PLANNING AND DEVELOPMENT AMENDMENT BILL 2023

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 11: Parts 11B and 11C inserted —

Debate was interrupted after the clause had been partly considered.

Dr D.J. HONEY: I will just remind the minister of my question; I am sure that he has now prepared a great answer. I was asking about the design review panel or at least committee and what opportunity there would be for the community to have input into its deliberations.

Mr J.N. CAREY: I have two things to say. As I have said on the public record, we have overall improved the consultation process for the development assessment panel process by bringing in the radius model, which was a major improvement. Everyone within 200 metres will be notified of DAP or significant pathway projects. I want to put that on the record. Secondly, the idea with the design review panel is that there could be a number of engagement sessions at the pre-lodgement stage whereby improvements or significant improvements could be made to the design before it goes out for public comment. In many cases, the community has the design before. There can still be opportunities for the design review panel afterwards, but, in fact, the community will have its say after the development application is out for public comment.

Dr D.J. HONEY: As the minister knows, I noted that some positive changes in relation to communication have been made to the DAPs. I will specifically focus on that question. I pretty clearly understood the minister's response that this is input into that decision and then when the decision is made, there will be an opportunity for people to comment on that. I guess my concern with that is that the design review people are specific subject matter experts, if you like, and the response will go back to the joint development assessment panel or the State Development Assessment Unit. Will there be any opportunity to then have an interactive discussion with the design review panel to take those comments into account? Otherwise, it seems like not a binary process, but a very one-way process.

Mr J.N. CAREY: In effect, the scenario that the member described could happen with a significant pathway when it has gone out for community comment and there has been feedback. There then could be an acknowledgement by an applicant or a referral back to the State Design Review Panel. I think it is not likely to happen at a DAP level, but the member would be surprised that in my experience as a mayor, the local design review panels can pick up some of those significant issues in the pre-lodgement period that the community may be concerned about. For example, rear setback when a site is transitioning from high density to low density is often an area of contention for the local community. A design review panel will have already looked at that, considered it and made changes to it. A good council will often encourage a developer at the pre-lodgement stage to engage with the local community directly. That is what I did as mayor. When there was a contentious issue, I would encourage a developer to sit down or engage with local residents to talk about particular issues before an application was formally submitted. It often came back to the critical issue of the rear transition. I of course also acknowledge that the other contested area is height.

Dr D.J. HONEY: I will do both my questions at the same time to save time. If the matter has been considered only by the CEO and the proposal is going forward, will the CEO have the capacity to direct the developer to consult the community? I will ask it in two questions to simplify it.

Mr J.N. CAREY: To be clear, the mandatory delegation is for single homes only. That would not normally go through a design review panel. I will give an example of a council I like that is thinking outside the box: Subiaco actively encourages applicants to engage with their neighbours before submitting. Regardless of the decision-making process, I would always urge even a single-storey home applicant to engage with their neighbours before submitting because they will be consulted as part of that process. I will be very clear: just because we are mandating it to the CEO does not mean that community consultation is scrapped. The neighbours directly adjacent would normally be consulted.

Dr D.J. HONEY: Thank you, minister. I have one final question on this point. Will the design review panel have up-front access to the submissions made by the community in that process? I would imagine that that would short-circuit, if you like, some of that communication path. Does that communication only go to the DAP itself?

Mr J.N. CAREY: As the member would be aware, it depends on the applicant and the level of presentation that they provide to the design review panel. It is dependent, but I will also say this again: if an applicant is engaging residents early, some of these issues may be addressed at the pre-lodgement stage. The member would be aware of this. Sometimes an applicant will do community consultation or a flyer drop even before they have submitted the planning application. It is really dependent on the applicant and what information they may present.

Ms L. METTAM: I have a further question following from the member for Cottesloe's question. Can the CEO delegate the decision-making responsibilities to somebody more junior within the local government in the planning area?

Mr J.N. CAREY: This is not relevant to this clause, but I think we will all be lenient. The reason the CEO was selected was that the CEO is applicable in some small local governments. Bigger local governments like the City of Stirling already delegate to their planning director. In most cases, if we see that delegation in any tier 1 or tier 2 council, it goes to the director of planning or manager of planning.

Ms L. METTAM: Proposed section 171L states —

> **Development application may be made to Commission for determination under this Part**
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> (1) A person may make a development application to the Commission for determination under this Part if —
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> (a) the application is for approval of prescribed significant development; or
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> (b) the Premier has given authorisation under section 171M(3) …

Does the minister have an idea of how many applications may be dealt with on an annual basis under this proposed section, based on historical evidence?

Mr J.N. CAREY: To clarify, is the member saying referred by the Premier or just generally opting for that pathway?

Ms L. METTAM: My first question was about opting for that pathway, but the minister is pre-empting my next question.

Mr J.N. CAREY: I can only refer to the part 17 applications, which is the existing COVID response. Remember, of course, that this is totally an opt-in process. As at 30 September 2023, a total of 53 form 17B applications have been lodged. Of those, one application was withdrawn, 29 applications were determined, and 23 applications are yet to be determined and are currently under assessment. That is what has happened as of 30 September. Of course, given we are also scrapping the mandatory threshold, it is slightly harder to predict what future trends may be. Maybe in a year's time, the member can ask that question again.

Dr D.J. HONEY: I go back to proposed section 171I dealing with the regulations to be provided for prescribed significant developments and mandatory significant developments. Proposed section 171I(3) states that the regulations may consider any factors in this process such as the class or development costs, the nature of the area of development and other words. I am concerned, minister, that it is so broad that it could end up being anything. I wonder whether there was an opportunity to at least mention some criteria in there. When the original planning rules were changed for COVID, a backyard shed could end up going through the mandatory route for that and be referred to a joint development assessment panel or the Western Australian Planning Commission. I wonder what boundaries there will be on this. Otherwise, does it end up being just how long is a piece of string?

Mr J.N. CAREY: Firstly, there is no mandatory threshold. The regulations could enable that in the future, but they would need to be written. Our position is that we will not have any mandatory threshold for the significant pathways, and I suspect that a future Liberal government could not see that occurring either. Secondly, the criterion is $20 million; that is the threshold. The third point I make to the member is that the developer must at least have $20 million for a project, but that does not mean that applicants will choose the significant pathway, because they may still opt to go to the DAP system or the local member. I will tell the member why. The time frame for the significant pathway is 120 days, and they will have to go before the State Design Review Panel. Whereas, if they opt for the DAP system, it is 60 or 90 days, and they would most likely be dealing with the local design review panel. I suspect that some applicants would look at the significant pathway and believe that it could be viewed in their decision-making as a more strenuous pathway, and still opt for the DAP system, or, in the case of scrapping the $10 million threshold, they may opt to go to their regional or local government because they have a good working relationship with it and believe that would be the most efficient system.

Dr D.J. HONEY: I have one more question on that point. One of the things we heard about the $20 million threshold during the last legislation changes was that some developers were clearly inflating the value of their development to well beyond any practical level; that is, they were claiming that it was $20 million when that was quite obviously nonsense. It was not a $20 million project; they were simply trying to go through an alternative threshold and bypass the local JDAP and local council.

Mr J.N. CAREY: I assure the member that the $20 million threshold and pathway is not taken at face value. The Western Australian Planning Commission, or I assume its unit that will be overseeing the process, can ask for more information. That may include asking for a quantity surveyor to undertake work to verify the $20 million amount. The advice is that there have been cases in which the commission or its unit have required further evidence.

Ms L. METTAM: Can the minister provide any examples of applications raising issues of state or regional importance that he can foresee as being relevant or raised under this proposed section?

Mr J.N. CAREY: Yes, as the member has identified, there is the $20 million threshold or the alternative pathway. We obviously had the hospice; I think we all agree that was a project of state significance. Another example could be a major community and social housing project—something that is going to add to the significant stocks within the community housing sector.

Ms L. METTAM: And not necessarily shovel-ready, as the COVID special unit had stated?

Mr J.N. CAREY: No, it is not shovel-ready. It is only in terms of that definitional view of being of state or regional significance.

Ms L. METTAM: I have asked this before but I will ask it again: does the minister anticipate how many applications will be made on an annual basis?

Mr J.N. CAREY: The difficulty I have is that it will be a fully opt-in process for all pathways. I suspect that in a year's time, the member will be grilling me one way or the other—it is a success or it is a failure—but I would argue that that will be the benefit of scrapping the mandatory threshold. I get the feeling that the member for Cottesloe and everyone else agrees that it is a good thing that we will not be forcing applicants to take one particular pathway.

Dr D.J. HONEY: Just going back to the shovel-ready issue, one of the justifications for the government bringing this bill before Parliament is that this will lead to an immediate increase in projects that will build the houses that are required not only right now but also in the near future. We all recognise that there is an urgent need for that. One thing that we have seen along the way with the approvals that have been given to date—I appreciate that they were done under the COVID provisions—is that some projects were not even shovel-ready and all that happened was that a set of proponents had bought a block of land and they simply uplifted the value of the land by getting a higher density of dwellings approved for it, and then they monetised it. The projects are still sitting there. As the minister knows, a large number of blocks of land are sitting there that have been approved for development and nothing is happening at all. It is not achieving the intention of getting more dwellings to the market quickly. I wonder why there would not be some requirement for some reasonable proximity to the project going ahead; otherwise, we will see land banking. In relation to this, it is the larger developers that can afford to land bank because they have the cash flow to do it. I guess my concern is that when there is no requirement for anything to be on the horizon, it just provides a pathway for individuals to make a lot of money but to not do anything to provide more housing in Perth or elsewhere.

Mr J.N. CAREY: There are a lot of issues to address. Respectfully, what the member has described happens whether it is a local government decision-maker, a DAP decision-maker or a significant pathway decision-maker. Even at a low level, people get approval and then do not build. As I have said on the public record, because there have been massive cost escalations, projects have not proceeded because they are no longer viable. The member must remember, however, that there is a time limit. After four years, they have to come back and get approval. That is a check and balance. They could try to get an extension, which people can do at the moment with any decision-maker, but the chances of that are slim. They will have to demonstrate that within that four years, there has been a substantial start. From my experience as Mayor of Vincent when we used to tackle this issue, it was that a concrete pad was down. It has to be substantial. I am aware of the circumstances. Yes, from time to time it is reported in the media that some proponents have simply tried to go for the most density they can get approved for their site, but that has been achieved under the DAP system to date. There will always be cases with those sorts of proponents, but I genuinely say that in the majority of cases, and from my engagement with industry, it is about the viability of projects that have received approval. They are often no longer viable. Of course, after four years, they will have to submit a new development application.

Ms L. METTAM: I have a question under proposed section 171 M(4)(a), which states —

> the Premier must, as soon as is practicable —
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> …
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> (ii) cause a copy of the authorisation to be laid before each House of Parliament or dealt with under section 268A;

Has the government given consideration to requiring authorisation to be made public through other means, such as being placed on a website or published in the *Government Gazette*, rather than just being tabled in Parliament?

Mr J.N. CAREY: Yes. The commission must publish the authorisation on a website maintained by or on behalf of the commission. It will be tabled in Parliament and published on the commission's website.

Dr D.J. HONEY: I am on page 14 of the bill. Under clause 11, proposed section 171P(3) uses the phrase "if the commission is not a normal decision-maker" and then talks about local planning rules applying to the commission's

decisions. There are two parts to this, and I am happy for them to be answered together. Firstly, to what extent will local planning rules apply to the commission's decisions? Secondly, if the commission is going to be bound by those local planning rules, why is it not applicable to leave the decision with the local government?

Mr J.N. CAREY: That proposed section relates to the fact that the commission will take the place of the local government to be the decision-maker, as is the case that a DAP takes the place of the local government to be the decision-maker. My understanding is that it will enable the commission to be the decision-maker.

Dr D.J. HONEY: To what extent will the commission be required to take that on board? One of the concerns has been that we get approvals that are outside the local planning scheme, for example, and with little to no explanation given. The minister said in reference to a couple of examples that I gave that they were made under a different pathway. Under the new pathway, what requirement will there be for the Planning Commission to consider local planning schemes?

Mr J.N. CAREY: Ultimately, it is a question of due regard. I think the member for Cottesloe referred to it, too. The phrase "due regard" is used extensively throughout the planning system. It has a really long history and is found in various parts of the Planning and Development Act. I think it is important to put this on the record. In short, to have due regard is to require that relevant matters be given proper, genuine and realistic consideration when considering an application for development approval. Local elected officials, development assessment panels and the Western Australian Planning Commission may give due regard. Of course, I understand that planning is always a contested space. I understand that people may believe that the due regard shown by a decision-maker has gone too far or not far enough depending on their view on a particular project.

Dr D.J. HONEY: In that case when due regard is given, is it testable in the Supreme Court if someone is unhappy and they do not think due regard has been given?

Mr J.N. CAREY: Yes, the member is right. I think that from time to time, people have gone to the Supreme Court to test and to do a judicial review of the level of due regard.

Dr D.J. HONEY: Proposed section 171Q(1)(b) says "procedural provisions of the applicable planning instrument do not apply". I wonder why the procedural provisions would be set aside in that circumstance.

Mr J.N. CAREY: It is a good question. The advice is that the proposed section the member is referring to will ensure that the more bespoke significant pathway decision-making process can occur—for example, to enable significant engagement with the state design review panel. It is really about enabling a more strenuous process, which I think I have put on the record, given it is a significant pathway.

Ms L. METTAM: I refer to proposed section 171N, "Supplementary provisions about applications and authorisations", which says —

> (2) A request under section 171M(1) must be made in the manner and form required by the Minister and, without limitation, include any documents or information required by the Minister.

Will this include commercially sensitive information and, if it will, what protections and safeguards will be in place to ensure that any commercially sensitive information is appropriately protected?

Mr J.N. CAREY: Yes, member, under the regulations, which we have tabled, there is an exclusion for commercially sensitive information.

Dr D.J. HONEY: Proposed section 171R(1) states —

> The Commission may determine a significant development application under section 171P(1) in a manner that conflicts with the provisions of the applicable planning instrument …

I think the minister has indicated a little bit about this already. Why would we enable that? This goes to the core of the issue in most communities. In the example I gave of 116 Marine Parade, even though it is a significant uplift in height, no-one is complaining because they all know what the local planning scheme says. What boundaries will there be on the commission completely ignoring the applicable planning instrument?

Mr J.N. CAREY: The member is asking about discretion under proposed part 11B. There is discretion with projects, but it is not unlimited. Broad discretion in the public interest can include non-planning grounds and issues of state or regional importance. It is based on the similar discretion that the minister has for call-ins from the State Administrative Tribunal under section 247. Discretion can also be provided if local planning schemes are out of date. I think this is critical: the WAPC already has discretion. For example, under section 138(3), the WAPC already has discretion to depart from a local planning scheme in subdivision applications if the planning scheme is not up to date, which I think definitely happens from time to time.

I want to get to that broader issue of discretion. Discretion occurs in all tiers of decision-making. We see discretion in the DAP system. We also see discretion at a local government level. For example, a double-storey home might

be outside performance criteria, or might not be deemed to comply, and discretion would be used for approval. There has always been discretion in the planning system. I have also flagged the example of the DAP system in South Perth. Local governments can reform their schemes to provide some boundaries in relation to getting bonus to get that discretion.

Dr D.J. HONEY: As I say, I think this goes to the core of the concerns that most people have with what has occurred to date and the changes that are going ahead. I know this is asking a hypothetical question, but how often does the minister believe discretion should be exercised? When these decisions are made, it does not just affect the neighbours; it affects the whole community. For example, after the decision on the rose garden in Nedlands, a very large apartment block was put in a residential area and there was a substantial uplift in the value of that block, but the feedback we had from credible real estate agents was that the value of the properties not just immediately adjacent, but also surrounding that apartment block declined very substantially by about 25 per cent or more. In fact, the other properties suffered significant loss of wealth. Given that for most families, the home is the substantive store of family wealth, I am interested in how often the minister thinks discretion should be exercised.

Mr J.N. CAREY: I am not going to second-guess when discretion would be used for any development application, but I would say that discretion is used in the planning system every day, as I have stated. I think the project the member referred to went through the DAP system, not the significant pathway project or the COVID pathway project. Discretion is always used, even at the lowest level—the local government level—because there is a deemed-to-comply pathway or performance criteria. Planning officers use discretion every day. I know the member has been focused on bigger developments, but, as he probably knows, neighbours can have disagreements over applications that are simply two storeys. I would say that the decision-maker has to look at the merits of the proposal, give due regard and consideration to the applicable policy framework, and then make the best decision they can in accordance with the facts before them.

Dr D.J. HONEY: I refer to the local planning schemes. I am sure that my colleague Hon Neil Thomson will deal with this in more detail in the other place, but we have seen a substantial reduction in the rate of approval of local planning schemes by government. As I said, my colleague in the other place will go through it. I am happy to provide the minister with some details. We have seen a significant reduction in the rate of approval of local planning schemes. Local governments have done the work and believe that, although their plan is out of date, it is the government approval that is holding it up. It is not that the council has not bothered to get their local planning scheme approved. I am worried whether, in that circumstance, it would become a justification for decisions to significantly deviate from what is, at least at a council level, an agreed local planning scheme.

Mr J.N. CAREY: That is not the advice that I have here, but I would need further information from the member or Hon Neil Thomson. Can I say sincerely that doing a review of a scheme is a substantial amount of work. I did it as the Mayor of Vincent. We up-zoned a large number of properties along corridors, but also kept character areas. Certain areas were low density as a balance. It is a huge amount of work for the Western Australian Planning Commission to consider schemes and make a recommendation to me as the minister. I have to say that I meet with the schemes team and the WAPC on a fortnightly basis to approve a number of scheme amendments that have been put forward by local governments on a vast range of different zonings. I will give the member an example. Halls Creek, from memory, up-zoned two lots from R20 to R40 to accommodate worker accommodation. As the responsible minister, I assure the member that we have regular meetings to consider the final recommendations made by local governments.

Dr D.J. HONEY: That same clause states —

> … the Commission is not limited to planning considerations and may have regard to any other matter affecting the public interest.

I wonder what the criteria are around those other matters. One of those, for example, is the so-called public interest. I wonder what expertise the Planning Commission has in public interest.

Mr J.N. CAREY: What does public interest mean? This is based on a High Court explanation from the case of O'Sullivan v Farrer. I hope the member does not mind if I read this part, but I think it is really important. It states —

> … the expression "in the public interest", when used in a statute, classically imports a discretionary value judgment to be made by reference to undefined factual matters, confined only "in so far as the subject matter and the scope and purpose of the statutory enactments may enable …

This means that the public interest is deliberately broad but not unlimited. There are further factors from case law. The public interest is likely to arise when something benefits the broader public and not merely a private interest or promotes the objects of enabling the act—in this case, the Planning and Development Act, which includes to provide for the efficient and effective land use planning system that promotes the sustainable use and development of land in the state. I think it is important to say that public interest is not likely to arise when something benefits a private person only, is inconsistent with the objects of the Planning and Development Act, is such a significant change from the existing

planning framework it would result in significant loss of public confidence in the planning system, would involve approving developments that are otherwise criminally illegal, or if there is an ulterior motive or improper purpose.

Dr D.J. HONEY: Thank you, minister. This is not a criticism of the minister. I genuinely appreciate him reading out that answer, but I think Sir Humphrey would be getting genuinely excited by that definition. Talking about public interest, there is a housing shortage in the state. My concern is that there is a need for more housing in Western Australia as there is in the rest of the nation. Essentially, anything that is building anything is in the public interest because it is building more housing and there is a need. Although the minister said it is not unlimited, it becomes an unlimited reason for doing anything that any developer wants to do anywhere because it is in the public interest. I note that some developers who are making considerable sums of money from some developments are displaying a halo. They say that they are not there to make money; they are there to save Western Australia and to provide all this housing. They may be doing that, but the reason they are doing it is so that they can make a profit, particularly when they build multimillion-dollar apartments that occupy a whole floor of a building. My concern is that the public interest ends up always being the excuse for doing whatever someone wants to do.

Mr J.N. CAREY: It is not unlimited. Proposed section 171R(2) states —

> In making a determination under section 171P(1) in a manner permitted by subsection (1) of this section, the Commission must have due regard to the need to ensure the orderly and proper planning, and the preservation of amenity, of the locality to which the application relates.

As the member has previously indicated, someone could take the matter to the Supreme Court if they believe that the Planning Commission has made a decision that has gone outside the scope of that part of the act.

Ms L. METTAM: Proposed section 171T(1) states —

> The Commission must determine a significant development application within the period provided for under Part 11B regulations …

I have not seen the regulations, so please excuse the question. Does the minister know the time frame that will apply under those regulations?

Mr J.N. CAREY: To be clear on the time frame, it is a 120-day time frame from the date of lodgement. Whether someone is in local government, using the DAP system or using a significant pathway, there is always a pre-lodgement process. That time frame can vary.

Ms L. METTAM: The minister can correct me if I am wrong, but why is the 120-day time frame in the regulations and not in the bill? Does the minister anticipate that it may change with such regularity that it needs to be put in regulations? Correct me if I am wrong.

Mr J.N. CAREY: The member is right; it is the preference to put in time frames and regulations. I suspect that at some time in the future there will always be a review, and that review and the feedback from the Western Australian Local Government Association to industry may be, "We believe this is a more workable time frame." We brought in the time frame in response to stakeholders to provide greater clarity regarding the significant pathway process. It is 120 days, remembering that the development assessment panel system is 60 or 90 days.

Ms L. METTAM: I have certainly heard about the importance of having that certainty. Can the minister confirm how 120 days was arrived at?

Mr J.N. CAREY: Under the current DAP system, more complex development applications are determined within 90 days. Given that these are more significant pathways, we assume it will be more than 90 days. For structure plans, the current time frame is 120 days. For major applications under the Metropolitan Redevelopment Authority Act, it is 120 days. Given that these are more significant development applications due to their nature, size and likelihood of being more complicated and complex, we have looked to other time frames. We believe that it is akin to the complexity and significance of a structure plan and that it would be appropriate to settle on 120 days.

Ms L. METTAM: Does the 120 days include a consultation period?

Mr J.N. CAREY: Yes, it does.

Ms L. METTAM: Is that 30 days? What is the period?

Mr J.N. CAREY: That is 28 days with the radius model.

Ms L. METTAM: Is it 120 calendar days or weekdays?

Mr J.N. CAREY: Calendar days, except when the last day falls on a weekend; then it moves to a Monday.

Dr D.J. HONEY: I refer to page 21, still on clause 11, and proposed section 171W(2)(b), which provides that approved significant projects must be substantially commenced within four years. I am wondering how that time frame was arrived at, especially given that it can be extended.

Mr J.N. CAREY: That is the time frame that we already prescribe as part of the DAP system. It is also applied to the significant development process.

Dr D.J. HONEY: Is there any science in that? As I said, my concern is that one of the justifications for this legislation is speeding everything up, but four years seems like a very long time before substantial commencement. That usually means that they have started doing earthworks or some such thing. Perhaps the minister could outline what "substantial commencement" means. It strikes me that it is a pretty low bar.

Mr J.N. CAREY: Four years was actually drawn from the local government sector. My advice is that that is what came out of local government. Secondly, we need to remember that even when a DA is approved, a building permit still has to be approved and they have to go through that process, so it is not a fait accompli. We are just chasing down the definition of "substantial". It is proportionate to the level of the proposed DA. For example, when I talked about a concrete pad, that was for a smaller development. For larger developments, it would be more substantial work. I am just waiting for that definition!

I am happy to provide more information to the member, but the legal definition is well known and used around Australia. In short, the best way to describe it is that the proponent has committed such resources to the project or carried out enough activity to ensure that they will finish the project. As the member has identified, it is a mechanism for trying to prevent land banking or warehousing. It depends on the facts of each case. Generally, for a home it would be the concrete pad, but larger developments would require more work to have been undertaken. Beyond that, I am happy to provide that information to the member.

Dr D.J. HONEY: This was not under a DAP, but it was interesting in 2019 when the minister called in the Civic Heart project in South Perth. Here we are, four years later; I think it has got going and some work is being done on it. My concern is really about that time frame. If it is stated as being significant and critically important, such a long delay would seem to be too much.

Mr J.N. CAREY: I have some pleasing news. I have driven past that project, because I wanted to check it out, and it is well under development. I say to the member respectfully—this was part of the point I made repeatedly during question time—that it is make or break for projects and the viability of projects. I say this sincerely, member: I want to get as much density as I can get in the eastern suburbs and around Metronet stations and so forth. The problem is with the square metre costs. I think there is data to show that it is around $4 200 per square metre to do an apartment. I recently spoke to a developer who was trying to do something, not in the western suburbs but over in the direction of Maylands and Bayswater, and I think it was clocking up to $8 000 per square metre. He just said that it was not doable. The member might have seen that ABN Group got approval for a project in my electorate, on Oxford Street. It wanted to proceed but Dale Alcock has actually shut down that part of his development company because the projects were not viable. I think it is about the current cost environment that is affecting many applicants and preventing them from moving on, recognising, I also accept, that from time to time, there could be applicants like the member described who are just seeking to try to get an uplift and then sell the product on.

Dr D.J. HONEY: I think that goes to one of the comments I made in my second reading contribution. High-density accommodation seemed to be the solution to the problem—they are only affordable in the western suburbs—but there is literally a finite market for those high-cost projects. At the moment, we are seeing an uptake of them. Everyone I have spoken to in the industry tells me very clearly that this is the first mover for those projects in the western suburbs, which will get their projects going; we will see a significant tailing off of those projects because there are not enough people prepared to pay that higher amount of money. The minister does not have to answer, but I think it speaks to the fact that something else has to be done to create affordable housing. It will not be these apartments, because they are too expensive.

Mr J.N. CAREY: Member, I say this sincerely. We have been working on two projects, as I say, both in my electorate—one on Pier Street and one on Smith Street. We hope to realise both of those, but they are—I have said this on the public record—far more complex projects to deliver. But we created the infrastructure fund, and that is providing significant assistance to get apartments off the ground.

Ms L. METTAM: Further to this, was consideration given to the extensive time frames for the delivery of construction projects in the state? Has that shaped the four-year time frame in this section? It sounds very generous to allow four years for the commencement of developments of public interest or state or regional importance. I wonder whether this provision has been somewhat shaped by the fact that we are seeing a significant blowout in construction times and those challenges.

Mr J.N. CAREY: The member will be aware that the current COVID response was two years, but all the advice was that that is just not realistic in this current environment. I want to also put on the record that for a significant project, it may take a developer 12 months to get a building permit for their design work, so the developer will already be 12 months into a four-year period. Given the current climate and that developers need other approvals, the advice from a range of stakeholders was that four years was a more appropriate time frame.

Dr D.J. HONEY: There is so much to ask! Thank you; we are ploughing through this. I think, as the minister will appreciate, clause 11 is the guts of it; a lot of the rest of the bill just copies the previous legislation.

I will read this as it is written, because I think it puts it well, and the minister will understand it. This is at page 25, clause 11 of the bill; it is page 154, proposed sections 171Z(2) and (3) of the marked-up bill. The minister will be able to call in a significant development application that is before the State Administrative Tribunal if it is considered as being of state or regional importance for determination by the minister; however, proposed section 171Z(2) precludes that ministerial power. Instead, the matter will have to go back through the State Administrative Tribunal, but will then come back to the minister for determination under section 246(2). It seems as though this provision will introduce an inefficiency. It is, effectively, a matter of authorisation of the Premier whether it will go back to the SAT, but it will then come back to the minister anyway. What is the logic behind that step being included?

Mr J.N. CAREY: I am sorry; we have tried to interpret the member's question. Respectfully, if this does not answer it, come back again.

There has long been a power under section 246 for a Minister for Planning to call in applications from SAT if they raise issues of state or regional importance. Under part 11B of the Planning and Development Act, the Premier has the power to authorise the lodgement of applications to be determined by the Western Australian Planning Commission, but only if they are of state or regional importance. If the Premier has authorised the lodgement of an application as being of state or regional importance, then, logically, it stands that the application is also worthy to be called in for any application to SAT.

This will actually make the system more efficient, because if the Premier has already done it, effectively, the minister will not have to.

Dr D.J. HONEY: Does the decision not ultimately go back to the minister for final approval, so the minister could reject it, for example, once it has gone through that process?

Mr J.N. CAREY: Yes, but that is for all matters for which the planning minister has called in an application from SAT.

Dr D.J. HONEY: This is for clarification; I am not trying to prove some tricky point. For clarification, if an application goes through that process, so it goes to the Western Australian Planning Commission because the Premier says that it is of state significance, it will not go back to the minister for final approval?

Mr J.N. CAREY: That is correct. It deals with only SAT matters.

Ms L. METTAM: I refer to proposed section 171ZA, which states that the Governor may amend or cancel an approval granted by the commission. I note that it is expected that this clause will be used sparingly, if at all. I wonder whether the clause is even necessary, and whether the minister can provide an example of when this particular section might be used.

Mr J.N. CAREY: Effectively, this is another check and balance. I think this could address some of the issues that the member for Cottesloe has raised. The purpose of this provision is that it will be an additional check and balance on significant development approvals. In practice, it means that the Governor will act upon the advice of the relevant minister in the Executive Council. I am assuming that will be myself, or, sorry, the Minister for Planning. I note that the Governor's orders are, obviously, also disallowable in the Parliament. If the Western Australian Planning Commission were to make a decision that, for example, was so outrageous and generated an incredible controversy—perhaps it was a discretion that was so incredibly implausible—there will be another check and balance in place.

Ms L. METTAM: I refer to proposed section 171ZB(1), "Meetings to be open to public". Will there be a requirement to advertise public meetings and provide a required notice period for such public meetings?

Mr J.N. CAREY: Every person who puts in a submission is notified. I think this was a complaint from when the development assessment panel system was first established. I remember part of the reason for my criticism was that people would make submissions as part of the DAP system and then not get notified about the meeting or where it was. I think those were the birthing pains. Every person who puts in a submission, either for or against, would be notified. I am advised it is seven days. The intention is that, like with local government, in the future we would live stream those meetings as well.

Ms L. METTAM: Is there a requirement about best practice for those meetings in giving notice and the availability? If a best practice is considered, where is that found? Is it in the regulations?

Mr J.N. CAREY: As the member knows, this legislation will make reforms to the Western Australian Planning Commission. We have to write regulations governing the WAPC that will deal with procedure. We cannot legally do that. We cannot write that until these laws are passed. As with other regulations, there will be a draft and we will engage with stakeholders. Generally, seven days is viewed as an appropriate time frame because it gives people enough time. The critical thing is notifying each person who has put a submission into the process so that they are fully aware of where the meeting will be, what time it is, and when the decision will be made.

Ms L. METTAM: Proposed section 171ZB(3) states —

> Subsection (1) does not apply to a meeting, or part of a meeting, that deals with a matter of a kind prescribed by Part 11B regulations …

Does the minister have a view of what will be included in the regulations pertaining to this part?

Mr J.N. CAREY: It would be matters like legal advice and commercial-in-confidence matters.

Ms L. METTAM: I refer to proposed section 171ZC and the setting of fees. Has the minister given consideration to the proposed fees that will be charged? What are those fees and how have they been determined?

Mr J.N. CAREY: No, we do not as yet. The agency is currently working on that, and I hope that I will get advice on that matter soon.

Ms L. METTAM: The minister might not be able to answer this question, but I will ask it anyway. The second part of the question was about how the fees would be determined. Although the minister is unable to say what the fees are, is it purely cost recovery? What will the approach be?

Mr J.N. CAREY: Yes. As with local government and all planning processes, consideration is given to cost recovery, but also noting that these fees would be subject to disallowance.

Ms L. METTAM: Proposed section 171ZP will enable the Governor to make necessary or convenient regulations for part 11C. Does the minister anticipate whether any regulations are currently being considered? If so, what is the nature of those regulations and the timing of when they would be developed?

Mr J.N. CAREY: There are no other regulations guiding significant development pathways. That is ready. I tabled it. That is often a standard clause to enable potential future regulations.

Ms L. METTAM: Can the minister imagine any circumstances or examples in which the Governor may make regulations relating to that clause?

Mr J.N. CAREY: No. We have got enough on our plate.

Ms L. METTAM: I refer to proposed sections 171ZC through to 171ZP. Page 15 of the explanatory memorandum makes the point that part 11C will also facilitate the establishment of a new state referral coordination unit within the department. It goes on to state —

> The new unit will coordinate with key referral agencies for planning applications, such as Department of Transport, Main Roads … Water and Environmental Regulation, and … Fire and Emergency Services.

Can the minister point to the section under which this new unit will be established?

Mr J.N. CAREY: We did not need to do new provisions for these changes. Existing sections 22 and 23 of the Planning and Development Act are sufficient to enable the unit.

Ms L. METTAM: Will the unit be resourced from existing resourcing or will new resourcing be required?

Mr J.N. CAREY: To be very clear, we had the COVID-19 response and we are now moving into this new similar but different process. The internal resources we used for the COVID response will be used for the state referral coordination unit. The unit's director will chair the state referral coordination group, which will comprise the senior representatives of all state government agencies. The group will work to resolve potential issues and arising conflicts, and present a consolidated single sector position. I think everyone agrees this is very useful for the assessment of any application.

Dr D.J. HONEY: I have a further question about the coordination. I think we deal a little later with the composition of the Western Australian Planning Commission. How much focus is there on getting that planning and coordination? One of the great concerns mentioned in my speech on the second reading debate was that the amount of housing we need in the next 26 years is breathtaking. It will be a massive planning effort for the more than 1.5 million new people and around 600 000 new residences in Perth and Peel over that time. That is a massive exercise for transport infrastructure, power, gas, water, schools, hospitals, roadworks and so on. I just wonder how that process will be achieved. As the minister said, we will perhaps get a chance to talk later about who will be excluded from the Western Australian Planning Commission.

Mr J.N. CAREY: That is a broader policy consideration, beyond the legislation. As the member for Cottesloe may be aware, when I became the Minister for Housing we created a subcommittee of cabinet that had, at the time, housing, planning, lands and transport. Obviously, that has been consolidated in two ministers now. That brings together all the critical agencies that are responsible for or consist with the delivery of housing. We are seeing a very strategic and deliberate approach at the top. I am happy to discuss the make-up of the Western Australian Planning Commission when we get to it.

Dr D.J. HONEY: I have a further question on that. One thing that we have seen consistently with the energy transition is that energy is also a major consideration. Has any thought been given to bringing energy into that mix? That will be a constraint on those developments as well.

Mr J.N. CAREY: All I can say in that regard is that work is being undertaken. The member will have noted that in the last budget, for example, the other elements were water and sewerage. We made an investment of around $55 million to assist with the release of land. The planning investigation areas that we have released are also about identifying those areas and working through them, which includes, of course, de-constraining them or addressing the needs, whether it is water or power.

Clause put and passed.

Clauses 12 to 19 put and passed.

Clause 20: Act amended —

Ms L. METTAM: I note that part 4 will insert a head of power into the act to make regulations governing the performance of certain development approval functions pertaining to single houses and related developments, and that draft regulations have been prepared. Actually, can the minister confirm that? I think those regulations are on the website, are they not?

Mr J.N. Carey: Yes, they are.

Ms L. METTAM: Okay, right.

Mr J.N. Carey: I'm not having a crack at you!

Ms L. METTAM: I am glad they are on there now.

Dr D.J. Honey: It's always good when you can answer your own question!

Ms L. METTAM: It is always good.

Mr J.N. CAREY: The member might note that I guessed that this would be the direction, which was why I asked for the regulations to be drafted, consulted and put online when I made the announcement.

Clause put and passed.

Clause 21: Section 257C inserted —

Dr D.J. HONEY: This is probably the next-most contentious area of the bill. We can go through proposed subsections (1) and (2) but I will talk directly to proposed section 257C, which is in relation to approvals for single residences being delegated to the CEO of a council. I am interested to understand why this was seen to be necessary. The minister would know that changes to single residences are often intimately personal issues for the neighbours of those residences. For example, I recall in my own case that a neighbour was going to do a development that was going to put a nine-metre galvanised wall on my boundary so that the eastern sun would irradiate my entire house, but, more particularly, they were going to put a balcony on the back that would have looked directly into my backyard, where my children played. I was able to make a representation to the council on that matter, but I was also able to make a representation to my councillors. My concern with this process is that the CEO will have all the authority and there will be no opportunity, as far as I can see, for residents immediately affected by changes to single residences to have any input whatsoever into that decision or process. A council might have a CEO who is very keen and attuned to the issues within a community but, equally, it could have a CEO who does not live in the area and does not care—they are just looking for the next promotion to get out of that area—and will make decisions regardless of what people want. In that context, the latest figures from the Western Australian Local Government Association showed that 98 per cent of approvals were delegated. We are not talking about councils interfering in a lot of decisions; we are talking only about decisions of great concern that are called in. These matters will not materially alter the flow of housing development in Perth, but they will be very important to affected neighbours. This is not simply a western suburbs matter, which is where the high-rise developments seem to be impacting; this will affect every single residence across Western Australia. Why was it felt necessary to go down this path? I heard the minister give an example of a case in which a councillor effectively misused the process to launch an action against something on their boundary, but we could pull out equally egregious examples from any process, including the joint development assessment panel and State Development Assessment Unit processes. In this case, why did the minister see fit to take councillors out of it? As I said, this is about something very intimate that will affect the amenity of a person's house due to what is happening with their neighbour.

Mr J.N. CAREY: I am happy to explain this, because I genuinely believe in this. First of all, I have a good relationship with WALGA and respect its CEO, Nick, and Karen, but the data they provided related only to 36 local governments out of 138, which, respectfully, is less than a third of local governments. Secondly, some of the most successful local governments that deal with individual homes—that is what we are talking about—are local

governments that mandate or delegate all decisions on single homes to the planning administration. For example, I think we all acknowledge—the Leader of the Liberal Party has acknowledged this—that the City of Stirling is an outstanding council and has a great conservative mayor. It is recognised as a very strong approval agency for single homes. I say this, member: as mayor, I have seen residents fight over the location of an air conditioner; they went to court and took legal action against each other. The point I make is that it is not about intimacy or something being personal; ultimately, the R-codes and planning policies set by the local council will guide a determination on a single home. We have seen councils that have ignored their own schemes, perhaps ignored the R-codes and ignored their own local planning policies when a development has been compliant and it has then gone to the State Administrative Tribunal. It may make residents feel really good when their elected officials stand up for them against a neighbour and vote accordingly, but, ultimately, that might be overturned by SAT because the scheme and the built-form policies actually say that the home fits within the policy set by the local government. It is not about intimacy or personal politics. It is about local councils setting the scheme and the planning policies that guide individual homes. Many local governments are already delegating that function effectively. They understand that it is the scheme and the policies that set it. If they want a character retention area like the City of Vincent had and they want strong setbacks, they will set a local planning policy for individual streets that are in a character retention area. It very clearly guides the setback for homes in that area. My argument is that elected officials should not be getting into that level of detail. They should be setting the scheme and the policies, of course in accordance with the R-codes, to guide the individual approval.

Dr D.J. HONEY: I have just a couple of points. All conservative mayors are good, minister! As I understand this process, the problem is that the CEO will still have discretion. Although there might be schemes and policies, the CEO will have no obligation whatsoever to follow them. We could end up with an arbitrary decision from the CEO, who simply makes a claim that they are exercising their discretion. If that decision went ahead, there would be no avenue for the affected neighbours. On the idea that they could go to the Supreme Court, the minister knows they would have to have at least $100 000 in their pocket or more. If it is going to be a protracted action, they would have to have several hundred thousand dollars available to waste to do that. I am genuinely concerned with this. Yes, people in my area are going to be affected by this, but it is also going to be people in Girrawheen, Balga, Morley, Armadale and Mukinbudin. What avenue will they have if the CEO exercises their discretion? The CEO will make a decision and will effectively be God in this process, whether it is delegated or not, with no recourse whatsoever to the council. There is no-one that the affected neighbours will be able to go to. The minister said it is about the scheme and the policies, but this is an intimate matter. A neighbour may have parties on their balcony that looks directly into the yard where someone's children play. I have had put to me that many neighbours do not want their children playing out in the yard when adults in another place can be observing them, photographing them or whatever. It is deeply personal and it affects the quality of their lives. In fact, it makes their lives a complete misery. That is why they want that opportunity to have a say. Can the minister comment specifically on that issue of the CEO? Yes, there are policies, but if the CEO exercises their discretion, those things will mean nothing.

Mr J.N. CAREY: First of all, the reforms are about consistency in the system—that every single home in the state is treated in the same manner, other than heritage properties, which are guided by their own policies. Secondly, in the most successful councils, like the City of Stirling—the member mentioned Girrawheen—elected officials are not considering single-property homes. It will be the planning administration. Thirdly, this is about streamlining approvals for housing. I was very clear that going to elected officials can add an extra couple of months to a home approval. If our focus is about getting more housing and getting a streamlined approach, this is the correct approach. Fourthly, there will still be community consultation, so adjacent members will still be consulted. Fifthly, the planning director or manager to whom this would be delegated must still give due regard to the planning scheme and planning processes. For the description that the member gave about neighbours overlooking a property or whatever, ultimately, they have to come back to the scheme. They have to come back to planning policies. I say this genuinely and sincerely. In my experience, when I have seen conflict, it has been because the council has gone in a particular direction regarding its scheme or policies and the residents, for whatever reason—it could be that they moved in afterwards or did not know—were not aware that the zoning in the area was a particular thing that allowed for group dwellings. The critical part is the scheme and built-form policy in the zonings for those particular areas. Yes, the decision-maker, which will be the planning director, has discretion, but they still have to give due regard. A five-storey home cannot be built on an R-20 lot because that is just not possible. That would not be giving due regard to the planning system. This is about consistency. It is about streamlining housing approvals. I note the successful councils that do this very well.

Dr D.J. HONEY: The minister said it applied to only 36 councils. As I understand it, the survey covered around 80 per cent of all approvals so it covered the majority of approvals. I do not see how the minister can make a contention that this will make any material difference to the supply of homes. Arithmetically, it cannot make any material difference. It is at the absolute margins. I think 99 per cent of all approvals were given in any case, so it is not that there is a whole heap of single residences being knocked back. The minister said the CEO will have to give due regard, but the truth is that he may give due regard but can then disregard it. If the CEO gives due regard

and then completely disregards it and approves a dwelling that is several storeys high and completely outside the local planning scheme, what avenue will the immediately affected neighbours have on that approval by the CEO?

Mr J.N. CAREY: First of all, the member is talking philosophically about a third-party appeals system.

Dr D.J. Honey: I'm asking where they go.

Mr J.N. CAREY: Yes, but it is about if they are not happy with the decision. In the case of Nedlands, someone was trying to build their home and it was in accordance with the policies and the scheme and the council twice rejected it. It ended up at the State Administrative Tribunal. Ultimately, my understanding is that the SAT made a determination that it was the right decision to approve it because it was in accordance with all the policies. That was regardless of the neighbours who did not like it, because we do not have a third-party appeals system. What the member is talking about is a third-party appeal. I respect that the member may have a different position on this and I am not trying to have an argy-bargy with him, but, ultimately, that is a philosophical question about to what extent, after consultation, if people are not happy with a decision, they can decide that they want to go further. If we had a third-party appeals system, for example, if a council made a decision and people were not happy, they could appeal to another party because it is a third-party appeal. I think it would bog down the system to a point where we would see much development caught in processes. We see single-home reform as part of all the reforms that we are doing in trying to streamline the planning system. Again, I am not saying there is one magic bullet, but the significant pathway system, plus the changes to the development assessment panel system, plus the changes to the single homes as a totality, will help us have a system that is about trying to boost housing supply.

Dr D.J. HONEY: The minister can see the logical inconsistency here. He is saying that authority is going to be delegated exclusively to the CEO, who can then delegate it further within their department. That CEO can make a decision. They will have to give only due regard to the local planning scheme and policies; they will not have to follow them. They will not be bound to follow them; they will have to give only due regard to them. If the CEO makes a decision completely outside the local planning scheme and policies, the neighbours—the people who will be affected—will have no say whatsoever. The CEO will be able to do what they like. They will be God in this matter. The only person who will be able to appeal in this process will be the person who has proposed the development, and they will be able to appeal ad infinitum, as we saw with the Chellingworth site, which went back four times and ended up with a bigger development than the one that was first approved. In this case, although the CEO will have to give due regard, if they do not give any due regard or they substantially deviate from what is in the scheme and the policies, the neighbours will have no input whatsoever. The CEO will be God to the people who will be immediately affected by the decision. Can the minister not see how that is profoundly different from what we have with councillors at the moment? People can go to their councillor. The minister might say that some councils delegate entirely, but many of them do not. They delegate the great majority of their decisions, but they can always call in decisions. Can the minister not see that he is completely removing from this process the people who will be affected by these decisions and that the CEO will be able to make any decision they like and those people will have no choice in the matter?

Mr J.N. CAREY: Respectfully, I disagree with the significant assertions that the member for Cottesloe made in his statement.

Dr D.J. Honey: In what regard?

Mr J.N. CAREY: First, in all the metropolitan local governments, this will be delegated to the planning director or the planning manager. These people are trained professionals who take their profession really seriously. They do not make decisions flippantly. No disrespect to the member for Cottesloe, but he is making out as though they make these decisions flippantly. They do not. The elected officials may not have, and generally do not have, a planning degree.

Dr D.J. Honey interjected.

Mr J.N. CAREY: No. I listened.

The ACTING SPEAKER: Through the chair, please, minister.

Mr J.N. CAREY: We are talking about planning professionals who have done a degree, who have a reputation to uphold and who understand the planning system and the definition of due regard. If we are talking about a zone R20 application, we are not talking about a Chellingworth development. We are not talking about other larger multiple dwellings. If we are talking about an R20 or R30 application, we are talking about giving due regard to a proper scheme through a professional approach. From what the member is suggesting, I cannot think of an example in which a planning professional would make a decision and absolutely ignore the planning scheme and policies that were before them. I think we should give respect and consideration to the many people who work in the planning offices in local governments. They do their work with absolute respect and due regard, they understand and are heavily involved in crafting the policies, and they respect the scheme and policies that their elected officials have

set. That is why I fundamentally disagree with the assertions that the member has made. He is talking about a CEO. We are talking about planning directors and planning managers with significant years of experience in working in the planning system who have assisted and crafted the scheme and policies under the leadership of the elected officials. They take their roles seriously and will not flippantly say, "Oh well, I'll just disregard an R20 character area and put in a three-storey home." The planning system does not work like that.

Dr D.J. HONEY: I hear what the minister is saying. They may be planning professionals, but they are also human. Some people who work in planning departments have a very strong view about densification at all costs. That is their strong personal view. Something that worried me outside of Parliament when I had my first interaction with the Western Australian Planning Commission was that when I reflected on the group of people there, the career aspiration of almost every one of them was to finish their career in a senior planning role working for a developer. That is the career path for planners. The most lucrative job that a planning official within local government can get later in their career is a planning position with one of the larger developers. They have no natural allegiance. It is not claiming that they will be improper; it is claiming that they are human and will exhibit human behaviour. I would say that there is a very strong inclination by people who work in those departments not to alienate developers. That is one of my great concerns with this process. We can point out human failings at every level; all humans are fallible. All of us in this room are fallible and will have particular failings that may be illustrated from time to time. The difference is that councillors can be held accountable by their community. The planning office and the planning officials in a council will never be able to be held accountable by their community—never. Their community will have no say. This process will go only one way, and that is to favour the developer over everyone else. I heard what the minister said about planners, but it is absolute nonsense to imagine that they are deified or God-like figures who will consider everything in fairness. That is not the case. These people have their own views and prejudices, and a good many of them have a view to a later career working in a senior role for a developer.

Mr J.N. CAREY: Respectfully, again, I listened attentively to the member and he used the word "developers". I want to remind people of the debate we are having. We are talking about single home approvals. The primary person who will be putting in an application will be a mum or dad. We are not talking about a Chellingworth project or any other big project, such as Celsius et cetera, that is seeking discretion. We are talking about a mum or dad—family households—who will be putting in an application for a single home. It may be their dream home, as we saw in Nedlands. The idea that this will be some sort of favour for developers is just not true. I am trying to provide consistency and certainty in the system and also ensure that there is fairness in approvals. The member talked a lot about neighbours. What about every example that we have heard about in which mums and dads have put in a home application in accordance with the scheme and policies, but the neighbour was unhappy and they geared up some other neighbours, and the elected officials, despite the clear advice that the application was compliant with the scheme and policies, refused it? It ultimately ends up in the State Administrative Tribunal, and it costs ratepayers thousands and thousands of dollars in legal representation fees for SAT to make a decision that would have been made if due regard had been given to the scheme and policies. This will also cover patios, extensions, renovations and sheds.

I come back to the main point. We are not talking about big developers. We are talking about single homes. We are talking about a process of due regard by planning professionals. Ultimately, the councils must set the scheme and policies. Any local member will know that they get a lot of complaints from people who want to build a home extension, a patio, a shed, a driveway or a single home because the planning staff are too tough as it has to be in accordance with the planning scheme and policies that the elected officials have set.

Dr D.J. HONEY: I will finish there, unless the minister wants to go on. I hear exactly what the minister is saying. The problem is that this process is a ratchet and only focuses on the person doing the development. Ultimately, the CEOs can make any decision they like, and unless someone has a big enough pocket to go to the Supreme Court, landowners will have no recourse in that process. That is my concern. The recourse under the existing system in the great majority of cases is for people to go to their elected officials. I think I clearly understand the point the minister is making, but I raise my point and concern about that matter.

Mr J.N. CAREY: Yes, member. This is the bit where I respectfully disagree with the statement the member made—"any decision they like". That is not the case, member. CEOs have to give due regard to the planning schemes, the R-codes and the policies. That is a serious matter and consideration. In fact, we have seen elected officials not give due regard. I have been a mayor with residents angry about a development, and I have said to them at a council meeting, "This is the scheme. This is the zoning. It is compliant"—this was grouped dwelling not a single home—"but I must vote in accordance with the policies and the schemes we have set." Some councils do that. But other elected officials, knowing that their vote will be overturned by the State Administrative Tribunal, deliberately, as they do not want to be the bad guy, say: "I know this is compliant with the schemes or the policies, but I will let it go to the SAT and ultimately the SAT will make the decision." This is why we want to streamline this process and ensure local governments set their schemes and policies so that the planning professionals will do their proper job.

Clause put and passed.

Clauses 22 to 28 put and passed.

Clause 29: Section 122C amended —

Ms L. METTAM: The explanatory memorandum in relation to clause 29 outlines that any landowner affected by improvement scheme provisions that extinguish a nonconforming use will have the right to claim compensation in accordance with part 11 of the PD act. Can the minister outline how that would apply and the process for seeking compensation?

Mr J.N. CAREY: As the member has identified, yes, a landowner can apply for compensation. If a use is extinguished, effectively the landowner would have to make a development application. It then is refused because it has been extinguished, and then there is a process whereby they can apply to the Western Australian Planning Commission for compensation.

Dr D.J. HONEY: Does that apply let us say to the following? I give a specific example. An air-quality buffer is established around an area that is existing rural land use, but the landholder states, "That will prevent my land from being upgraded ultimately to residential." Are they able to claim compensation for that because it changes future land use or will it apply only if it restricts a current approved use of land?

Mr J.N. CAREY: Member, it is not about a potential future use. It is to be only for current use that is extinguished. The compensation of value process is outlined in part 11, section 174, of the Planning and Development Act.

Dr D.J. HONEY: Proposed section 122C(3) reads —

> Despite subsections (1) and (2) —
>
> (a) an improvement scheme may prohibit wholly or partially —
>
> (i) the continuance of a non-conforming use; or
>
> (ii) the erection, alteration or extension on land of any building in connection with, or in furtherance of, a non-conforming use;

It then goes on to (b). Does that proposed section potentially contradict section 122C in the act? I wonder whether there will be a contradiction within that section.

Mr J.N. CAREY: This reform is to be introduced because the advice was that we needed to provide greater clarity and clarification within the act regarding the extinguishment of a current use.

Clause put and passed.

Clauses 30 to 37 put and passed.

Clause 38: Sections 10 to 13 replaced —

Ms L. METTAM: I refer to the membership of the board. It will be seven to nine members, and I note this is to make the board more agile. Is there a basis for this number?

Mr J.N. CAREY: Yes, as the Leader of the Liberal Party has identified, we are reducing the numbers on the board. The current membership is 17. We are reducing it to seven to nine, and that is reflective of other boards that operate within government trading enterprises and government agencies.

Dr D.J. HONEY: This is an area that concerns me, as I raised in my second reading contribution. As I pointed out, the scope of what the WAPC will have to do in future years is enormous. It really has implications for every part of government. The Minister for Energy is sitting in the chamber, and as the minister pointed out before, the Minister for Water will be covering sewerage aspects, and it has implications for the Minister for Transport with Main Roads. There will have to be a massive transformation. The Metronet project may assist in some parts, but if history is any guide, there will be a massive requirement for upgrading roads. We will have to have a huge program setting out easements well ahead of time. Given that it has taken only 26 years to get the extra 1.5 million people into Perth and Peel, there is a huge error.

I would have thought the people the minister would want on the Western Australian Planning Commission would be the heads of departments who have the right expertise. It worries me that this is like a coup for the planners: "The planners are all-knowing and all-seeing, and they can do all these things; get rid of those other pesky heads who don't know as much as them about water, power roads and transport. Get rid of them, because the planners are the ones that know best." It seems as if we are bringing a whole heap of specialties within the WAPC. I understand from what the minister said in his second reading speech that they could be called in, but it seems to me that this is a coup of the WAPC over everyone else. They are being pushed aside as secondary, when in fact the other areas I have mentioned will be absolutely crucial to any success of the ultimate expansion of Perth and Peel.

Mr J.N. CAREY: It is our view that the current composition is too clunky and too large, and we need to consolidate it and make it a more effective and agile board. The legislation refers to a suitable level of knowledge, expertise

and experience in urban and regional planning; subdivision of land; property development; planning and management of infrastructure; economic, social and environmental policy; public sector governance; and administration. It also requires that at least one member has what the minister considers to be extensive experience in local government administration. As the minister, I come across many people who at some point may have been urban planners, then worked for major infrastructure companies, then went to work in local government. I often find in this space that people can have expertise in a range of areas. It is ultimately the WAPC that is significantly involved, as a body, in the planning of Western Australia, but infrastructure delivery is ultimately the responsibility of other agencies such as Western Power, Synergy and Water Corporation. We need to have suitable planning expertise for the planning body. The directors-general can still attend and be observers, but this commission is not an infrastructure delivery body; it is the principal body that provides strategic planning advice for urban planning and regional planning in Western Australia.

Dr D.J. HONEY: I am sure the point is not lost on the minister, but we are talking about a mammoth planning exercise. Effectively, all the planning and development that has occurred since the state was formed will be duplicated over the next 26 years. We are seeing a massive compression. The last major plan that was done was the Stephenson plan. The minister had the advantage. We talk about the directors-general being there, but those directors-general have all their experts behind them. We are talking about decisions that will have major implications for other areas, including power, water, sewerage and the provision of transport corridors and the like. I hear what the minister is saying about the expertise of people in the WAPC, but to be frank, there is no way that they can have the breadth of expertise that would come from having those extra people in the WA Planning Commission. Yes, they can attend as observers, but why would they bother? There is no requirement for the WAPC to pay any regard to what they say. If they are not members of that committee and they do not have the same input as the other members, I suspect that they will not bother. When I see what can potentially go to the WAPC, they are effectively going to be down in the weeds, dealing with relatively smaller planning matters, but here we are, removing critical expertise and resources. Those directors-general would potentially bring with them all the resources of their departments to assist with these planning matters. It strikes me that this is a coup for the planners, who know all. I think this could lead to critical errors being made in planning decisions that will not have the benefit of the expertise that those directors-general could bring.

Mr J.N. CAREY: First of all, the commission has a number of committees, including the statutory planning committee. Compensation matters are dealt with by a particular committee. The Swan Valley legislation that we previously discussed has its own committee. The commission has existing committees that will continue to help maintain its function and avoid what the member refers to as "getting into the weeds" on particular matters. If we look at all the applications that are going through the planning system at the moment, we can see that significant development pathway applications are still quite a small component of the total number of planning applications across the system. Ultimately, we have bodies like Infrastructure WA and other government agencies that deal with key infrastructure delivery. The WAPC is involved in strategic planning and assists in planning with infrastructure, but it is primarily the key strategic planning adviser to government for the oversight of schemes such as Perth and Peel. I am confident that we have it right. I understand that the member disagrees and I think we will just have to agree to disagree, but I think we have the model right. We are making it more flexible, and of course we are acutely aware of looking at those appointments so that we get the breadth of experience described in the legislation.

Dr D.J. HONEY: I will not go through all the members, but I want to talk about proposed section 10(7)(c) and the regional representative on the board. It is required for at least one member to have what the minister considers to be extensive experience of living and working in a region other than the metropolitan region and the regions referred to in item 6 of schedule 4. Would it not have been better to require that person to have some experience at some level in local government in the regions? Just because someone lives out the back of Mukinbudin, so what? Surely when we are looking at issues in regional areas, they really do have unique planning requirements and issues. I have these matters brought to my attention regularly. I had someone from a regional area doing that yesterday. The requirement is someone who just happens to live somewhere in the regions, which I assume that could include Bunbury or Albany or the like. Why was it not refined a little? I know that the minister might consider it to be a little redundant, but proposed section 10(7)(b) provides that one member must have what the minister considers to be extensive experience in local government. I am worried about the breadth of that. The minister may nominally fill the spot, but, in fact, that member could easily have no real knowledge of the planning and development issues in a regional area.

Mr J.N. CAREY: Firstly, the provision is not limited. Proposed section 10(7)(b) could mean a member who is from a regional local government, or a former CEO or mayor who has significant planning understanding in a regional context. I will be very clear: proposed paragraph (b) does not exclude a regional member. The board could include regional members under proposed paragraphs (b) and (c).

I also say this. The member has a strong interest in the composition of the Western Australian Planning Commission. I think that any current or future government will give serious consideration to the make-up of the WAPC, and

understand that, as the member has identified, decisions by the WAPC are open to significant scrutiny of the public and the community. I believe that any government will want to make sure that it appoints people with suitable expertise and experience, and not someone who has no understanding of planning. We are not going to appoint someone to the WA Planning Commission who does not have a strong, sound understanding of the current issues and the planning system in Western Australia. It would be a wasted appointment; the member would heavily criticise me and I suspect others would also criticise me. We can look at this and say that governments will actively look for very strong applicants, understanding the level of public scrutiny that this commission has.

Ms L. METTAM: I refer to the requirement that one member has experience living or working in a regional area. That is less than 15 per cent of the board representation. Was any consideration given to requiring a higher minimum number of regional members?

Mr J.N. CAREY: I do not see it as only one; I see it as at least one. The provision states that at least one member must have that experience. Again, if I look at the current big opportunities for, say, someone who has worked in local government, I see that quite a number of exceptional people are now in Karratha or Port Hedland et cetera. There is a minimum requirement in the legislation, but I am not pessimistic about the level of experience that we will see across the membership.

Ms L. METTAM: Will a quorum for the board be required under the regulations?

Mr J.N. CAREY: Yes, it will be, as required by all boards.

Ms L. METTAM: I note that the legislation does not stipulate a gender balance. Will this be addressed in the regulations?

Mr J.N. CAREY: As the member knows, we have not written the regulations. We will give consideration to all matters regarding its procedures and formation.

Ms L. METTAM: I note that under proposed section 12, the remuneration and allowances are to be determined by the minister on the recommendation of the Public Sector Commissioner. Why is that responsibility not given to the Salaries and Allowances Tribunal? Would it not be more consistent for the SAT to hold this responsibility?

Mr J.N. CAREY: All government boards are in accordance with the Public Sector Commissioner, and, in this case, the decision will require cabinet approval.

Clause put and passed.

Clauses 39 and 40 put and passed.

Clause 41: Section 16 amended —

Dr D.J. HONEY: Clause 41 refers to the Metropolitan Redevelopment Authority and its delegation powers. Does the Metropolitan Redevelopment Authority have the full suite of delegation powers that it will need? That is now inside DevelopmentWA rather than standing on its own or as part of the planning commissions, like the development assessment panels. Would the MRA not have more in common with the WA Planning Commission than as a pure land development agency?

Mr J.N. CAREY: Sorry, member, I may need further clarification on the member's question. The MRA is actually under a separate act. The machinery-of-government changes considered, as the member would be aware, all government agencies. The MRA is ultimately a precinct or land renewal agency. For example, if we look at its past projects such as Scarborough, its ultimate aim is to renew a precinct. Yes, it obviously has planning powers, but that is its primary function.

Clause put and passed.

Clause 42: Section 17 amended —

Dr D.J. HONEY: Proposed section 17(1A) seeks to limit the powers of the minister. It states —

> … the Minister cannot give a direction under subsection (1) in relation to the following…

Why has the minister been restricted in that way?

Mr J.N. CAREY: I appreciate this question, and I will make this partially a Dorothy. As I put on the record, in other states, planning ministers are actually becoming decision-makers for significant projects. My personal view and this government's approach is that we think that opens itself to potential significant problems and challenges. I suppose I would put this against the analogy of single homes and elected councils. Our approach is that it is not for the minister to be involved and direct the WAPC when it comes to individual development applications. I think that the member would agree; I agree that that could then be open to certain particular opportunities. My view and the government's very clear view—this provision just solidifies it—is that this provision will enable the WAPC to make decisions on individual development applications or subdivisions without being directed by the minister, noting that for significant projects in other states, the minister is the decision-maker.

Dr D.J. HONEY: I think I understand the logic, and the minister has mentioned that before in relation to other matters; it will effectively remove the spectre of corruption of the process. But, at the end of the day, the minister comes into this chamber and we can ask questions; the minister has to face the scrutiny of the press, as the minister knows, who are none too shy about asking questions; and, ultimately, the minister has to retain their job and also be re-elected, so there are some checks and balances.

Does the minister have a subsequent capacity to call in those matters at all or is the minister effectively precluded from doing anything in relation to those matters?

Mr J.N. CAREY: Yes. First of all, this is the argument I am making about local councils and single homes. Yes, I am responsible to Parliament. I am responsible to the people of Western Australia for the strategic direction of planning and the policies. Whether the member is criticising me because of my decision on medium-density code which we are working on with stakeholders or any other policy decision, I help guide and oversee, based on recommendations by the Western Australian Planning Commission, the broad strategic policy that the member and the public then hold me to account on. The only time that I would be involved in an individual decision is if the matter goes to the State Administrative Tribunal and I call it in because it was of state or regional significance. That is quite a significance decision to make and I would then have to lay it before Parliament to ensure there is a check and balance. One of the last times we saw that was obviously with the Ruah decision when it was refused and the planning minister called it in because given the climate and given the considerations of homelessness and that it was a critical service to assist people in need, she considered it was an issue of state or regional significance.

Clause put and passed.

Clauses 43 to 63 put and passed.

Clause 64: Part 9A inserted —

Dr D.J. HONEY: Can the minister explain how the 10-year period was arrived at? We just see such massive technical change and we are going to see massive change in the next little while in personal transport options for people. How was the 10-year period arrived at?

Mr J.N. CAREY: Structure plans are 10 years. We also listened to local government and a range of stakeholders, and I think it is pretty evident that a five-year time frame for local governments to review their planning schemes is very difficult. As I have said, as a former mayor who was heavily involved in a review of a town planning scheme, it is a significant exercise. A good local government will do significant community engagement and educate and engage. Even to do that can take a few years. It did at the City of Vincent. Five years for local government was really hanging them out to dry. We listened to local government and said a 10-year review process is more appropriate given that it requires significant time.

Noting what the member has said, there is nothing to stop a local government doing individual scheme amendments. I come back to the recent one by the Shire of Halls Creek, which decided to up-zone two lots in their area, which I finally approved as minister. Local governments can still do scheme amendments if they believe there is an issue that needs to be addressed.

Ms L. METTAM: What resources, if any, will be provided to better support local governments with these local planning instruments?

Mr J.N. CAREY: This is the bread and butter of any local government. I think we have seen that not all local government elected officials have understood the significance of their planning schemes or local planning policies. Already my agency provides advice and strategic support et cetera, but, ultimately this is bread and butter; this is a key function of local government. My plea to elected officials across Western Australia is: do the Western Australian Local Government Association courses about planning, get a great understanding of the planning system and take consultation on planning schemes seriously. WALGA has a critical role to play in educating elected officials about the importance of planning schemes. I am using this as a public platform to urge all elected officials to get the training by WALGA that educates them on the planning system in Western Australia.

Ms L. METTAM: We certainly recognise the importance of ensuring that those schemes are relevant and up to date. Can I confirm what the minister's view is on the training programs that have been presented by WALGA? Will this ensure that local government representatives are trained? Is that where the minister sees the issue?

Mr J.N. CAREY: There is a mandatory training program, and then there are optional extras. All the advice that I find is that local elected officials who do it and walk away from it have found it an eye-opening experience in helping to understand their decision-making. Also, the Government Architect and the agency release guidance documents to local government—for example, the engagement toolkit. Also, my memory is that the Government Architect released good design guidelines, so there is a number of guidance documents. I am always open to engaging with WALGA to look at new opportunities because, as I think the member for Vasse would know, some elected officials, unfortunately, are making potential decisions on planning schemes or policies and do not understand, for

example, the zonings or the permitted uses table. They later get lobbied by residents about a scheme amendment and have not realised what they have already approved.

Dr D.J. HONEY: Is the minister planning to promote a bit more that issue around the level of detail that councils go to? I hear what the minister has said, and he has said that in many circumstances the councils are the architect of their own demise, if you like; they have not paid due regard to the detail and that enables a level of discretion that they probably were not aware of and then that leads to conflict between the council and neighbours and the like. I will certainly be working with my local councils to go to that level of detail with them, but does the minister think that in the interests of minimising the conflict we see in this space, it is worthwhile devoting a little bit more effort? I am not being critical of the effort the minister has made, but is it worthwhile going to another degree of effort on that to really ensure councils are aware of that issue and that they are dealing with it appropriately?

Mr J.N. CAREY: As I said about the planning system, there is never a time that we simply say we are done; it is enough. We always look for opportunities. I will put this as an agenda item at my next meeting with WALGA. I want to talk about what other opportunities we have to encourage and educate elected officials about the planning system. I will give an example. Any elected official who goes into the DAP system is required to undertake training. I did that when I went through the DAP system. I have to admit that in my first year as an elected official on the council, I was trying to find my way. After I got on the DAPs and did the training and understood the systems, I had a much better perspective. By the end the four years, I had a very strong understanding of our planning scheme at the City of Vincent. My message is that I am open to any ideas about the education and training because, clearly, the DAP training works quite well.

Dr D.J. HONEY: I appreciate what the minister said about councillors. I do not disagree with that, but councillors are also guided by the planning department. It may be that the planning departments within some of the councils are not up to speed. I do not expect the minister to give me an answer to that. I am happy to live with the answer he gave me.

Clause put and passed.

Clauses 65 to 70 put and passed.

Clause 71: Part 13 Division 4 inserted —

Ms L. METTAM: I refer to an identity card given to an authorised officer. Is this provision consistent with other legislation under which identity cards are issued for the purposes of entering a property for inspection?

Mr J.N. CAREY: I am advised that all these provisions are consistent with the Heritage Act. This has been replicated from at least one act. The officers are chasing up whether there are other acts. It is in accordance with other acts, being section 116 of the Heritage Act and section 9 of the Criminal Investigation Act, which sounds very impressive—think CSI.

Ms L. METTAM: I note there is a potential penalty if an authorised officer does not return an identity card within 14 days from ceasing to be an authorised officer. How was this penalty derived?

Mr J.N. CAREY: We looked to other acts. It was replicated from section 128, again, of the Heritage Act.

Ms L. METTAM: Under what circumstances does the minister expect such a penalty to apply?

Mr J.N. CAREY: I think it will be a very rare occurrence. It is to indicate that there is a deterrent and that people must return their card. I hope local governments do not think about this for library cards, or we are in trouble!

Ms L. METTAM: Likewise, looking at proposed section 235D, "Offences relating to authorised officers", how were those penalties derived and is it consistent with the penalties applied in other legislation that relates to obstructing authorised officers?

Mr J.N. CAREY: The member may ask why the Heritage Act, because this also relates to the Heritage Act again. The view is that this is a very similar type of action that may also apply to people undertaking heritage investigations. In addition, it is likely that this will be done by the same government agency. Potentially, the same officers who are dealing with this provision will also be dealing with elements of the Heritage Act. It makes sense to have it match because the one officer may be doing both purposes.

Dr D.J. HONEY: We have gone from one simple paragraph in the previous act to a really expansive list of entry requirements. What was the requirement to expand it so dramatically?

Mr J.N. CAREY: We are replacing regulations from 1931. The clear advice is that these laws are almost 100 years old, so we had to ensure that there was at least some level of detail because, as the member would be aware, entering someone's property can be highly contentious and we need to have very clear rules around that. A property owner may object, obviously, so there needs to be very clear guidance on and regulations around the inspection process.

Dr D.J. HONEY: One thing is not clear to me. I can think, in a generic sense, of why officers may want to go onto properties, but can the minister give us an idea of the scope under which an authorised officer could go onto a property? I could be sitting at my house in Cottesloe and I might not have applied for anything or done anything. Could a planning officer suddenly knock on my door and ask to inspect my property for some reason? What is the limit or scope of items? I do not expect it to be exhaustive, but what sorts of things could an officer go onto a person's property for? Could they go onto a person's property if the person had no interaction with the council and had not applied to develop anything or the like?

Mr J.N. CAREY: As the member may be aware, local governments already have these or similar powers. For example, if there is a significant project that we attach conditions to because the community and the design review panel have stipulated certain conditions, they would need to be verified. As the member would be aware—certainly this has been my experience working for local government—people submit plans and they do not necessarily always follow those plans. I am not saying that is a common occurrence, but it can happen. This is why we need these provisions to ensure that certain planning conditions have been met.

Clause put and passed.

Clauses 72 to 82 put and passed.

Title put and passed.

[Leave granted to proceed forthwith to third reading.]

Third Reading

MR J.N. CAREY (Perth — Minister for Planning) [6.50 pm]: I move —

That the bill be now read a third time.

DR D.J. HONEY (Cottesloe) [6.50 pm]: First and foremost, I thank the minister for the cooperative way in which he conducted the consideration in detail stage. It was an informative and useful exercise in which to explore the bill. I especially thank his officers for their patience—for sitting through question time whilst their lives were ticking away, but otherwise for their assistance during that process.

As I indicated at the outset—I have not changed my mind—I do not support the Planning and Development Amendment Bill 2023. I am reassured by some aspects, which the minister mentioned and as I recognised in my second reading contribution. I recognise that the minister and the government have made some improvements to the development assessment panel process. I want to refer to some matters raised during consideration in detail and also in responses from some other members during the second reading debate. I was particularly disappointed by the contribution of the member for Cockburn, someone who I think could be Premier one day. He has that capacity, but not if he makes cheap and gratuitous statements in this place.

I will talk about a couple of issues before I talk about the substance of the bill—that is, trying to make some contrast between the comments that I made about the St Quentin apartments and high rises in other areas. I made it very clear that I was disappointed by the process relating to the St Quentin apartments. I have said to the minister that I support high-rise development in town centres. I have said to the minister that I support redevelopment of high rise in the southern part of Mosman Park, where a lot of state housing has degraded and the like. I was not especially concerned about the decision surrounding the St Quentin apartments; in fact, I think it is what we want to see—high rises near railway stations, which is appropriate and does not affect the surroundings compared with normal suburban areas. I was frustrated, as was the local council, which thought it was working with the proponent. It thought it was coming to a conclusion and then all of a sudden, the proponent went around the council. As the minister has already said—I think he made favourable comments about the mayor—a complete redevelopment is occurring on one side of Bayview Terrace, which the council is supporting. It is not about opposing it; it is about ensuring that it occurs in appropriate areas.

I heard what the minister said during consideration in detail about individual councils. I could go through the various DAP decisions and point out the ridiculous decisions that have been made and the spurious justifications that have been given for what I think are egregious decisions. Overwhelmingly, the evidence is that councils and councillors take their job seriously. They do it well. In the overwhelming majority of cases, they delegate their decisions on these matters that we were talking about towards the end of consideration in detail, which was around single residences. It is about reassuring community members that they can have some input. All human processes are imperfect and there will always be imperfect outcomes in anything we do in this place. Overwhelmingly, if we look at what councils do, they do it responsibly and reasonably, which allows the community to have some input.

If I go on to these other bodies, whether it is the DAPs or the state development assessment unit that makes these approvals, I am not reassured about the due regard. The reality is that only the developer, whether it is an individual household or a large developer in an area, can appeal in that process. As we saw with the Chellingworth site in the

City of Nedlands, the first DAP rejected the proposal because it considered that it was completely inappropriate and out of scale for that area. I think that site changed ownership and then it went through subsequent approvals. Ultimately, there were four approvals. The final approval ended up with a development that was larger than the original development that had been rejected because it was seen by the DAP to be an inappropriate development. If any member went to that site and saw what the developer is planning to do, if it ever goes ahead, they would think that the first DAP got it right. This is my concern. Even when a DAP makes a decision, the developer can continue to appeal, but there is nothing for the other side. I understand what the minister is saying about third-party appeal rights and the like. If we had those rights ad infinitum, that could well be a significant issue. That is why I thought matters being able to be brought to councillors was that appropriate level. It was not an infinite right, but at least the people who were affected by these decisions had some right to appeal to someone.

As things sit and as we have heard today, if someone proposes a development next door to a well-heeled burgher in the Town of Cottesloe, bang, they can take them to the Supreme Court. I will give members an example. A redevelopment of a facility in my electorate was going ahead. A person who lived nearby has many millions of dollars. They told the person who was trying to carry out that redevelopment, which I thought was reasonable, that they knew how much money they had. The person who did not like it as it affected their view said that they had more money and they would pursue the developer in the courts until they were broke and they would get their way. Someone who is very rich effectively has a right of appeal because they can go to court. Otherwise, they have no appeal. I am very concerned about taking away that right for ordinary people—people who do not have those means to appeal. As I have said, this will apply across all of Western Australia; it is not confined to my area. The truth is that in my area, the pace of high-rise development will run out of puff simply because only so many people can afford to pay $600 000 for a single bedroom apartment and over $1 million for a two-bedroom apartment. It is a finite market. Yes, there is some latent demand now and that is why the early developers are getting these good prices, but that will stop and then it will not provide any ongoing solution.

We heard the minister say in response to questions in this place and during consideration in detail that these other developments are too expensive to develop. Again, enabling this outside of that latent demand in the wealthier areas will not provide any solution. As I said in my second speech contribution, if we look at the justification for these bills, taking away those powers, arithmetically I do not believe that given where we sit now with the rate of approvals, we will see any significant difference in the rate or extent of new housing development. This bill will not enable that in this place. That is my concern.

As I said, I am grateful for the information that the minister provided. I will go back to that discretion area just to make one point clear. The extent of discretion that is exercised really causes people concern. If a neighbour puts a door in one place or another and the like, those are not sheep station matters. When 12-storey apartments end up as 32 storeys through the application of various offsets and the like, that is egregious. Otherwise, as I said, I thank the minister and his staff for the cooperative way that he carried out consideration in detail.

MS L. METTAM (Vasse — Leader of the Liberal Party) [7.00 pm]: I will just make a couple of comments on behalf of the opposition alliance. I thank the minister and his advisers for their support throughout the process and for providing briefings to other members of our team. From the outset, the perspective of the alliance is that we certainly support an efficient planning process that involves the community at the earliest stage of design and is transparent and predictable and has density in appropriate areas.

As I previously stated as part of my second reading contribution, we do not oppose this bill and support most aspects of it. Some further questions will be teased out through the Committee of the Whole process in the other place. We support some of the changes around ensuring the permanency of the development assessment panels and improving the independent decision-making process. We want to ensure that Western Australia continues to be a state where property developers want to invest and that there is good planning going forward. We want planning laws to be designed in a predictable way. We would like to see more investment in the plan-making process. We have raised some concerns, as will our shadow in the other place, about the potentially diminished role of the Western Australian Planning Commission in not having the involvement of the directors general of key agencies. We argue that non-attendance is no reason to not have a more coordinated approach there, given the significant issues around how other state government agencies respond to planning issues. We want to ensure that property investment remains a strong option here in Western Australia and that the planning system continues to evolve.

A number of questions will be more thoroughly considered in Committee of the Whole in the other place. Again, I put on the record our gratitude to the minister as well as his advisers for the process so far. I commend the bill to the house.

MR J.N. CAREY (Perth — Minister for Planning) [7.03 pm] — in reply: I will just make some concluding remarks about the discussion of the Planning and Development Amendment Bill 2023. I thought that committee in detail was a good process to go through —

Mr P. Papalia interjected.

Mr J.N. CAREY: Sorry—consideration in detail. I really appreciate the running commentary by the member on the side. It is not distracting at all. Please continue it all the time! It is brilliant for everyone. That is my shade to the member!

I found the consideration in detail of the bill very good. It was good to go through some of the finer detail. I broadly say that we are not alone in pursuing this reform. As part of the national blueprint, every state is making additional reforms. I am not suggesting that there is one part of the legislation that is the silver bullet, but the totality of all the reforms—namely, establishing the significant pathway and changing issues around the DAP process and the single-home approval process—will assist with streamlining and creating greater consistency in the system. When I speak to all stakeholders, they consider that any delays in the process, whether it is a yes or no, create significant holding costs that can ultimately kill a project regardless. All the feedback that I get is that Western Australia's planning system is well advanced compared with those in other states. To date, our planning reforms put us in a very strong position, and I believe that the adoption of these reforms will make us the best state in the country for planning decision-making processes.

What is great about the reforms, which I think was shown during consideration in detail, is that there will be flexibility to choose. By scrapping the mandatory threshold, a proponent could go to their local government or the DAP system, and if the project is significant, they could go to the significant development pathway. There was significant discussion about discretion in local planning schemes during consideration in detail. I think discretion in planning schemes is misunderstood. I understand why: it is because of the concept of due regard. But discretion in planning schemes is embedded in every local scheme through *State planning policy 7.3: Residential design codes*, or the R-codes as we know them. It provides performance-based assessment criteria. That shows that discretion is used by local governments right now as part of the R-codes. Many local governments take the opportunity to further guide discretion on specific matters beyond the base level of due regard and they may prepare local planning policies. For example, character and heritage areas can limit the scope of discretion for proposals. Although it is sometimes perceived as ignoring a planning scheme, it is not; it is that there is discretion within the planning scheme. I think this is a nuance that is not always understood by the local community.

The single-home process was discussed in detail, and there is no way that everything is just simply being thrown out the door. The phrase "due regard" is extensively used throughout the planning system. It has a very long history and is found in various parts of the act. It is already a legal requirement for the commission, local governments, DAPs and the significant development pathway when making planning decisions. I want to put on the record that we are ultimately saying that it is up to local councils to set schemes and local planning policies to guide single-home developments. That is the critical piece.

I think the confusion and conflict arise because residents and local communities are not aware of the scheme or policies that have been set by their local elected officials. I understand there will be more debate about the WAPC, but, in short, we believe it is clunky, it needs to be more flexible and it needs to be consolidated. Ultimately, it is the board that gives strategic oversight of planning in Western Australia and advice to the minister. It has a number of committees under it, which take particular matters. Directors general are not being excluded. They will be invited to continue, but even if DGs did attend every meeting, it would be an extraordinarily clunky meeting with so many people around the table. We are giving strategic planning greater prominence. We released improved guidance for structure plans earlier this year. As part of this bill, the Western Australian Planning Commission will provide a greater strategic focus with improved delegations and use, structure and membership of committees, and the bill will require regular reviews of the state planning framework documents to ensure these remain contemporary.

I want to acknowledge that this has been a significant amount of work. I want to thank Kathy Bonus in particular for her stewardship and leadership. She is an outstanding leader in the planning sphere. I deeply respect her advice and work. There has been a very significant amount of work to get to this space. I want to acknowledge Stephen's exceptional work and technical advice. He is the go-to man for any technical advice on planning. I want to acknowledge Emma in my team, who has done an extraordinary job—a whiz-bang who has pumped stuff out like I have never seen before. She understands the contemporary consequences of any planning reforms we make. I also want to thank Lee, who has done a brilliant job in the office. I also want to acknowledge the former Minister for Planning, who undertook substantial work in the first tranche of reforms. She has given particular oversight of many of the reforms that we are seeing today.

I want to end on this: ultimately, this is about greater consistency and greater streamlining to deliver housing in Western Australia. I am deeply fortunate to have the housing portfolio. It is a great honour. I also deeply appreciate having the planning and lands portfolio because we have all these critical levers in these portfolios together under one minister. I think these reforms will be viewed across the country as the most advanced planning reforms and system that we can have in place. My message ultimately to the local community is that we understand, with changes in planning systems, there can be a feeling of uncertainty, but I want to assure Western Australians that I believe these planning reforms, based on the previous work we have done to enhance community consultation, will provide

greater consistency and greater transparency and will enable the critical reform we need to accelerate the delivery of housing in Western Australia.

Question put and passed.

Bill read a third time and transmitted to the Council.

House adjourned at 7.12 pm