

PLANNING AND DEVELOPMENT AMENDMENT BILL 2023

Introduction and First Reading

Bill introduced, on motion by **Mr J.N. Carey (Minister for Planning)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR J.N. CAREY (Perth — Minister for Planning) [12.31 pm]: I move —

That the bill be now read a second time.

Our state government's message is very clear: we are driven to boost housing supply across the continuum and we will use every policy lever we possibly can to deliver on this commitment. This resolute focus is also aligned with the national cabinet's plan to ensure that more Australians have a safe and affordable place to call home. National cabinet recently agreed to the national planning reform blueprint, which has set the policy approach and measures to accelerate housing supply around the nation. Under the blueprint, each state and territory has agreed to review its planning system to achieve streamlined planning and zoning processes to meet their share of the target of one million homes under the National Housing Accord, removing barriers to development approvals to accelerate housing, including bolstering medium and higher density housing and accelerating delivery of social and affordable housing.

This government has made a record investment of \$2.6 billion into social housing and homelessness measures, which will see the delivery of 4 000 homes. We are on track to deliver 4 000 homes, with more than 1 600 already delivered and a further 1 000 under contract or construction. We have sped up our delivery of social housing through a diversified range of innovative programs, including the timber frame program, the modular housing program and continuing our highly successful spot purchasing program. We have established the statewide builders panel and are cutting red tape to allow 85 businesses from across WA, including small, local, mum-and-dad building businesses, to benefit from this government's record investment in social housing delivery. We continue to support and partner with the community housing sector through hundreds of millions of dollars in state government grants to deliver more social housing dwellings, with \$150 million invested in the last two years and a further \$39 million for a second round of community housing organisation grants. We have lifted Keystart's home loan limit from \$480 000 to \$560 000; reviewed the Keystart interest rate setting policy, which has resulted in a reduction in Keystart's variable interest rate, assisting more Western Australians to achieve their home ownership goals and providing cost-of-living relief to home owners; and created a new Keystart urban product targeted at apartment living.

This government has also introduced a range of tax reforms and incentives to boost housing and land supply, encourage urban infill and innovation in new housing types such as build-to-rent, and improve housing affordability across the state. The current off-the-plan transfer duty rebate has been increased to 100 per cent for residential apartments in multistorey developments valued below \$650 000 from 1 June last year, tapering to the existing 50 per cent rebate for apartments valued at \$750 000 and above, and now we have extended concessions to those apartments already under construction.

Large-scale build-to-rent developments are a relatively new model of urban housing in Western Australia by which apartments are developed for the purpose of renting rather than being onsold. A new 50 per cent land tax concession for eligible build-to-rent developments commenced on 1 July 2023. This tax relief aims to develop the build-to-rent industry in Western Australia by reducing barriers to investment and thereby increasing the future supply of rental properties.

To boost broader housing and land supply, we have launched the pilot housing diversity pipeline to review existing government landholdings—lazy land, so to speak—that can be repurposed for social and affordable housing.

Our \$80 million infrastructure development fund is another key part of our government's efforts to help industry with the up-front costs involved in establishing essential infrastructure for housing developments, which we know is impacting projects throughout the state. The fund has the potential to de-constrain projects by facilitating water, wastewater and electricity network upgrades to accommodate new development, including key worker accommodation.

Additionally, through this year's state budget our government invested \$55 million in water and wastewater infrastructure, which will support the development of more than 15 000 homes across Perth. Our government is releasing land through our \$166 million Regional Land Booster program. This program has already seen 626 lots released to the market, which have subsequently sold or are under contract across 89 projects in 78 regional towns. We recognise the importance of growing our regional centres, and this program has helped to unlock more residential and commercial land to facilitate the development of regional communities. The Cook government, through DevelopmentWA, currently has an inventory of approximately 782 residential lots across regional WA. Significant projects include the delivery of residential land at Broome North, Karratha's Madigan at Baynton West and a range of residential and tourism opportunities in Albany.

In August this year, I announced the resolution of the last two planning investigation areas, which will open a further 835 hectares for future urban development in the Perth region and is expected to deliver approximately 9 000 dwellings, in a major boost to Western Australia's housing supply. Importantly, across the 15 planning investigation areas now resolved, approximately 6 400 hectares of land will be made available to deliver around 85 000 additional dwellings to plan for growth across the Perth and Peel regions and accommodate a population of 3.5 million people by 2050.

Western Australia has been leading the way nationally, with planning reforms over many years creating a contemporary, streamlined system that cuts red tape and brings more consistency and transparency to planning processes. The Cook government is using every lever available to support national cabinet's position, including the implementation of a targeted planning reform program that will facilitate the more efficient delivery of housing by streamlining planning processes, reducing unnecessary red tape and creating a more consistent and efficient planning system that is easy for all users to navigate. The Planning and Development Amendment Bill 2023 will facilitate the delivery of the last suite of priority planning reforms identified through the *Action plan for planning reform* established in 2019 and on which extensive consultation has been undertaken over the past six years. I am pleased to speak to this bill, which proposes several key initiatives that will continue our reform program and, most importantly and critically, accelerate the delivery of housing when we need it the most.

Streamlining existing planning processes: Part 2 of this bill will deliver various reforms to streamline existing planning processes, including the final changes proposed for the state's development assessment panel system. DAPs are a key component of the planning system in Western Australia that enhance planning expertise in decision-making by balancing technical advice and local knowledge. The 2019 *Action plan for planning reform* identified a number of reform proposals, some of which are complete. DAPs are governed by standalone regulations—the Planning and Development (Development Assessment Panels) Regulations 2011.

Part 2 of this bill proposes a number of amendments that will allow the regulations to be amended to reduce the number of panels from five to three—one each for metro inner and metro outer, and a regional panel; appoint fixed-term, full-time DAP members to improve consistency in decision-making and reduce the potential for conflicts of interest; remove the current mandatory thresholds of \$20 million for the City of Perth and \$10 million for the rest of the state; and remove the exclusion that currently applies to projects of less than 10 multiple or grouped dwelling developments from being considered by a DAP. The DAP system will now be a completely opt-in pathway for any development proposals over \$2 million, including grouped or multiple dwellings but excluding single houses and ancillary structures or development in improvement scheme areas. These changes will mean that proponents will have the flexibility to choose the assessment pathway that they believe will be most appropriate for their project. Community housing proponents will also be able to opt in to have their development application considered through the DAP system regardless of value or size.

Specifically, this bill will remove references in the Planning and Development Act 2005 to a special matters DAP. The concept of a special matters DAP was included in amendments passed by Parliament in 2020, but the relevant sections of the amendment act have never been enacted. Feedback from consultation has favoured a permanent pathway for significant developments, rather than a special matters DAP. Clauses 4 to 6 of part 2 of this bill will remove the references to the special matters DAP and joint and local DAPs, favouring instead the three-panel configuration. Learning from the need to be agile and responsive during the COVID-19 pandemic, this change will build an appropriate level of flexibility into the DAP system.

The bill also proposes to establish a new permanent pathway for significant developments, and I will provide some detail about those related provisions shortly.

What will not change in the DAP system is the composition of each panel, comprising three technical experts and two local elected members; the role of local government representation; the assessment time frames of 60 to 90 days; the public consultation requirements that apply today; that meetings, agendas and minutes be public; and that community members have the opportunity to make deputations to the DAP. Streamlined processes will build efficiencies across the system and ensure that there are no unreasonable impacts on planning and development proposals.

Community consultation modifications to date: I think it is important to put this on the public record. We have already made improvements to community consultation requirements through our previous legislative reforms, such as mandating a minimum advertising period of 28 days for complex applications and also requiring a sign to be erected onsite and a radius model that requires letters to be sent to all landholders and occupiers within 200 metres of the site. Our reforms to date have also increased the minimum public advertising period for structure plans from 28 days to 42 days. We have also prepared and published a public engagement toolkit that provides state government agencies, local governments, planning and engagement professionals, and applicants with clear and consistent principles, guidance and tools for designing and delivering best practice consultation and engagement. It can also be used by the community to help better understand consultation and engagement in the planning process, and how

to participate. Under the existing part 17 process for significant developments, the Western Australian Planning Commission adopted a minimum 28-day community consultation period for applications. Consultation through the new permanent significant development pathway is expected to be a minimum of 28 days, which aligns with the requirements for more complex planning applications under existing planning regulations.

Permanent development assessment pathway for significant development: Part 3, clause 11, will insert a new part 11B into the Planning and Development Act 2005 that will establish a new permanent pathway for the assessment of significant development applications. This reform proposes an improvement on the temporary assessment pathway introduced during COVID, and combines the best practices of the development assessment panel system. For the first time, statutory time frames, proposed to be 120 days, will be introduced for the assessment and determination of significant development proposals. Criteria for eligibility into the pathway will be \$20 million in the Perth and Peel region scheme areas and \$5 million elsewhere in the state. The permanent pathway is proposed to remain an opt-in system, providing eligible proponents with a streamlined, efficient and coordinated assessment process for complex proposals. The WAPC will also remain as the decision-maker, with provision to consider matters broader than planning in certain circumstances. The ability for the Premier, on the advice of the Minister for Planning, to authorise the lodgement of an application when a development raises issues of state or regional importance, but is otherwise ineligible under the criteria —

[Interruption.]

Mr J.N. CAREY: Thank you, Attorney General. I note that he is a repeat offender! I might read that again.

The ability for the Premier, on the advice of the Minister for Planning, to authorise the lodgement of an application when a development raises issues of state or regional importance, but is otherwise ineligible under the criteria, aligns with the Premier's call-in provision under part 17 and will be modified to better suit the permanent nature of the new provisions within new part 11B. The proposed new pathway will retain the successful pre-lodgement process, a coordinated referral process and the incorporation of a design review process. It will also continue the consultation, advertising and transparency arrangements that currently apply to lodged applications. A permanent pathway for significant development proposals has been included in this bill in response to feedback received on our proposed development assessment panel reforms. The success of the temporary pathway was viewed as a preferred option to the proposed special matters DAP. This is very important to note: the minister's powers within this bill are notably less than most other comparable jurisdictions. In most states and territories, the decision-maker for significant development is the planning minister or another elected official. By contrast, in WA, decision-making is depoliticised by making the Western Australian Planning Commission the decision-maker.

Local government decision-making reform for single houses: This bill includes reform initiatives that support a national agreement by all states and territories to review planning, zoning, land release and other measures to improve housing supply and affordability. Western Australia already has a very effective and efficient zoning process, and it is likely it will remain best practice. Our housing diversity pipeline is facilitating release of under-utilised government land for future housing developments, and we are supporting that with funding support for services infrastructure such as water, electricity and sewerage. Reforms introduced to date mean that, in many cases, single houses are exempt from planning approval. Part 4 of this bill will reduce unnecessary red tape by reviewing decision-making for single homes and ancillary developments across all local governments. We are making it easier for all Western Australians to build their new home, extend or alter their existing house or complete smaller residential projects such as a patio, carport or fence. Our reforms will cut red tape for simple residential projects by ensuring these applications can be determined only by the CEO or planning staff of local governments and cannot be referred to or called in by full council for determination except when a property is on a local or state heritage list or in a designated heritage area.

Proposed section 257C is to be inserted into part 15 of the Planning and Development Act 2005, empowering the chief executive officer, or an employee, of the local government authority to determine applications for single houses and ancillary developments such as carports, patios or fences. A planning system that provides for appropriate levels of authorisation and delegation will enable elected members to focus council business on strategic planning matters, ensuring that strategically led planning for their local area is contemporary and fit-for-purpose. This includes the local planning strategy and scheme and development policies to set a clear direction for landowners and developers rather than councils investing their time and effort in the minutiae of individual development applications, debating the specifics of proposed setbacks, glazing or balcony treatments.

The majority of local governments already have levels of delegation in place for their decision-making. For example, the City of Stirling, an exceptional council for planning development, has a fast-track service for development applications for certain types of residential development. I am advised that since its launch, fast-track has improved upon its original guaranteed determination time frames of 28 calendar days, with a current average determination time frame of 20 calendar days. I applaud and recognise the City of Stirling for its efforts. Other councils performing well with high levels of delegation to planning staff include Mandurah, Mundaring, Bunbury and Joondalup. Our

reform is about achieving a consistent approach to delegations for simple residential projects across all local governments. Planning reform initiatives implemented to date have reduced the burden on landowners, home owners and small businesses, and this reform will continue that same streamlined approach.

Reforming the planning system must occur at all levels, and that includes reviewing the state's primary statutory authority for planning, the Western Australian Planning Commission. Part 8 of this bill introduces a number of amendments to section 4 and sections 10 to 13 of the Planning and Development Act 2005 that will reform the commission and clarify its role as expert adviser and independent decision-making body. Clause 38 seeks to modify the composition of the commission's membership to ensure it has the necessary technical expertise and skills, and reduce the membership to create a more agile board. The number of commission members is proposed to be streamlined from the current 16 to a minimum of seven and a maximum of nine. The new composition will include skilled members from relevant fields, including members with significant experience in local government and in regional areas. Directors general of various government agencies will remain as observers and advisers, not voting members. This will ensure coordination across government and support informed decision-making.

Clause 39 introduces a new section to clarify the role of the commission: to provide leadership, to have extensive expertise, to act with impartiality and to act reasonably with a specific legislative power. Importantly, proposed section 13(d) notes the need for the commission to act impartially. The commission operates independently, subject only to instances whereby the Minister for Planning directs the commission under section 17 of the Planning and Development Act or the minister or other bodies are provided with an explicit role in the process, such as in the minister's approval of a local planning scheme amendment or interim development order. Proposed section 13(e) notes the need for the commission to give reasons for its decisions. Other changes to the commission include amendments relating to committees. Some provisions are administrative, some will remove or update committees to align with current practice and others will provide greater agility for the commission to form or disband committees for specific matters without the need for legislative change.

This bill represents a significant gear change in the operations and modernisation of our state's planning system. In addition to the key proposals I have detailed, others are important to note. Provisions under part 3 will prevent potential regulatory gridlock between planning and transport agencies through expanded conflict-resolution processes. Part 5 proposes to change the need to refer planning codes to the Environmental Protection Authority from mandatory to discretionary, in recognition that those documents do not create an environmental impact. The EPA will review the application of planning codes when they are incorporated into schemes in either a new scheme or through an amendment. Part 6 will introduce a new ability to remove nonconforming uses from an improvement scheme area, while part 7 will enable the subdivision of land and the termination of a strata titles scheme concurrently. Correcting these legal anomalies will improve efficiency and consistency in the planning system and support urban renewal, such as in Metronet precincts. Under part 9, planning processes will be modernised in recognition to suit a digital environment and more practicable targets will be introduced for updating planning schemes and other strategic planning documents; for example, setting a 10-yearly requirement for the commission and local governments to review planning instruments. For local governments, this means a report of review is required and the actions from that report are to be completed within the 10-year time frame.

Part 10 of this bill relates to when the department will be enforcing the role of the commission as a regulator and seeks to modernise the powers of entry and inspection for department officers enforcing compliance with regulations. This could be in relation to development on private land or when a government agency is the developer on crown land. Effectively, part 10 will bring those powers of entry and inspection into alignment with other regulatory agencies, including local government.

Finally, part 11 addresses minor issues, including the ability to correct an anomaly relating to advertising requirements for minor or basic scheme amendments and clarifying the status of master plans, while part 12 deals with transitional matters relating to the implementation of the provisions in the bill.

There is no doubt that Western Australia continues to lead the way in planning reform, underpinning our recent agreement to the national planning reform blueprint, which has set the policy approach and measures to accelerate housing supply around Australia. The Cook government is using every lever possible to support national cabinet's blueprint, including the implementation of a targeted planning reform program that will facilitate more efficient delivery of housing by streamlining planning processes, reducing unnecessary red tape and creating a more consistent and efficient planning system that is easy for all users to navigate.

Extensive consultation has been undertaken over the past six years and this has informed the clauses of the bill, building on the reforms already delivered by the government under the 2019 action plan.

As a side note, I acknowledge all the stakeholders that joined me today to endorse this major planning reform program. I think it was unprecedented as a public endorsement for planning changes. I acknowledge the Western Australian division of the Planning Institute of Australia, the Real Estate Institute of Western Australia, the Western Australian division of the Urban Development Institute, the Western Australian division of the

Property Council, the Local Government Planners' Association, Shelter WA and Housing Choices WA. I also acknowledge the significant work undertaken by former Minister for Planning Minister Saffioti.

I am very pleased to introduce this bill today. It presents many great proposals to help reset our planning system that will support the planning of our communities and ensure the acceleration of housing supply across Western Australia for decades to come. I commend the bill to the house.

Debate adjourned, on motion by **Mr P.J. Rundle**.