it is one of many that we will be canvassing as we go through this legislation. But, as I said, we had a good discussion in the party room this morning. The opposition is supporting the legislation. A couple of amendments might be moved by the shadow minister, and there will be some issues from other members who need to flesh out some aspects of the bill.

I did not realise that in some places where people build a nice new development and there is a property in front of them, those people buy a couple of units in that property in front and will stop any development in that property. That is not the spirit that we want to see and it should not be encouraged. Under this legislation that the government is bringing in today, that will not be able to happen.

The member for Vasse talked about Airbnb. That is an interesting one. A constituent contacted me who had lived in the country and had bought and moved into a residential apartment in South Perth. One of the owners in the apartment owns several apartments and he has turned them into Airbnbs. The constituent said that when they bought in, they did not buy into a private hotel, they bought into an apartment to live in. That is an issue and I wonder whether owners of a building with a strata manager could say that Airbnb would not be allowed. That could possibly happen if a new building or a renovated building had a group of owners who got together and said, "This is what we want; we want to have this as our residence. We do not want Airbnb encroaching." Could they do that as part of the conditions of the strata? Or would they be required to go to the local council and see whether it could do it? I guess if a person's home is their castle, then a block of apartments is their castle too, so they can do whatever they like. That is an interesting one that will obviously be debated. I am sure there will be a lot more talk about Airbnb in future days in this Parliament.

It is good legislation. The other thing that came out in the briefing was about strata managers. The regulation of strata managers is very important. At the briefing we were told that there was consideration in whether that should go into legislation, but the view was that it is better to be regulated because there are so many strata titles out there, where would the legislation start? There are little strata bodies with six townhouses and the bloke in townhouse 4 is the strata manager, or there are the bigger ones in which private companies manage the strata for a fee. Some of those strata bodies would have a lot of money in the bank, and it is very important that they meet certain criteria and conditions and that they are accountable. It is good legislation and we look forward to consideration in detail.

MS M.M. QUIRK (Girrawheen) [8.07 pm]: I congratulate the minister for introducing the Strata Titles Amendment Bill 2018 and upon its passing we will have laws that better fit the complexities of living communally in the twenty-first century. As we have already heard, these laws better reflect change in demographics and the increased number of smaller dwellings that are more affordable, and will enact a higher level of transparency both at the purchase stage and by strata management, which will now be subject to prescribed requirements for appropriate conduct.

As we have heard from other speakers, strata title laws have received much parliamentary attention over the last decade or so. Although many members referred to the 2011 Standing Committee on Public Administration of the Legislative Council, there is in fact an excellent report of the 2003 Economics and Industry Standing Committee, chaired by the then member for Riverton, Tony McRae. A lot of its recommendations are now reflected in this legislation some 15 years later. At the time that that report was handed to government, the then minister Hon John Kobelke in October of that year responded that there was some need for further consultation and that at

that time there was no market failure, but, certainly, the recommendations were wideranging and innovative and it was considered appropriate to undertake further industry and public consultation. Then, as I said, there was the 2011 Standing Committee on Public Administration inquiry and in 2014, the Minister for Lands at the time, Terry Redman, in response to a question without notice in this house spelt out the former government's approach to strata title reform. He pointed to five main areas of reform. The first is tenure reform, in which community titles will enable multiple levels of management for large-scale and/or mixed-use developments. The second is reform to vendor disclosure and to the documents that vendors of strata properties are required to give buyers before they sign a contract. The third is dispute resolution and making the State Administrative Tribunal a one-stop shop. The fourth is reform to the management of strata titles to allow the use of technology. That will enable people involved with strata titles to have meetings, to vote electronically, and to be given information on record keeping.

The then Minister for Lands, Terry Redman, said, as reflected in *Hansard*, on 18 November 2018 —

> We believe that there are significant benefits in the reforms for planners, developers, strata owners and occupiers, and that these benefits will provide more flexibility in the marketplace. Additional to that, we believe that the benefits will attract investment interest and enable developers to support significant investment in Western Australia. We have also seen some changes to strata title reform in other states. We want to ensure that Western Australia is right up to the market—something that the opposition did not do and something that we are on this side of the house are doing.

As part of this initiative announced by the former minister, extensive consultation was undertaken by Landgate. In its 2015 consultation summary, Landgate notes that at the completion of the public consultation period, 154 registered participants, including 35 organisations, had submitted 1 160 official comments on proposals in the consultation paper. Participants were invited to comment on a total of 212 proposals across the five main areas of reform being investigated. They were able to comment on as few or as many of the proposals as they wished. They were also offered the option of providing general comments. Participants were able to submit individual submissions or organisational group submissions, or both. For reason of analysis, participants were required to select an organisation or category covering the stakeholder groups identified. These are the Public Property Council of Australia; Australian Property Institute (WA); Strata Community Australia (WA); Real Estate Institute of Western Australia; Law Society of Western Australia; Surveying and Spatial Sciences Institute; Urban Development Institute of Australia (WA); Strata Council; government departments; Australian Institute of Conveyancers; Housing Industry Association of Western Australia; local government authorities; and Local Government Planners Association.

I have spent some time on the somewhat tortuous history of strata legislation and the development of these laws because it is important to appreciate that they have been the subject of considered and prolonged reflection and of wideranging and inclusive consultation, and that on many of these matters there has been consensus both within the industry and politically. These laws represent a suitable response to future needs and growth. The resolve to finally act has been galvanised by predictions that Western Australia's population will increase to more than five million by 2056. There is a need for more housing to cater for the projected population increase, including providing more innovative housing options, while also meeting urban infill targets and a roll-out of Metronet over a more extensive transport-orientated design around hubs. It is logical to plan for a growing number of strata schemes, which means Western Australia needs a more robust and updated legislative framework to support strata title schemes. I should add that in examining the history of the development of these laws, I acknowledge the unflagging commitment and dedication of the Landgate staff charged with developing this package. A number of members have commented on the excellent briefings that we have received. As local members, we have all encountered problems such as unconscionable conduct by strata management; disputes between neighbours; undisclosed commissions; and unanticipated and exorbitant sinking funds or levies.

I now want to focus on some of the issues that are acutely felt by seniors living in strata title accommodation. I preface my remarks by saying that numerous complaints are also coming from seniors about retirement villages and park homes. I therefore express the fervent hope that remedial laws for these kinds of titles will also be high on the priority list for the McGowan Labor government. In the context of strata titles and seniors, I am indebted to an excellent report that was commissioned by Council on the Ageing Western Australia and published in November 2014. The report is titled "Security of tenure for the ageing Western Australians: Does current legislation meet seniors' ongoing housing needs?" and the authors are Aviva Freilich, Pnina Levine, Ben Travia and Eileen Webb from the University of Western Australia.

The problems that I will raise are not unique to seniors. However, it is important that this group is afforded the opportunity to remain living independently for as long as possible after downsizing from their family home. The authors quote the observations of Waldemar Niemotko, President of the Australian International Research

Institute, who says of seniors that having invested their life savings in strata units, they find their limited resources stretched by levies passed by younger investor owners seeking to increase the value of their property. He said further that many seniors felt intimidated and marginalised in decision-making, particularly as they tend to be asset rich and cash poor and consequently ineligible for free legal aid if they wish to contest an unfair decision. He also noted that seniors tend to be less computer literate, at a time when information is increasingly distributed online. Strata units are the preferred choice for older people who want to downsize but do not want to move into a retirement or lifestyle village environment and desire to maintain a level of independence. Such a tenure permits seniors to remain in a familiar locality within smaller and easily maintained premises.

The authors found from interviews they conducted with seniors that when strata living works well, it can be a rewarding existence. Even without this research, we know that living in close proximity to a variety of people, particularly when those people often have input into one's daily life, can result in disputes. One interviewee told researchers —

> "We really thought of it as just like our house but smaller. We had always got on with the people next door. It hasn't worked—we are not happy … we don't like the neighbours and we want to do things around the place without getting someone's permission."

Further, several respondents were of the view they had been misled by salespeople prior to the sale. They were unaware of the necessary forms or found them too complex. Also, seniors chose to proceed through settlement agents because of concerns about legal fees. Generally, they felt there was little explanation and the intricacies of strata living had not been explained. Many respondents regarded a strata title property as akin to a green-title block—it is "their" property, and they felt they should be able to make improvements and generally treat the property as their own. The reality of community living led some respondents to regret making the move to a smaller property, and the perceived advantages were outweighed by what they regarded as limitations on their autonomy and lifestyle.

One of the main issues was a misunderstanding about what one can and cannot do with a strata title property. Improvements to the property may arbitrarily be refused by the strata council. Examples range from installation of air conditioners, to Foxtel satellite dishes, to cosmetic improvements. There were concerns about the lack of autonomy and resentment that, in some cases at least, seemingly superficial improvements or alterations were refused, while others had actually gone ahead with improvements. That is based on the old adage that it is easier to ask for forgiveness afterwards than to ask for permission beforehand. They had gone ahead with their improvements but then recounted incurring the wrath of the strata council. Indeed, it is an issue that one respondent had to argue at the State Administrative Tribunal.

Another related concern was difficulties with other residents. Several experienced difficulties with people renting out other units in the complex or concerns about day-to-day issues such as parking and cleanliness. Related to this was a considerable amount of frustration about investors and absentee owners who, in some respondents' views, neglected their properties and had no concern for other owners. Some complained that there was a reluctance to pursue owners or residents who did not comply with by-laws. If I can digress for a moment, I spoke last year to a developer of large strata units and queried why all buildings of this size around the city and in East Perth and West Perth seem to have glass balconies. I regard this as somewhat unsightly because people tend to put their washing on the balcony and leave it there for some time. This does not add to the general amenity of many of those locations, especially bearing in mind that the units were relatively expensive. The developer said to me, "If you think someone's smalls on their balcony is a concern, they can always go off to the strata council and complain about it." People want to live reasonably with their neighbours and they do not want to have to enforce by-laws about where others dry their underpants. That is the absurdity of current laws. My electorate officers say to me that if people could just lean over the fence and talk to one another, we would have far fewer constituent inquiries, and I think the same can be said about strata titles. People cannot make themselves too unpopular within the complex; they have to be seen to be reasonable.

Rising fees and maintenance costs were of concern to seniors. In addition to council rates and charges, owners of strata title properties must pay strata levies and, at times, make other monetary contributions. Concerns were expressed about the frequency and magnitude of rising fees. In some cases, they felt that eventually the cost would drive them to sell the property. Management was another concern. Many felt that their voices could not be heard, as they were outnumbered in meetings or simply disregarded by members of the strata company or strata council. Likewise, a lack of transparency in accounting, contracting, payment of accounts and the necessity for certain works was a common theme, as were agreements with particular contractors and the failure to seek a range of quotations for services. Respondents also voiced unease when strata managers were employed by a strata company or strata council. Again, the complaints involved a lack of information and transparency. Many questioned the skills and, indeed, the ethics of some strata managers. Another theme in the interviews was the difficulty in

negotiating dispute resolution. The respondents found that internal efforts at dispute resolution were often too poisonous to be worthwhile, but they were deterred by the legalistic SAT process.

Finally, there are examples of a divide between younger and older residents in strata title complexes. The authors of the report suggest that although this can perhaps be explained away by age-old differences between generations, the issue was of considerable concern to senior respondents. Of note was the main concern expressed—the financial implications on older people who are on fixed incomes. Several believed that strata councils were made up of younger people with more disposable income and who made decisions without reference to the financial resources of other people in the complex.

[Member's time extended.]

Ms M.M. QUIRK: Similarly, there were complaints that improvements were of little or no benefit to older people in the complex. On the other hand, there was a range of complaints that there was resistance to the installation of age-friendly aids, as the member for South Perth referred to. These issues I have mentioned do not solely affect seniors, but it is noted that they are likely to be home for longer periods and, if there are problems within the complex, there will be greater opportunities for exposure to the issues of consternation.

The findings also disclose the significant issue of the lack of awareness and understanding about the nature of strata ownership and the related vagaries and use of common property, by-laws and management responsibilities. Some would not have chosen to live in a strata title environment if they had been aware of these issues. On the one hand, there are publications produced by the Department of Mines, Industry Regulation and Safety on strata title living, rights and responsibilities, and the Seniors' Housing Centre provides excellent information and seminars on various forms of seniors' accommodation, including strata title. However, this information does not seem to be getting through to many older people, and efforts to educate potential purchasers and emphasise the differences between strata and green title ownership need to be enhanced.

Another finding was the lack of qualifications and competence of management. A strata company comprises owners of the lots in the strata scheme and can make management decisions about the day-to-day running of the complex. Responsibilities include enforcing the by-laws, maintaining common property and other statutory requirements. It was noted that it is impracticable for all owners to participate in the day-to-day running of the complex; therefore, the existing act provides for the creation of a representative body, the strata council, to perform the duties of the strata company. Although this is a sensible and efficient alternative to insisting that all owners participate in the strata company, the authors of this report considered that this procedure can result in disputes and ill-feeling about decisions made by the council. This is especially the case when the strata council becomes dominated by particular groups or owners. Likewise, there is often a lack of information and transparency associated with strata councils' decisions. The report's findings suggest that there is a disconnect between the procedures in the legislation and what often occurs in practice. Similarly, the problem is not necessarily alleviated by the appointment of a strata manager. One of the most contentious aspects of the current laws is the widespread concern about the standard and, I should also say, the cost of strata management. I am delighted that the bill addresses this head-on and imposes standards that strata managers must meet. The additional ongoing costs of living in a strata title complex are often not factored in by the owners.

Point of Order

Mr R.S. LOVE: Mr Acting Speaker, the member is clearly reading her speech, which is contrary to standing orders, and I ask you to ask her to desist from reading her speech.

The ACTING SPEAKER (Mr S.J. Price): Member for Moore, there is no point of order.

Ms R. SAFFIOTI: On that point, members on the other side also read out their points, so it is a spurious point of order. I ask that the member for Girrawheen be given the opportunity to finish her speech.

Mr S.K. L'ESTRANGE: Mr Acting Speaker, the minister has no right to adjudicate on your behalf, so I ask you to adjudicate on the point of order.

The ACTING SPEAKER: Thank you, manager of opposition business. You may not have heard me, but before the minister made her contribution, I did say that there was no point of order. The member is just referring to her notes, which is what a lot of members do. Please carry on, member.

Debate Resumed

Ms M.M. QUIRK: I note that there is not a lot of love in the room.

Point of Order

Mr S.K. L'ESTRANGE: Standing order 1 makes it very clear that although we are allowed to use notes, we are not allowed to read.

The ACTING SPEAKER (Mr S.J. Price): Thank you, manager of opposition business. That is correct; that is what standing order 1 says. The member is referring to her notes. Please carry on, member.

Debate Resumed

Ms M.M. QUIRK: To assist members opposite, I am surprised about their lack of compassion. When they are all dotty someday and living in retirement villages or strata title premises, they will be grateful that I raised all these issues. I confess that I have a terrible memory and, as I am quoting from academic research, I am having to refresh my memory a little more often than I would like. As I said, such costs impose a greater impost on people who have a fixed income, such as seniors.

Mr R.S. Love interjected.

Ms M.M. QUIRK: Perhaps the member can go back to the bar and have another drink.

Mr R.S. Love interjected.

Ms M.M. QUIRK: Excellent.

Because they are on fixed incomes, seniors often have concerns about decisions that involves contractors. Anyone would think that a National Party Prime Minister was being deposed.

If the need arises for substantial capital expenditure, such as lifts, quite often the sinking fund is inadequate and older owners may be unlikely or unable to make contributions. Similarly, if resolutions are made for renovation works, all owners are required to make a contribution. Again, the researchers' related finding was the vexed issue of improvements to a complex as a whole. Researchers found that there are two sides to this coin. The first is when other owners want to incur expenditure from which the older owners will not necessarily benefit. The second is when the construction of facilities appropriate for seniors is vetoed out of hand. The researchers found that there can be a divide, as I said, between younger and older residents in both cases. On the one hand, cosmetic renovations may be appealing and may add value, but they are of little day-to-day relevance to older residents, especially if there is a financial impost. There is also resistance to installing such things as ramps, because younger—and, indeed, even some older residents—think that they make a property less attractive and would devalue it. Researchers found that consideration should be given to requiring contributions for inessential improvements and that the installation of age-friendly facilities should be encouraged. I draw that to the attention of the member for Moore if he is listening in his office, because everyone deserves to live independently for as long as they possibly can.

One of the interviewees said, and I will need to quote from my notes —

> Those committees are like 'little Hitlers'. They can't keep their nose out of anything and are always telling you what to do.

The report found that the dispute resolution process needs to be streamlined, as we heard tonight, and more use needs to be made of mediation. Disputes arise between residents themselves, as is almost invariably the case when people reside in close proximity, and with management. The report also found that clarification is needed—I am very pleased that this is in the legislation—about pre-contractual representations, and that is particularly the case when people purchase off plans, which, in fact, is what I did, and in some cases the reality bore little resemblance to what was on the plan. I am also delighted by the flexibility that will be available to use technology in voting at strata council meetings, because that takes into account the sometimes difficulty with mobility or the capacity for seniors to get to meetings. That flexibility is excellent.

Finally, the member for Moore will be pleased that in over-55s units, there is a level of dispute when younger people want to move in to care for one of the residents, which enables that older resident to stay there longer. That provision is welcome; it should not be the subject of dispute amongst neighbours and it should not be disallowed by by-laws.

I conclude with reference to a case study that was referred to in the frequently asked questions supplied by Landgate, because it sums up what I have been talking about and illustrates the nature of some of the issues that seniors have in strata living. Brenda and her husband, Robert, bought their townhouse in a small development 12 years ago and were delighted that they had found a place they loved. It was set over three levels in a quiet street with just a short walk to parks and the shops. It was perfect. What they had not anticipated was a deterioration in health and the way in which the strata company and its by-laws would make it difficult for them to modify their home to allow for their reduced mobility. What caught them completely by surprise was the vehemence of another owner in refusing to help. With an injured hip arising from an accident, chronic asthma, and a wheelchair-bound

daughter, the combined 34 stairs from garage to street level to the front door was more than an inconvenience to Brenda—they were a hazard to her health. Their daughter had not been able to visit them for eight years. The solution seemed simple—install a lift at their own expense from their car space, which is directly beneath their townhouse, to the ground floor. The engineer's report, which they commissioned, found no issue and a lift company could supply a lift to fit the space available. But it transpired that the concrete block between the sunken car park and the townhouse ground floor was common property, and under the legislation it could not be modified unless every member of the strata company agreed. One member refused. Even after expensive mediation, that one owner refused to allow Brenda and Robert to install a lift despite it having absolutely no impact on her townhouse. Under the new legislation, a strata company must not be unfairly prejudicial against a person and must be not be oppressive and unreasonable. That is an excellent example of why this legislation is so fantastic. It is a great example.

I apologise for holding up members. I hope I have highlighted that this legislation will materially improve the daily lives of many seniors, who deserve, in the words of the recently departed and great Aretha Franklin, R.E.S.P.E.C.T. I commend the bill to the house.

MS J.M. FREEMAN (Mirrabooka) [8.37 pm]: I rise to make a brief contribution to the Strata Titles Amendment Bill 2018. I applaud the member for Girrawheen for raising the issue of seniors and strata titles. I, too, can outline that I have had many representations from seniors, in particular some from a complex in Balga, because the strata title managers consistently refuse to do work on some of the common areas and denigrate some of the owners. The point made by the member for Girrawheen is that in some ways the ethical nature of strata title management companies is in question. The member for Girrawheen outlined exceptionally well the need for this legislation so that disputes can be more effectively pursued in a more timely and consistent manner for those in strata title properties, particularly seniors.

I thank the minister for bringing this bill before the house, and the advisers. At one stage, the advisers came to present when the bill did not look like it would come before the house for a period. We came in the first instance expecting that sort of briefing but they were giving an outline, and it was like, "No, no. We don't need another outline of what's going to happen with the legislation; we need this legislation to go forward". I congratulate the minister on bringing it to the house; it is an excellent way forward for an issue has been ongoing for many years. Part of the difficulty with the act is that despite 1985 not seeming like a long time ago for me, it is a long time ago for a piece of legislation. It was a particularly long time ago, as the legislation was passed before we had email. The way people communicate has changed so much. The way we manage committees and deal with things has changed so much. There is the aspect of being able to resolve issues in meetings around what determines a quorum and how that presents. The updating of this legislation is welcome.

I want to raise a couple of issues. The first is that the legislation will introduce a requirement for a minimum level of knowledge, make police clearances a requirement, and ensure funds are held in trust accounts or the scheme's own account. That is all very positive. We have said that strata title managers need to be held to account for their fees and what they deliver to residents, but I have had a concern raised with me about really small strata title units. The case I refer to has six units. One of the owners of a unit is the strata title manager. He feels very strongly that if he is required to gain qualifications, the cost of that would be greater than this small strata company could bear; it would make it prohibitive. The owners work together as a council of owners. I would be interested to hear the minister's comments on how that would be dealt with in a case like this, in which there has been an ongoing cooperative arrangement with one owner being the manager. What would the expectations be when it involves such a small arrangement?

The legislation obviously does not affect ownership, but concerns how complexes may be governed. A particular issue I want to raise is how the legislation will impact on strata title owners that are businesses. The minister would be aware of a place called the Koondoola Plaza.

Mrs J.M.C. Stojkovski: And the member for Kingsley is aware!

Ms J.M. FREEMAN: And the member for Kingsley is aware. The member for Girrawheen would also be aware of it. I thank the Acting Speaker (Mr S.J. Price) for being in the chair. Members on this side would know that I had to go to an emergency dentist before I came in here. To say that the Koondoola Plaza was worse than any bad toothache for the whole of the community is probably being kind! Members will be pleased to know that I just had a dislocated jaw rather than anything particularly difficult.

Several members interjected.

Ms J.M. FREEMAN: It has been relocated now, but the Koondoola Plaza has set my teeth up to aching again! It is such an issue for the community. I know that this amendment bill will prevent one owner from rejecting a development if the majority of owners agree to a development.

Mrs J.M.C. Stojkovski interjected.

Ms J.M. FREEMAN: As has been the case in the past. I will take members through this. It is important to record it in *Hansard* so that when someone googles "Koondoola Plaza", this debate should come up. In 2005, after very long advocacy by the now member for Girrawheen, who wanted to do something about the blight of this strata title property on the community and the suburb, the Labor government promised $1 million towards the upgrade of public facilities around the plaza in an effort to encourage the owners to improve the plaza. A plan on how that improvement could be managed was drawn up. The member for Girrawheen should be congratulated for that work. Do members think that these strata title owners could come to some sort of agreement? No, they could not. A concept design was developed. A lot of work was put into it, but the strata title owners did not agree. In fact, the City of Wanneroo resolved in April 2008, when talking about the $1 million, that it would write to the state government and recommend that it consider a resumptive town planning scheme or similar over the Koondoola Plaza area if it believed the project should proceed. Unfortunately, that was not done at that point in time and we perhaps missed an opportunity. We were able to maintain the money and, in 2009, it was put into underground power, an intersection upgrade—that is, traffic lights on Beach Road and Butterworth Avenue—and local park upgrades at Butterworth Reserve. I always thank the previous government for not taking much-needed funds out of the suburb.

Mr J.E. McGrath: We would never have done that.

Ms J.M. FREEMAN: There was a threat to take it because the money had been sitting on the table for such a long time. Thankfully, that government did make some necessary upgrades. But what the money could never be used for, because of the strata title owners, was the purpose for which it was intended—to take away a blight on the community and, frankly, a hotbed of criminal activity. Petty crime occurs there. Drugs are sold from some of the shops, which the police know about and shut down every now and then but they then reopen. It is really difficult for the residents. The difficulty is that it is a strata title development.

[Quorum formed.]

Ms J.M. FREEMAN: Members, I am talking about the Koondoola Plaza; it is something that we need to fix. Please, stay in the room to hear my speech, because it is good! The member for Mirrabooka is talking about something that is for the benefit of many people! There is a limit to what can be achieved with strata title business complexes, and areas become degraded because of that. The council has gone back and done a $50 000 needs assessment of the community facilities that are needed in Koondoola. What was the prime issue? The Koondoola Plaza. My question is this: is there any way, under the Strata Titles Act, for a majority of members to be able to enforce basic maintenance standards on commercial properties that have fallen into disrepair because of owner neglect? At one stage it got so bad that it was necessary for someone to find out who the insurer of the plaza was so that they could ring the insurer and say that they thought it had some liabilities. The insurance company fixed the pothole that could have taken a whole car. Do members remember seeing those sump hole things? What are they called?

Mr J.E. McGrath: Sump holes.

Ms J.M. FREEMAN: The sump holes. Suddenly someone loses a car in it!

Mrs J.M.C. Stojkovski: Sink holes.

Ms J.M. FREEMAN: I thank the member; they are sink holes. These were permanent. You could have done breaststroke in some of them.

When we wrote to the previous minister about the plaza, he said that there are provisions under the Planning and Development Act 2005 for the preparation of improvement plans to guide land developments and improvements. However, such a proposal would require support and involvement from local government and ultimately the landowners. Again, if there is a development and improvement plan, how will this pertain to strata titles? Is it under the provisions that we are now changing whereby it is the majority of them? My understanding is that one owner or two owners out of, I think, 12 owners in total could not reject that development, which is really important because since 2017, the City of Wanneroo had been meeting with the owners. It had a proposal to extend the zoning of the Koondoola area to try to increase the development potential for the owners with a view to encourage them to develop it in a different way that serves the community. One of the owners has been writing to a variety of people, including the member for Wanneroo at one stage—she passed the letter on—basically saying, "We don't agree with that rezoning around all of us. We think it's going to devalue our land because you've got some council

land around it too, which will get rezoned. You might do something that's going to devalue our land." It is a constant frustration of these people. Some of them have it in superannuation portfolios. I can only assume that they offset it as a tax loss because there is no way they could be making any money on this particular thing. Meanwhile, the residents are the ones who suffer. I am very hopeful that some of the thorns in the side of the strata as a whole can be taken away in this area. Unfortunately, if the majority do not do anything, the community is still left in a quandary.

The last thing I want to raise is that I am very pleased to see a much more effective dispute resolution process. I will give the example of two of my friends who live in South Perth overlooking the water. They had a dispute with their strata title management—they were members of the council; they participated—to the point that it got so aggressive and ugly and concerning for them that the only way they felt they could serve their own wellbeing was to sell their property and move. They felt that the dispute had got to the stage that they could not move forward and it was impacting on their quality of life. It is to be congratulated that we understand that people want quick, comprehensive and uncomplicated capacity to resolve disputes so they can get on with their day-to-day lives.

Finally, thank you, Mr Acting Speaker (Mr S.J. Price), for your forbearance in hearing my speech this evening.

MS R. SAFFIOTI (West Swan — Minister for Lands) [8.53 pm] — in reply: I would like to address many of the issues raised by members of the opposition and members on my own side. I thank everyone for their contributions to the debate on the Strata Titles Amendment Bill 2018. It has been a productive discussion so far. I am sure it will be productive when we go into the consideration in detail stage.

I acknowledge that this bill includes a very complex set of changes. Working through the documents is difficult. We have tried to provide as much assistance as possible. I thank Landgate for its enthusiasm and for the productive discussions it has had with members of Parliament. I am not going to say that this is an easy piece of legislation; it is very difficult and very complex and seeks to make some significant changes. As the member for Scarborough outlined, we had offered the second chamber approach because of the bill's complexity. Because of the numbers on the other side, running the two chambers would be difficult. When we were in opposition, we ran that second chamber to consider the Public Health Bill. It seemed to be a productive use of time to go through the clauses. I acknowledge that, because of the numbers, it would be more difficult to do that. I am very happy to continue going through the bill in this chamber and addressing all the questions and issues raised. I will try to address all the issues that were raised. If I miss any, I ask members to grab me during the consideration in detail stage.

The member for Scarborough has had a lot of personal experience with strata units because of where she used to live. She raised some very good issues. First, she raised the issue of maintenance plans and commented that this legislation makes sure that we have 10-year maintenance plans so that we do not get into the situation that exists across many places where there was significant wear and tear or significant works needed to be undertaken and basically no funds were available and people were not able to address that. She spoke of the need for maintenance plans. She outlined that her experience has been positive because she had a good strata manager who created a maintenance plan. Funds were available so that when significant works had to be undertaken, that strata management worked well because the strata management was good. The member for Scarborough said that the roles and responsibilities of strata managers should be better outlined. Again, that is about making sure that we have more accountability and transparency with respect to strata managers.

I will touch upon the termination issues in a minute. I want to cover some of the issues that were raised by two or three members. On another point about the Department of Commerce and regulation, maybe that is something that we can consider later. Landgate is currently the responsible department. I take the point about the role of Commerce. That is something that I will consider in the future.

The member for Scarborough also referred to Airbnb, but I will speak about that when I address the comments of the member for Vasse. I thank the member for Scarborough for her contribution. Her personal experience is valid in this case because of her experience in those units and also the fact that, as she outlined, when significant upgrades were needed, there was a source of funds and she was able to move forward. The reality is that that is not the case in many older units around the place. I will touch on that soon.

The member for Cottesloe spoke about issues relating to speculators and termination. I want to outline the issues relating to termination. Of course I understand the concerns. The problem for decision-makers is that there is an issue out there. The issue outlined by the member for Scarborough, I think, and others is that in some instances, people buy one unit and basically prevent the other owners from benefitting from their private ownership. That is one case. There are other cases. The member for Cottesloe was not predominant out there in the marketplace. We are increasingly seeing older units that people basically cannot afford or will not spend money on to fix very ageing infrastructure because it is basically not worth it. I do not want to be responsible for a time when people are living in places that are not safe and there is no way to get through that. That is a real problem. The member said that it

is not a predominant issue but I think it will increasingly be the case amongst that middle ring in particular. We have seen a lot of places that were built 40 years ago that have significant engineering and safety issues. I do not want to see a time when we have ageing places and no way out. That is what I am concerned about.

In relation to property rights and speculators, I want to outline a case. Everyone has raised legitimate concerns. I am not saying that this is a justification but I will give the example of a situation that occurred in my electorate, which is rural residential turning into urban. In this case, an older lady—I will not use her name—had a house on a block. Rezoning went through and the structure plan was put out. That structure plan was endorsed and accepted by the council and the Western Australian Planning Commission. This happened over about 10 years. That structure plan says that her house will be a primary school. Her house is sitting there and urban development is happening everywhere around it. No-one is buying her house because who would want to? We are looking at changing this, but under the current system, the Department of Education does not buy that land until it has the funding for the actual school, because it will be a primary school. She has nothing. Her house is surrounded by urban encroachment and has massive safety issues when all that building is underway. She has no way out. That has been happening across the rural subdivisions across the outer suburbs.

These issues are not unique to this bill or to strata, but these issues are faced as we try to balance the need for development with the rights of existing property owners. That person in my electorate over the past 10 years has had no options. No process has been outlined, as in this case. Her house is sitting there and she cannot sell. Education will not buy it because it does not have the money. It will be a primary school. She cannot do anything to the house. Even worse, we basically needed to try to get constant police surveillance because when a lot of development was happening and people were not yet living there, people would be at her house all the time because they thought it was an abandoned house and they would break in. The tension between development and existing property owners exists now in those areas and they do not have any of these mechanisms.

Dr D.J. Honey: That is a public purpose, minister, versus a private profit.

Ms R. SAFFIOTI: But the point, member for Cottesloe, was that it is compulsory acquisition to service the private sector. In a sense, this is the same thing. That school does not benefit her but it benefits the property developers who get to sell the land at a higher price because there is a school there.

Ms S.F. McGurk: That's cold comfort to her.

Ms R. SAFFIOTI: Yes. I am saying that that concept and that balance that we need exists everywhere. For other compulsory acquisitions, there is always that struggle between the fair market price and adequate compensation.

All that being said, Landgate has worked to improve the protections. For example, I ensured the like for like. There will be discussion about what like for like is—third storey versus third storey and all that. Having that concept of like for like is another avenue that exists. The members for Cottesloe and South Perth raised issues about the smaller lots. I think they made some good points and I will consider those.

Mr J.E. McGrath: The duplexes.

Ms R. SAFFIOTI: Yes. I think the member for Cottesloe said fewer than five. They were good points. I am willing to consider that. This is a difficult policy area. We are trying to get the right balance. I am happy to work with the other side to do everything we can to get that right balance. I am happy to engage further at the consideration in detail stage because we want a system that works. A lot of this was inherited. I am not going to say whose idea was whose, but the majority of it was inherited. We all know this is complex and I am happy to work with the other side to make these reforms successful.

I think I picked up the member for Cottesloe's points on the termination issues. The member for Bateman is not here, but a lot of issues that the member for Bateman raised picked up on some work we are doing on planning reform and consistency between the development assessment panel process, council process and expectations. The member for Vasse talked about the regulation of Airbnb. Talk about complex. A while ago, I asked my agency to start developing some potential regulations or guidelines on Airbnb. It is working on that and it has had some initial meetings. I recently met with the Mayor of Busselton and the CEO and they outlined their concerns. I agree that we need a basic level of regulation. Existing small business people have had to comply with significant regulations to run a tourism business, and then we have Airbnb. Some of the Airbnb places are legitimate. It happened in the other states; like all these things, the concept is good. The whole "let's rent out an extra room and be funky about it" is a good idea but then it goes to the hardcore "let's make a lot of money out of it". I think we need a basic level of regulation to protect small tourism operators, acknowledging that Airbnb is very popular out there.

We looked at metro versus regional and whether we let regional councils determine their policies. The feedback I received from Busselton was that it does not want a situation in which Margaret River has this, Busselton has

this and Bunbury has this, because then people can play off each other. We will do more work on that and that work is underway. My office met with representatives from the tourism bodies about a month ago, looking at what is happening in New South Wales. People have different views on New South Wales. For us, it is the concept and how we regulate and whether we make it prescriptive or we allow councils to give those options. It is about trying to make sure that, as with everything, we get that balance right. The balance is between the rights of an owner to make money out of their asset and a fair level of regulation for the community. How does it impact small business and the rest of the community? I think the examples of Airbnb and blocks of units that were purchased for residential use becoming party houses are a legitimate concern. The Airbnb issue will be covered more through our planning policy more generally because, as we know, Airbnb does not just cover strata but all properties.

Mr J.E. McGrath: One question that I think the member for Vasse also asked was whether a strata body can ban Airbnb from their 20 apartments.

Ms R. SAFFIOTI: My advice is that yes, it can.

Mr J.E. McGrath: Would that hold water?

Ms R. SAFFIOTI: Potentially, it could then go to the State Administrative Tribunal if the by-law is oppressive. The question of what is oppressive would be the sort of discussion point. By-laws can basically prevent particular types of short-stay accommodation already. The member for Scarborough outlined that her strata company outlawed less than three days, for example, to stop hens' nights and parties and those types of things.

The definition of "vulnerable owners" is being worked through with the community sector. We are again making sure that we work with key stakeholders on the definition. We will be continuing to work with the relevant community groups to ensure that we get the definition that works.

Mr J.E. McGrath: Just on that one, a vulnerable owner might not be a person with very few assets. It could be a person living in a $1 million apartment but is vulnerable for other reasons.

Ms R. SAFFIOTI: Vulnerable is not about an assets test but a person's ability to make informed decisions and execute those decisions. For example, my mother would be someone like that—not that she is living in a strata title. Her knowledge of English and her ability to access anyone apart from us is limited. It could mean people with no mobile phone or limited in their ability to engage in a more sophisticated environment. I completely understand that vulnerable may not mean just asset poor or income poor.

The member for Girrawheen mentioned lifts. That issue has been raised with me. Some members of the disability sector have raised issues about this in the past week. We have contacted them to explain exactly what the mechanisms are. I met with them and they were involved in the consultations. I think they sought advice about the bill, but the advice that was given did not go to a key part of the bill that would allow them to undertake the improvements that they want. The existing act provides for the creation of exclusive by-laws under section 42A, although it requires a resolution without dissent to do so. Under the amended act, the strata company will have imposed upon it an obligation to make decisions that are not unreasonable, not oppressive and not discriminatory. That is the key point. Furthermore, the State Administrative Tribunal will have the power to make by-laws. That will allow these new exclusive by-laws to come into play. The opposition of one person will not completely destroy the ability to put in lifts or make improvements. The member for Mirrabooka raised the issue of strata managers. Voluntary strata managers will not have the same conditions as professionals. That issue has been addressed by this legislation. I will need to get further advice about Koondoola. The member has raised it with me and we will see what we can do more generally. This legislation will probably provide more flexibility for development because it will not be stopped by the objection of just one person.

I think I have addressed most of the issues that were raised. It is a complex reform that has been in process for many years. I acknowledge the work undertaken by the previous government, which we picked up. We got similar feedback to the member for South Perth. It is well supported across the community. I acknowledge that there are some concerns about termination, but generally the community, non-government organisations and the wider public support this reform. Strata is an increasing form of ownership and we need to modernise our guidelines and framework to facilitate a more transparent and open process. Staged developments have other issues. The member for Perth raised issues with a development near the Western Australian Cricket Association ground in East Perth, which will be addressed by this legislation. This bill aims to address a lot of the issues raised about strata properties over many years and I acknowledge all the work that was undertaken. It is something I am very keen to progress because I think it will facilitate better developments, mixed-use developments, shared infrastructure and the ability more generally to upgrade and improve our homes and have access to things such as solar panels and other renewable energy sources. There is a whole list of benefits, but they are some of them. I thank all members for their contributions and I am very keen to go into consideration in detail to work through any outstanding issues.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Mrs L.M. HARVEY: Some regulations will obviously need to be drafted to supplement this legislation. Can the minister advise how long she thinks it will be between this legislation passing Parliament and those regulations becoming ready for Parliament's scrutiny, and who is being consulted on the drafting of those regulations?

Ms R. SAFFIOTI: I have been advised that the regulations are currently in the process of being drafted so it will take about six months or more for them to be finalised. Consultation on vulnerable persons is occurring within the community sector group, industry and other key stakeholders. In developing the legislation, Landgate did a lot of consultation. It also released draft bills to industry to get more advice on the drafting. We will continue to engage with the wider community, industry and key stakeholder groups.

Clause put and passed.

Clause 3: Notes not part of Act —

Mrs L.M. HARVEY: I would like some clarification and explanation on why some terms will be deleted and some separate sections will be created in the act. For example, the definition of common property will have its own section for the definition—that is, proposed section 10. However, the definition of common property in proposed section 10 is not as long as the definition of conduct by-laws. Why have some of the definitions been removed and been given their own proposed sections in the legislation?

Ms R. SAFFIOTI: There are three reasons that the definitions have moved or changed, and I will go through them. Firstly, the language has been modernised to make the act easier to understand. Some of the more modern concepts have been used rather than some of the more old-fashioned concepts. Secondly, some definitions have been changed to better express the concepts without changing their intended meaning. Thirdly, the sections have been amended for greater clarity. That is to try to make the clauses easier to navigate and in some cases moving some of the definitions to make the navigation of the bill easier.

Mrs L.M. HARVEY: I can understand that, but the definition for "common property" has been given its own section and conduct by-laws have half a page dedicated to them on page 7 of the amending bill. It seems a bit inconsistent to me. How were those decisions made about which sections of it should be moved from the definitions to another area?

Ms R. SAFFIOTI: I think the question relates to the relocating of sections throughout the bill. Is that correct, member?

Mrs L.M. Harvey: Yes.

Ms R. SAFFIOTI: The bill will substantially reorder sections of the current act for greater clarity. The current act has been amended over time so that related topics were scattered throughout or unrelated topics were grouped together. This had the effect of making the current act confusing to navigate. The amending bill will substantially reorder the act so that large general principles are dealt with early and similar concepts are addressed together. The relocation of provisions is intended to restructure the heavily amended current act so that it is easier to find material. It is hard to say that, given the complexity of what we have in front of us! The proposed restructured amended act is also intended to align more closely with the structure of the companion legislation, the Community Titles Bill 2018 that was introduced at the same time as this bill. Where changes of the above type have been made, the reason given for the change in the explanatory memorandum will be amended for greater clarity. If changes have amended the substance of the bill, a further explanation will be given.

Mrs L.M. HARVEY: I want some information on some of the new definitions in the bill. Sorry—I am juggling between a marked-up edition and the actual amendment, so bear with me. On page 12 of the legislation is a new definition for "key document".

The ACTING SPEAKER: Member, for clarification, are you working from what is called the blue bill?

Mrs L.M. Harvey: I have both here. I have a blue bill, which is marked up, but on the Strata Titles Amendment Bill, it is page —

The ACTING SPEAKER: Are you on page 2?

Mrs L.M. Harvey: No, page 12. Definitions is a very long clause.

The ACTING SPEAKER: If you look at page 2, we are on clause 3 on page 2, which is "Notes not part of Act".

Mrs L.M. Harvey: I am ahead of you.

The ACTING SPEAKER: Do you want to move on?

Mrs L.M. Harvey: We will move on from this one. My question is relevant to another clause.

Clause put and passed.

Clauses 4 to 6 put and passed.

Clause 7: Section 3 amended —

Ms R. SAFFIOTI: We distributed our amendments before and I forgot to explicitly refer to them in my second reading reply. We have some technical amendments; there are some issues with some words missed and other minor amendments. I move —

Page 24, line 4 — To insert after "of 2" —

or

Mrs L.M. HARVEY: I have no problem with that amendment. I can see that the subeditor missed a proofread.

Amendment put and passed.

Mrs L.M. HARVEY: Getting back to some of these definitions, I want to understand why some of these new definitions are in the bill. On page 12, line 17, is a definition of "key document" and it lists a whole range of documents that fit the definition of a key document. I seek the minister's advice about why it is relevant to have the definition of a key document in the context of the rest of the bill.

Dr D.J. HONEY: Mr Acting Speaker, can I have a bit of procedural help here? I am absolutely struggling to go between the blue bill and the white bill. It would be really handy if we could refer to the page in the blue bill as well as the existing sections. It is very hard to follow, otherwise.

The ACTING SPEAKER: We have to go off the non-blue bill.

Mr J.E. McGrath: The white bill.

The ACTING SPEAKER: Yes, the white bill. We do not have a copy of the blue one here. We work purely off the bill.

Ms R. SAFFIOTI: Member, for clarification, the blue bill is not something that normally happens. It was produced to try to help understand the amendments, but it is difficult; I do acknowledge that. Take your time. We are not rushing this. We have to refer to the bill that has been tabled, which is the white bill. We are happy to take our time if the member wants to find something.

Mrs L.M. Harvey: I am still waiting for the answer to my question.

Ms R. SAFFIOTI: Developers must hand over key documents to the strata company. Key documents are the documents that a strata company needs to run the scheme. That is the definition that I think the member for Scarborough was after.

Mrs L.M. HARVEY: I want to go through some of the other new definitions in clause 7. Is the minister able to explain, either now or when we get to clause 52, what a "fundamental covenant or condition" might be?

Ms R. SAFFIOTI: May I deal with that when we get to clause 52?

Mrs L.M. HARVEY: Sure.

Clause, as amended, put and passed.

Clause 8: Section 3A amended —

Mrs L.M. HARVEY: This goes to my question earlier about why leasehold titles was not brought in as a separate piece of legislation. We are finding it difficult to navigate such a thick bill. Could the minister please explain what the proposed amendments to section 3A will achieve and why that section has been restructured in this way?

Ms R. SAFFIOTI: The reason for this amendment to section 3A of the current act is to provide greater clarity. Section 3A provides for a special type of strata scheme called a single-tier strata scheme, under which a lot cannot

be above or below another lot, except for permitted boundary deviations. Section 3A will be moved to a separate schedule—schedule 2A—which will contain all the clauses relating to single-tier schemes, as there is a set of unique rules for single-tier schemes. As part of the amendments to the act, it was decided to move section 3A to a separate schedule in order to simplify the body of the bill.

Mrs L.M. HARVEY: Just for clarification, will those different sorts of strata schemes be defined in a particular section of the act to make it easier to navigate? Is that what the minister is basically saying?

Ms R. SAFFIOTI: If what I am saying is wrong, please interrupt me, but currently these types of strata schemes are dealt with in the body of the act. This amendment will group these types of strata schemes together in a separate schedule in order to make the body of the bill easier to navigate.

Mr J.E. McGRATH: What is a single-tier strata scheme?

Ms R. SAFFIOTI: A single-tier strata scheme is a scheme under which a lot cannot be above or below another lot but is a single tier.

Mr J.E. McGRATH: A lot of people live in a single-storey house. A single-storey house is a single-tier house.

Ms R. SAFFIOTI: It may not be under that definition.

Mr J.E. McGRATH: Is it just the title for a strata development?

Ms R. SAFFIOTI: Just to clarify, there can be a two-storey, single-tier scheme, but there cannot be another lot above or below it.

Clause put and passed.

Clause 9: Section 3AB amended —

Mrs L.M. HARVEY: It looks as though this is another administrative amendment to tidy things up. Could the minister please explain the reason for the proposed amendment at page 34 to section 3AB(2)(b) to delete the current paragraph (b) and insert a new paragraph (b)?

Ms R. SAFFIOTI: The proposed amendment to section 3AB(2)(b) is a rewording of the existing subsection (2)(b), to pick up a reference to a changed clause number. It is basically a rewording of the existing section 3AB. The whole of section 3AB has been amended to provide greater clarity. Section 3AB provides for alternative boundaries for lots in a single-tier scheme, and when amended will retain the framework of the current section 3AB. I do not think things have been moved. This is another of the single-tier provisions that has been grouped together.

Clause put and passed.

Clause 10: Section 7 amended —

Mrs L.M. HARVEY: Section 7 of the act is an area that is specific to structural alterations within a strata scheme. This is obviously one of the more controversial areas of the act. Owners often do not want to agree to owners of other properties within the strata scheme making alterations, for the reason of interruption to amenity and those sorts of things. Am I right that that is the section we are on?

Ms R. Saffioti: Yes.

Mrs L.M. HARVEY: Could the minister please advise whether section 7 has been substantially amended, or are these more formatting-type amendments?

Ms R. SAFFIOTI: The current provisions have been reworded, because there has been a substantial change to policy.

Mrs L.M. HARVEY: I think that usually the owner needs to get a resolution without dissent, and a range of other approvals. Will the current process remain in place, under which notification needs to be given to all lot owners within a scheme before any alterations to a property can be made, with the usual requirement for structural diagrams and that sort of thing, and the calling of an extraordinary general meeting? Will the same system be in place?

Ms R. SAFFIOTI: Yes; it is the same process.

Clause put and passed.

Clause 11: Section 7B amended —

Mrs L.M. HARVEY: This clause obviously relates to section 7B. Have any changes been made to any of the approval periods under section 7B?

Ms R. SAFFIOTI: No, there have been no changes.

Mrs L.M. HARVEY: The amendments to section 7B will not change the existing framework. Will they just restructure the text that exists currently?

Ms R. SAFFIOTI: Yes.

Clause put and passed.

Clause 12: Section 12A amended —

Mrs L.M. HARVEY: Clause 12 looks as though it defines the boundary of a lot. Obviously, this is pretty technical, but I am interested to understand, firstly, whether this is a change from the existing definition of a lot boundary. Secondly, sometimes the strata plans that designate a person's unit lot entitlement are somewhat inconsistent and it is difficult to determine from the drawings where a boundary might be in determining, for example, the responsibility for common property. For instance, in some buildings the boundary might be a brick wall, not the window, while in others the boundary might be a balcony but not necessarily the glass and the handrailing on the balcony. Have there been any changes or qualifications to try to assist with those sorts of disputes about where common property starts and ends and where the responsibility for the boundary of a strata development begins?

Ms R. SAFFIOTI: This clause relates to single-tier strata. It is a rewording. This is focused on the easements rather than the lot boundaries.

Clause put and passed.

Clause 13: Section 21A amended —

Mrs L.M. HARVEY: I am curious to know why there is a designation of a strata plan that was registered before 1 January 1998. Why is that date in the provision? What is the significance of it? Is this new or is it a rewording of the existing provision?

Ms R. SAFFIOTI: This is the rewording of another existing provision. That date has been inserted in previous amendments. To clarify, sections 21A to 21Z provide a process to merge buildings and common property into lots in certain types of strata schemes. This process allows changes to lot boundaries to conform to owners' perceptions of their property ownership of many single-tier schemes registered before 1 January 1998. For schemes registered after this date, only the normal process of re-subdivision—type 4 subdivision—can effect such changes to title boundaries. These options were introduced by the Strata Titles Amendment Act 1996, which came into force on 20 January 1997.

Clause put and passed.

Clauses 14 and 15 put and passed.

Clause 16: Section 21F amended —

Mrs L.M. HARVEY: Clause 16 looks as though it is one of those that make administrative changes to reformat, but I just want to check whether there has been any resolution. The clause will delete the words "in the prescribed form" and insert the words "by resolution in the approved form". I just want to make sure that that will not change the requirements; or, if it will change the requirements of individuals when they are looking for approval, what will be the impact of that?

Ms R. SAFFIOTI: Again, this is a rewording of the provision in the existing legislation. I will outline the structure of this. Clauses 3 to 81 involve restructuring and rewording of the existing legislation. The clauses after clause 81 get into some of the new additions. Some of the amendments in clauses 3 to 81 are technical, rewording or administrative. There are some changes to policy within some of those clauses. The clauses after clause 81 deal with the addition of the new concepts. I am not sure that there are no substantial changes in the clauses up to clause 81 and we can go through them, but there is a mixture of some more substantial policy changes. A lot of the amendments in the clauses up to clause 81 are more administrative and a rewording. The member can feel free to keep going.

Clause put and passed.

Clauses 17 to 48 put and passed.

Clause 49: Section 36 amended —

Mrs L.M. HARVEY: I believe some changes will be made to this provision in the existing legislation. Can the minister please outline in summary all those changes and why they have been made?

Ms R. SAFFIOTI: This clause amends section 36 of the act to provide greater clarity and to require a designated strata company to have a reserve fund.

The ACTING SPEAKER: Members! Your own minister cannot concentrate properly because of the background noise.

Ms R. SAFFIOTI: Yes, take it outside!

It will also require a designated strata company to prepare a 10-year plan that sets out, firstly, the common property and personal property of the strata company that is likely to require maintenance, repair, renewal or replacement that is not of a routine nature in the period covered by the plan; and, secondly, the estimated costs for the maintenance, repairs, renewal or replacement listed in the report. The 10-year plan is aimed at assisting the strata company in deciding how much money it should set aside in its reserve fund. A designated strata company is a strata company with 10 or more lots or a strata company of a class listed in the regulations. The regulations will specify that a strata company with less than 10 lots but with a building replacement value over a certain amount is a designated strata company. Under this bill, schemes of 10 or more lots or with a high building replacement value must have a 10-year maintenance plan. The member for Scarborough outlined in her contribution to the second reading debate that her strata had that. This is the requirement that the member alluded to. The 10-year maintenance plan is aimed at assisting the strata company in deciding how much money it should set aside in the reserve fund. Clause 49 amends section 36 of the act. That is the explanation of that clause.

Mr J.E. McGRATH: I have heard examples both here and from people who have come to my office. For example, a strata body wants to paint the apartments and an owner disagrees and says, "I don't think they need painting. I've lived here for a while. They look good to me." What if they do not want to put money into the fund? How do they get money from someone who says that they think it is a waste of money and does not think they should be doing it?

Ms R. SAFFIOTI: This is to avoid those situations. It will now be a requirement of the act that if a strata company falls under this criteria, it has to set up a 10-year maintenance plan and a particular fund. This is to avoid the situation the member outlined and the debates we all hear about people questioning the work that will be undertaken. This is making sure that it is a requirement for strata companies with high value lots or 10 or more units to have a maintenance plan.

Mr J.E. McGRATH: Could there be an example of someone being down on their luck and not having the funds to afford to do the top-up that is required and other people in the strata block putting the funds in and coming to some scheme of arrangement with that person? Does that ever happen?

Ms R. SAFFIOTI: The budget is usually approved at the annual general meeting. I do not know about the specific example of whether anyone else would pay, but this bill creates a plan, which the group adopts. The budget is then also approved. I understand that that would be taken out of an annual levy. The member for Scarborough outlined that the annual levy builds up, so when these renovations or upgrades are required, the money is sourced from that fund.

Mr J.E. McGRATH: I think the minister said that this will apply only to strata schemes with 10 or more units. The smaller ones that we spoke about before, with three, four or five units that have a small body corporate, would not come under this proposed section.

Ms R. SAFFIOTI: The regulations will also specify schemes with a high building replacement value. That is the other requirement.

Mrs L.M. HARVEY: Proposed section 36(1)(d) is a provision to recover from the owner of a lot any money expended by the strata company for work done at its direction on behalf of an owner. Obviously, a notice or something like that must be issued to an owner to rectify problems or perform some kind of maintenance or repair work. It sounds as though if the owner refuses to comply with that request, the strata company can order that the work be done. Does this provision allow for the recovery of that money?

Ms R. SAFFIOTI: Yes. I understand that this is an existing provision that has been reworded. A notice would need to be issued. That is reflected in proposed section 38(1).

Mrs L.M. HARVEY: I refer to proposed section 36(2A)(a)(iii). This is about the 10-year plan requirement for strata companies. The plan will set out about common property renewal, replacement, repairs, maintenance and all that sort of thing. Paragraph (iii) states —

> other information required to be included by the regulations;

What does the minister expect might be captured by prescribing something by regulation?

Ms R. SAFFIOTI: The advice is that it would possibly include other aspects such as building defects. That might be other parts that would be included in such a plan.

Mrs L.M. HARVEY: I just go back to the administrative fund. I am not sure if this might sit in another part of the bill, but are there stronger restrictions in this legislation around what can be drawn from the administrative

fund and what it can be used for? For example, a budget is put to the owners of the apartments at an AGM, which they have to agree to. Linked to that budget will be the value per unit lot entitlement of the administrative levy and a reserve levy. If expenditure of the strata company is authorised by the council of owners for items that do not form part of a budget—for example, for legal fees, auditing fees or some other kind of expenditure—how would that be treated? What sort of recourse would a unit lot owner have to appeal against that expenditure if it was not part of the budget agreed to at the annual general meeting?

Ms R. SAFFIOTI: I am having a debate with my advisers over the intent of the question. My understanding of the member's question is that it involves a situation in which expenditure is undertaken that was not envisaged as part of the original plan. The member asked whether that can happen and what the consequences would be: is that correct?

Mrs L.M. Harvey: Yes.

Ms R. SAFFIOTI: The advice is that the plan is a guide and the budget is what basically has to be adhered to. That is my advice on that. If the budget is agreed to by the owners, that would facilitate that expenditure, even though it was not envisaged or included in the original 10-year maintenance plan.

Mrs L.M. HARVEY: I understand that under the maintenance plan, a reserve levy collects funds, there are maintenance items and sometimes unexpected maintenance issues arise. Is the minister saying that if that unexpected maintenance is not part of what was envisaged, provided the strata company does not spend outside of the budget it has been allocated, it does not necessarily matter how it spends within that budget?

Ms R. SAFFIOTI: Funds are spent according to the annual budget. There is provision in the regulations to spend up to $65 more than the annual budget.

Mrs L.M. Harvey: Is that per unit?

Ms R. SAFFIOTI: Yes. That is a default but they can vote for it to be higher.

Mrs L.M. HARVEY: I will probably explain a bit more about where I am coming from with this administrative fund, which is used for the operational costs of managing a building. There is a specific example of a development not in my patch but down Mandurah way. The owners are at loggerheads with the manager and the manager is linked to the developer who developed the scheme in the first place. A lot of money has been spent on legal expenses defending a claim against one of the participants in the strata council. These legal expenses are well above and beyond what had been agreed to as part of the annual budgetary process. If I am in the wrong section, I ask the minister to let me know. In examples like that, has the bill refined how those kinds of situations can be dealt with by owners who are aggrieved at the expenditure that was simply not approved and well outside their budget?

Ms R. SAFFIOTI: My advice is that there is no major change in expenditure controls. Under the new laws, there is the ability—I think this will be covered in another section—to go to SAT to say that this expenditure is unreasonable.

Clause put and passed.

Clause 50: Section 37 amended —

Mrs L.M. HARVEY: Once again, this clause looks like it includes administrative changes. I note on page 83, proposed paragraph (i) states —

> grant a lease, licence or other rights over common property for the purpose of utility infrastructure or sustainability infrastructure;

I think this might be linked to the ability of strata developments to link up to solar panels and other such things. Could the minister explain whether I am on the right track in believing that that is what this clause enables?

Ms R. SAFFIOTI: This is a change in that we are allowing the installation of solar panels on common property.

Mrs L.M. HARVEY: Is that for the use of individual owners or for the common use of all owners?

Ms R. SAFFIOTI: It is for both—individual owners and all owners.

Mrs L.M. HARVEY: The next proposed paragraph, paragraph (j), looks like a whole bunch of very big words that probably mean that the strata company can install technology to enable it to on-charge for solar panels or credit for rebates or some other such thing.

Ms R. SAFFIOTI: This is more of a boutique amendment. If a strata company sets up a website or other processes that create intellectual property, that can be done and then revenue can be raised and distributed. It is very boutique.

Mrs L.M. HARVEY: This is quite different from what was previously enabled by the act. From what the minister said, it will enable owners to install software. I guess if it was software around the management of a strata

development, they could on-sell that intellectual property and that money then comes into the strata company. Is that to be redistributed or used for management of the company that owns the intellectual property? Is that what the minister is saying?

Ms R. SAFFIOTI: Yes, that is correct. The revenue is to be used for the management of the strata company. This was a specific request over the years in consultation with stakeholders.

Clause put and passed.

Clause 51: Section 38 amended —

Mrs L.M. HARVEY: This clause amends section 38, which relates to recalcitrant owners who might have done the wrong thing or who have neglected their responsibilities as an owner and not effected repairs and maintenance. Is this about the strata company being given the powers to compel an owner to perform certain works that are required to keep the building in working order?

Ms R. SAFFIOTI: This is an existing power under the act. The clause seeks to change the section for better clarity.

Mrs L.M. HARVEY: Is it not a strengthening of the existing provisions that already permit a strata company to do this sort of thing?

Ms R. SAFFIOTI: No.

Clause put and passed.

Clause 52: Section 39A amended —

Mrs L.M. HARVEY: Clause 52(4) relates to contracts. It states —

> The Tribunal may, on the application of a person made in respect of a contract, by order extend the period of 5 years provided for by subsection (1), …

I am interested to know when this provision would apply. It sounds like the tribunal can step in and order the continuation of a strata management contract, for example, in certain circumstances. I am not sure whether this is an existing provision or a new provision.

Ms R. SAFFIOTI: This clause amends section 39A to extend the operation of section 39A to include contracts for the provision of amenities to the strata company or owners. The clause also deletes reference to a proprietor applying to the tribunal for an order that a contract for provision of a service to the strata company or owners is unfair to 25 per cent or more of the owners because the tribunal is being given the very broad power to order a strata company to terminate or vary a contract for the provision of services or amenities to the strata company or owners. Basically, this bill gives owners the ability to apply to SAT to determine such contracts entered into by the developer. SAT will have the power to order the strata company to terminate or vary a contract for the provision of a service or amenity to the strata company or owners.

Mrs L.M. HARVEY: I believe that this is new. Say a developer has built a block of apartments and a strata company has been established, perhaps with strata management in place: the developer, by way of the strata company, has set up contracts, and as the owners of the apartments work out that they may have been diddled with the price, this gives them an opportunity to vary those contracts if they were put in place by the developer prior to the scheme going live and all members participating actively.

Ms R. SAFFIOTI: A whole suite of changes relates to developers and their relationship with strata companies. There are four key changes. Amended section 39A is really about the strata company having the statutory right to terminate a service contract after five years. Under this amended section, any contract for service or amenity lasting more than five years can be automatically terminated by the strata company. This creates an automatic ability to terminate a contract for service after five years.

Mrs L.M. HARVEY: This amended section looks at the appropriateness of strata schemes by developers.

Ms R. SAFFIOTI: There is a suite of changes relating to the restrictions imposed on a developer awarding contracts to itself. Under section 83A, a developer must disclose commission from service contracts. Under clause 200, SAT can order the developer pay commission to a strata company. Under another section, SAT has the power to order the termination of service contracts. Section 39A relates primarily to the ability to terminate a contract automatically after five years.

Clause put and passed.

Clause 53: Section 44 amended —

Mrs L.M. HARVEY: Clause 53 amends section 44, which concerns the election of a councillor at a general meeting. Have there been any changes to the way this occurs or is it a rewording of the existing provision?

Ms R. SAFFIOTI: It is largely a rewording of the current provision.

Clause put and passed.

Clause 54: Section 45 amended —

Mrs L.M. HARVEY: Minister, this looks like a new provision that enables a corporation to be a member of a strata company or a member of the council of a strata company. I am wondering how this would work, because obviously a corporation until now has needed to be represented by an individual by way of a proxy form at meetings and those sorts of things. For example, if ABC Pty Ltd is eligible to vote at a meeting, how do we determine who ABC is given it is not a human being?

Ms R. SAFFIOTI: It is not a new provision. It is a current provision reworded, and ABC Pty Ltd would have an officer nominated under its own rules and constitution.

Clause put and passed.

Clause 55 put and passed.

Clause 56: Section 53B amended —

Mrs L.M. HARVEY: Could the minister explain whether this is a rewording of provisions or whether it is new?

Ms R. SAFFIOTI: This is not a new concept. It has been reworded, but it is moving it to schedule 2A to be with its friends from the single-tier strata scheme.

Clause put and passed.

Clauses 57 and 58 put and passed.

Clause 59: Section 53E amended —

Mrs L.M. HARVEY: I am curious to know whether this is a restructure of the existing legislation or whether it is new.

Ms R. SAFFIOTI: Similarly to the previous one, member, it has been reworded and moved to the schedule.

The DEPUTY SPEAKER: The question is that clause—oh, member for Bateman! Shock—I thought you had gone to sleep.

Mr D.C. NALDER: I am a new entrant just to help, given it looks as though we are in it for the long haul. My question is more of a general question, because we are working through the legislation and it is 400 pages long. We have acknowledged there are concerns around vulnerable people and we want to make sure that they get looked after. Will there be a dumbed-down version so that people can understand the law? I know this question is not about this specific clause, but will there be a shortened version in some way so that people can understand their rights without necessarily having to read through 400 pages of legislation to work out what they are entitled to? Otherwise, this will force people to get legal advice just to understand what is happening.

Ms R. SAFFIOTI: I understand that this is complex. As I said, we tried to get a second chamber, but I understand the issues that the opposition had with that. Over 100 pages of information are available. A sort of summary version targeting particular issues is already on the website. That will continue to be distributed should the bill get through. Like everything, the legislation is very difficult for anyone, apart from property lawyers, to navigate through, but it is really the other fact sheets and other forms of communication that we will develop and continue to work on. Should the legislation get through, we will make sure that those fact sheets are all ready for people.

Clause put and passed.

Clauses 60 to 72 put and passed.

Clause 73: Section 123 amended —

Mrs L.M. HARVEY: I am interested to know whether this is another administrative section or whether there is something new in this. Could the minister explain the difference between a survey-strata scheme and its interaction with the legislation, such as the Dividing Fences Act et cetera.

Ms R. SAFFIOTI: A survey-strata scheme 2D with no buildings. This provision outlines how dividing fences will be decided on in those areas.

Mrs L.M. Harvey: Is it just a rewording?

Ms R. SAFFIOTI: Yes.

Clause put and passed.

Clauses 74 to 78 put and passed.

Clause 79: Section 130 amended —

Mrs L.M. HARVEY: This clause relates to prescribing regulations. I am sure our friends in the other place will have a lot of fun with this clause! The maximum penalty for contravention of the regulations increases from $400 to $3 000. The explanatory memorandum states that this is for consistency with equivalent provisions in other related legislation. Can the minister advise if these increases in penalties are due to some sort of consumer price index increase from when the bill was last amended? How was the significant increase in the penalty arrived at?

Ms R. SAFFIOTI: This clause will align the legislation with similar acts, such as the Associations Incorporation Act that was passed in 2015, which is more modern and reflects current expectations.

Clause put and passed.

Clauses 80 to 82 put and passed.

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

The DEPUTY SPEAKER: Members, I direct your attention to the bottom of page 209 and the top of page 210 of the bill. You will see that an error has crept into the numbering of the subparagraphs. There are two subparagraphs numbered (i). As this is a printing error, the numbering of the subparagraphs will be corrected as a clerical correction before the bill passes both houses.

Mr D.C. NALDER: I am trying to understand the rights of property owners. We were told stuff in the briefing about the ability. I do not know exactly where that is in the bill, but I think it is on page 261, division 3, "Termination proposal", or it may be at page 293, part 13, "Tribunal proceedings". I am trying to find where the legislation paints the picture of what was explained to us in the briefing regarding people's rights to appeal through SAT around extraordinary circumstances or those issues with regard to the SAT process that terminates the survey strata, I think it is called. What procedures and processes can people follow to seek support from SAT to stop their property being compulsorily acquired?

Ms R. SAFFIOTI: Member, this is the big one in a sense.

Mr D.C. Nalder: We will probably jump around all over on this one.

Ms R. SAFFIOTI: We will. I will find the relevant section.

Mr D.C. Nalder: I got confused reading it. I am a Wagin farm boy!

Ms R. SAFFIOTI: Seriously, this is complex stuff. This is in proposed section 183 of clause 83. It is on page 274.

Mr D.C. Nalder: Page 274 through to page 282.

Ms R. SAFFIOTI: Yes.

Mr D.C. Nalder: "Confirmation of termination resolution by Tribunal".

Ms R. SAFFIOTI: I have some speaking points. Does the member want me to go through all that?

Mr D.C. Nalder: Yes.

Ms R. SAFFIOTI: "Confirmation of termination resolution by Tribunal": if the required vote were achieved, the proponent can apply to the tribunal for confirmation of the termination resolution within 28 days, or within an extension of that period given by the tribunal. The submission must include the full proposal, all submissions made to the proponent and any other material specified in the regulations. The strata company and, if it is a leasehold scheme, the owner of the leasehold scheme, are entitled to a copy of this submission and are taken to be parties to the proceedings. Within 14 days of receipt of the application, the strata company must serve notice of it on every owner, occupier or registered mortgagee of a lot, any occupier of common property and any person the tribunal requires to be served. If the strata titles scheme is, or includes, a retirement village, a notice of the application must be served on the person designated the commissioner by the Retirement Villages Act 1992.

A person who is required to be served with notice of the application is entitled to appear and be heard or make written submissions to the tribunal. The tribunal may make an order confirming the termination resolution, which may be subject to it being modified in a specified manner, or make a decision not to make such an order. The tribunal cannot give an order confirming the termination resolution unless the tribunal is satisfied of three key things. The first is whether the termination process was properly followed. Second, every owner will receive fair market value for their lot—for example an apartment—or a like-for-like exchange for the lot. Third, the proposal to terminate is otherwise just and equitable having regard to the interests of the owners of the lots in the strata titles scheme; the owner, if it is a leasehold scheme; occupiers of the lots and occupiers of the common property;

registered mortgagees; and any other person with an estate or interest registered or recorded in the register. If the tribunal is not satisfied of all three points, the tribunal must order that the termination proposal comes to an end.

In deciding whether each owner who objects will receive fair market value for the lot or a like-for-like exchange for the lot, the tribunal must be satisfied that, firstly, the owner will receive an amount that is at least the amount of compensation that would be required to be paid by an acquiring authority under the Land Administration Act 1997 for the taking of the lot without agreement; and, secondly, the owner will not be disadvantaged in terms of the owner's financial position as a result of the termination of the strata titles scheme. In considering the amount of compensation that would be payable under section 241 of the Land Administration Act 1997, the tribunal may also award an additional amount appropriate to compensate for the taking without agreement, but it may not be more than 10 per cent of the amount otherwise awarded or offered, unless the tribunal is satisfied that exceptional circumstances justify a higher amount.

Mr J.E. McGRATH: Deputy Speaker, can we hear the minister continue?

The DEPUTY SPEAKER: I suspect we should.

Ms R. SAFFIOTI: Without limitation, the tribunal must consider the loss or damage, if any, sustained by the owner by reason of any of the following: removal expenses; disruption and reinstatement of a business; liability for capital gains tax, goods and services tax or other tax or duty; and conveyancing and legal costs and other costs associated with the creation or discharge of mortgages and other interests, including for the acquisition of a replacement property. If the objecting owner is being offered a like-for-like replacement lot, the State Administrative Tribunal must consider whether the value of the replacement lot is equivalent to the fair market value of the current lot and how the location, facilities and amenity of the replacement lot compares with the current lot. Without limitation, the tribunal must consider the following: evidence of any impropriety in the termination process, including evidence of proxy votes being exercised improperly and evidence of false or misleading information in the outline or detailed determination proposal; the proportion of owner support for the termination by number of lots and unit entitlement; the termination infrastructure report and options readily available to address problems identified in the report; any arrangements for the owner or lot to buy back into the subdivided land following the development; and the benefits and detriments of the termination proposal proceeding or not proceeding for owners, occupiers, registered mortgagees and all people with a registered estate, interest or right over a lot or the common property.

If not satisfied that the termination proposal provides fair market value to owners who object and is otherwise just and equitable if it were modified, the tribunal may confirm the termination resolutions subject to the termination proposal being modified in the specified manner. The modifications may include for the proponent to make a payment to someone who is leasing or renting a lot or common property in the strata title scheme. The modifications must not be less advantageous to any owner or, if it is a leasehold scheme, the owner of the leasehold scheme, than the termination proposal without modification. The tribunal's powers under this clause are excisable only by a judicial member, or by the tribunal constituted of a judicial member and other members. A strata company must, as soon as practical after being given notice of the decision of the tribunal, on an application under this clause, lodge with the Registrar of Titles notice of the decision in the approved form and give written notice of the decision to each person entitled to receive notice of the application.

Mr D.C. NALDER: Wow! I applaud the minister's department for being able to do that. I assume that is the interpretation of what is written in the legislation. They are speaking notes, but I cannot follow them in this legislation, but I am not a legalistic person. Have I interpreted that correctly?

Ms R. SAFFIOTI: They are the speaking points or the notes relating to the clauses. It was the interpretation of the clause for me to read out.

Mr D.C. NALDER: I noted that a lot of the measures are based around fair value and objective measures that put a cost or a price on a property. Obviously, there are all the things that go with it if a person is forced to sell, including conveyancing costs and legal costs et cetera. I understand that. The issue I have is about vulnerable people and I understand that the minister has committed to defining that. There is emotion; it is not objective. There are subjective measures. It could be someone's health; they could be in a terminal position. They could have lost a loved one or a life partner and they have had the property together for 30 years. They would not put a nominal value on their home because they have a deeper connection. How can we ever ask the State Administrative Tribunal to make judgement in those matters? We can define them, but I do not know how they can be catered for in this legislation. Therefore, we are at risk of those types of people being forced out of their homes. If it is a strata title with two properties and a developer owns one of them, they can force the other person out of their home. How do we protect vulnerable people, particularly in their principal place of residence? I know that the minister has expressed a desire to do that but I am trying to understand how.

Ms R. SAFFIOTI: I thank the member for making that point. The "just and equitable" test will pick up these types of situations. The State Administrative Tribunal must look at the benefits and detriments to the owners, so this will be a factor in the SAT decision. I have said—I do not think the member for Bateman was in the chamber at the time—that these issues arise across the community currently. For example, if a developer buys up properties on rural residential land and puts a structure plan over that land, and that is confirmed by council and so forth, there are significant implications for many of the landowners in that area. They do not have access to SAT and these types of processes. I understand the seriousness of the matter the member has raised, in particular the implications for vulnerable persons. However, under the provisions proposed in this legislation, and by working with the "vulnerable" persons definitions, we will do everything possible to ensure that these types of situations do not arise. We do not want to put ourselves in a position in which we will create those sorts of situations. I again make the point that we also do not want housing stock to be dangerous for vulnerable people because they do not have the capacity to improve that infrastructure. I do not want that situation to occur either.

Mr D.C. NALDER: The minister is saying that is already provided for in the legislation. However, when the minister spoke earlier, there was no reference in her speaking notes on these clauses to this group of people. Can the minister please explain where in this legislation there is reference to the fact that SAT must take this into consideration? I want to ensure there is a directive to SAT that it must take this into consideration, rather than just rely on SAT to do that.

Ms R. SAFFIOTI: Proposed section 182(12)(e) provides that the State Administrative Tribunal must consider —

> the benefits and detriments of the termination proposal proceeding or not proceeding for all those whose interests must be taken into account.

That outlines that SAT must take into account the benefits and detriments of a termination proposal of all of those involved in that proposal.

Mrs L.M. HARVEY: This is more of an administrative question, but proposed section 183 is 190 pages long. Why have all these provisions been inserted into one clause, rather than breaking them down into more sizeable chunks that would be easier for us to interrogate?

Ms R. SAFFIOTI: This was a decision of the drafters, and we do not question the drafters when they draw up legislation because we would never get anything drafted again! I understand the complexity. However, we can go through this and jump backwards and forwards within the same clause. I am sorry it is difficult, but that was the decision of the drafters.

Dr D.J. HONEY: I am finding this jumping backwards and forwards very difficult to do in a structured way. This legislation covers 350 000-plus people, and we need to go through it in detail. I want to go back to page 126, at the start of this, and to freehold schemes and leasehold schemes. I referred earlier to leasehold schemes. All the examples given in the explanatory memorandum and in briefings have referred to government land. I have made it very clear that I fully understand why the government would do that for university lands and the like, but I understand that this applies to all freehold titles as well as to government land. Why was this not limited to government land given that that is all the examples given in the explanatory memorandum?

Ms R. SAFFIOTI: One of the reasons that we gave those examples is primarily that we see this form of strata as particularly useful when the government works with the community sector to provide affordable housing. That is how we see these types of titles being used. The crown land would be converted to freehold and, as I said, the Minister for Housing who is definitely interested in it, is very keen to see how Department of Communities, for example, can use leasehold to develop more affordable housing options. That is why we give that as an example, and primarily that is where we see that this would be used. Currently, in New South Wales, 0.01 per cent of all schemes are leasehold. They are more boutique and we see it as an avenue of government to use government land to facilitate more affordable housing options. Another example is when government may want to see some development in proximity, for example, to a train station, but may not want to completely give control over or sell that land at that point in time. Those are some ideas or proposals that have been put to us.

Dr D.J. HONEY: I understand the government part again, but what I cannot understand is why, over time, given that this covers all strata property from duplexes up, all these properties would not become leasehold strata title. Because then the proponent or the original owner owns that land in perpetuity and the users have only a lease with declining value over time, so all the uplift value of that land goes to the owner of the land, not to the leasehold titles. I cannot understand how we are not going to end up in exactly the same position as the United Kingdom and other parts of Europe where this is the predominant strata title. I do not understand the mechanism that would prevent that. I fully accept and understand the government land argument.

Ms R. SAFFIOTI: It is because of the concerns the member has outlined. It is a niche type of arrangement. I hate to say this but, I suppose, let the market decide! I do not think that everyone will want to buy into leasehold. That is my impression of it. Again, I do not see that there will be a flood of leasehold applications. I see it primarily as a tool to be used when people may want to partner with non-government organisations and the community housing sector to provide more affordable housing options. Ultimately, I hate to say it, but we will see what the market does. Given the entrenched views of people in Western Australia about house ownership, I suspect people will continue to want to be outright owners rather than go through the leasehold strata system.

Dr D.J. HONEY: It is probably labouring the point, but in reality, a developer with deep pockets will always be able to afford to pay more for land than an individual, such as my children who currently do not own land or houses and would like to. An intrinsic mechanism forces them into it. This is what we are seeing at the moment in the development of these strata title lots; large developers are doing it. It is not Joe Blow who is doing it; it is the larger developers, the names of which we all know. They will always be able to pay more, and they will be able to force people into these units. I suspect the minister is correct in that at the start they will be lower cost because they will be less desirable, but over time, as they become the predominant form of title—that is my concern—people will have no choice. We will end up with a group of landowners, and a group of lease owners that are second-class citizens in terms of not having the uplift value of the property. I am probably labouring the point, I know.

Ms R. SAFFIOTI: It is an interesting point of debate. I have some notes here that say that leaseholders have operated in New South Wales since 1986. Only 0.1 per cent of schemes are leasehold. This idea that renters or people who lease are second-class citizens is not necessarily a view I adopt. Increasingly, I think the younger generation probably has a different view.

Mr J.E. McGrath: They have no choice.

Ms R. SAFFIOTI: The member says they have no choice. They will not have a choice if we do not offer housing choices. To be honest, I find it funny that the member says they have no choice. We are trying to create housing choices in the community so that people have options. I do not see renters as second-class citizens; some people choose that lifestyle. That is more of a general sort of philosophical view, but this will provide another option that I think will work if we look at what departments or the government will do to promote more affordable housing options. I do not think it will be the predominant type of housing by any stretch of the imagination, it will just provide another option in the suite of options of developing a range of housing choices for the community.

The DEPUTY SPEAKER: The minister will need to move the amendment in a minute, but I give the call to the member for Scarborough.

Mrs L.M. HARVEY: The minister said the uptake of leasehold title in New South Wales was 0.1 per cent of all strata titles. How many developments does that cover, and can the minister give some examples of where it has been used in New South Wales—which developments, which areas, and who the owner of the land was in those leasehold strata schemes?

Ms R. SAFFIOTI: Over 32 years, there have been 70 schemes in New South Wales. It was predominantly used in places like Sydney Harbour for the stunning views. That would be the case, for example, with old government land that the government did not want to completely relinquish underlying ownership of, because of the strategic positions. Those are the examples —

Mr J.E. McGrath: The Rocks and down there.

Ms R. SAFFIOTI: Yes. They are the examples that have been given to me.

Mrs L.M. HARVEY: Further, obviously this leasehold strata scheme option is being introduced for a reason and purpose. Is it the government's intention to consider this, for example, for any of the proposed new Metronet stations, or has the property industry expressed an interest in engaging in any of these leasehold strata schemes?

Ms R. SAFFIOTI: We have not identified any particular projects, but we are looking at affordable housing. I have mentioned it before. Leasehold survey strata schemes are particularly used for affordable housing. In a survey strata scheme, the lots are defined by legal boundaries. Government agencies such as the Department of Communities can offer leasehold survey strata lots to affordable housing buyers for almost no cost. This can be done because they know the expiry day of the scheme, and then the underlying ownership will revert to the Department of Communities. It is a form of assisting with affordable housing. It may be used. There has been some broad discussion, but no specific discussion, about areas where there may be some land that, in 50 years, might be wanted for high-density living but in the meantime that land is wanted for some use. That land may be around Metronet. Another example is developing university land. They are some of the options that have been discussed. My view is that it is just another policy tool in developing options for where members of the community want to live.

Dr D.J. HONEY: I understand that some people may choose to rent and obviously that is a good choice for them. My concern is that they do not end up with a choice because this becomes the predominant way of development and these large high-rises become their only option. That is my absolute concern. That is the reference to them being, in effect, treated as second-class citizens when they have no choice. When they have a choice, that is obviously a different matter. It is a concern when they have no choice. In relation to these leasehold schemes, what options exist under the bill to prevent the decline in properties towards the end of the lease? We say that the lease is for 99 years, but in fact a cunning developer might make them for 40 years to make them appealing to a person, but in the last 10 years they decide to deliberately run them into the ground to encourage people to leave so that they can redevelop them earlier.

Ms R. SAFFIOTI: This legislation also allows us to assist affordable housing buyers. For example, the Department of Communities could offer to compensate buyers for any improvements or buildings they construct on the lots within the leasehold survey strata scheme. There is the ability to offer compensation and to recognise the cost of improvements and buildings on those leasehold lots.

Dr D.J. HONEY: I think I understand that. However, how will the owner of the leasehold strata block be prevented from running it into the ground and forcing people out by circumstance, if you like, rather than the lease terminating?

Ms R. SAFFIOTI: Just to clarify, in a leasehold strata, the leasehold owners manage the scheme and make those key determinations about the quality of the maintenance of the buildings. The leasehold owners make those decisions. I think that addresses that point.

Mrs L.M. HARVEY: Further to the operation of a leasehold scheme, the minister keeps mentioning that it would be useful for affordable housing. Can she explain a little more clearly how that can be achieved? Will it be through giving land to the private not-for-profit sector to create the development and then sell the lease to tenants or is it envisaged that the government might, for example, build an apartment tower and hold over half of the units for Mission Australia to provide affordable housing and then sublease them to its clients? I am unsure about how it can interact with affordable housing. It would appear that if the majority of the schemes taken up in New South Wales are on prime real estate, they may not necessarily be providing affordable housing on the harbourfront.

Ms R. SAFFIOTI: I read out some notes before. For example, it would give a person a choice between renting or having long-term security of 30 or 40 years or whatever it is in a leasehold strata. This type of ownership allows a person to get long-term certainty at a more affordable price, as opposed to being a renter year by year. The cost of a leasehold strata is lower than direct ownership because the person is not purchasing the entire underlying value of the land. It is another way of allowing people to have longer term security. They would normally be people who would be subject to the annual rental market. This gives them long-term security without having to purchase the underlying value of the land, which in some instances is cost prohibitive. Of course, the price of a leasehold strata would be impacted by many things, such as the length of the lease—for example, a 20-year lease compared with a 40-year lease compared with a 99-year lease. All those things would affect the price. The other point is that it is still an asset that they can mortgage as well.

Mrs L.M. HARVEY: This is what we are trying to understand. Obviously, if someone is purchasing access to a 40-year lease, they will not be making rental payments every week. The reason people are in rental arrangements is that they generally cannot get access to finance. How is it going to help the affordable housing market if they still have to go out and get a mortgage to purchase a 40-year lease?

Ms R. SAFFIOTI: It is all cost comparative. Home ownership costs this much and this would be the next step down, in a sense. Again, there would be many different factors—for example, location and the length of the lease. The cost comparisons suggest that the cost would be lower than having to purchase the property outright. The point is that they can still sell it as an asset and they can get a mortgage from the bank. It is another option for affordable housing. Another example is that the Department of Communities could potentially do a leasehold strata with a number of non-government organisations in the community sector. Again, the department would have the underlying ownership of the land. The Housing Authority does a lot of joint ventures. This would be another opportunity or avenue for the state to control the underlying land and to potentially work with the community housing sector through leasehold strata. The government does a lot of things, such as conditional tenure. It uses a number of different policy levers to try to achieve some of these outcomes. When the government wants to facilitate a community outcome but does not want to completely give over control of the land, this will help to achieve that.

Mr J.E. McGrath: The Swan Brewery is leased.

Ms R. SAFFIOTI: Yes, it is. It is not one of these. There are always proposals about that one.

Mrs L.M. HARVEY: Further to this, when the cost comes down, does the government have a long-term lease with whoever the developer might be for the site and so the land is not transacted as part of the leasehold strata title?

Ms R. SAFFIOTI: I have some notes about how leasehold schemes work. Maybe we should have started with those. They state —

> What is a leasehold scheme? It is essentially the strata or survey strata scheme that is set up for a fixed term of 20 to 99 years. The scheme and all the lots exist until the expiry day. The owner of the lot has the long-term lease of the lot. It is a useful option for affordable housing. The owner of the lot in the leasehold scheme can transfer the lot and strata lease or mortgage the lot all without the consent of the lessor. The owners of the lot are members of the strata company. They decide how to run the leasehold scheme. On the expiry date of the leasehold scheme, the scheme lots or strata lease has ceased to exist, and the owner of the leasehold scheme regains full ownership of the land and the buildings. The ordinary rules of the act are mostly applied to leasehold schemes. Leasehold schemes can be strata or survey strata. Leasehold schemes have a strata company. A strata company must maintain the common property. The owner of the lot is a member of the strata company and must comply with by-law section 45, 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 a registered proprietor of the parcel and is entitled to the reversion on expiry day.
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> There are some core concepts and definitions underpinning leasehold schemes. The owner of the leasehold scheme is a lessor under the strata lease. The owner of the lot is a lessee under the strata lease. The leasehold strata estate is leasehold estate under the strata lease. The expiry date is the day the leasehold scheme expires. The postponement of the expiry day is when the life of the leasehold scheme is extended. This is like extending or renewing the lease. Leasehold by-laws are optional by-laws for the postponement of the expiry date or for compensation for improvements to the lot. The registration of leasehold scheme is set out in section 12. A leasehold scheme is registered when the following are registered: a scheme notice, a scheme plan, a strata lease for each lot or a schedule of unit entitlement. The default by-laws and schedules 1 and 2 do not automatically apply when a leasehold scheme is registered, but they may be adopted. Section 12(1)(b) has a note to this effect below. A leasehold scheme can be amended and in some cases an amendment is regarded as a subdivision. Amendments of the leasehold scheme that are a subdivision are set out in section 11(3) and include re-subdivision, consolidated lots, conversion of a lot to common property, adding land to a common property and removing land from common property. The amendment of a leasehold scheme needs the consent of the owner of the leasehold scheme, the extent and life of the scheme and the duration of the strata leases. The expiry day needs to be postponed. If the by-laws give the strata company the option, the expiry day can be postponed. The owner of the leasehold scheme can include within the by-laws an option to postpone the expiry date and this also requires the consent of the planning commission. With the consent of the owner of the leasehold scheme and the consent of the planning commission, the strata company can also make a by-law that includes the option to postpone the expiry day. To postpone the expiry day, the following must be done: a resolution of the strata company with at least 75 per cent of the lots in favour must be passed and the strata company has to serve the resolution on the owner of the leasehold scheme. If the by-laws require a fee to be paid by owners of the lot to the leasehold scheme to postpone, the amount paid by each owner of a lot must be in proportion to the 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. The life of the scheme must be less than 99 years, including any postponement. Strata leases are also provided in the bill.

Mrs L.M. HARVEY: With respect to the operation of the scheme, the minister is saying that the owner of the leasehold scheme is the lessor and at the termination of the scheme, the land reverts to the owner. If it is a private property owner, who is responsible for the land tax component of a development like that?

Ms R. SAFFIOTI: Of course, if they are private residents, they do not pay land tax, but the owner of the lots, so the lessee, would pay.

Mrs L.M. HARVEY: If the land is government owned, would a land tax component be incorporated into the lease? I presume that government land is exempt from land tax.

Ms R. SAFFIOTI: We will take that one on notice. I will have a word about it in my third reading speech.

Mrs L.M. HARVEY: I suspect there would be a stamp duty component to the purchase of these leasehold titles and subsequent transfers. How will stamp duty on these transfers be calculated? Is there any special arrangement? In a normal apartment development, for example, generally, the apartments are on the land and someone pays for

the land and the apartment value at the finished cost when the stamp duty is calculated. But if someone as a lessee is never entitled to the land, is the stamp duty calculated only on the value of the actual construction or on the total value of what we are leasing via the landlord who ultimately always owns the land?

Ms R. SAFFIOTI: Maybe I gave the wrong impression. The lessee is noted as the owner of the lot, so the duty would be payable as per normal and that would be based on purchase price too. That purchase price would reflect the length of the lease. It would all be based on the purchase price and that purchase price reflects the value, in essence, of the lot and the building, but, of course, that will be impacted by the length of the lease.

The DEPUTY SPEAKER: I have an amendment for the minister to move. Once she has moved that, we cannot go back before page 213 to make any other changes. I want to draw your attention to that. The minister can move the motion provided you can assure us that you do not want to go back.

Mrs L.M. Harvey: I do not want the amendment to be moved until we have progressed further through the bill.

The DEPUTY SPEAKER: Do you have more to go?

Mr D.C. Nalder: Yes, plenty.

Ms L. METTAM: I want to ask a question about page 168. I referred to this issue in the second reading debate and that is in relation to the invalidity of scheme by-laws. As the minister is aware, by-laws may be created by a majority vote to prohibit in some circumstances commercial unregulated short-stay accommodation. But through this clause, as I understand it, such by-laws may be overturned. Does Parliament intend to support the voting majority when they seek to establish a by-law to stop unregulated short-stay accommodation?

Ms R. SAFFIOTI: Can I just ask—we are in discussion on the intent of the question—my understanding is that the member's question is really about whether this legislation allows for by-laws, which, for example, may rule out Airbnb, to be overturned by the State Administrative Tribunal.

Ms L. METTAM: By this provision—the invalidity of the scheme by-laws. As I understand it, minister, in cases in other states a clause like this has been utilised to enable the voters' right to be overturned in favour of the individual who is seeking to rent out their property in an unregulated way. I guess it goes to the heart of what the intent of the invalidity of the scheme by-laws provision actually is. Perhaps a good starting point is to explain that and also how this scheme would work in a case in which an objection was made by an individual against a majority vote ruling to prohibit short-stay, unregulated accommodation.

Ms R. SAFFIOTI: Is the member referring to a New South Wales case in relation to Airbnb—is that correct?

Ms L. METTAM: There was a case in New South Wales and a case in Queensland as well. It was the utilisation of a provision like this. I understand that the Western Australian legislation is different in that it supports a by-law being put in place with a single dissenting vote, but I am seeking to understand whether this clause would actually block such a voters' right.

Ms R. SAFFIOTI: As I understand the New South Wales case, the courts interpreted the New South Wales legislation to provide that the by-law restricting Airbnb was restricting the use of the property for trade or for leasing, and as a result that by-law was overruled. The courts in this state have not taken the same interpretation. Again, in relation to this legislation, we have existing provisions on by-laws but there is the ability to go to the SAT if they are oppressive and unreasonable. We do not believe that Airbnb would fall into that, but we are also developing an Airbnb policy, which will be applicable to the entire state. We are not trying to address the Airbnb issue in this legislation. I understand the member's question, but we believe that the WA case is different from the New South Wales case.

Dr D.J. HONEY: Madam Deputy Speaker, when you said that moving the amendment will restrict debate, will that restrict debate on parts of the clause up to page 213 of the bill but we can continue to debate parts of the bill after page 213?

The DEPUTY SPEAKER: Absolutely, you can continue debate on matters after page 213. We were just discussing that.

Dr D.J. HONEY: If the minister moves her amendment, can we continue to debate the proposed sections that follow those on page 213?

The DEPUTY SPEAKER: As far as I can tell, but you will have to tell me that you want to do that and the minister will move her amendment.

Dr D.J. Honey: I do wish to continue other debate.

Ms R. Saffioti: We can move the amendments later, because they might get caught out.

The DEPUTY SPEAKER: No worries. Whatever you want to do, I am happy.

Dr D.J. HONEY: Members will have to bear with me as I go through this. This is not some ruse; there are serious concerns about the detail of this, particularly the termination. Proposed clause 174 on page 260 is "Outline of termination proposal". This is a concern and a question. I mentioned in my second reading contribution that I am aware of a significant number of cases in which individuals or speculative groups have purchased a majority of units. In fact, they control the whole process all the way through, and if they have three-quarters of the units, they control the final vote. Was any consideration given to having some residency requirements or somehow mitigating that? Exactly that has happened in my electorate. Will the way the bill is written mean that individuals who have a majority vote be able to buy units with the specific intention of forcing redevelopments for speculative purposes?

The DEPUTY SPEAKER: Let me clarify the standing orders on the debate. It does not matter: you can range anywhere through the clause, you just cannot amend before the amendment.

Dr D.J. Honey: Thank you, Madam Deputy Speaker.

Ms R. SAFFIOTI: As I understand, the original proposal put forward in the initial draft of the bill pre 2017, was that anyone could put forward a termination proposal. That changed to require the proponent to own or have the option to purchase a unit. Initially it was proposed that anyone could do this, but that was amended last year to make sure that a proponent must own or have the option to purchase a unit.

Dr D.J. HONEY: That confirms my point—that is, all the power resides with the speculator when they are buying a majority of units, which is the case, and that is what they are working on.

I turn now to proposed section 175, "Content of outline of termination proposal". What is the situation if a speculator controls a company, or a body corporate as it used to be called, and they refuse to carry out any repairs on a building so that it becomes unliveable? Is there a remedy in the bill that will prevent them from doing that?

Ms R. SAFFIOTI: The current provision requires the strata company to maintain that common property. If that were not to happen, this allows the one owner to go to the State Administrative Tribunal to require that common property be maintained.

Dr D.J. HONEY: I refer to proposed section 175(1)(i). How does this mechanism ensure independent advice? I gave the example of a supposed independent expert who said a building would be uninhabitable in 10 years and gave expert advice that the building would be riddled with concrete cancer and would be dangerous to live in. In fact, that building is completely habitable and for all intents and purposes is in exactly the same condition it was 11 years prior. I think it is a common experience for people that the person who is paying the supposed independent adviser is likely to get the opinion that they want. My great concern is what mechanism is there to ensure that the person is an independent adviser and simply not someone doing the bidding of the proponent? My experience, based on some considerable time in the industry, is that so-called independent advisers have a strong propensity to give the advice that the person who is paying them wants them to give. That certainly was the case in the unit at Cottesloe. The advice was either incompetent or misleading.

Ms R. SAFFIOTI: I take the member's point about independent advice and issues across all forms of government industry in relation to different views and different expectations, particularly when looking at engineering reports and so forth. Under our proposal, vulnerable owners will choose their own legal advisers. That is at proposed section 175(1)(i). That gives people the ability to choose who they want and maybe choose two forms of advice potentially.

Dr D.J. HONEY: My concern was not so much the legal advice, but I appreciate that. Allowing the owner to get independent legal advice sounds like a prudent step. My concern was more the so-called expert advice. I imagine in these cases the SAT could receive supposed expert advice that said this building was dangerous to live in. In fact the minister gave an example in which she was concerned that these buildings could get old and become unliveable. I suspect if a supposed expert gave advice that the building would soon be unsafe to live in or was unsafe to live in, the SAT would be heavily influenced by that in terminating the strata title. What capacity do the minority owners have to influence? Invariably, they will not have deep pockets compared with the speculator who typically has deeper pockets.

Ms R. SAFFIOTI: The developer will have to pay money to vulnerable owners who can then use that money to obtain an independent building inspection report. The report can then be presented to counter a developer's report that a scheme has, for example, concrete cancer. That is another provision, which would go to the State Administrative Tribunal. Giving such evidence to SAT would likely result in SAT finding that the

termination proposal by the developer contains misleading information. On that basis, we would expect that SAT would order that the termination proposal not proceed.

I have not made the point that there are currently provisions for termination. One owner could go to the District Court and apply for the termination of a scheme. I acknowledge that the provision has not been used widely. I understand the member's concerns but I do not know what other options are available to address the challenge. For example, if we do not do anything, in 10 years, one owner could go to the District Court and say, "This building's unliveable; I want to terminate the scheme." Then potentially, one owner could terminate the whole scheme and there are no provisions, no safeguards and no processes. I understand the member's concerns. I have thought about this a lot, but the safeguards and provisions are there to make sure that the examples being given in this chamber do not happen and that the right protections are in place. As I said, there would now be the ability for one owner to apply to the District Court for the termination of a scheme. That did happen, but it was a bit of an extreme case up in Exmouth. Incidences of such cases may increase over time if, for example, places are seen as unfit to live in or no-one can fix the stairs, or basic things like that. It may be something that increases over time unless we have a provision.

Dr D.J. HONEY: I understood the minister's response to be that funds would be available for residents. Would obtaining that second report require a majority vote of the owners? The minister can guess the obvious reason that I am asking; that is, the majority owner in the cases I have given are typically speculators who want to develop the property.

Ms R. SAFFIOTI: This goes to vulnerable owners. A single person will not need a majority decision to get the other report, so funds would be available to commission the second, independent report.

Dr D.J. HONEY: Thanks, minister; I think that is a good answer to that question. I refer to the termination valuation reports under proposed section 179(3). Something I did not mention in my contribution to the second reading debate that I did want to cover was the issue of valuation. Again, I will refer to my electorate, because that is what I know. The minister would appreciate there are one-storey strata title units. A new structure plan has gone through and under the local structure plan, it can now be six storeys. On appeal to the minister, it could possibly go to eight storeys or higher.

That would mean it could go from 20 units to 100 units on that block. That would obviously be a substantial increase in the value of that block. Under the current law, if there are 25 owners, they each have a right to that increase in value, assuming they all cooperate and want to do that. The concern is that under this proposal, they will lose that right, because the uplift value will go to the developer or speculator, and any owners of existing strata title units who did not want to sell would not receive that value. Will there be a mechanism to enable appropriate recognition to be given to those owners of the uplift value of that whole strata title block?

Ms R. SAFFIOTI: I have a specific note on this. Do the reforms take into account the uplift in value a lot should have if the site could be redeveloped with many more lots? Proposed section 183(10) states that in deciding fair market value, SAT must be satisfied that the owner will receive an amount that is at least the amount of compensation that will be required to be paid by an acquiring authority under the Land Administration Act 1997 for the taking of the lot without agreement; and the owner will not be disadvantaged in terms of the owner's financial position. This means an objecting owner must be no worse off if the termination were to go ahead. Proposed section 183(10) specifies that the provision in section 241 of the Land Administration Act 1997 relating to public works does not apply. This means that when assessing the value of a lot in a strata scheme, the valuer will need to take into account the highest and best use. The valuer will have to look at the actual zoning for the site, along with current market prices. If the site has been rezoned, that zoning must be included in the calculation of fair market value, because valuers are required, in assessing the market value for a lot, to take into account the highest and best use. If there is a scheme under which the current strata building owner retains 30 lots, and under the local planning scheme the local government has approved up to 100 lots to be built on that site, the valuer must take this into account when assessing the fair market value of the lot. An objecting owner will not be entitled to the profit that another person can make if that person takes the trouble to acquire the lots, spend the money to obtain the various planning approvals, pay for the construction of the building, and sell the lots. However, an objecting owner will be entitled to be compensated for the uplift in value that the lot will experience because the site has been rezoned. This must be done, because such a rezoning must be considered when the valuer is assessing the highest and best use of the lot.

Dr D.J. HONEY: I was slightly confused by the terms the minister used. There was discussion of a structure plan, and there was discussion of rezoning. I am clearly no expert on planning laws. However, my understanding is that it is not rezoned by virtue of the structure plan but would need to be rezoned once a development is proposed. Would the developer need to apply to have that lot rezoned, or is it rezoned automatically by virtue of the structure plan?

Ms R. SAFFIOTI: For example, in the member's electorate, there may be zones that are applied currently where the building does not reflect the possible building development. Zoning happens independently of this process. A development application outlines the type of proposal. As I have said, there may be areas currently where there are two buildings on a lot and there could be 10 buildings on that lot. When assessing the value of that lot, the valuer would look at the current zoning for 10 lots. That zoning happens through the planning scheme process. There is the planning scheme, the zoning, and then the individual development applications, which would be subsequent to that.

Dr D.J. HONEY: If the minister has corrected me already that is fine, but I take it that if there is a significant uplift available because the government is no longer considering the single-storey unit, but is considering a block that has the opportunity for a multistorey unit on it, that that value would be recognised when there is compulsory acquisition. I want the minister to respond to that only if I am mistaken.

Moving on to proposed section 181, the minister touched on this in relation to another matter. How do we ensure that these meeting processes are fair, that people get proper notice and proper process is followed for the meetings? I am looking at the dark side; I am not looking at good people working in good faith or cooperating. That is fine, we are all happy with that. It is when people are trying to jam things through or overbear people in this process. How do we ensure proper process of those meetings when an individual turns up who has the majority of the votes at an ordinary meeting and will get their way at every ordinary meeting? How do we ensure that other people have the proper opportunity to participate in that process? I have given some information about a situation in, for example, nursing homes, in which a well-resourced articulate individual or perhaps a couple of individuals, are going around to vulnerable people and bamboozling them and getting them to sign proxy forms. What is the oversight to make sure that this is a fair process?

Ms R. SAFFIOTI: To just clarify, is this the termination process?

Dr D.J. Honey: Yes, minister, to initiate the termination.

Ms R. SAFFIOTI: One of the requirements that the State Administrative Tribunal will need to consider in making this decision will be to make sure it looks at the process and ensures it is being properly followed. One of its requirements in making its final decision is to make sure that the process has been properly followed and not abused. To clarify again, evidence of any impropriety in the termination process, including evidence of proxy votes being exercised improperly and evidence of false or misleading information in the outline or full termination proposal, would be considered by the tribunal.

Dr D.J. HONEY: Proposed section 183(3) states —

> The persons on whom a full proposal for the termination of a strata titles scheme must be served by the strata company for the scheme must be given a reasonable opportunity …

Do we have some clarity on what reasonable opportunity means? I will give the minister a specific example. There was a notice of a general meeting to change entitlements. The notice was issued on Good Friday and the meeting was on Tuesday following Easter Monday. Do we have a definition of reasonable opportunity?

Ms R. SAFFIOTI: We expect that SAT would make a ruling on what is a reasonable opportunity. The example that the member gave about Good Friday is a good point. I find this with the planning system. It is like the first episode of *The Hitchhiker's Guide to the Galaxy* when the plans were on what planet? Notifications and ensuring people are aware of things continues to be a problem across the entire government and council in relation to people getting the right notification and in the right form as well.

Mr J.E. McGrath: Public consultation.

Ms R. SAFFIOTI: Yes, it has a different definition. We put an advertisement on that planet that you cannot get to! We expect the State Administrative Tribunal will make determinations that will create precedents, and we expect SAT will make rulings on what is and is not a reasonable opportunity.

Dr D.J. HONEY: Proposed new section 182(10) relates to the independent person appointed to tally and count the votes. How will we appoint or identify, or what identifies or defines, the independent person? Again, nominally in these sorts of processes there is someone who is independent, but really they are not.

Ms R. SAFFIOTI: Advice we got from the University of New South Wales recommended the independent person provision. When developing the regulations we will define an independent person. I just suggested a JP, but it could be someone with particular expertise. We will work through that to make sure independent is as independent as we can get.

Mrs L.M. HARVEY: Further to these provisions, could a meeting be a virtual meeting? Can votes on a resolution be emailed, for example? How will we record that a meeting has been properly convened, and what kind of forums can they occur in?

Ms R. SAFFIOTI: The Strata Titles Amendment Bill 2018 has provision for electronic voting, and the regulations will have further prescription about how the meetings will be conducted and the rules and guidelines that will govern those meetings.

Mrs L.M. HARVEY: With respect to a meeting, often the way these strata meetings work is that around various issues members give a proxy vote to somebody else at the meeting. They may making a decision on information with respect to termination of a scheme based on information received at the meeting on the final vote on the termination of the scheme. Will allocating a vote to someone by proxy be a valid way of participation in one of these votes?

Ms R. SAFFIOTI: Yes, a proxy can be used for these decisions, but, again, when SAT makes its determination it will review the proxy system to ensure that it has not been abused in any way.

Mrs L.M. HARVEY: Just further to that, I guess it comes down to the trust of an individual proffering their vote and decision-making to a proxy, but if additional information is uncovered at a meeting for the termination of a scheme—for example an owner takes umbrage with the way their proxy is being used to vote in light of new information—would that be grounds for the tribunal to invalidate the vote?

Ms R. SAFFIOTI: The act requires the State Administrative Tribunal to make sure that the process is valid and that the owner's views have been represented in a true way. SAT would have to take that into consideration in making a final decision.

Dr D.J. HONEY: Proposed section 183(9)(c) describes the various interests that have to be taken regard of and in proposed subparagraph (iv), there is an attempt to ensure that someone who has a mortgage will not be worse off. What would happen in the situation in which the value of the strata unit was significantly less than the mortgage, which is the case for a number of properties in the metropolitan area and a significant number of strata title units that have been sold in the past five years? If there was a forced sale, the person would not only lose their home, but also be left with an unsecured debt. Will this provision prevent it being sold? How will that person be protected?

Ms R. SAFFIOTI: The owner cannot be any worse off. In that case, the developer would have to cover the mortgage loss. I also referred to things like capital gains tax. The legislation tries to cover all the potential impacts or costs that could make someone worse off. The requirement is that the owner will be no worse off.

Dr D.J. HONEY: Just to be very clear on that, is it the minister's understanding that in the situation in which the person's mortgage was higher than the value of the strata unit that it was secured against, to leave them no worse off, would the proponent be required to pay out the full mortgage?

Ms R. SAFFIOTI: There are two ways—no worse off and the arrangement for like for like, which would be another way of making sure that the owner was no worse off.

Mrs L.M. HARVEY: Further to this, once a decision has been made by the tribunal to terminate a scheme, obviously in some of these circumstances there will be aggrieved owners who did not want to participate in the termination of the scheme. Is there an appeal mechanism for them to have a review by another authority?

Ms R. SAFFIOTI: Yes; they can seek leave to appeal to the Court of Appeal.

Mrs L.M. HARVEY: That would require, I presume, engaging a lawyer and starting another judicial process if they seek the leave of the Court of Appeal. I am not sure how that works.

Ms R. SAFFIOTI: Yes, it would.

Dr D.J. HONEY: This is perhaps for my education. I am not sure I understand the purpose of proposed section 183(10)(b)(ii). Would it be possible to explain what that proposed paragraph means? What is the purpose of that proposed paragraph and what does it mean?

Ms R. SAFFIOTI: This is quite complicated. Basically, there are special provisions when the government acquires land. The government, in assessing that land, is not to take into account the public works that would potentially be on that land. This excludes that consideration from this provision, because we are not taking the land for public works. We are removing it from consideration through this proposed paragraph.

Dr D.J. HONEY: Why would we include that? This is freehold title, although I guess it could refer to leasehold title. Nevertheless, the land is freehold. Why would we need to include any reference to that at all in the bill?

Ms R. SAFFIOTI: Because we are relying on the government acquisition provisions, if we did not exclude it or say to not pay any reference to it, it would be taken into account; for example, building a road on the land or other things that could affect the value of the land. It is not relevant and it will just complicate any assessment. We are removing it because it is not relevant to this case.

Dr D.J. HONEY: I refer to proposed section 183(10)(b)(iii). Why is compensation limited to 10 per cent? I see this otherwise, but why is it being limited to 10 per cent? I would imagine that speculators who felt they would chance their arm on this one would offer the smallest amount they thought they could possibly get away with. It might be manifestly unfair. Why is this provision limiting it to 10 per cent? Why not simply say that compensation is to be an appropriate amount and leave the parenthesised part out altogether?

Ms R. SAFFIOTI: Again, this is based on the government compulsory acquisition limits, but this legislation also allows it to be more than 10 per cent in exceptional circumstances. There is provision for it to be higher than 10 per cent.

Dr D.J. HONEY: I will come back to the question: why put in the 10 per cent? It is not about compulsory acquisition of land for a public purpose. We all know that this is perhaps one where someone would have to suck it up. That is life; it is for the greater good. Sometimes the greater good has to prevail. However, in the great majority of cases, it is compulsory acquisition of someone's property for someone else's profit. I will come back to it: why would we limit it to 10 per cent? It seems to me that that is putting in a barrier that is very much in favour of the person who is compulsorily acquiring the other people's property and I do not see that it at least sets out to offer the protection that we might require. As I said, I am certain proponents are not going to sit there with some generous offer. They are just going to chance their arm and see the minimum they can possibly get away with and that may be unfair. I assume that if a proponent was subsequently going to appeal to the State Administrative Tribunal and SAT had come back with more than 10 per cent, they would be looking at this clause with their sharp-eyed lawyers and saying that SAT had done the wrong thing and the circumstances were not really exceptional and so on. I wonder why it is included at all. I fully understand why for a public purpose we would want to control that, because government ultimately has to acquire significant amounts of land for things such as roads, easements for sewerage lines and the like, but in this case we are talking about one group or individual acquiring another individual's property for their profit. It is not about the public good as such.

Ms R. SAFFIOTI: First of all we based our conversation on New South Wales legislation. The other point is that this process safeguards those other costs that we mentioned before. If we do not have this type of provision and speculators come in and buy what to people would be a generous offer, we are probably creating more speculative activity and the existing owners would not get the benefits of the speculation being outlined and the safeguards in the provisions we have in our proposal would not be followed. The aim is to ensure that this is a process whereby people are informed along the way and go through the right steps, and we do not allow greater speculation, with people coming on the basis that they think a developer is coming in, and the existing owner does not benefit. The basis of the mechanisms, the safeguards and the processes, and having these figures out there, is to make sure it is a fair system that everyone has the opportunity to operate fairly in.

Dr D.J. HONEY: I understand the other safeguards, but the reality is that I suspect the contentious part will be the uplift value. I suspect the speculators will weave a tale of woe around the cost of approvals and building and the like and how they are barely going to make 10c out of the whole deal when we know that is not likely true. They will offer compensation on that basis, which I suspect will be designed entirely to maximise the value of the uplift to them and minimise any value of the uplift to the strata owner. The owner's only defence is that if the State Administrative Tribunal thinks it is unfair—I accept SAT is going to do its job—it will limit it to 10 per cent. I still have not heard any reason that we have alighted on the figure of 10 per cent other than it applies to compulsory acquisition by government. But as I have said, we do that because it is for the public good. It is so that the public purse is not unnecessarily burdened when the government undertakes compulsory acquisition and it does not become complex.

In this case, we are not talking about something that is for the general community good. We are talking about benefiting an individual or a group of individuals over someone else whose property is being compulsorily acquired. I am not sure why this legislation is set on 10 per cent. I can understand "monkey see, monkey do" when we see a figure in another piece of parallel legislation that we are using for other purposes, but I do not understand why we would restrict it at 10 per cent. That seems to me to be potentially unfair to the people who are having their property acquired, for the benefit of the people who are acquiring the property for profit.

Ms R. SAFFIOTI: Now I have a better explanation for the member. The 10 per cent applies only to the objecting owners through a termination process. There is nothing stopping an owner selling to a developer at 50 per cent above the market valuation. We understand that in many cases developers do not want to go through the

termination process and offer significant mark-ups to purchase some properties. It does not prevent an owner making a windfall gain. It probably helps them make a windfall gain in some bizarre way. This does not prevent someone selling at more than 10 per cent. The 10 per cent applies to the objecting owner going through the termination process. It does not stop the market operating in its usual way. This is for only the objecting owner going through the termination process.

Dr D.J. HONEY: I understand that someone can sell their property beforehand and that is pretty clear. This is about the umpire that can protect the person whose property is being acquired and can prevent them from being gouged by the proponent who has come in and acquired the majority of the properties. I understand that the person could get more if they sold it under some other circumstance, but this is about the person who does not wish to sell and move, but the process has been followed and their property is going to be acquired compulsorily. The proponent has offered a certain amount. Let us assume it is manifestly unfair, but then we are limiting the SAT's capacity to 10 per cent unless it is an extreme circumstance.

I think we are probably going around in circles on this one, but I do not think that is fair. I do not understand, based on what has been said, why we are fixed on this figure of 10 per cent. It seems to be purely protecting the proponent and not protecting the person whose property has been acquired, given that this is a person who, up until this bill is passed, had freehold title, and no-one could force them out of their unit. We are using the force of government to allow them to be forced out of their unit and, in all of this—I appreciate that the minister and Landgate have really gone to some effort to try to make sure that this is a fair process—I do not know why we are trying to artificially restrict it to what I think is a low amount. That seems to me to be an unusual restriction on the State Administrative Tribunal's capacity to properly recognise an unfair offer. I am not sure I am going to get a different answer, so if the minister thinks I will not, she can tell me to move on.

Mrs L.M. HARVEY: Further to that, I must confess to feeling a bit confused by the minister's answer. This relates to the tribunal considering what fair compensation is for somebody who is having a scheme terminated against their wishes. The legislation reads, at proposed section 183(10)(b) —

> in considering the amount of compensation that would be payable under the *Land Administration Act 1997* section 241 —
>
> …
>
> (iii) an amount appropriate to compensate for the taking without agreement may be added to the award or offer (but it may not be more than 10% of the amount otherwise awarded or offered unless the Tribunal is satisfied that exceptional circumstances justify a higher amount);

That is not saying "at least" 10 per cent. The minister said there is nothing to stop an owner being paid 50 per cent more than market value because the proponent for a redevelopment wants to save the time and effort of going through this process. It does not say "at least" 10 per cent, it says it cannot be greater than 10 per cent. The way we are reading this—I think the minister needs to explain it a little further—is that the decision to wind up the scheme has been made and we are now in this space where we are looking at the compensation. We have a guide with the Land Administration Act and other expenses that can be included, plus a 10 per cent premium or more if the tribunal considers there to be exceptional circumstances. This is in consideration of an offer that has been given to the proponent and the tribunal making a decision. It sounds to me as though we are limiting its ability to go more than 10 per cent above what has already been offered.

Ms R. SAFFIOTI: The tribunal can go more than 10 per cent in exceptional circumstances. What I was outlining before—I am sorry that I did not make it clear—is that this is the process for an objecting owner going through a determination by SAT. Before the final process is underway, the owner may sell to a developer or a potential owner for a premium. No-one is stopping that. Let us say that 75 per cent have signed up and are keen to sell. As an owner, nothing is stopping me from selling to the developer at 30 per cent or 40 per cent, and the developer may prefer that to going through a full termination proposal. There is nothing stopping the windfall gain for an owner—not windfall gain, but whatever you would like to call it. There is nothing stopping that. In relation to going through the full termination process, that is no more than 10 per cent unless there are exceptional circumstances, so it could be more than 10 per cent if SAT finds reasons for doing that.

Mr Z.R.F. KIRKUP: If we follow that logic, what will those exceptional circumstances be? Will the minister give some examples?

Ms R. SAFFIOTI: There are no examples because it is a new law, but this clause will give SAT flexibility.

Mr Z.R.F. Kirkup: Just in case.

Ms R. SAFFIOTI: Yes, just in case. For example, every property may have been sold at a premium and one objecting owner who did not participate may not be getting the proper value. There may be those sorts of examples, but it is something that will develop over time.

Mrs L.M. HARVEY: The minister's answer still does not make sense to me, and I will explain why. This is about an owner of a title who does not want to sell and does not want a scheme wound up and the tribunal will determine fair compensation for that owner. During that determination I expect that the developer may come in and say, "We'll give you 30 per cent more just to end this process," and they will be able to take the money and run. But what if an aggrieved individual does not want to sell but is forced to and SAT determines the fair market value to compensate them for that loss? The bill provides that the SAT cannot compensate fully and the default is no more than 10 per cent above what has been offered, except in exceptional circumstances, so that will limit a vast majority of determinations to a 10 per cent buffer over what has been offered.

Ms R. SAFFIOTI: As I have said before, we have tied this to an existing provision. The amount can be more than 10 per cent in exceptional circumstances. SAT has that flexibility. A number had to be put on it and that number was picked up from the existing legislation and also from the New South Wales' model.

Mrs L.M. HARVEY: The answer is that SAT is limited, except in exceptional circumstances, to offer no more than 10 per cent above what an owner has previously been offered by a developer.

Ms R. SAFFIOTI: There is the market value and it will be 10 per cent over that, plus all the other costs such as relocation, to cap other costs, particularly capital gains and other costs as well.

Dr D.J. HONEY: I think our concern is pretty straightforward—that is, it is the developer's assessment of market value, so it will offer as little as they can. In practical terms, SAT will be restricted to offering no more than 10 per cent above what the proponent will have offered them. I cannot understand the philosophy that it appears to be trying to protect the proponent who is forcing someone out of what was, until this act occurred, their inalienable right to occupy that strata unit. I cannot understand why this bill is trying to restrict the potential for SAT to properly recompense that person. The government may have a lack of faith in SAT. That would seem unusual because all the protections we look at in this bill are through SAT. Surely the government must have great faith in SAT. We are also being asked to have great faith in SAT because we are being asked to accept that all these protections that ultimately go through SAT are proper protections for vulnerable individuals. I have not heard and I do not understand, and I guess I really do not accept, that having a 10 per cent limit there does anything but help to protect the proponent in this case. I am not saying overall; I am saying that in this case in this clause for some reason it seems to be setting out to protect the proponent and not the person who is being forced out of their strata title unit.

Ms R. SAFFIOTI: This was always the intention of it. This was in the drafts that we inherited from the previous government.

Dr D.J. Honey: That is why they got thrown out of office, minister!

Ms R. SAFFIOTI: Because of this? That is an interesting analysis.

I understand the member's point. I think there has to be some guidance to SAT and that is what this is. In a sense it is the exceptional circumstances that gives SAT the flexibility to go beyond the 10 per cent. As I said, beyond the termination process is also the ability to make other transactions that could benefit the existing owners.

Dr D.J. HONEY: Unless one of my colleagues wishes to go further down that path, I would like to move on to proposed section 183(11). When we talk about like-for-like exchanges, that is a great concern because it is so subjective. If a person is in a single-storey unit overlooking Cottesloe Beach, close to all the trendy restaurants around the place, is "like for like" another unit 500 metres down the road or is it one a couple of storeys up or is it one at the back of a place? I am wondering how we work out like for like. What does that actually mean? I appreciate that may be defined in some way.

Ms R. SAFFIOTI: In determining under proposed section 183(9)(b) whether an owner of a lot will receive a like-for-like exchange for the lot, the tribunal must consider whether the value of what is offered in exchange is equivalent to the fair market value of the lot and how the location, facilities and amenity of what is offered in exchange compares with that of the existing lot. The principle behind the like-for-like replacement lot provision is that owners will not lose their home. They can move to a new home in the same area and the proponent will have to pay the costs so the owner is no worse off. The objecting owner can request a like-for-like replacement lot so that they can continue living in the same suburb and same area. If the objecting owner has been offered a like-for-like replacement lot, the tribunal must consider the equivalent fair market value and how the location, facilities and amenity compare.

Dr D.J. HONEY: In listening to that, I appreciate that those examples are not necessarily crafted words, but being in the same suburb is very different from being on the beachfront at Cottesloe. Being two streets back or up a side street is not like for like. Most people would not regard it as like for like, yet, the definition as it was explained sounded very broad. My concern is that people who have a wonderful amenity and a dream location that they have obtained through their own good faculties are forced into substandard or lesser accommodation because of that broad definition. I like the effort of including like for like, but I am concerned that it is quite a broad definition.

Ms R. SAFFIOTI: The clause also included reference to "location, facilities and amenity" so I suspect beachfront at Cottesloe would not be swapped with a back alley somewhere. If there were any developments in Cottesloe, we could go for like for like. It is all about amenity, so we do not expect that someone would give away a beachfront view to be on a back lane in some suburb.

Dr D.J. HONEY: Proposed section 183(12)(b) refers to people voting and it uses the term "unit entitlement of lots", which I understand to mean that typically, for example, a penthouse unit would have a greater entitlement of lots than a first-storey unit or a back-lane lot. I am not sure whether this has been considered by the committee, but the older strata title schemes do not have unit entitlements. I can give a specific example to the minister, which has probably been given to her already. In a particular development, there is a derelict shed or garage at the back. It is an old, abandoned laundromat. This unit has exactly the same entitlement as a unit that overlooks the ocean. I understand that this applies to a number of older developments and I am happy to be disabused of this, but typically speculators buy units that have no view, are rundown, undesirable and out the back, but they have exactly the same vote in any dissolution proposal as those people who are in single-storey units overlooking the ocean.

Ms R. SAFFIOTI: This one example from Cottesloe has given the member a lot of references!

Dr D.J. Honey: There are a lot of strata units there, minister.

Ms R. SAFFIOTI: Yes. The old scheme had unit entitlements, but there is a process in which unit entitlements can be revalued and reallocated. An existing process can do that and this bill does not change that at all.

Dr D.J. HONEY: Perhaps that could be clarified, because it will be quite current when this legislation moves through Parliament. I appreciate that the minister has told me that is possible, but how does that fit with this act? My great concern would be, as I have said, in these desirable locations—they are not just in my electorate; it is just that I know about the ones in my electorate—speculators have bought units in suburbs with river views and the like but how can they possibly go through the process to affect this because, as far as I can see, as soon as this bill goes through Parliament, the speculators will move at the speed of light to realise their investment? Can some protection be provided so that people can go through that process? It seems to me to be manifestly unfair. I know that is not the minister's intention. However, what mechanism will there be to make sure that people can do that? The minister has told me that they can do it. However, how will people be able to do that practically so that when this legislation is passed, they are not treated unfairly? Does the minister see what I mean? It is all right to say it is possible. However, the fact is that speculators have already bought up the majority of units in a number of these strata title lots, and they are ready to move as soon as this legislation gets through the Parliament.

Ms R. SAFFIOTI: Member, I have lost this a bit. The member is saying that in some of the older strata blocks, there is a back block with an old shed, which has a unit entitlement, and the member does not want the existing or potential owner to have the same voting right as a person with a beachfront apartment.

Dr D.J. HONEY: My understanding of proposed subsection 12(b) is that it is supposed to take into account that not all units are born equal. Unit entitlement reflects the fact that some units are more desirable than others. Therefore, compulsory acquisition has a greater impact relatively on some units than it has on others. My understanding is that a more desirable beachfront unit in a modern strata title complex would have a greater unit entitlement than an underground laundromat in the back alley. I am happy to be educated.

Ms R. SAFFIOTI: As the member said, the bill makes provision for the owner to apply to SAT to reallocate the unit entitlement. I am a bit confused. The member has been arguing about property rights and interest in property rights, but he wants this legislation to retrospectively change the unit entitlements under some old schemes so that the laundromat person would lose their existing entitlement.

Dr D.J. HONEY: No. I will explain it in some detail if the minister wishes. In this case, those other units have been purchased at a very low price relative to the units at the front of the lot. Under this scheme, the potential is that because the owners of those units have majority control of the total number of units, and there is no unit entitlement that reflects the fact that some units are substantially more desirable than others, those owners will simply be offered some average market value for their unit. As I have said, their entitlement does not reflect the value of their lot against the value of the other lots. The minister can correct me if I am wrong and I am more than happy to be educated. I am not dogmatically asserting it as a fact; I am asking a question. My understanding is that

the unit entitlement of lots reflects that some units are more desirable and more valuable than others and therefore have a greater say in that vote.

Ms R. SAFFIOTI: The advice is that it is one vote per lot and when they get to the tribunal, they can look at the entitlements per lot but, as I said, I find this questioning bizarre, because the member wants me to go and rip up the entitlements of existing lot owners.

Debate adjourned, on motion by **Mr D.A. Templeman (Leader of the House)**.