APPROVALS AND RELATED REFORMS (NO. 4) (PLANNING) BILL 2009

Consideration in Detail

Resumed from 5 May.

Clause 11: Part 8 Division 2 inserted —

Debate was adjourned after the following amendment had been moved by Dr J.M. Woollard —

Page 7, after line 13 — To insert —

(2) The Minister must not approve an improvement scheme or an amendment to an improvement scheme in accordance with section 87, if it allows structures 36 metres tall or higher, unless —

(a) the improvement scheme or amendment has been laid before each House of Parliament; and

(b) after a period of at least 14 sitting days after that improvement scheme or amendment was laid before it, each House has passed a resolution approving it.

Dr J.M. WOOLLARD: I said yesterday before consideration in detail was adjourned that I believe the minister in charge of this bill is well intentioned. However, this bill is likely to have unintended consequences. As the minister knows, I became aware of those unintended consequences because of the Canning Bridge precinct plan that has been provided to my community. In debate we had in this chamber yesterday, we heard the member for Rockingham tell members how wonderful Rockingham is, and that 12-storey development has not affected Rockingham but has improved it. That is all I ask for in my area—a maximum height of 12 storeys for developments. My amendment states —

(2) The Minister must not approve an improvement scheme or an amendment to an improvement scheme … if it allows structures 36 metres tall or higher, …

The community will not have the ability to have their say. I agree with the minister that there will be consultation, but it comes down to how responsive the Western Australian Planning Commission is to public consultation. My community's experience with the WAPC has not been a healthy one. It refused to listen to my community several years ago when the Labor Party was in government and the member for Armadale was the Minister for Planning and Infrastructure.

I know that the minister might not be planning what is allowed for under the Canning Bridge precinct vision; that is, 20 to 30-storey developments. I am hopeful that the minister will put on the record today a maximum height for transport-orientated development because the WAPC is suggesting that level of development for performance-based planning at Canning Bridge. I am asking the minister to give a commitment in relation to Canning Bridge so that I can tell my community that the development will be a certain maximum height. I am hopeful that the minister will listen to my community and tell the WAPC when it first asks him whether it can implement a planning scheme in my electorate that the associated development must be of a certain height.

If the minister cannot support my amendment, can he give a commitment that in this government's term of office any schemes that are developed because of transport-orientated development will be the same for my electorate as they will be for Claremont, Mosman Park, Cottesloe, Peppermint Grove and Nedlands? People in those suburbs are as concerned as are people in my electorate. They do not want 20 to 30-storey high-rise development along the railway line. I ask the minister to consider giving that commitment to the house. The performance schemes will not be presented to the minister every week and they will not come before Parliament every time it sits. My community is very concerned at the unintended future implications that this bill will have on development in residential areas.

Mr J.H.D. DAY: I can give the member for Alfred Cove an assurance that residents of her electorate will be given the opportunity to be further consulted and to make submissions. Their submissions will be treated seriously. That is always the case. It is not always the case that people who make submissions expressing a particular point of view are always successful in the final outcome because often different points of view are expressed. In the end it is not possible to make a decision that pleases everybody when a range of points of view are expressed. It is the case that submissions made by people in response to the advertising of planning scheme amendments are treated seriously, are analysed and are reported to me or whoever is the Minister for Planning of the day before a final decision is made. Exactly the same process will apply to an improvement scheme as will apply to a local planning scheme.

In relation to the Canning Bridge area, as I mentioned yesterday, a study is underway. A paper entitled "Draft Canning Bridge Precinct Vision" has been produced. It is a vision at the moment. It has a long way to go before it is put into effect. A lot more consultation has to occur and assessment and studies need to be undertaken, including transport studies, before any of this is put into effect. It will probably extend over the next 20 years, if not longer. We are not looking at any sudden changes. I also point out that this study is being undertaken by the WA Planning Commission and the Department of Planning in conjunction with the City of Melville and the City of South Perth. They are partners in this process. It is not a process that is seeking to remove the two local governments from the process at all. It is a process which very much includes them and of which they are very supportive, as I understand. I know that the City of Melville is quite unhappy with the member for Alfred Cove's portrayal of what may happen in the area and has written to her in quite strong terms expressing a great deal of concern about the illustrations she circulated around the area. I will not go through the whole letter but I want to ensure that some things are on the record. The letter from the chief executive officer of the City of Melville, which has been copied to quite a number of other members of Parliament, is addressed to the member for Alfred Cove. It states —

> This inaccurate information does little to properly inform the public of the likely outcomes of the vision, nor the rationale for the Vision, and why State Governments and the City must consider higher density developments in appropriate areas.

I simply make the point again that the state is not taking over the whole planning process of the Canning Bridge area from local governments. The local governments responsible for the area are very much involved in this process. Those local governments, along with the member, have the responsibility of taking into account the views of local residents and, to a large extent, representing those views. There are always a variety of views about particular projects, including in a local area. I hear what the member for Alfred Cove is saying. It is right for her to raise those concerns, but I give her an assurance that the concerns of residents in her area will not be ignored. I will not make any commitment about particular height restrictions in that area because it would be very premature to do so. This bill is not about specifying particular outcomes in geographical areas or particular locations in Western Australia in respect of height or any other aspect of development. This bill is about putting in place a change to the planning system without specifying particular outcomes. In my view, it would certainly not be appropriate—it would be irresponsible—to put that into the act, although the member is not seeking to move an amendment to that effect. For me to prejudge a planning outcome in relation to this bill would be premature and inappropriate.

Ms A.S. CARLES: I rise to talk about the amendment moved by the member for Alfred Cove. There is huge development pressure in my electorate of Fremantle, and there has been for the past 20 years. Height restrictions are a sensitive issue in my community. There has been a lot of public debate about how high the community will tolerate the height of buildings along the coastal strip. We got to a point at which the limit that the community in Fremantle will accept is eight storeys. There is a strong sense that we do not want a Gold Coast in Fremantle.

We have very significant heritage issues to take into account in Fremantle, and this makes my electorate particularly unique in Perth. People who live in heritage-listed homes do not want high-rise buildings in their street. We have heritage buildings in the city. People do not want to see 12-storey buildings in front of our old Town Hall or our other precious heritage-listed buildings. People in Fremantle place great value on the significance of those buildings. I also believe that tourists flock to Fremantle because of the heritage significance of our port town.

I support the member for Alfred Cove and what she is trying to do. As I said during the debate yesterday, I appreciate the need to address urban sprawl in Perth. It is a huge problem. I know that we need to develop sustainable transit-oriented developments in our city. However, in this case, I need to speak out on behalf of my constituents and underline the fact that I represent a unique area of Perth because of its heritage value. I would want anything built over 12 storeys to be approved by both houses of Parliament.

Dr J.M. WOOLLARD: I think the member for Fremantle's constituents would probably like this amendment to read 24 metres rather than 36 metres if they are saying that they would prefer eight-storey buildings to 12-storey buildings. The plan currently allows for nine metres. This is actually increasing. My community looked at that planning scheme very carefully. The current planning scheme for the area allows buildings to be at that higher level. It probably relates to only 30 per cent of that area. The Canning precinct vision is very frightening for members of my community. I can assure the minister that the community is lobbying the local council. We do not want to put all our eggs in one basket. It is no good lobbying the local council, even though it says that it will listen to the community, when in 12 months' time or maybe even in four or eight years' time when there is a change of government, this bill will allow the new government to destroy my area. The Labor Party allowed the additional height on the Raffles tower.

Mr P. Papalia: Why are you blaming us? He's the minister.

Dr J.M. WOOLLARD: I understand that the minister wants to look at increased development. That is why I keep coming back to the unintended consequences of this bill. We may not get this additional height in the next few years but once this bill goes through Parliament, the WAPC can approve, with the minister, a change in the height scheme for my area, the member for Fremantle's area or any other member's area. I know that some members in this house think it will be wonderful to have high-rise in their area. They will not be worried when a scheme comes to Parliament.

My constituents do not want this government or a future government to give the WAPC the power to introduce a scheme that is contrary to the wishes of the community. Yesterday the minister talked about the wonderful staff at the WAPC. The WAPC ignored my community's wishes several years ago. I have no faith in the WAPC not to ignore its wishes again. Yes, minister, I am lobbying the local council. The letter he received from the chief executive officer of the City of Melville—I am not sure why it was from the CEO rather than the mayor—was sent to everyone. I am not fussed about that letter because I am doing my job as a local member, which is to look after my constituents. He may not be listening to the community, but I am. I am acting in the way in which the community would like me to act. That is why this amendment is on the table. I will not call a division each time this scheme comes up in debate, but this amendment is very important to me so I will call a division on it. I am concerned that this will come back to bite the minister and the government at some time in the future.

Mr C.J. TALLENTIRE: I oppose the amendment put forward by the member for Alfred Cove. It is unfortunate that so much attention is being given to the aspect of height control when we are discussing something as broad as improvement schemes. There are many aspects to improvement schemes and they should all be properly considered. We have to ensure that the process does consider them all. For example, there is the possibility for land to be rezoned in all kinds of ways. We have to ensure that the overall process is one that gives people the opportunity to comment on the type of rezoning that might come forward, as well as on height issues. If we were to agree to this amendment, which is fixated on the issue of height restrictions, it would diminish the overall thrust of the means by which we will go about examining whatever information is put forward when an improvement scheme is considered. I oppose the amendment. I hope that we can move on and ensure that the systems that are put in place are such that they will consider all aspects that come forward when an improvement scheme is discussed.

Mr J.H.D. DAY: I thank members for their contributions on this amendment. I must say that I agree with the member for Gosnells for all the reasons he just elucidated, and as I expressed previously.

The member for Fremantle commented on building height restrictions along the coast. State planning policy 2.6 is already in place and it has a quite significant effect. Any improvement scheme would need to give due regard to that state planning policy. I understand that the maximum height detail in that policy is eight storeys. That does not mean to say that nothing higher might be approved if a good case could be made—each issue would need to be looked at on its merits—but the state planning policy is quite a strong document and due regard would need to be given to it.

I also agree with the member for Fremantle that Fremantle's heritage issues are a very important aspect. Fremantle is a wonderful place. Fortunately, many old, heritage buildings have been retained there, unlike, to some extent, the case in the Perth central business district. I agree that the amenity of the area and the streetscapes and landscapes need to be protected. I certainly do not imagine that any serious consideration would be given to amendments that would allow for developments of substantial height that would dwarf existing heritage buildings in Fremantle. The whole precinct needs to be considered in a comprehensive manner, and I am sure that all those matters would be taken into account.

The member also referred to the problem of urban sprawl. That is the other side of the coin in this debate. Members on both sides of Parliament have referred to that during debate on this bill. We have a responsibility to ensure that we get much better use of existing infrastructure and reduce the travel people need to undertake to get to their employment. The less urban infill development we have, the more urban sprawl we will have, with all the associated economic, environmental and social costs. It is a balancing act. The member for Fremantle made the point that there is increasing understanding in the community and certainly in this Parliament of the need to focus more on urban consolidation and urban infill developments so that we do not have excessive reliance on peripheral greenfields developments and an extension of the metropolitan area as we know it. This is a very important issue. It is one that Parliament needs to address more than it has done in the past. This bill will do that in part. I reiterate that the bill and the intention to put in place improvement schemes are not specifically about increasing density in certain areas, but are simply there to provide a better system so that we can deal with the various issues as a state. It might be helpful for me to outline the intended purpose of improvement schemes. I may need to sit down first.

Dr J.M. WOOLLARD: I would like to hear more from the minister.

Mr J.H.D. DAY: I thank the member. The bill does not propose to incorporate any restrictions on where improvement schemes can be used, other than preventing improvement schemes from being prepared in redevelopment scheme areas or the development control area in the Swan and Canning Rivers Management Act 2006. Nevertheless, it is intended that the Western Australian Planning Commission will use improvement schemes only in limited circumstances, such as when an improvement plan covers more than one local government area and coordinated development of the improvement plan area is required; development is identified as a priority area and is required to occur within a specified period; there is fragmented land ownership in an area, such as a combination of crown land and privately owned land; or land has particular issues that require coordinated development, such as heritage issues, contaminated sites issues and that sort of thing. Also, improvement schemes will not exist indefinitely under a local planning scheme. They will be created for only short periods as they are to be used to facilitate immediate development within the scheme area.

I hope that provides some reassurance to members. There will be a need for improvement schemes to be put in place in specific areas to deal with those sorts of issues. We do not have any current intention to use such a process in the Canning Bridge area. I am not saying that it will never be used; it may be appropriate to do that in the future. I reiterate that an extensive planning and consultation process is occurring for that area. Yesterday I tabled two flowcharts that explain the process of improvement schemes from start to finish. It is quite a long process that involves extensive consideration and checks and balances.

Amendment put and a division taken with the following result —

Ayes (2)

Ms A.S. Carles	Dr J.M. Woollard *(Teller)*

Noes (49)

Mr P. Abetz	Mr B.J. Grylls	Mr P.T. Miles	Mr T.G. Stephens
Mr F.A. Alban	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr M.W. Sutherland
Ms L.L. Baker	Mr J.N. Hyde	Mr M.P. Murray	Mr C.J. Tallentire
Mr C.J. Barnett	Mr A.P. Jacob	Dr M.D. Nahan	Mr P.C. Tinley
Mr I.C. Blayney	Dr G.G. Jacobs	Mr A.P. O'Gorman	Mr A.J. Waddell
Mr T.R. Buswell	Mr R.F. Johnson	Mr P. Papalia	Mr T.K. Waldron
Mr G.M. Castrilli	Mr W.J. Johnston	Mr J.R. Quigley	Mr P.B. Watson
Mr V.A. Catania	Mr J.C. Kobelke	Ms M.M. Quirk	Mr M.P. Whitely
Mr R.H. Cook	Mr A. Krsticevic	Mr D.T. Redman	Mr B.S. Wyatt
Mr M.J. Cowper	Mr F.M. Logan	Mr E.S. Ripper	Mr D.A. Templeman *(Teller)*
Mr J.H.D. Day	Mr M. McGowan	Mrs M.H. Roberts	
Mr J.M. Francis	Mr J.E. McGrath	Ms R. Saffioti	
Ms J.M. Freeman	Mrs C.A. Martin	Mr A.J. Simpson	

Amendment thus negatived.

Mr C.J. TALLENTIRE: Clause 11 provides for the insertion of a number of proposed sections into the Planning and Development Act 2005. I seek the minister's clarification with regard to the insertion of proposed section 122B(3), which states that regulations made under section 258 will apply. Part of those regulations refer to the fees that will be charged to landowners when preparing improvement schemes, especially where the landowner is the instigator of an amendment to a scheme. I seek the minister's clarification on the levels of fees that will be charged to landowners and information on how they will be determined.

Mr J.H.D. DAY: I am advised that the costs of the preparation of an improvement scheme would be borne by the Western Australian Planning Commission, not by the individual landowner. It is a process that would be initiated by the Planning Commission and it would need to be agreed to by the Minister for Planning and the Governor, so it would normally be considered in the cabinet process, but the cost of preparing such a scheme would be borne by the Planning Commission, not by the individual landowner.

Mr C.J. TALLENTIRE: I seek further clarification from the minister, because section 258(3) of the act currently provides that there are occasions when an amendment to a scheme may require payment by the landowner of the costs incurred in the publication, under the regulations, of any notice prescribed in the regulations relating to an amendment to a planning scheme. I seek clarification as to how broadly the opportunity can be taken for the landowner to be charged for the costs incurred in the publication of a notice relating to an amendment.

Mr J.H.D. DAY: Section 258(3) of the act refers to costs incurred in the publication under the regulations of any notice prescribed in the regulations relating to an amendment to a local planning scheme, where the amendment

is made at the request of the owner and is in respect of land owned by the owner. The essential point is that this section refers to an amendment under a local planning scheme, as opposed to an improvement scheme. Therefore, as I said earlier, it is the case that any costs incurred in relation to an improvement scheme would be borne by the WAPC.

Clause put and passed.

The ACTING SPEAKER (Mrs L.M. Harvey): I draw members' attention to the notice paper. There is an error on the notice paper with respect to the amendments listed. There are amendments listed for clause 46; it should be clause 43. Further down, at the bottom of page 15 of the notice paper, there is a reference to page 37; it should in fact be page 34. There are two additional amendments to clause 43 circulating. Both refer to page 33, line 17. Members should make sure that they are across those alterations before we proceed.

Clauses 12 to 14 put and passed.

Clause 15: Section 170 amended —

Mr C.J. TALLENTIRE: The clause gives a definition of "responsible authority". I seek the minister's clarification on the breadth of the term "responsible authority" because it appears to constrain things to the Western Australian Planning Commission, but I wonder whether there are opportunities in which a responsible authority could have a broader meaning.

Mr J.H.D. DAY: What is intended is explained fairly clearly in the clause; that is, that the responsible authority would either be the local government for land that is subject to a local planning scheme or the Western Australian Planning Commission for land that is subject to an improvement scheme. There is no intention or expectation that it would have any broader meaning than to refer to those two bodies as appropriate.

Clause put and passed.

Clauses 16 to 42 put and passed.

Clause 43: Part 11A inserted —

Ms J.M. FREEMAN: An amendment to this clause stands in the member for Rockingham's name on the notice paper. Therefore, I move on his behalf —

> Page 31, after line 19 — To insert —
>
> (5) Notwithstanding anything contained in this Part, no matter that is valued at less than four million dollars will go before a DAP for decision.

Mr J.H.D. DAY: I do not agree with this amendment and I hope that the opposition will be happy with the explanation I am about to provide. This amendment seeks to put into the act a provision that a development assessment panel would not be able to consider any application with a value of less than $4 million. Firstly, I do not think that to write into the act itself the threshold that would apply to consideration of applications by a DAP is the most desirable action to take. It would produce a situation that is too inflexible. Therefore, it is much better to include that sort of provision in the regulations that will be established as a result of an amendment to the act through this bill. Secondly, the opposition has suggested a threshold of $4 million, but we have—as I indicated, from a policy point of view, it is intended to be incorporated in the regulations—made a decision that the appropriate threshold for mandatory consideration by a DAP should be $7 million across the state with the exception of the City of Perth whereby it should be $15 million. In putting those levels in place, we are not seeking, as I think the member for Rockingham suggested a couple of days ago, to leapfrog the opposition; it is simply a matter of coming up with what we think is an appropriate threshold having taken into account all the submissions made. We also took into account that an opt-in arrangement will be available to applicants for amounts between $3 million and $7 million across the state, with the exception of the City of Perth which will have an opt-in arrangement between $10 million and $15 million. That reflects the fact that the City of Perth generally deals with more complex applications, so it is appropriate to have a higher threshold amount. The rationale for the opt-in arrangement is to acknowledge the fact that a lot of local governments are doing things quite well at the moment, particularly in that sort of range. The point was made to us that in that sort of range of $5 million projects and so on, decisions are currently being made by officers on a delegated basis as opposed to full councils, and decisions in some cases are being made in quite a timely manner. If local governments are doing things well and there is confidence from the development industry or proponents that a particular local government is likely to deal with their application in a professional way and on a timely basis, they will have the ability to stick with the current process. However, if applicants wish to make use of the development assessment panel process within that range, as I said, the intention is that they will be able to do so and the threshold in that case, generally speaking, across the state will be $3 million. I do not think that the difference between $3 million

and the $4 million that the opposition suggested is all that great; therefore, I do not think that this amendment should be agreed to.

Mr M. McGOWAN: I put the amendment on the notice paper prior to the changes announced by the minister. I think we have both been listening to what local governments around the state want, and accordingly I did my best to come up with an arrangement that might meet all those interests. I am happy with the Minister for Planning's explanation and am therefore happy to withdraw the amendment knowing that a change has been made.

Amendment, by leave, withdrawn.

Mr M. McGOWAN: Before I move the next amendment on the notice paper in my name, I seek an explanation from the minister about how it is being dealt with.

Mr J.H.D. DAY: The intent of the opposition's amendment will be covered in the regulations that are being prepared. I agree with the sentiments expressed in the amendment but I think it will be better if it is consistent with the process for these aspects that will be provided for in regulations. The regulations are being drafted and we are certainly happy to make them available once the drafting is further advanced. Indeed, there will be consultation with the Western Australian Local Government Association before the regulations are finalised. To reiterate, it is intended that the local government sector would be generally consulted and in fact would have a representative on a panel for the appointment of the specialist members of the development assessment panels. Although, I do not think that it would be practical to consult with each local government about the appointments within their specific area, there will be a more general process whereby the Western Australian Local Government Association will have a representative on, and will be consulted about, the appointment of people to these panels, as will the Planning Institute of Australia and the development sector. With regard to the desire to have on the panel at least two members of a local government district in which a relevant development is located, it is the government's intention to have two local government councillors on the panel who are nominated by a council in which the development is located. They will be two of the five members of the panel.

Mr M. McGowan: Is that in the legislation or in the regulations?

Mr J.H.D. DAY: That will be in the regulations.

Mr M. McGowan: I actually think that style of arrangement could have been in the legislation rather than in the regulations.

Mr J.H.D. DAY: It could have been. That is another way of dealing with it. I am not averse to that if the member wishes to push that aspect of the amendment, or the member can accept our word that it will be in the regulations, which will be made available before they are completed. In relation to the way in which panels will operate, it is worth tabling the flow chart that the department has prepared, which explains the effect of the act once it is amended and the role of the regulations and the policies that will be used to guide and inform the decisions of the development assessment panels.

[See paper 2061.]

Mr P. PAPALIA: When I was briefed on the legislation, it occurred to me that we are in the process of approving structural change reform within the local government sector, which is being driven by the Minister for Local Government. The end of point of the structural reform is not visible. We do not know how or what size the local governments will be. A person from the Wheatbelt or a similar location might be represented by local representatives from a council that is geographically small, albeit the local government centre may be located in another town. In the event that the small town is amalgamated into a large council that stretches over a larger geographic area, it is conceivable that the people from the small town will no longer have direct representation. That is because another component that the Minister for Local Government is advocating is the reduction in the number of overall councillors to nine or fewer. Potentially, 12 little towns with two or three councils could be amalgamated into one big council. It is likely that, because some people from the smaller towns might not like to travel long distances, they may not stand as a councillor in the new amalgamated council. If there is a development in one of those little towns that is subject to one of these development applications, how can the minister guarantee that the councillors will represent that community? There might be elected councillors, but the pool of councillors could be drawn from other towns and the councillors might not have any local interest in or knowledge of the smaller towns. In effect, does that not diminish the current level of representation and the opportunity for people to have direct access to people who represent their interests?

Mr J.H.D. DAY: If local governments are amalgamated, I do not believe that the principle of how the panels operate would change. Elected councillors will be responsible for either an area within the local government or the local government as a whole. If they are representing a particular ward and the ward gets bigger, the

councillors will have responsibility for whichever town or towns are in that ward. If a councillor is elected on the basis of covering the whole area, the councillor will have responsibility across the whole local government. I do not believe that the situation the member has raised is any different from a large local government in the metropolitan area in which people from a particular locality might not have a specific representative on a development assessment panel or on the local council itself. The City of Stirling is a large local government. There are particular suburbs within the City of Stirling that do not have councillors who either live in or who come from those localities. However, the councillors are responsible for those localities. Even if the areas of local government are enlarged, the principle would not change.

Mr P. Papalia: You would have to concede that geographically some of the towns in the Wheatbelt are a significant distance away from each other. That is different from the metropolitan area where it takes 15 minutes to travel by car to get to the next suburb.

Mr J.H.D. DAY: That issue might well arise under the current local government boundaries in the more remote parts of the state such as the Pilbara or the Kimberley. Members of the panels would be paid travelling expenses and, where necessary, they would be provided funding for overnight accommodation.

Mr P. Papalia: I am talking about direct representation with people who are familiar with the community and with the concerns that surround a specific development. Noting that they will already have minority membership on the DAPs, we may be excluding communities from direct representation. That is part of the criticism of the amalgamation process. I know that that is not the minister's responsibility, but I wonder how much liaison there has been between your department and the Department of Local Government about what the eventual outcome might be. Has there been a fair degree of cooperation?

Mr J.H.D. DAY: The departments have worked in close collaboration. As the member is aware, the director general of the Department of Planning, Eric Lumsden, is a former chief executive officer of the City of Swan and the City of Melville. Therefore there is a strong understanding of the role of local government within the Department of Planning. It will be the responsibility of members of the panels, whether they be the appointed people or local government councillors, to become familiar with a particular area or project. They must do their homework because they will be paid for being a member of the panel. If a local government councillor comes from a town different from where a project is proposed and is not familiar with the town, he would need to become familiar with it and understand the issues that are relevant to making a decision about that project.

Mr P. Papalia: Can that be included in the regulations?

Mr J.H.D. DAY: It certainly will be part of the training. The member for Nollamara wants to discuss aspects of training in a little while. I do not know whether it will be specified in the code of conduct, but it will certainly be included in the training manual. We want to have a professional system whereby people make judgements on the basis of having been provided with good information, as opposed to making judgements on the basis of a flimsy argument put to them by someone who lives down the road. There will be an obligation on both councillors —

Mr M. McGowan: Or someone you meet at the golf course.

Mr J.H.D. DAY: Whatever the case may be.

Mr M. McGowan: A bit like someone saying that the mining companies are getting away with murder!

Mr J.H.D. DAY: Say that again.

Mr M. McGowan: Don't worry; it was only the Premier who said it.

Mr J.H.D. DAY: I hope that explains the situation. Members of panels will need to be doing their job properly and professionally. That means being informed and making the effort to be informed.

The ACTING SPEAKER (Mr A.P. O'Gorman): Can I clarify, member for Rockingham, that you are not going to move that amendment in your name?

Ms J.M. FREEMAN: We are still talking about the amendment at this point. That is what I am rising to speak about. I am interested in proposed new section 171C(6), which reads —

> The local government or local governments affected by the operation of a DAP must be consulted about the proposed appointment of DAP members who are not members of that local government or local governments.

It is quite important that we make it really clear that this is not consultation about the two members of the local government who will be on the development assessment panel. There will be two expert members, plus, I gather, the chair, on the DAP. There are two reasons I think that is quite important. One is that, as we have discussed previously, three members are required to constitute a quorum. It is the preferred model that there will be

consensus in terms of how that is reached. Even if there are five members, it is preferred to have consensus. It would seem to me to undermine the good operation of a DAP if we did not know that a particular person about to be appointed was likely to cause an inherent ongoing conflict between the local government member and the expert. That sort of thing is incredibly important. The other point is that we need to be aware of whether that person has some sort of conflict of interest. We need to know whether the local government or the local governments affected by that DAP—or a joint development assessment panel in the case the member for Warnbro spoke about—have any particular point of view on that appointment. In the case of some of the areas down south around the aluminium plants, there are environmental health experts in that area. They may be quite important but they also may be quite contentious. Firstly, we need to know, before appointment decisions are made, whether any conflict may arise and, secondly, we need to make a considered decision on that appointment.

Mr J.H.D. DAY: I agree with the comment that it is important to have people who are well informed. It is important, for example, if there are environmental issues to be considered, that people will be properly trained in that area. Indeed, that is the whole purpose of this exercise, to a large extent—to ensure that we have people who are professionally trained and will be making decisions and undertaking assessments of projects on the basis of their professional training, whether it be in architecture, planning, environmental science, engineering or a range of other areas. I can reassure members that we will be appointing people to panels only on the basis of their professional expertise. We will not be appointing people who are not well trained. That will be a large part of the purpose of having the panel we intend to establish—to appoint people. It will include representatives from the Western Australian Local Government Association, on behalf of local government; the Planning Institute of Australia, which consists of professional planners; and the Department of Planning. We will have a consultation process about who will be on the panels.

The other important point is that if anybody who is going to be on a panel has a potential conflict of interest, he or she will simply not be able to be on that panel. That will be specified in the code of conduct. In addition, it is intended that monetary penalties will be available in the event that somebody sits on a panel in circumstances in which he or she clearly has a conflict of interest. The maximum penalty provided at section 266 of the Planning and Development Act is $5 000. There is a requirement for people who are members of planning commission committees—and it will also apply to members of DAPs—at all times to act honestly in the performance of a function. A penalty of $5 000 is available. Section 266(3) of the existing act also states —

> Where a matter is before a meeting for consideration and a member participating in the meeting has a direct or indirect pecuniary interest in the matter, the member —
>
> …
>
> (b) after disclosure of the interest is not to —
>
> (i) be present during any consideration or discussion of the matter; or
>
> (ii) vote on the matter.

Similarly, a penalty of $5 000 is available.

Ms J.M. FREEMAN: There was an important aspect that the minister did not address. The minister may not have responded to my question about the intent of this amendment or I may not have understood that he had addressed it. The proposed amendment relates to local governments that will be affected by the operation of a DAP, being consulted about the appointment of non-local government members. I understand the minister said that will happen through having representatives from WALGA, the Planning Institute of Australia and local government. Having been an official of a peak body in the union movement, I can say that, while the minister may have the best intentions, we do not always go down to the grassroots and consult where we probably should. I want to put on the record that it is the minister's expectation that WALGA will be talking to local government and getting information about the members who are not local government members. I wonder how the appointment of DAP members will affect the confidentiality or privacy responsibilities of those people.

Mr J.H.D. DAY: I expect that WALGA will consult with its members on the appointment to the panel from the list of people, in relation to specific appointments to particular panels. I am not sure that it is necessary or appropriate for either WALGA or the Department of Planning to consult with a specific local government about specific appointments to panels that would be assessing a particular project in their area. In fact, it may well be desirable for that not to be specified. If there is a project that has attracted local opposition for some reason in a particular area, it could be the situation that in the case of some local governments there might be a lot of pressure put on the staff of the particular local government not to agree to the appointment of an individual because of some spurious or ill-founded reason; whereas we intend to have a list of people from which members of panels can be drawn from. A person from that list would only be appointed once there has been a consultation

and assessment process involving a representative from WALGA, the Planning Institute of Australia and the Department of Planning. People will be appointed to those lists on the basis of well-recognised professional expertise and on the basis of their reputations as being fair minded and balanced, and doing their jobs in a professional manner. That is what is intended. I think the outcome would be appropriate.

Mr M. McGOWAN: I am happy not to proceed with my foreshadowed amendments on the basis of the explanation given by the minister.

Ms J.M. FREEMAN: I move —

Page 33, line 17 — To insert after "the" —

paid

This amendment will provide for the cost of the training undertaken by persons who want to be eligible to serve on a development assessment panel to be met by the department.

I raised this issue in my contribution to the second reading debate. Managerial training required by people who want to become DAP members should be paid for by the department. If people are required to undergo training to ensure that they act in an appropriate manner and that training takes them away from their business, they should be properly compensated. In any event, a local government councillor who is required to undertake any sort of training should be compensated, simply because it is part and parcel of his or her role if he or she is appointed to a DAP.

I understand that the minister is not averse to my amendment on the basis that he will move a subsequent amendment to proposed paragraph (h) that will delete the words "who want to be eligible" and substitutes the word "appointed". I agree with the minister's proposed amendment. I do that on the basis of not thinking that it is just a way around it and the department will then write regulations that require people to undergo training to be on the list and that training would not be paid for. Once they are appointed, their training would already have been done. In other words, they have the qualifications and have undergone the necessary training and are, therefore, appointed. There is a mechanism around it. If the department requires a person to be training to fulfil a level of competency that is required under this legislation, it should pay for that training. That should not be circumvented by the fact that a person cannot get on the list to be appointed unless the training has been undertaken. On the basis that we understand that this proposed amendment will be about the department paying for the training of people that it wants to be trained, I will agree to the minister's proposed amendment.

Mr C.J. TALLENTIRE: I support the amendment moved by the member for Nollamara. It is essential for the democratisation of our planning process that people receive the necessary training to be able to participate in the planning process with the adequate level of knowledge that will enable them to make a valuable contribution. We cannot expect them to go through that training making financial sacrifices and missing their usual line of work; their usual source of income. We have to enable them to receive the support that they need so that that training can be done in a way that will help benefit the whole planning process. I fully support the amendment put forward by the member.

Mr J.H.D. DAY: I am prepared to accept the amendment moved by the member for Nollamara. We are taking a reasonable and cooperative approach across both sides of the chamber on this bill. I appreciate that.

The point that has been made by members of the opposition on this issue is valid and it is acceptable that a reasonable amount of payment be made available to people who are giving up their time for training in relation to this process. It is appropriate that only those who are appointed be paid. I will move a subsequent amendment to achieve that.

Amendment put and passed.

Mr J.H.D. DAY: I move —

Page 33, line 17 — To delete "who want to be eligible" and substitute —

appointed

That will have the effect of ensuring that those who are being paid are people who are actually being appointed as opposed to those who are simply seeking to be appointed.

Amendment put and passed.

Ms J.M. FREEMAN: Before we move to page 33 of the bill, I would like to raise a question about proposed section 171D(3). I was really pleased to see this provision in the bill because I referred to it in my contribution to the second reading debate. Often the minister says that it will apply to only people with professional qualifications. This proposed section states —

> The qualifications held by a person on a DAP may be specified in the regulations by reference to one or more of these —

It then lists the kind of qualification that would be acceptable. I am seeking clarification that the list will ensure that the people without letters behind their names, but with years and levels of qualifications or knowledge gained from years of experience will be considered. Again, I go to my experience sitting on the medical committee for workers' compensation; that is, a GP who might have had 20 years dealing with injured workers could be taken into account. The situation was that some people wanted to restrict eligibility for appointment to the committee to only occupational physicians. I understand that in the example I am giving, both people would have university degrees. In the area of planning we must take into account that there may be experts or people we would seek to use on a DAP who may not have a university qualification. It may be that such persons have come to Australia from another country and do not have their qualifications recognised. However, they could be able to use their background in assisting councils with their planning. Recently, we had a situation involving the City of Swan and a mosque. A person with cultural experience aligned to planning, but who does not have the letters behind his name, could be very important on a DAP.

I would like to be clear that it is not an absolute exclusion from sitting on a DAP if a person does not have tertiary qualifications.

Mr J.H.D. DAY: I can confirm that people will be able to be appointed to DAPs on the basis of recognised experience as opposed to necessarily having a formal university qualification. It goes back a long way now and long before I graduated as a dentist. I know that prior to the dental school of the University of Western Australia being established, people were practising as dentists. They did undergo training but it was not through the university system. People were recognised as dentists.

Mr M.P. Whitely: A pair of pliers and plenty of commonsense.

Mr J.H.D. DAY: I am pleased to say that it was a bit more advanced than that back then. Going back 100 years, the member might be right. The point is that people were recognised as dentists, professionally trained and recognised, but they did not have a formal university qualification.

Mr M. McGowan: That was in the good old days.

Mr J.H.D. DAY: I can assure the member that it was long before my time. However, the same situation might apply when people are recognised on the basis of their experience and do not necessarily have the formal qualifications. All of those things will be taken into account.

Ms J.M. Freeman: I know that that is the case for the local government people. I am seeking clarification on whether that will be the case for the expert members.

Mr J.H.D. DAY: I agree, including for those.

Debate interrupted, pursuant to standing orders.

[Continued on page 2641.]