METROPOLITAN REDEVELOPMENT AUTHORITY BILL 2011

Consideration in Detail

Resumed from 11 August.

Clause 19: Powers in relation to land contiguous to redevelopment area —

Debate was adjourned after the clause had been partly considered.

Clause put and passed.

Clause 20: Subdivision and amalgamation, modification of PAD Act —

Mr J.H.D. DAY: I move —

Page 13, after line 3 — To insert —

(1) In this section —

Minister means the Planning Minister.

The reason for this amendment is to take into account the amendment that was previously moved to clause 3 which defines the planning minister. The overall purpose, as I have explained, is to ensure that the core planning functions of the bill are undertaken by the minister responsible for the Planning and Development Act. In the possible event in the future—probably unlikely—that another minister was responsible for this act, this amendment and the subsequent three amendments I have on the notice paper ensure that the minister responsible for land use planning in this state will exercise these powers.

Amendment put and passed.

Ms J.M. FREEMAN: Can the minister give me an outline: in terms of clause 20(1) —

The ACTING SPEAKER (Ms A.R. Mitchell): Member for Nollamara, we are still on clause 20.

Ms J.M. FREEMAN: Yes. Sorry, clause 20 subclause (1).

We talked a lot about transparency and reasons for decisions that will be tabled in the house. In this case it is the modifications to the Planning and Development Act. I am trying to reassure myself—it has been some time since we looked at this—that clause 20(1) will be subject to transparent reasons for decision tabled in the house. I am wondering whether that will be the case, whether the reasons for decision as to the powers and the reference to "the minister grants an approval" will be tabled in the house.

Mr J.H.D. DAY: The subclause here provides for tabling in the house. That is not the usual activity under the Planning and Development Act in relation to these sorts of changes. What is being put into effect, as I read it, is consistent with what is in the Planning and Development Act; nothing more, nothing less.

Clause, as amended, put and passed.

Clause 21 put and passed.

Clause 22: Compulsorily acquiring land under *Land Administration Act 1997* —

Mr C.J. TALLENTIRE: As the minister is aware, I have a strong interest in the issue of compulsory acquisition of land under the Land Administration Act; an interest that relates particularly to my electorate. The minister was good enough, during the course of the second reading debate, to suggest that I work with the City of Gosnells on a particular case. Looking at this legislation more generally, I am seeking the minister's guidance on how the term "development of land" would be applied. How broadly can that be applied and in what context can that development be deemed to be public works?

Mr J.H.D. DAY: I draw the member's attention to clause 3 on page 2 where "development" is in fact defined as meaning —

(a) the erection, construction, demolition, alteration or carrying out of any building, excavation, or other works in, on, over, or under land; and

(b) a material change in the use of land; and

(c) any other act or activity in relation to land declared by regulation to constitute development,

but does not include any work, act or activity declared by regulation not to constitute development;

In short, development will often encompass public works, but not necessarily, of course, and I think that the overall explanation of the meaning of development is pretty well defined, as I said, in clause 3.

Mr C.J. TALLENTIRE: I thank the minister for that clarification. I seek information on the compensatory aspects of a compulsory acquisition.

Mr J.H.D. DAY: I am advised that the provisions are the same as those in the Planning and Development Act and are referred to in a later clause of the bill. Therefore, we will no doubt come to them at a later stage. It is clause 75, "Injurious affection: compensation"; it is all outlined pretty clearly there.

Mr C.J. TALLENTIRE: I thank the minister for that, but I think there might be a difference between the normal process of determining the amount of compensation and what would apply in this case. I note that mention is made in the explanatory memorandum that this mirrors the situation in place under existing development authority acts. I suspect, then, that it is different from what might sometimes apply under the Land Administration Act. I seek clarification whether there is a different mechanism that works with redevelopment authority acts as opposed to what would normally apply under the Land Administration Act.

Mr J.H.D. DAY: I am advised that the notice provisions that normally apply under the Land Administration Act will not apply under this legislation when it comes into force. That is the same as the situation in the existing redevelopment authority acts. I am not sure of the origin of that situation. Presumably, it is to facilitate and to expedite development, which is really a large part of what this authority will be established for, as with the previous redevelopment authorities. I am sure that there are checks and balances in place, but it is different from the case under the Land Administration Act.

Clause put and passed.

Clause 23: Public authority can be directed to transfer land to Authority —

Mr J.N. HYDE: The definition of a public authority includes local governments. I want to draw the minister's attention to the fact that the Barnett government currently has a legal agreement with the City of Perth regarding the area of the Northbridge Link that governs the City of Perth's quite substantial financial contribution there. The direct concern raised by the city to me is whether the provisions of this bill will override the legal agreement between the city and the state. I raise this issue during debate in this clause because subclause (5) states —

> A public authority must comply with a direction given to it under subsection (2), despite any other written law.

The bill, therefore, clearly states in this clause that existing laws can be overwritten.

Mr J.H.D. DAY: I am advised that the measure provided for in this clause for public authorities to be directed is exactly the same as the measure in the existing redevelopment authority acts. In relation to the specific situation with the City of Perth and the financial agreement related to the development of the Perth City Link project, there is certainly no intention at all—although I am unaware of any inadvertent outcome from this bill, of course—to change that agreement that was put in place a few years ago. The Perth City Link project is of course now underway and the obligations under that agreement certainly will be fulfilled by the state government and I am sure also by the City of Perth.

Mr J.N. HYDE: Further to that, one of the existing problems under the East Perth Redevelopment Act that is replicated in this clause is that the definition of "development" extends beyond the Planning and Development Act to include —

> … any other act or activity in relation to land declared by regulation to constitute development, …

In this clause, therefore, not only is there the ability to direct a public authority to transfer land to the Metropolitan Redevelopment Authority, but also when the city is undertaking works in this area, it will have to apply for development approval within the redevelopment area; whereas if the works were in its own council area, it would not have to apply for approval.

Mr J.H.D. Day: That's correct, but that is the same as the current situation.

Mr J.N. HYDE: The minister, in saying it is the same as the current situation, is replicating EPRA.

Mr J.H.D. Day: Yes.

Mr J.N. HYDE: Again, the whole purpose of this bill is to pick up on the good points and our experience from having operated under EPRA and the Armadale and Midland Redevelopment Authorities and to come up with improvements. The City of Perth maintains that it has not been consulted properly on this bill and that this is a very big issue for it. It is a failure in the redevelopment authority legislation that we already have and we are replicating it in this MRA bill.

Mr J.H.D. DAY: I do not recall the concern that the member for Perth raised with me being raised by the City of Perth over the almost three years that I have been the Minister for Planning. I am not saying that it has not been raised, but I certainly do not recall it being raised. The intention is to have a clear authority for development to occur and for a development approval process. Redevelopment authorities are about urban renewal and regeneration. I think that has been very successfully achieved, including within the boundaries of the City of Perth; for example, in East Perth the Claisebrook Cove development and adjacent areas; the new Northbridge

development that has occurred and is still occurring to some extent in that area; and now the Perth City Link project.

Mr J.N. Hyde: But the City of Perth and the Town of Vincent are also about urban regeneration, and they have done an excellent job.

Mr J.H.D. DAY: Indeed; I agree entirely. They do have a strong interest and a strong track record in relation to that. As I said last week in this place, there is a good, cooperative working relationship between the state government and the City of Perth on what happens within the wider boundaries of the City of Perth and Perth as a capital city. I do not expect that relationship to change. I certainly expect the consultation and collaboration to continue. It certainly will on the part of the state government, and I have no reason to think that it will change on the part of the City of Perth.

I should add that it is not proposed to add to the definition of "development" in the regulations currently being developed. The regulations will prescribe some measures that are not to be included in the definition, but it is not intended to really widen the effect of what is already in the existing acts.

Mrs M.H. ROBERTS: I have a couple of questions about clause 23. Clause 23(2) states —

> If a public authority has an estate or interest in land over which it has a power of disposition and the land is in a redevelopment area, the Governor, by order, may direct the public authority to transfer all or a part of the estate or interest to the Authority.

First off, I make the point that where the clause states "Governor", one can really read "executive government" because generally the Governor assents to the recommendation of the minister to the Executive Council and very rarely, I put to the minister, makes a decision other than what is recommended by the minister and the government of the day. Therefore, essentially, the recommendation comes from the executive government to the Governor, and in my experience that order is generally made. The clause states —

> … the Governor … may direct the public authority to transfer all or a part of the estate or interest to the Authority.

My first question is: is any consideration given in that circumstance? Presumably the public authority's interest would have a monetary value. Is that taken into consideration? Would the local government authority be paid the appropriate monetary compensation, and how would that be determined? Secondly, I note that in response to some of the questions from other members that the minister said that these provisions are already applicable in the respective redevelopment acts. I make the point that they have involved very discrete areas put in place by both houses of Parliament, and that the rules that will apply in this provision are somewhat different. This legislation gives executive government considerably more power in this respect and is considerably more threatening to local government, in my view. I specifically ask: given that the minister says that this provision is in place in the other redevelopment authority acts, has it been used and can the minister give me examples of where it has been used? Why is it necessary for this provision to be in this proposed act?

I refer also to clause 23(5), which states —

> A public authority must comply with a direction given to it under subsection (2), despite any other written law.

I wonder what those other written laws might be that local government authorities would have to comply with in this action, despite those laws.

Mr J.H.D. DAY: As I mentioned, as the member reiterated, this provision exists in the existing redevelopment authority acts. The issue of compensation being paid is contemplated in clause 23(4); it does not guarantee that compensation will be paid but it certainly contemplates that that may well be the case in reference to the terms on which the transfer must be made.

Mrs M.H. Roberts: But it's not guaranteed, is that what you're saying?

Mr J.H.D. DAY: As I read it, no, it is not guaranteed, but I think it would be a very unusual situation in which a redevelopment authority acquired land that had some actual value from a local government and for compensation not to be paid. Obviously, if that occurs, it will have to be justified in the public arena and in Parliament, but I think it is a very unlikely situation. I am not aware of any situation in which this power has been used in the past, from the advice I have been provided, and certainly not in my three years as minister. The previous government was in office for seven and a half years, of course, and, from what I am advised, there is no recollection of it being used in that time or prior to that. However, presumably on the advice of Parliamentary Counsel or others in establishing this authority, it has been considered appropriate to ensure that the same powers that are available under the existing acts continue to remain available should they be needed.

In relation to increasing the powers of this authority and the government of the day regarding additional areas to be included under the redevelopment authority area, it is the case that it will not be necessary to have an act of Parliament, as the member said. However, as we will get to in a later clause, consultation is required to be undertaken with the relevant local government before any additional area is included and regulations need to be prepared and are subject to disallowance by either house of Parliament. Therefore, there are still quite a few checks and balances in the whole operation. My experience has been that in many cases at least—the member will certainly be well aware of the case of the Midland Redevelopment Authority—the local government, among others, was very keen for the authority to be established and for these powers to be put in place. So it would be a pretty unlikely situation in which any additional area were added to the responsibility of this authority without the support of the relevant local government. I cannot guarantee that will be the case, but there would at the very least be consultation; and if there were not going to be support, a very strong case would need to be made by the government of the day for that to occur.

Mrs M.H. ROBERTS: With respect to the minister's response, I acknowledge that these are provisions that are in those other acts. I again make my point that they are about specific areas of land. I have looked at the provisions in, I think it is part 5 of the bill, that provide for the setting up of other authorities, and I do not think that they provide the same level of accountability as is put in place when we have a separate act of Parliament to establish a local government authority. I do not think that clause 23(4) is a fair provision. Subclause (4) simply states —

> An order under subsection (2) must specify the estate or interest to be transferred and the terms on which the transfer must be made.

I would have thought that fair compensation should be paid, and some mention of that would at least put the local government authority in a better bargaining position. I also note that the minister has responded by saying that this in fact is a power that hitherto has not been used. So, given that, I wonder whether this power is really necessary. The minister responded to that by saying that parliamentary counsel has suggested this as a provision, or whatever. I actually think that just because it is in the other redevelopment authority bills for specific areas, it has simply been transferred into this bill. I think that some of these provisions probably should not have been just imported across carte blanche.

The final part of my earlier question was in relation to clause 23(5), which states —

> A public authority must comply with a direction given to it under subsection (2), despite any other written law.

I am still waiting to hear an answer about what written laws may be ignored in this transaction should it occur.

Mr J.H.D. DAY: In relation to subclause (5), I am advised that any written law would include laws which vest land in a public authority; therefore, clause 23 would override them. That is mainly what is contemplated by that provision. In relation to the other points the member made, I understand what she is saying. I think it is important at least to ascertain, and I am happy to look at this further, the desirability of having this power, and the origin of it. I would certainly not want to agree to remove it here and now, but I am happy to have a further look at the issue prior to this bill being debated in the upper house.

Mrs M.H. ROBERTS: I have one further question. I am trying to remember what they are called, but there is some land that is called an A-grade reserve, or some particular category that prescribes what can be done on that land. Can I just inquire whether those provisions will be protected? Often councils will have land vested in them that can —

Mr D.A. Templeman: Class A reserves.

Mrs M.H. ROBERTS: Yes, class A reserves, for example, that can only be used for specific purposes. I want to know whether those restrictions on a class A reserve would be preserved if land were to be acquired under this provision.

Mr J.H.D. DAY: I am advised that the transfer of the ownership of the land would not in itself change the proved use of that land. If there was any contemplated different use, the whole rezoning process would need to be gone through and any other provisions complied with. In relation to the issue of compensation being paid for land that is acquired by the authority, I agree that it would be a very unlikely situation that compensation would not be paid where land does have a positive value. In most cases so far, land that is being acquired or allocated to the existing redevelopment authorities has generally contained contaminated soil. It is rundown old industrial land and either has zero value or a negative value in a lot of cases. I expect that will generally be the situation in which compensation is payable. As I said, where land is held in freehold title and where it does have positive value, generally speaking, compensation should be payable. That would be the norm.

Clause put and passed.

Clause 24: Closing thoroughfares, temporarily or permanently —

Mr C.J. TALLENTIRE: I seek clarification from the minister on the closure of thoroughfares. I note that this is an issue that raises a lot of interest from people who wish for thoroughfares to be closed or for them to be kept open. I just want to check what the process is for the actual closure. I notice there is reference to the processes outlined in the Land Administration Act in relation to permanent street closures, but I am interested in thoroughfares more broadly and not just permanent street closures.

Mr J.H.D. DAY: Where a temporary closure is intended, I imagine that that will be for some construction activity to occur. In fact it is referred to in clause 24(1), which provides for vehicles to gain access to a construction site or to enable construction to occur. The authority is empowered to undertake a temporary closure for that sort of purpose. As clause 24(2) states, it cannot be for more than three consecutive days unless the relevant local government is notified at least 14 days in advance. Adequate notice does need to be given. Where a permanent closure is intended, the same procedure as applies for other thoroughfares under the Land Administration Act needs to be followed. Under that act, from my experience, there needs to be consultation with people in adjacent areas and so on. It is the same process.

Mr C.J. TALLENTIRE: I perhaps should have been clearer. I am particularly interested in public access ways. I do not think they meet the definition we are talking about, which would be covered by process under the Land Administration Act, because that refers to street closures. I am concerned about the process that we would have for the closure of public access ways.

Mr J.H.D. DAY: I am happy to take that question on notice. It requires an examination of the Local Government Act. We will seek to get that information, and perhaps I can provide it during the third reading stage. As I said, it is not possible to do so at the moment.

Mrs M.H. ROBERTS: My concerns mirror those of the member for Gosnells. I note that the minister will give further consideration to this matter before we get to the third reading stage. Clause 24(1) states —

> If the Authority considers it is necessary for the performance of its functions to temporarily close a thoroughfare in a redevelopment area to vehicles or people, wholly or partially, then despite the *Local Government Act 1995*, it may do so in such manner and for such period as it decides.

I am rather familiar with the Local Government Act. There is a prescribed process to go through. I cannot see why a redevelopment authority should not go through that same process. I would be rather keen for the minister to give that some further consideration. I refer to these closures and especially the words "for such period". That period may be something that falls short of permanent closure but it might be for a period of two years and it could significantly affect the business or livelihood of a private landholder, for example, with restricted access. It would appear that people do not have to go through the same procedure that is in place under the Local Government Act 1995 in which they can have a say or where there are advertising requirements and so forth. I certainly would appreciate some further commentary from the minister at a later stage as to why it would be needed. This is what I consider to be very much a carte blanche provision. The final words of clause 24(1) state —

> …it may do so in such manner and for such period as it decides.

I find that quite extraordinary. Local governments throughout the state adhere to the provisions of the Local Government Act 1995. I am not confident that there is any good reason for the Metropolitan Redevelopment Authority not to act in accordance with the Local Government Act 1995.

Again, I briefly make the point that some of these provisions were put in place especially when EPRA was set up in the first instance and we were dealing with a very small area that was in the greater part publicly owned land.

Mr J.H.D. DAY: It will continue to be the case, generally speaking, that land that is developed under this authority will be publicly owned. I do not think it is a different situation from that which occurred when EPRA was first established. This power is transferred from the existing EPRA act so it is a continuation of the situation that has been in existence, as the member acknowledged. I would certainly hope and expect that unless there was a very strong reason to do otherwise, there would be adequate public consultation or at least notice given of a decision to close a thoroughfare. My experience has been that organisations such as EPRA and the other redevelopment authorities are pretty good at public communication about what they are doing in a very local and short-term sense, and also in a much longer term and broader sense. I do not see any reason why that would not continue. However, I will undertake to provide further information about the justification or the need for this power, as the member requested.

Clause put and passed.

Clause 25 put and passed.

Clause 26: LRC to be established for each redevelopment area —

Mr J.N. HYDE: I would like to find out from the minister whether it is his intention that the Northbridge Link —

Mr J.H.D. Day: The Perth City Link.

Mr J.N. HYDE: The Perth City Link; I stand corrected. Will it become part of a new Metropolitan Redevelopment Authority area and which area, or will it be a stand-alone area?

Mr J.H.D. DAY: The clear intention is that the Perth City Link redevelopment area will be contained within the boundaries of the Metropolitan Redevelopment Authority as it is currently within the East Perth Redevelopment Authority boundaries. I will also explain the reason for the change of name from Northbridge Link to Perth City Link. We consider that it much better describes the project, as it is really about wider Perth and Perth as a capital city rather than just the Northbridge area. Given that that issue was inadvertently brought up, I thought I would provide some explanation for that. Clearly, that area is to be included within the Metropolitan Redevelopment Authority.

Mr J.N. HYDE: I go back to the issue I raised earlier about the legal agreement between the city and the state regarding the Link. The agreement requires that an advisory committee with city councillors representing the city be maintained. This seems to be in direct conflict because the minister has stated that it will come under the MRA. The MRA bill states that there will be a land redevelopment committee, but there will be just one local government representative, not necessarily from the City of Perth, on the LRC. I understand that now that the minister has seen my amendment, he has fashioned his own amendment to ensure that there will be local government representation on the LRCs.

Mr J.H.D. Day: It was happening anyway, but I'm glad we appear to be pretty much in agreement.

Mr J.N. HYDE: We are in sync, minister, as so often happens. My direct question is: how does the minister plan to deal with the existence of the legal agreement and the LRC provision that is included in this legislation?

Mr J.H.D. DAY: In relation to any contractual arrangements that are in place between the existing redevelopment authorities and another entity—in the case the member referred to it was the City of Perth—those contracts will be transferred to the new authority, so whatever obligations exist when the new authority is established will continue. In any case, there is nothing to stop an advisory committee to a land redevelopment committee being established with the approval of the board of the authority. In relation to the specific issue that the member raised, there is no intention at all on the part of the government to change the agreement that has been in place with the City of Perth. We would certainly want that particular advisory committee to continue in its role if, indeed, it has been very active in recent times. I am not sure whether that has been the case, but there is certainly interaction and consultation with the City of Perth, and that will continue.

Mr J.N. HYDE: Can we go a step further than the minister saying that he has no intention of standing in the way of giving us a guarantee that the current agreement for City of Perth councillors to be on the advisory committee will be replicated for the LRC?

Mr J.H.D. DAY: I give an undertaking that whatever agreement is in place at the moment will continue under the new authority.

Mrs M.H. ROBERTS: Clauses 26 and 27 deal with the land redevelopment committees. I may have missed it, but is there somewhere else in the bill that defines the make-up of those committees?

Mr J.H.D. Day: Yes, later in the bill.

Clause put and passed.

Clause 27: Function of LRC —

Mr J.N. HYDE: What is the minister's understanding of the powers or the duties that will be delegated to the land redevelopment committees? I still have some concern about the apparent lack of financial decision making by LRCs and their limited financial role with their apparent other power being able to be delegated or exercised—as it says here, "any powers or duties delegated to it"—under sections 13 or 14.

Mr J.H.D. DAY: The intention is for the land redevelopment committees to exercise the development control powers that exist under the redevelopment schemes and to undertake minor scheme amendments. We intend for the land redevelopment committees to exercise the existing planning powers that the boards and existing authorities have—any minor scheme amendment will still needs ministerial approval, as is the case at the moment. The overall intention with these committees is to reflect the fact that there is a degree of local ownership and local identity in the existing Midland, Armadale, East Perth and Subiaco Redevelopment Authorities. We want to retain a combination of the local input that exists at the moment on the one hand and

gain the benefit of having one organisation with greater capacity, better career paths for staff and the ability to further undertake redevelopment in the Perth metropolitan area more readily than is the case under the existing redevelopment authority act. We discussed all that during the second reading stage, but, to reiterate, we are seeking a continuation of local input balanced with appropriate planning, architectural, financial and other expertise, which is contemplated under the make-up of the committees and the overall board at a later stage of the bill. I hope that answers the question. In short, these committees will have the purpose of undertaking the planning and development control powers that the existing boards have.

Mr J.N. HYDE: The minister referred then to a minor application.

Mr J.H.D. Day: Minor scheme amendments.

Mr J.N. HYDE: My understanding is that the MRA is required to decide whether a development application is a standard or a major application. Is it the minister's intention that that power be devolved also to the LRCs and that they will decide whether a DA is standard or major?

Mr J.H.D. DAY: It will be up to the board of the MRA to determine what will be delegated to the land redevelopment committees. But, generally speaking, the intention is that probably most development applications will be considered by the land redevelopment committees. Something of a much larger scale such as the Perth City Link project may also need some board consideration, given its financial implications.

Mr J.N. HYDE: Can the minister detail the criteria for determining the threshold for when a standard DA becomes a major DA?

Mr J.H.D. DAY: The short answer is no, those criteria have not been determined as yet. I am advised that some financial criteria will be applied when it comes to distinguishing between major and minor amendments. I am not sure what those limits are, but that will be a matter for the board and probably consultation with the minister. Ultimately, it will be the responsibility of the board, once it is established, to determine the criteria for delegation.

Mr J.N. HYDE: This is an area in which we came into conflict over the establishment of development assessment panels. We established a clear threshold; an arbitrary decision that when a development application reached the $5 million or $7 million mark—I think it was $7 million for the City of Perth —

Mr J.H.D. Day: For the City of Perth, it is mandatory at about $15 million and for the proponent it is above $10 million. That is in the City of Perth; it is lower elsewhere.

Mr J.N. HYDE: I think it is fair to ask why we have not established that threshold in the Metropolitan Redevelopment Authority Bill now when we are trying to introduce these measures by 1 January next year.

Another concern with this clause is that the MRA, and possibly the land redevelopment committees, which are less representative than local government, could make arbitrary decisions. I understand that a standard application is to be determined within 90 days and a major application within 120 days. That seems to be an extraordinarily wide time frame if the whole purpose of having a redevelopment authority is to work more efficiently and enable development to occur in a more timely way. Under the provisions of the East Perth Redevelopment Act, applications must be referred to the relevant local government. In that case, only 42 days are provided for comment, regardless of whether it is a major or a standard development application.

Mr J.H.D. DAY: The only significance of whether a project is declared a major or minor project in a development application is the period allowed for during which a decision must be made. Therefore, a deemed refusal may apply if the decision is not made within the relevant time. That is the only significance of the criteria for major and minor development applications. The periods that apply are 42 days for comment on a development application, which I think the member indicated, and 90 or 120 days to make and communicate a decision, depending on whether it is a minor or major project.

Clause put and passed.

Clause 28 put and passed.

Clause 29: Recommendation of Minister to declare a redevelopment area —

Mr J.N. HYDE: I reiterate the position argued by the City of Perth, which I believe the minister has received a copy of by now. The City of Perth argued that despite the significance of the bill, it was prepared and introduced to Parliament without consultation or input from the city; the only consultation with local government was with the Western Australian Local Government Association, and there has been no opportunity for public comment. I repeat the comment made by the City of Perth in a meeting last week when it said that this was very disappointing and unsatisfactory, particularly as a number of aspects of the bill are of considerable concern. Given that we are developing the regulations, what undertaking can the minister give about consulting with local

councils? Let us be honest, the City of Perth is the major council that will be affected by this bill and its operations. What consultation will the minister undertake on the regulations when this bill proceeds through this chamber?

Mr J.H.D. DAY: Subclause (2)(d) indicates that each relevant local government will need to be given at least 30 days to make recommendations about the content of the proposed regulations—in other words, any additional area that is proposed to be included under the auspices of the MRA. That is the minimum time. The usual situation is that there would have been consultation and discussions, generally in a collaborative way I would expect, with any relevant local government, including the City of Perth, for much more than the 30 days that are indicated as the minimum. I do not think it would ever be a surprise to a local government that an area is declared as a redevelopment area. As I mentioned earlier, often it is the case that local governments want parts of their areas to be included under the powers of a redevelopment authority, and I am sure that will be the case in the future; in fact, I know some have already expressed a desire for that to occur.

Mr J.N. HYDE: My other concern is in subclause (2)(d), in which the only requirement for consultation that is placed on the minister before he makes the recommendation is with the WA Planning Commission and the relevant local government. It seems quite incredible that there is no requirement for public comment, as there is in major land transactions and scheme changes throughout the state. I wonder whether that is a deliberate or an accidental omission, or why it is not there. Given there are only 30 days for the local council to consult with local communities, that does not seem to be terribly fair or timely.

Mr J.H.D. DAY: There is nothing to stop local governments consulting with members of their community if they wish. Local government councils are made up of people who are elected from the communities within local government areas. I also point out that this is about regulations to declare an area as being part of the responsibility of the redevelopment authority. It does not provide for approvals or what will happen within the particular area, and all of the existing consultations required in the preparation of planning schemes will need to occur prior to any change of land use being approved—in other words, prior to any new planning scheme being agreed to by the Minister for Planning. All the consultation that occurs at the moment will continue, including public consultation and advertising.

Mr J.N. HYDE: I appreciate that, but we have already established that the government of the day can determine any area to be a redevelopment area. Therefore, it is feasible that the government could establish a transport corridor to transport uranium through the CBD to the port of Fremantle or anywhere, by declaring a redevelopment authority area.

Mr J.H.D. Day: If we wanted to do that, we would use some other power.

Mr J.N. HYDE: Tell us which ones, minister.

Mr J.H.D. Day: It is not something that I have ever turned my mind to, but I am sure they are there under some act or acts of this Parliament other than the existing redevelopment authority act.

Mr J.N. HYDE: As the minister states, in order for the minister to determine it to be a transport corridor, the City Link area or the waterfront area, he does not have to be up-front with what the planning changes or intent are. The government can establish the area, and then the minister is required to go into the detailed scheme amendments and so on. However, once the minister has established that it is a redevelopment area, it takes away local government planning powers and, of course, veto rights.

Mr J.H.D. DAY: Clause 29(2) indicates that the minister must —

> (a) have regard to whether including the land in a redevelopment area will facilitate —
>
> (i) the regeneration of the area; or
>
> (ii) the provision of land suitable for commercial or residential purposes close to public transport; or
>
> (iii) the establishment of new industries;

Those issues need to be consciously thought about and justifiable by the minister of the day. I also point out that local governments will retain the planning powers until a redevelopment scheme is agreed to and put into effect. Even though a redevelopment area is declared, the local government planning powers remain in place until a new redevelopment scheme under the redevelopment area has been agreed to, following all the public consultation. Just declaring an area as being part of the responsibility of the Metropolitan Redevelopment Authority does not change the planning approvals, the land use approvals or the planning scheme at that point; it is necessary for the whole public consultation period to be undertaken, as currently applies for the preparation of a planning scheme, before a new planning scheme applies.

Mrs M.H. ROBERTS: I would just like to clarify what the minister is saying. I perfectly understand that the planning scheme cannot change until the authority has put into place a new planning scheme, but I would have thought that the moment the redevelopment authority was established over an area of land, it would have the planning approvals process utilising the existing planning scheme. I can see the minister's advisers shaking their heads to say that that is not the case. I am guessing that the advice the minister is getting is that despite the authority existing, and the local government authority's planning scheme also existing, the planning approvals process remains with the local government authority until such time as a new planning scheme is put in place by the redevelopment authority. If that is the case, I would appreciate the minister's advice in that regard.

Mr J.H.D. Day: That is what I'm advised, and that is provided for in clause 51.

Mrs M.H. ROBERTS: I also note that clause 29(2)(d) states —

> allow the WAPC and each relevant local government at least 30 days to make written recommendations to the Minister on the proposed content of the regulations.

I make the point that, although the local government authority can make its written recommendations, I cannot see any provision there that actually compels the minister to take heed of that, other than to give it some consideration and then, potentially, do the exact opposite, if it is the minister's opinion that that is what he or she should be doing. I note that the key words "in the Minister's opinion" appear yet again in clause 29(4). It states —

> Without limiting subsection (2), the Minister must not recommend the making of regulations to add land that is not contiguous with land in an existing redevelopment area to that area unless, in the Minister's opinion, the addition would be consistent with the objectives of the redevelopment area prescribed under section 30(5)(c).

Clause 29(5) states —

> If the Minister recommends the making of regulations the content of which is, in the Minister's opinion, significantly different to any recommendation made by the WAPC under this section, the Minister must cause notice of the difference to be laid before each House of Parliament …

The point I make is that the regulations either are or are not significantly different from the recommendations made by the Western Australian Planning Commission, and that maybe there should be some independent person or body that determines whether or not the regulations vary significantly from the recommendations made by the WAPC. I do not think that it is sufficient, given that the minister is one of the parties, to have the proviso of "in the minister's opinion". I think we should have some more empirical and objective measure as to whether or not there is a significant difference.

Mr J.H.D. DAY: I understand the member's point. In relation to new areas that have been declared for inclusion, as I have pointed out, there needs to be consultation with the Western Australian Planning Commission and relevant local governments. Regulations then need to be prepared and presented to the Governor. The usual practice would be—certainly in my practice and this is a very minor change—that cabinet would consider the new area to be concluded and then those regulations would need to be presented to both houses of Parliament and could be disallowed by either house; therefore, there is control in place.

In relation to the issue of the minister's opinion on a decision about whether something is significantly different, there needs to be some way to determine whether the difference is significant enough to trigger the tabling and publication requirements. I think that most people would agree that the whole system should not be clogged up with the tabling of very minor changes that really have little effect. There is no objective standard that can be used to measure degrees of difference and opinion; therefore, it has to be up to someone's discretion to decide. The advice has been that it is appropriate for the decision to be determined by the opinion of the minister of the day. I also pointed out that all these decisions and most aspects of what we do are subject to the Freedom of Information Act, and of course questions can also be asked in Parliament either on notice or without notice. There are also various other ways in which issues can be raised in this Parliament to ensure that there is appropriate scrutiny applied to ministerial decisions.

Mr C.J. TALLENTIRE: My question relates to the use of the phrase "must have regard". I note that it appears in clause 29(2)(a) and (b), and I recall that in the Town Planning and Development Act there were similar uses of the phrase "must have due regard". It is not a particularly clear way of wording things. Basically, it says, "the minister should consider", but at the same time, it tries to pretend that it says "the minister must be sure to achieve". Why can we not be a bit franker with the language? This idea of "must have regard" is a very vague one that gives people all sorts of false impressions.

Mr J.H.D. DAY: The intention is to not only allow a degree of flexibility, but also ensure that these issues are clearly considered and taken into account. We want to facilitate urban renewal and urban regeneration; that is

what this authority and existing authorities are all about and any minister would need to be able to justify a decision to this Parliament primarily, to the media, and to local communities or whatever the case may be. If decisions are made that are not well founded, in which these issues have not been appropriately considered or taken into account, whoever is responsible in the future will be subject to having to justify their actions. I think that the wording is appropriate; we do not want to unduly constrain what may be decided in the future when it is in the agreed public or community interest. Of course, it is often the case that not everybody agrees, but governments are elected to make decisions and generally these sorts of decisions would be made, as I said, in consultation and in agreement with local governments. I therefore think that the wording here provides an appropriate balance between those objectives.

Clause put and passed.

Clauses 30 to 33 put and passed.

Clause 34: Development applications not finalised when land removed —

Mr J.H.D. DAY: I move —

Page 23, line 18 — To insert after "Authority or" —

Planning

As I mentioned earlier in relation to clause 20, this ensures that the powers under this clause are exercised by the minister responsible for the Planning and Development Act in the event that the overall act is allocated to another minister.

Mr J.N. HYDE: Just for clarification, is the amendment to insert "Planning" after "Authority or"?

Mr J.H.D. Day: Yes, so that it becomes "Planning Minister".

Mr J.N. HYDE: Has the wording not been "Minister for Planning" elsewhere, or has it always been "Planning Minister"?

Mr J.H.D. DAY: The definition, which was included in clause 3 through amendment, states —

Planning Minister means the Minister who administers the PAD Act;

"Planning Minister" is therefore the terminology that is being used.

Mrs M.H. ROBERTS: I note that the minister also has on the notice paper a proposed amendment to clause 60, which states that the Minister for Planning will move to insert —

(1) In this section —

Minister means the Planning Minister.

Why would the reference to minister not mean the planning minister throughout the bill? Would that not be a simpler way of doing it? If that is what it means in clause 60, why would it not simply apply throughout the bill?

Mr J.H.D. DAY: We are jumping ahead to clause 60, but the reason for making this clear is that the overall act may not be assigned to the Minister for Planning, the minister responsible for the Planning and Development Act, and this wording is really needed to clarify the point that is referred to in clause 60. The Interpretation Act states that references to minister generally mean the minister administering the act. I hope that provides the explanation.

The SPEAKER: Members, I indicate that we are dealing with an amendment to clause 34.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 35 and 36 put and passed.

Clause 37: Draft redevelopment scheme: work prior to declaration of redevelopment area —

Mr J.N. HYDE: My query on this clause is about the requirement to establish a draft redevelopment scheme. In relation to the time line, we previously discussed the planning responsibilities not being taken over by the land redevelopment committee or the MRA until the new scheme is enacted. In this time line, when is the minister factoring in the establishment of an LRC, or what other work will the MRA be doing before the area is officially established?

Mr J.H.D. DAY: The new MRA will, of course, take over the planning schemes for the existing redevelopment authorities so that they will have all the powers under the existing redevelopment schemes. There is no requirement to establish a draft scheme before an area is declared. This enables the MRA to start work on a

scheme while the regulations are being settled. The purpose, therefore, of this clause is essentially to save time to ensure that some work can be undertaken before the area is officially declared as being under the redevelopment authority. The whole purpose of these authorities, as I mentioned, is to facilitate high-quality urban regeneration and renewal. This clause will assist in that process by ensuring that some planning work can be undertaken prior to the formal declaration of an area.

Mrs M.H. ROBERTS: Clause 37 deals with work prior to the declaration of a redevelopment area. I note that clause 37(1) gives the Metropolitan Redevelopment Authority the authority to consult with the local government of a district and any public authority or person the authority thinks will be affected. However, clause 37(2) states that the authority "cannot act under section 39 or 40 until the redevelopment area is declared". I note that clause 40 in particular deals with the draft redevelopment scheme being referred to the Environmental Protection Authority and other matters that we can deal with when we consider clause 40. My question is really this: why is it that the authority cannot do other preliminary work for the preparation of the proposed redevelopment scheme, particularly with reference to the EPA? Clause 37(2) seems to have some small conflict with clause 37(1), which provides that the authority can consult any public authority. Presumably, the EPA is a public authority that the Metropolitan Redevelopment Authority can consult. I am concerned that restriction is there. I cannot see why it cannot do something further under proposed section 40. I would have thought that the earlier the stage the EPA was consulted, the better it would be, and that that might in fact help in some decision making.

Mr J.H.D. DAY: The intention, as I said, is that some preliminary work can be undertaken prior to an area being declared, but it is also intended that the Metropolitan Redevelopment Authority will not be able to seek the advice of the Environmental Protection Authority prior to the redevelopment area being in place so that the EPA's time is not wasted in the event that the redevelopment area regulations do not go ahead. We want to facilitate some planning work being undertaken but we do not want to consume the time and effort of the EPA in the event that the area is not ultimately so declared. The authority can have informal discussions but not formally lodge documents for assessment with the EPA, I am advised. Of course, people can talk and government agencies can communicate with each other in an informal way. The reason for that provision is, as I explained, clause 37(2) is more specific than clause 37(1) and overrides it as a matter of statutory interpretation, I am advised.

Clause put and passed.

Clause 38: Draft redevelopment scheme —

Mr J.N. HYDE: Clause 38(7)(b) states that a draft redevelopment scheme—sorry, if I am interrupting the sports discussion at the back of the chamber—may "include provisions in relation to the payment of redevelopment and associated costs". What concerns me is that surely one of the benefits of us having a Metropolitan Redevelopment Authority is that we will get best-practice schemes, so instead of having a different Armadale, Midland, Subiaco or Perth scheme, we will have a model scheme to use. That should be the case particularly for the issue of the payment of redevelopment and associated costs. One of the real bugbears of developers and smaller operators in the development and building industry is that the conditions that they get from one council to another, be it on public open space requirements or public art requirements, which we discussed previously, vary so much. One of the benefits of having an MRA should surely be consistency. So I am a bit concerned that we will have here the ability, every time we are looking at a little piece of the metropolitan area, to end up with different provisions in relation to the payment of cost contributions.

Mr J.H.D. DAY: This clause is largely to deal with the different situation that exists under the Armadale Redevelopment Authority. Most of the land that is being developed under the ARA act, in particular in the Wungong area, is privately-owned land, and there is a significant development contribution scheme in place for the provision of works and acquisition of land to facilitate development within that area. That is a somewhat different situation from that which exists with the other three redevelopment authorities generally. Therefore, it is very important to ensure that the development contribution scheme that has been established within the ARA area is able to continue. To take up the member's particular point, the authority board will be able to put in place policies to ensure that there is consistency in cost contributions and development contribution schemes across redevelopment areas if that is what is appropriate—but there may well be local factors that apply as well, of course.

Mr J.N. HYDE: I thought we had already dealt with this issue and that retrospective arrangements that have been made by the existing MRAs would be given cast-iron legitimacy. We have already dealt with the retrospective problems regarding Armadale. We are now referring to a future action by the new MRA. Surely if we have fixed it up retrospectively, why do we have to be allowing for it prospectively?

Mr J.H.D. DAY: The reason is that the development contribution scheme, which I mentioned is in place under the MRA, is going to continue in operation for potentially up to 20 years or so. So it is important not only to ensure that what has been put in place in the past is authorised, but also that what is done in the future under the

planning arrangements that I mentioned earlier is going to be validated and that the MRA is empowered to enforce the development contribution scheme, which as I said needs to apply in the future potentially for up to 20 years or so.

Mrs M.H. ROBERTS: I think this is one of the extraordinarily powerful clauses of the bill, and I have made comments previously about this being an extraordinarily powerful bill. Clause 38 deals with draft redevelopment schemes. Firstly, it says in subclause (1) —

> The Authority may prepare one or more draft redevelopment schemes for a redevelopment area.

I have a simple question as to why we would need one or more drafts. How many drafts would we need, and why would we need more than one draft? What is the purpose of that? I may have a further question depending on the minister's answer.

Mr J.H.D. Day: Often they evolve. You do a draft, and then you consult and some changes are made, so you do another draft. As you would know, in developing legislation there are often a number of drafts.

Mrs M.H. ROBERTS: I just cannot work out why that would need to be specified. If they have the capacity to do a draft, presumably they could do it over and over again. It sounds to me as though they might do a couple of drafts and send them both up to the minister at the same time.

Mr J.H.D. DAY: Often they evolve. When a draft is done, there is consultation, and then some changes are made, so there is another draft. As the member would know, in developing legislation there are often a number of drafts.

Mrs M.H. ROBERTS: I cannot work out why that would need to be specified. If they have the capacity to do a draft, presumably they could do it over and over again. It sounds to me as though a couple of drafts might be done and they are both sent to the minister at the same time.

Mr J.H.D. DAY: Different scheme provisions may apply in different parts of a redevelopment area. This also provides for that.

Mrs M.H. ROBERTS: That seems to be a more suitable explanation. With respect to the draft redevelopment scheme, clause 38(4) states —

> In preparing a draft redevelopment scheme, the Authority must make reasonable endeavours to consult —

It is not that they must consult—I do not see why they should not—but they have only to make reasonable endeavours to consult —

> (a) each local government of a district in which is land to which it is proposed the draft will relate; and
>
> (b) any public authority or person that the Authority considers would be likely to be affected by the scheme if it were approved.

The latter might involve endeavours. I would have thought that the provision should be that the authority must consult the local government authority and potentially make reasonable endeavours to consult with the others. The legislation states only that reasonable endeavours must be made to consult public authorities or the persons. Clause 38(7) then states that a draft redevelopment scheme can —

> (b) include provisions in relation to the payment of redevelopment and associated costs ***(costs contributions)*** by owners of land in the redevelopment area, including, but not limited to, providing for —
>
> (i) the criteria for requiring costs contributions;
>
> (ii) the payment, recovery and waiver of costs contributions;

This is a provision that will affect private landowners. With respect to some earlier points I made, because I said that the original East Perth Redevelopment Act dealt mainly with public land—there were certainly private landholders, but they were the minority—part of the minister's response to an earlier question was that he expected that in the future these areas would probably be dominated by publicly owned land. But, of course, there is no guarantee of that, and there is the potential under this legislation that an area of land could be chosen in which there is no land or little land in public ownership.

These are quite extraordinary powers. I am assuming—the minister can correct me if I am wrong—that these landholders still remain in local government authority areas. They would be paying their rates to the local government authority, and any of these contributions would be over and above the rates that they were paying to their local government authority. Essentially, these are contributions towards the redevelopment and associated

costs of an area of land. Some of these owners may in fact not have even been consulted, because under clause 38(4) the authority has only to make a reasonable endeavour to consult them about the actual redevelopment. Owners then have potentially no say in the costs that they are then required to contribute towards the redevelopment and the effect on them. I think this is pretty extraordinary. This is a power to basically tax people in the redevelopment area, to put a fee upon them in whatever form and at whatever amount —

Mr J.H.D. Day: This is where land is being developed or subdivided, typically.

Mrs M.H. ROBERTS: This is people's privately owned land.

Mr J.N. HYDE: I think this is a really important issue that we need to pursue.

Mrs M.H. ROBERTS: Of course, when local government authorities want to do something similar and maybe charge a differential rate or impose a fee or whatever, they have to go through a different set of procedures from what is proposed here. This legislation gives the redevelopment authority incredible power in that respect. The minister often responds by saying, "Well, there's public scrutiny and some judgement would be made, and you have to be aware of what is publicly acceptable", and so forth. But when it comes to local government authorities or a council imposing fees for a particular purpose, we are dealing with elected members who have to stand for re-election and stand by the decisions that they have made in the local area about a differential rate or something of that nature. They know that there is a direct consequence. In this case we have a board appointed by the government that is not directly elected by the owners or the people affected. It has the potential to impose significant fees upon those people. It also has the potential to waive what could be a significant cost. There is very little restriction on how the authority goes about that process.

My simple view is as follows. There are significantly more restrictions under the Local Government Act. There is significantly more accountability on local government, partly through the ballot box and because elected members are making those decisions and taking responsibility for those decisions and partly because of the processes and the consultation required under the Local Government Act. It would appear to me that the authority will have little regard for the response of the owners of the land about how they view the benefit of the costs that might be imposed upon them.

Mr J.H.D. DAY: In relation to the issue of consultation that the member raised and the reference to "reasonable endeavours to consult", I point out that this section refers to a draft redevelopment scheme, which would be under preparation prior to a redevelopment area being declared. A redevelopment scheme can only be finally agreed to, firstly, after the redevelopment area has been declared and, secondly, as provided for in clause 39, after formal consultation with the relevant local government. A scheme cannot be finalised until the opportunity has been given for submissions to be made.

Mrs M.H. Roberts: It is the private landowners that concern me.

Mr J.H.D. DAY: In relation to land owned by private landowners, as I pointed out, that is generally the case under the Armadale Redevelopment Authority. We are not just talking about people who own a block of land, live in a house or so on and pay rates; we are talking about people who are undertaking development of land—subdivision generally—and often on a broad-scale basis in which a development contribution scheme is established so that the infrastructure that is provided for the benefit of the whole development is contributed to by the landowners benefiting from that development. That is the situation in Armadale, as I said, particularly in the Wungong urban development area, where there will eventually be in the order of 10 000 homes. It will be a very large development. There are a large number of landowners in that area. It is essential to have a development contribution scheme in place so that people contribute to the public infrastructure that will be provided in the development.

I also point out that for other land developments outside the redevelopment authority areas, state planning policy 3.6, which relates to development contribution schemes, is in place. Essentially, it establishes criteria to be undertaken for local governments to determine the development contribution scheme for development in a particular area. This clause ensures that a similar process can be put in place and that the powers exist for it to be enforced for the reasons that I have mentioned.

I also point out that, in short, clause 39 provides that there is local government consultation, and clauses 41 to 43 ensure that there will be public notification of a proposed redevelopment scheme; in other words, landowners in a particular area will be required to be notified about what is proposed to be approved for their land and they will have the opportunity of making submissions.

Mrs M.H. ROBERTS: I note that the minister said that this is a similar process to what has been put in place for local government for development schemes. Why would it not be the same process? Why does a separate process need to be established under this legislation? Why would we not have the same or a consistent process so that the same rules apply for a local government redevelopment scheme or development scheme as apply here?

Secondly, is there any appeal process for the costs contributions that owners are required to pay? Is there an appeal process to the State Administrative Tribunal, for example, if they are dissatisfied with the amount they are required to pay, the payment method, the recovery or the waiver of costs by other potential contributors? If they are not essentially satisfied, where will the private owners go and what appeal rights, if any, will they have?

Mr J.H.D. DAY: I did make reference to state planning policy 3.6. That has been in operation now for around 18 months. It is currently under review. Since it has been in operation, some issues have been identified that need to be further considered and probably modified, so it would not make sense to put in place exactly what is currently the situation in state planning policy 3.6. Based on my understanding, the provisions in the bill will ensure that there is the ability for a development contribution scheme to be put in place similar to that which exists under the Armadale Redevelopment Act at the moment. I do not think there is any need for any great suspicion about this. Obviously, the powers need to be balanced. It will be the case that planning schemes will deal with appeal or review under development contribution plans. Clause 38(7)(b)(v) provides for a review of determinations of the authority in respect of costs contributions.

Mrs M.H. Roberts: So who will do that review? Will the review be just by the authority itself?

Mr J.H.D. DAY: I am advised that it will be possible for landowners to appeal to the State Administrative Tribunal to undertake a review as provided for in this bill when a landowner has made an appeal to SAT.

Mrs M.H. ROBERTS: The minster referred me to clause 38(7)(b)(v). At line 13 on page 27 it states —

> review of determinations of the Authority in respect of costs contributions;

Is that the line, minister?

Mr J.H.D. Day: Yes.

Mrs M.H. ROBERTS: It is really difficult to work out. Paragraph (b) states —

> include provisions in relation to the payment of redevelopment … costs … by owners of land in the redevelopment area, including, but not limited to, providing for —

Then subparagraph (v) states —

> review of determinations of the Authority in respect of costs contributions;

It sounds to me as though the authority can review its own costs. I do not see that that specifically enables SAT to review the costs. Maybe that is possible under another provision or maybe the minister can explain to me how that caters for the review to be done by SAT.

Mr J.H.D. DAY: That is an understandable point to raise. I am advised that it is generally the case at the moment that planning schemes provide for a review to be undertaken by SAT and that it will be possible for schemes under this act to make a similar provision. I agree that it appears that SAT cannot undertake it automatically, but that will generally be the case. That is provided for in planning schemes.

Mrs M.H. Roberts: Are cost contributions part of that review?

Mr J.H.D. DAY: That is a review of state planning policy 3.6, which applies to development contribution schemes generally across the state. We will check and provide further information about this point at the third reading stage.

Mrs M.H. Roberts: This is a stand-alone piece of legislation. My concern is that this will have some precedence or whatever.

Mr J.H.D. DAY: We will check that, as I said, and provide a response at the third reading stage.

Mrs M.H. Roberts: Thank you.

Clause put and passed.

Clauses 39 to 46 put and passed.

Clause 47: Minister's functions in deciding final approval —

Mr C.J. TALLENTIRE: I refer to subclause (2)(a)(iii) where reference is made to the planning minister's approval of conditions that are actually imposed by the Environmental Protection Authority. How will a planning minister be able to gauge whether environmental conditions are satisfactorily met?

Mr J.H.D. Day: How to gauge what?

Mr C.J. TALLENTIRE: How will a planning minister be able to garner the necessary expertise to enable him to make a decision on whether conditions imposed by the Environmental Protection Authority have been met? Unless by some special arrangement the EPA is able to provide technical advice to a planning minister, I do not really think it will be a possibility, especially considering the complexity of some of the environmental

conditions that, foreseeably, will be imposed. All sorts of issues could arise, such as whether acid sulfate soils have been dealt with, whether drainage has been dealt with or whether an environmental offset has been achieved. There are all sorts of complex issues which, I put to the minister, are beyond the capacity of a planning minister to deal with, but which would require the final sign-off of an environment minister.

Mr J.H.D. DAY: I understand that this provision is either the same or similar to what is in the current acts. Therefore, the MRA will monitor compliance of the conditions and report to the Minister for Planning, as required under the Environmental Protection Act. I understand also that it is possible for the Environmental Protection Authority to take action if it believes that some conditions that it has put in place are not being complied with. There is no special case with the MRA. I understand, as applies with the existing redevelopment authorities or other government agencies, that if the EPA is not satisfied for some reason that the conditions that have been put in place are being complied with, it can take action. I am advised also that clause 74 gives the minister the power to enforce environmental conditions, so there is that control in place as well.

Mrs M.H. ROBERTS: I too refer to clause 47, "Minister's functions in deciding final approval". I note that clause 47(4) states, and I made this point earlier in another clause, that —

> If the Minister approves a draft redevelopment scheme the content of which is, in the Minister's opinion, significantly different to any recommendation given by the WAPC under section 46, the Minister must cause notice of the difference to be laid before each House of Parliament or dealt with under section 131, within 14 days after the scheme start day.

I am puzzled about why that occurs after the scheme's start day. I would have thought that these things should be tabled in Parliament prior to when a scheme started.

In addition, I note that we are again dealing with the words "in the minister's opinion". The minister made the point that someone has to make a judgement call as to whether or not there is a significant difference. Essentially, one of the affected parties—the decision-making party; the minister who himself or herself has made a decision about the development scheme—also makes a determination as to whether there is a significant difference between the scheme that he or she approves and the recommendations that were given to the minister by the Western Australian Planning Commission. I agree with the minister that someone must make a determination about whether it is significantly different or not. However, I do not believe that it should be the minister, who is the decision maker. That is hardly independent or objective. There are no criteria and no guidelines for the minister to follow when deciding whether it significantly differs or varies from the recommendation of the Western Australian Planning Commission. The bill also states that the minister must cause notice of the difference to be laid before each house of Parliament. It does not say that the minister must put the recommendations of the Western Australian Planning Commission before Parliament or table the WAPC's advice; it states only that the minister must cause notice of the difference to be laid before each house of Parliament. At best, that will alert people that, in the minister's opinion, and only in the minister's opinion, there is a significant difference between the recommendations of the WAPC and what the minister has approved. Again, it is a judgement call and it just notes the difference. I suppose the minister can give the answer that he gave in part before—that these things are subject to freedom of information and that the opposition can ask the minister questions on notice. I would have thought that it would be a lot more simple, fairer, open and accountable if there were a requirement for the minister to table the WAPC recommendations so that we could see what those recommendations are and we could see, side by side, what the minister had approved. When there is a significant difference, I would have thought that that type of procedure would more appropriately apply so that the process could be open and accountable, and we could see that there was nothing to hide. We could then see the WAPC's recommendations and what the minister had approved and the public, along with the Parliament, could then make a decision.

What concerns me even more is that there may be occasions in which the minister's opinion is that there is not a significant difference, but perhaps to the common man—to somebody else—there is a significant difference between the recommendations of the WAPC and what is approved by the minister. The only way we can find out, presumably, is by questioning the minister, asking for documents to be tabled and potentially going through freedom of information requests to find out. I do not think that is open or accountable or the process that should be adopted here. I absolutely think there should be an independent arbiter on whether something significantly differs or not; it should not be left just to the minister, who is involved in the process, to make that call. There needs to be much more public accountability, both in the case in which the minister's opinion is that there is not much difference between the WAPC's recommendations and the approved redevelopment scheme and also where the minister considers there is a significant difference.

Mr J.H.D. DAY: I do not think there is any need for any great suspicion here. Firstly, this provision goes quite a long way further than the existing redevelopment authority acts. The WAPC has no formal role—or maybe no role at all—in relation to the existing redevelopment authorities and planning schemes that are put in place. This

bill provides that the WAPC will be consulted to provide advice to the Minister for Planning to ensure that we have a coordinated view about planning in the Perth metropolitan area. We are going quite a long way further than is currently the case. The fact that any significant difference needs to be tabled in Parliament is also going further, because the WAPC is not included in the process at all at the moment. We are talking here about tabling something different from the advice provided by WAPC. In my view, that is not really an issue. The main issue is what is agreed in a planning scheme, and that will always be made public. We do not have the situation at the moment in which local government planning scheme amendments or planning schemes for local government areas are required to be tabled in Parliament. They are not required to be tabled in Parliament. Amendments are made all the time; decisions are made weekly. I have made well over 1 000 such decisions since we have been in office, and they are not tabled in Parliament. We are going quite a long way further than is generally the case with planning scheme amendments at the moment. As I explained previously, it is necessary to have a commonsense provision in here so not every minor detail needs to be tabled in Parliament. Anything that is more than minor will need to be tabled where there is a difference between the WAPC and the Minister for Planning, which would be a pretty unusual event—certainly in my experience—and the planning scheme will be subject to public advertising, consultation and possibly amendment from what has been advertised, and all of that is made public. As I said, there are always the FOI processes and other scrutiny through the parliamentary processes, which is available.

Mrs M.H. ROBERTS: I appreciate that the Minister for Planning is attempting to play down this issue by suggesting that it is not of terribly much consequence. However, the minister may or may not recall that there has been a lot of debate in past years in this state about what constitutes a major scheme amendment and a minor scheme amendment. That was very much left to the minister's opinion, too. Although the words "minister's opinion" was not specified in legislation, the requirement for advertising and the role and authority of the minister varied as to whether something was deemed to be a major scheme amendment or a minor scheme amendment.

In past years, these things have been highly controversial, and changes to the Planning and Development Act have occurred since then; I acknowledge that. It appears to me that these clauses provide some semblance of accountability, but the reality is that they provide no accountability at all, because we are relying on the key decision maker, the Minister for Planning, to make a decision about whether there is a significant difference between the Western Australian Planning Commission's recommendations and what he approves. The minister has made the point that because of the way scheme amendments come forward from local government authorities now, those requirements are not in place. I frankly do not see what the problem is in tabling the recommendations of the WAPC. I also do not see what the problem is in having somebody independently assess whether there is a significant difference, rather than having someone who is integrally involved in the process of making that decision—someone that the Metropolitan Redevelopment Authority answers to as its minister. The Metropolitan Redevelopment Authority will essentially be one of the minister's agencies, and the WAPC will make recommendations to the minister, so the minister will become both the decision maker and the arbiter. I do not think that that is good practice. I suppose the minister and I can disagree on that point; I expect that there will be further consideration of the point in the upper house. It is all very well to say, "Well, accountabilities do not exist here, there or elsewhere," but I think there is an obligation on us to look at new legislation like this—legislation, I will again reiterate, that is immensely powerful. The minister's general answer seems to be that government will use these powers responsibly and in the public interest; I certainly hope that all governments do, but that is not necessarily the basis for making good laws.

Mr J.H.D. DAY: I have given a response; I do not think that this is an issue of great significance. In fact, it is simply intended to provide a commonsense provision so that we do not need to have every minor issue tabled in Parliament. As I said, all planning scheme amendments, minor or major, need to go through a consultation process and then be published in the *Government Gazette*, so they are not secret. That is really the main game—what is actually in the planning schemes, as opposed to whether something is tabled in Parliament, if there is any difference of view between the WAPC and the Minister for Planning. I do not see this as a major issue and I have given a response that I think is reasonable.

Clause put and passed.

Clauses 48 to 56 put and passed.

Clause 57: Minister may amend local planning scheme to conform with redevelopment scheme —

Mr J.H.D. DAY: I move —

Page 38, line 16 — To insert after "The" —

Planning

This is to have the same effect as the previous amendments I have moved to ensure that the minister responsible for the Planning and Development Act exercises the powers under this clause.

Mr J.N. HYDE: In terms of the local planning scheme, what is the purpose of clause 57? Does this mean that the minister is able to amend any existing local planning scheme within, say, the City of Perth, to make it conform with the redevelopment scheme?

Mr J.H.D. DAY: When a redevelopment scheme is in operation, the normal local planning scheme of a local government is suspended. This clause provides for the local government's planning scheme to conform with a redevelopment scheme prior to normalisation occurring—in other words, prior to the development control and planning powers being transferred back to the local government. That is what happens after the redevelopment authorities have done their work. After they have used the powers that they have under this act to undertake development and all that sort of thing, the powers are transferred back to the relevant local government. This is to ensure that the planning scheme is in place and that the local government will conform to the redevelopment scheme. That is exactly what occurred in the East Perth Redevelopment Authority area, for example. Areas within that scheme—the Claisebrook Cove area, for example—have now been normalised and transferred back to the City of Perth. In fact, only in the last few days there was an example of signing a regulation to allow that to occur for an additional area.

Mr J.N. HYDE: On how many occasions since the minister has been in his position has normalisation occurred—he stated EPRA—from the other planning authorities?

Mr J.H.D. Day: I recall areas being normalised at least twice, possibly three times. It is done on a progressive basis within the redevelopment of the area. I can get that exact information for the member if he wants it, but I think, as I said, two or three times, I reckon.

Mr J.N. HYDE: I am curious about the wording here; everywhere else in the bill it says, "in the opinion of the minister", whereas in this clause there is the blatant objective so that the planning scheme is consistent. I guess that the understanding is that it is in the view of the minister that it is consistent, whereas in other sections of this legislation the wording is expressed as being in the opinion of the minister. Who determines whether it is consistent?

Mr J.H.D. DAY: To add to the previous information I provided, I recall normalisation having occurred in the Subiaco Redevelopment Authority Area; therefore, that is another example.

The intention is that the local planning scheme will be amended to be exactly the same as the redevelopment scheme that was in operation prior to normalisation occurring. Therefore, it is not really a matter of opinions or any variation occurring. The planning scheme that has been in place under the redevelopment authority will in effect be transferred to the local government; therefore it will be exactly the same as what has been previously put in place under the redevelopment authority. This clause does not allow changes to be made to the local planning scheme that go beyond what is in the redevelopment scheme. In other words, if other changes are desired or necessary, there needs to be the normal amendment instead of an amendment process going through a public consultation.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 58 and 59 put and passed.

Clause 60: Authority must get Minister's approval for development —

Mr J.H.D. DAY: I move —

Page 40, after line 7 — To insert —

(1) In this section —

Minister means the Planning Minister.

This amendment will have the same effect as I referred to for the previous amendments, mainly to ensure that the powers exercised under this clause will be undertaken by the minister responsible for the Planning and Development Act.

Amendment put and passed.

Mrs M.H. ROBERTS: I note that clause 60 is about the authority getting the minister's approval for development. Subclauses (2) and (3) state —

(2) If the Authority has a financial interest in the subject matter of a development application by reason of its participation in a business arrangement, as defined in section 11(1), the Authority —

(a) must not make a decision on the application; and

(b) must forward the application to the Minister.

(3) The Minister must decide whether or not to approve an application for approval under subsection (1) or a development application forwarded under subsection (2).

Subclause (4) states that the authority must provide the minister with all relevant information and so forth. My initial query is: Who would provide independent advice to the minister? Would the only advice the minister gets be from the authority itself? Would the Department of Planning, for example, provide advice to the minister on that application? Essentially, how would the minister actually deal with that development application by the authority?

Mr J.H.D. DAY: The usual process—certainly since I have been in this position, and I am sure it was the case prior to then—is that the authority itself recommends the conditions that should be complied with. However, there is the ability, of course, for the minister to seek independent advice, whether it be from the Department of Planning or elsewhere. I have done that on one or two occasions when that has been necessary—not as much in relation to a development but more in relation to a scheme amendment in the Subiaco Redevelopment Authority area. However, as I said, the same process could be used for this situation. It is also possible to get external independent advice, if necessary. The current arrangement—I am sure it was the case with my predecessor—is that one or two people are on secondment from the Department of Planning in the ministerial office, and I rely on them to provide a degree of scrutiny and to ensure that what is being recommended is reasonable. In all of my experience, the conditions that are recommended by a relevant redevelopment authority are actually extensive and are the same as would be applied to any private development. However, as I said, there is the ability to get independent advice, if necessary.

Clause, as amended, put and passed.

Clause 61 put and passed.

Clause 62: Undertaking unauthorised development an offence —

Mr J.N. HYDE: Clause 62(2) specifies the penalty and includes in the legislation that the penalty is a fine of $200 000 and a daily penalty of $25 000. I raise this matter in the context that this legislation has exactly the same sunset clause of five years that was put in the heritage legislation passed in the early 1990s, which we did not get around to amending until November last year when the Minister for Heritage and I came to an agreement about getting legislation through Parliament quickly. In terms of best practice, would it not be more sensible to have the level of fines determined by regulation rather than specifying a daily fine? There is no minimum or maximum fine in this clause; it is a flat, determined fee.

Mr J.H.D. DAY: I take the member's point; however, these penalties are quite substantial and if we had provided that they could be determined through regulation I imagine that there could well have been an argument from the opposition that that did not give Parliament sufficient ability to scrutinise what are potentially quite severe penalties. This reflects what is now in the Planning and Development Act, from my recollection, and that amendment was made, I am pleased to say, in the context of debate about the destruction of heritage-type buildings. As the member pointed out, an amendment was also made to the Heritage of Western Australia Act; however, quite separate from issues of heritage, there was a need to increase the penalties that applied under the Planning and Development Act. That has been done and these penalties are the same.

Mr J.N. Hyde: To $1 million was the heritage penalty.

Mr J.H.D. DAY: That is right; in the heritage act it was higher because we are talking about properties that are on the state Register of Heritage Places. Unauthorised development may be something not related to heritage, in fact, but when people start to construct a building or something of that nature without appropriate approvals, so it was thought that the penalties should not be quite as high as for the heritage act. However, as I said, the penalties are the same as those in the Planning and Development Act, and if that is amended in the future, I imagine an amendment would also be put in place for this legislation at the same time.

Mr J.N. HYDE: I will go into a real-life example in the City of Perth, where an apartment developer massively changed the internal layout of the development and that was an unauthorised planning development. If the original agreement was for, say, a three-bedroom penthouse apartment and suddenly there are 10 one-bedroom studios on that level, is that expected to be covered under this legislation or would that come under separate building regulations?

Mr J.H.D. DAY: I am advised that if works were undertaken that do not comply with a development approval, an offence would be committed under this legislation. I point out that a daily penalty of up to $25 000 is applicable. Therefore, it is not simply a one-off fine; a daily penalty is possible, which could well add up to a

large amount of money if somebody was not prepared to desist or correct what they have undertaken inappropriately.

Mr J.N. HYDE: I am interested in pursuing this because it is very prescriptive. In the example of development approval for a penthouse that suddenly instead of being a six-bedroom penthouse was 12 one-bedroom studio apartments, the development authority undertaking its equivalent local council role would, as the City of Perth did, prosecute, but there does not seem to be leeway. If it took three months for this to be discovered, that would mean 90 days by $25 000. There does not seem to be any leeway in the way that this is prescribed.

Mr J.H.D. DAY: The penalty is a maximum penalty as is consistent with other legislation, and the offence applies after a court has determined that an offence has been committed. Therefore, it is not after somebody has given notice of prosecution; it is after a court has decided that an offence has been committed.

Mr J.N. HYDE: Further to that point, will the MRA and its delegated LRCs be able to make retrospective approvals, such that in this situation they could, after having a chat with the developer, decide, "Hello, we will retrospectively allow you to do what you have done and totally change the original decision", which was achieved after much public consultation in terms of its impact on parking and other things?

Mr J.H.D. DAY: The situation that has been described is provided for in clause 68, which is entitled "Development may be approved after it is undertaken". So, retrospective approvals can be given. Whether it is desirable in a particular case that that occurs or not would be a matter of each issue being looked at on its merits. But I think it is appropriate to have that power there to deal with real-life situations.

Clause put and passed.

Clause 63: Initial assessment of development application —

Mrs M.H. ROBERTS: Clause 63 provides that the authority has to determine whether an application is standard or major. I am wondering whether the criteria for what is a standard application and what is a major application are set out anywhere; and, if so, where, and what are the criteria?

Mr J.H.D. DAY: I am advised that this is a new procedure reflecting administrative arrangements undertaken by some existing authorities but not reflected legislatively. It will also provide a trigger for deemed refusal, which will enable an applicant to apply to the State Administrative Tribunal for review. So the significance of whether something is declared to be a standard application or a major application is really only related to the time that is allowed for the authority to consider and make a decision about the application, and therefore when it becomes a deemed refusal, when appeal can be made to SAT.

Mrs M.H. ROBERTS: The minister has essentially answered what he says is the difference between a standard application and a major application. I note that in clause 65 there is a reference in subclause (2) to the 90 days and the 120 days, so I am fully aware of that. I was really asking the minister what are the criteria for a standard application and what are the criteria for a major application; how does one determine the difference; where is that written down; can the minister advise me what the criteria are; and, if this is a new procedure, are there some set criteria that will be established in the regulations or by some other instrument?

Mr J.H.D. DAY: It will not be contained within the regulations. I am advised that EPRA does currently have a policy, which I presume is available to applicants, to assist in determining whether something is a standard or major application. To some extent I guess it is a matter of commonsense, but I agree there should be criteria there. They are provided for in an existing policy of EPRA, as I said, and I would imagine that that situation would continue. Certainly the new authority will need to have criteria in place that people understand. It will need to turn its mind to that once it is established, and it may well be simply a matter of adopting what currently applies under EPRA.

Mrs M.H. ROBERTS: Further on in clause 63, which deals with the initial assessment of a development application as to whether it is a standard or a major application, subclause (2) states —

> The Authority must give written notice of its determination under the section to the applicant.

That is obviously useful for the applicant, but in my view this should be public information. I do not see why the authority would not at the very least publish on its website a decision of that nature so that other interested parties could view it. I am assuming that the criteria for a major application would include something of some significance. If there is an application for a significant or major development, people in the vicinity may want to take an interest in it. It might be appropriate for the authority to publish that application. I notice that clause 64 gives further explanation to clause 63 of what occurs in a notice of development application. It states that the local government of the district in which the proposed development is carried out has to be advised. Clause 64(1) states in part —

(b) each local government and public authority prescribed by the regulations as a local government or public authority that must be notified of the development application; and

(c) any other public authority that appears to the Authority to have functions relevant to, or whose operations are likely to be affected by, the proposed development.

Clause 64 then states —

(2) A person notified under subsection (1) may give the Authority a written submission about the proposed development.

My point is that the front of the bill states the definitions of a public authority, but it does not appear to incorporate all potentially interested parties. The definition of a "public authority" is any of the following —

(a) a Minister of the State;

(b) a department of the Public Service, a State instrumentality or a State public utility;

(c) any other person or body, whether corporate or not, who or which, under the authority of a written law, administers or carries on for the benefit of the State a social service or public utility;

Chief among the potentially interested parties that are not required to be informed or advised would be a ratepayers group, a community group of some kind or perhaps a heritage group. In my own electorate, there are groups such as the Guildford Association, various ratepayer groups and the Bellevue Action Group. All different kinds of groups are interested in planning applications and what is going on in their local area. It seems that the interests of the state are well covered in the legislation and that all those public authorities need to be advised, but there does not appear to be a requirement to advise those potentially other interested parties or a requirement for the publication of that decision in a public form. I notice that in other planning procedures, there is a requirement for things to be published in the *Government Gazette* or to be put into public notices of local papers, which is probably getting a bit old fashioned these days. I would have thought that at the very least it would not be too onerous to put these decisions on the authority's website. Most interested parties, regardless of the kind of community group they are, could look there.

This provision has further impacts as we look at this clause and the next few clauses. I do not want to go too far beyond clause 63 at this point, but I notice that clause 64(2), for example, states —

> A person notified under subsection (1) may give the Authority a written submission about the proposed development.

Does that mean that if a person is not one of those persons or authorities notified in subclause (1), they may not give a submission about the proposed development to the authority? I would really like some clarification from the minister.

Mr J.H.D. Day: In relation to which part do you require clarification?

Mrs M.H. ROBERTS: I would like clarification on clause 63(2) and the giving of written notice. I understand that there is some flow-on into clause 64. Why is that not to be a written notice? Why is that not a public notice? Why should that not be available on the website for other interested groups that, to me, do not seem to be incorporated here, such as heritage groups, community groups, ratepayer groups or other interested parties?

Mr D.A. TEMPLEMAN: I am interested in the member continuing her line of questioning.

Mrs M.H. ROBERTS: There are interested parties other than the local government authority or public authorities. Even an individual member of the public should be entitled to know, particularly if the authority is dealing with a major application that is in that person's local vicinity. I do not see why they should not be able to make a submission.

Mr J.H.D. DAY: We are talking here under clause 63 about a decision as to whether an application is standard or major. That is the only issue.

Mrs M.H. Roberts: Subclause (2) is the written notice issue.

Mr J.H.D. DAY: Yes, and written notice needs to be given to the applicant. Obviously, it is natural that the applicant should be advised about whether it is a standard application or a major application. I do not think this is a particularly big deal. We are not talking about the decision about the development itself; we are simply talking about the decision as to whether it is a standard or a major application.

I do not see any reason decisions cannot be published on the authority's website. There is quite extensive information on the existing four authorities' websites. The biggest is the East Perth Redevelopment Authority website. There is a lot of information. Whether the authority would be required to publish on its website a

decision on whether something is a standard or major application is not a major point. Decisions about what developments are going to occur should certainly be made publicly available.

Clause put and passed.

Clause 64: Notice of development application —

Mrs M.H. ROBERTS: I am continuing on the same point because clause 64 gets into this more broadly. I fully understand the minister's point. This is not the decision; this is simply the notice of application. In my experience, that is the point at which the community wants to be notified. It wants to know that there is an application before the authority, as do community groups, be they heritage groups, a community action group of some kind or an environmental group. There are a range of potentially interested groups, depending on the situation. Sometimes they do not find out that something is happening until very late. These people are community members who have other jobs and other things to do in their lives. They need a little notice. The best possible way that they can have their say is if they are notified at the development application stage. I take the minister's point that there is nothing in this clause or the previous clause that prevents the authority from putting information on its website. Of course it can. The minister made the point that the port authority has information on its website that it is not required to put there by law. In my experience, sometimes government agencies or authorities of various kinds just do what they are required to do by law. When they do anything beyond that, they well and truly make the point to people that they are not required to do certain things. The fact that they do anything beyond that should make the person eternally grateful. I just think in this day and age that the simple thing to do would be to make this information public.

The minister seemed to say, at least in part in his response, that it really does not matter whether something is a standard application or a major application, and there is not really much difference. Yet a couple of pages of this bill are absolutely devoted to this issue. If it is determined to be a standard application, we find in a later clause that it will be 90 days before it is effectively a deemed refusal. If it is a major application, it is effectively 120 days before it is a deemed refusal. There is obviously some difference and some reason a major application gets a month longer for consideration before it is deemed to be refused. My point is that rights are given to the local government authority and other public authorities and I assume that that will potentially include the Environmental Protection Authority, the water authority or any one of a number of government agencies or ministers, but it does not include community groups and other potentially affected parties. Because of that, I do not think that clause 64 goes far enough. Clause 64(2) states —

> A person notified under subsection (1) may give the Authority a written submission about the proposed development.

Does that mean that somebody who is not notified under clause 64(1) is not able to make a submission about the proposed development?

Mr J.H.D. DAY: I agree that it is reasonable for information to be made available to the public. This clause provides for local governments to be advised of proposed developments to be carried out. It is the usual practice that local governments provide a lot of information about developments proposed in their area on their websites and through other means, and I expect that that would be the case with proposed developments such as the member has described. That is one way in which community groups or members of the public would be advised. I think it is also desirable that the authority publish information on its website. Whether that necessarily occurs prior to decisions being made is probably open to debate. If it is the usual practice of local governments, there is no reason why it cannot be the usual practice of this authority. I would certainly encourage that to occur if that is the case.

Mrs M.H. ROBERTS: I do not want to prolong the point, but I will simply say that a lot of the legislation that is put in front of us simply mirrors legislation that has been put before this place on previous occasions. There are standard practices and standard ways of doing things that have been in place for years. I am suggesting that we move with the times and that when we want information to be publically available, we contemplate a requirement to put it on a website; that is how most people access information these days. I think it is about time this Parliament contemplated that. It is not the initiative that we would get from Parliamentary Counsel necessarily or from departments or people who have done things. Yes, local government authorities have moved with the times; they have moved ahead of legislation. I say good on them. The minister asks whether they need to know before a decision is made. Yes; that is the important time to know, because if community groups want to have some input to the decision-making process, they need to know before the decision is made. Learning about the decision after it has been made is nowhere near as valuable to a community group.

Mr J.H.D. Day: How does the situation with development applications work with EPRA at the moment in your experience?

Mrs M.H. ROBERTS: As I understand it, EPRA is quite open about its development application process, but I do not have any particularly close experience of how EPRA is currently operating. I have not been in a position to receive any complaints or plaudits on EPRA's behalf.

Mr J.H.D. DAY: I am happy to consider this issue further. I do not think we can come up with an amendment right at the moment. Certainly, I am happy to indicate to EPRA or the new authority that publication of information such as this on the website should be undertaken as a matter of policy. Whether we need to require that in legislation is perhaps debatable. But, as I have said, I am happy to consider the issue further and maybe look at an amendment in the Legislative Council if that is necessary.

Mrs M.H. ROBERTS: I note that the minister did not respond to my question about clause 64(2), which states —

> A person notified under subsection (1) may give the Authority a written submission about the proposed development.

My question simply was: if a community group of some description was not notified, would it be able to make a submission about the proposed development? I question that because my guess is that it should be able to make a submission. What is the need for specifying that one of the persons or groups referred to in clause 64(1), such as a local government authority or another public authority, can make a submission; and, if there is a need to specify that they can make a submission, is there equally a need to specify that another affected party, such as an individual landowner or a community group, can also make a submission?

Mr J.H.D. DAY: Yes, it is possible for another individual or organisation to make a submission. There is nothing to stop that occurring. I presume that occurs in practice at the moment to some extent, so this should not be read as anything to prevent that occurring.

Clause put and passed.

Debate adjourned, on motion by **Mr R.F. Johnson (Leader of the House)**.

House adjourned at 11.15 pm