

**PLANNING AND DEVELOPMENT AMENDMENT BILL 2023**

*Committee*

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Dr Sally Talbot) in the chair; Hon Jackie Jarvis (Minister for Agriculture and Food) in charge of the bill.

**Clause 11: Parts 11B and 11C inserted —**

Committee was interrupted after the clause had been partly considered.

**Hon JACKIE JARVIS:** Before the break for question time, Hon Neil Thomson asked a question about regulations related to part 11B. I can advise that the Planning and Development (Significant Development) Regulations 2023 have been drafted, are publicly available and are out for comment. They have been tabled in the other place. I am happy to table the regulations now.

[See paper [2869](#).]

**Hon NEIL THOMSON:** I want to make a general comment on the significant development pathway. We certainly did not support the part 17 process when it was extended last time. A number of reasons were ventilated at the time about why that occurred.

It would be fair to say that some minor improvements were made to the part 11 process, some of which I will get to. It is important to point this out for the record. I also think it is important to make the comment, notwithstanding that I think there are some challenges, that it remains to be seen whether it will deliver the results that are claimed will be delivered. When we reflect on that, one of the issues was how the part 17 process did not deliver on the COVID imperatives at the time. That is possibly why we are looking at introducing the 120-day rule—for example, introducing a use-it-or-lose-it provision, using the vernacular.

There is a component relating to the substantial commencement of works within four years that we might discuss in more depth later. It seems as though fixes have been put in place to try to deal with some of the shortcomings. The feedback I get from industry is that the new process, which is similar to the one it will replace, will not really be any more efficient than the development assessment panel process. That is probably why it remains to be seen whether it will deliver an outcome.

As I outlined in my contribution to the second reading debate, it has to be said—again, for the record—that the fundamental role of the commission is to focus on strategic planning as opposed to being involved in development applications. In saying that, the opposition has taken the view that it will not oppose this bill. It is the government's legislation and its idea about how to fix things. I have a question to ask about this because there is a reference to the significant development pathway in the explanatory memorandum, which states —

A new permanent significant development pathway will ... bring ... Western Australia into alignment with most other jurisdictions of the nation, and many other common law countries, who have specialist planning pathways for development proposals of significance.

Did the department and the minister go through those other pathways? Which other jurisdictions in Australia have a similar pathway? On which of the pathways in those other jurisdictions did the minister model the part 11 pathway that will become law?

**Hon JACKIE JARVIS:** The question related to other jurisdictions. Most states and territories have a significant development pathway. Other jurisdictions in Australia also allow extra discretion. Ordinary planning rules do not strictly apply. They can consider non-planning grounds as part of that. Many places in the common-law world, including the United Kingdom, New Zealand and Canada, have similar significant development pathways. Queensland recently announced a new assessment pathway for state priority developments, such as infill and affordable housing. Other examples are the Environmental Planning and Assessment Act in New South Wales, the Planning and Environment Act in Victoria, the Planning Act in Queensland, the Planning, Development and Infrastructure Act in South Australia, the Land Use Planning and Approvals Act in Tasmania and the Planning Act in the Northern Territory. I have a list of acts in New Zealand, Ontario, British Columbia and the United Kingdom. I cannot provide any details on whether this legislation was modelled on any of those acts, but this legislation is similar to legislation that exists in most other jurisdictions.

**Hon NEIL THOMSON:** On that point, the Planning and Development Act has improvement schemes, plans and provisions, which we have touched on already, about urban renewal and improvement within a geographical area. That is underpinned by the strategic planning instruments that necessitate that. Are the development pathways that the minister says are in other jurisdictions solely focused on development applications; does the minister know the distinction? It appears that the minister is saying that those other jurisdictions have a pathway for development applications that is not underpinned by strategic improvement schemes and plans, which were introduced under

the Liberal–National government and still remain in the legislation. For clarification, is the development pathway in other jurisdictions solely based on the development assessment process?

**Hon JACKIE JARVIS:** I cannot provide commentary on the legislation of other jurisdictions. What I can say, as I have listed, is that most states and territories have a significant development pathway. The member asked me a question about significant development pathways but also strategic planning. The clause we are dealing with in this legislation is about significant development pathways, so I cannot provide detailed commentary on what acts in other states say.

**Hon NEIL THOMSON:** Does the pathway that we are introducing in proposed part 11B have comparable thresholds for the significance test and the value?

**Hon JACKIE JARVIS:** Hon Steve Martin asked a similar question yesterday. In different states the criteria mechanism to be justified as a significant development is different. In some states it is a monetary level, in some states it is a type of development, in some states it is a location and in some states there is a provision for people to request the development application be approved or called in by the minister.

**Hon NEIL THOMSON:** I move on to proposed section 171P. From this point on in debate on clause 11, I will refer to proposed sections as we move away from the generic aspects of the clause. By way of background, the vast majority of my questions will probably be about clause 11. I also note that a member of the crossbench may move an amendment to clause 11 at some point. I also point out that proposed section 171P is “Determination of significant development application by Commission”. The explanatory memorandum states —

Subsection (2) confirms the Commission determines the application under the existing planning framework. This approach departs from Part 17, where pursuant to s.274(1), decisions were made outside the existing planning framework.

That is possibly a better strategy. There are some minor improvements in this process. The explanatory memorandum continues —

However, this requirement is subject to where, “Except otherwise provided in this Subdivision”. This contemplates provisions such as s.171R —

I am reading from the explanatory memorandum and I am keeping the two together, and they are quite consistent. The explanatory memorandum continues —

which provide situations where the Commission has additional discretion to make a decision inconsistently with the applicable planning framework.

I want to focus on this because this was one of the major concerns with the previous part 17 pathway. There was a feeling that those planning frameworks were not really being contemplated in the way they should be and there was too much discretion. It seems as though there might now be at least some level of consideration to it.

Could the minister help me by explaining the difference between the two pathways, the level of consideration that the commission has to give to the existing planning framework and what elements of the planning framework it has to give effect to when determining a significant development application?

**Hon JACKIE JARVIS:** I have a list of the differences between the three different systems. There is the development assessment panel system, the part 17 system and the proposed part 11B system. DAPs have the same level of discretion as a local government would have on its local planning scheme. That is the first point. Part 17, which the member referred to, in theory has unlimited discretion, but this unlimited discretion was justified at the time because it was necessary to respond to the COVID pandemic. As we have all acknowledged, part 17 was a temporary system only. With proposed part 11B, which is obviously in the bill, discretion will not be unlimited but will still be substantial. There will be broad discretion in the public interest, including non-planning grounds and issues of state or regional importance, and we discussed and gave some examples of those yesterday. Based on similar discretion that the minister has for call-ins from the State Administrative Tribunal under section 247, the minister can consider non-planning grounds in the public interest for applications called in from SAT. If a local planning scheme has not been updated in accordance with legislative requirements, the Western Australian Planning Commission has a similar discretion for subdivision applications under section 138. The provision under proposed part 11B, when the proposed variation is of only a minor nature, is also based on a similar discretion under section 138.

It is worth noting that there are additional safeguards moderating the WAPC’s power. The WAPC must give due regard to orderly and proper planning and the amenity of the locality. The WAPC cannot override an environmental condition. I hope that comprehensive response assists.

**Hon Dr BRAD PETTITT:** That is a nice segue into the amendment I will move shortly. Before I do, that was a good comprehensive response, and I thank the minister, but I would not mind getting some further clarification. The first would be: if and when an approval is granted through a special pathway that goes beyond a local government planning scheme, will there be a requirement to give reasons for going beyond it?

**Hon Jackie Jarvis:** Yes.

**Hon Dr BRAD PETTITT:** My next question is about some of the scope. The heart of my concern is that although there will be some greater constraint than under the COVID provisions, it will still be pretty broad. One thing is pretty ironic. I have been speaking to lots of local governments this week about this. Of course, proposed section 171R refers to the fact that if a planning scheme or its consolidation has not been published in the preceding five years, it may be a reason that a judgement is inconsistent with the planning instrument. I hear from local governments that it is a lot of trouble to get a planning scheme approved or even advertised. To give some examples of what I have heard over the last few weeks, one local government took six months to even get its planning scheme advertised. Another local government took two and a half years to get its planning scheme approved. It has been sitting with the Western Australian Planning Commission for over two years. One of the key reasons for a significant development application being inconsistent with the planning instrument is that the local planning scheme is out of date.

We clearly have a major red-tape block around the Western Australian Planning Commission dealing with local governments that want to update their schemes and advertise them. What is going to be done to alleviate that? My follow-up question is: what would happen in the case of a local government whose scheme might not be up to date because it is still sitting with the Planning Commission?

**Hon JACKIE JARVIS:** This bill will change the time frame for out-of-date schemes from five to 10 years. That provision that the member discussed will apply only if a scheme is more than 10 years old. We have doubled that length of time. With regard to local planning schemes being held up for approval, I can advise of a significant improvement in the time that it takes to process scheme amendments, which I noted in my second reading reply. In 2022–23, 85 per cent of scheme amendments were processed by the WAPC within statutory time frames. I am advised that other ones are unresolved because of unresolved issues between the WAPC around the local government. There has been a significant improvement in getting those planning schemes approved. More broadly, the provision with regard to out-of-date schemes has changed from five to 10 years. That applies only when the scheme is more than 10 years old.

**Hon Dr BRAD PETTITT:** I want to get some clarification around that. If a local government has a planning scheme that is 11 years old but has been substantially amended and improved over the preceding years, would that scheme fall under this category of a planning instrument that cannot be used by the decision-maker?

**Hon JACKIE JARVIS:** If the WAPC has endorsed a report of a review that notes that that scheme has been kept up to date or modernised during that 10-year period, that would be counted as an up-to-date and current scheme. There is a process. The scheme cannot be used when it has not been touched for more than 10 years, but, as I said, if the WAPC endorses a report of a review, that scheme will be considered to be the current scheme.

**Hon Dr BRAD PETTITT:** I return to the minister's earlier comment to the previous question. I think she said that 85 per cent of planning scheme amendments had been approved and only those that had a conflict between the WAPC and local government had not been approved—to roughly paraphrase the minister. I know of one quite high profile case around a tree canopy and potentially mature trees that has been sitting for around eight months now. It is a pretty simple scheme amendment with no conflict. To the best of my knowledge there has been no feedback to the local government, yet these things remain unresolved. That is just one example. I will come to others that provide evidence of a lot of blockage from the Western Australian Planning Commission around allowing local governments to appropriately adopt their schemes as they wish.

**Hon JACKIE JARVIS:** The member gave an example of one case involving a tree canopy. I am advised that that is a singular issue and not what this bill deals with. The member's question relates to an entire scheme that needs to be up to date. Yes, I did say that 85 per cent of local planning schemes have been dealt with in a timely manner within the statutory time frame —

**Hon Dr Brad Pettitt:** What does that have to do with time frames?

**Hon JACKIE JARVIS:** I am advised that it is up to 120 days. I am also advised that this bill will not change the fact that the WAPC has to give due regard to the local planning scheme, but it will double that time. I am not sure how many local governments would have a planning scheme that is older than 10 years and has never been updated. With regard to the WAPC's role, there are not a lot of changes to the current act, other than doubling the available time that a scheme has to be in place from five to 10 years, and it will affect only those schemes that are older than 10 years and have not had an endorsed report of a review during that period.

**Hon Dr BRAD PETTITT:** I think it is interesting. My takeaway from this is that 85 per cent of scheme amendments are dealt with in 120 days.

**Hon JACKIE JARVIS:** Sorry, I will give a correction. I gave the member some incorrect information. It is not 120 days; it is 90 days, or as approved by the minister. I will just get the provision for the member. It states —

The Commission must, within 90 days of receiving the documents provided to it under regulation 44(1), or within such longer period as the Minister or an authorised person allows ...

That is the statutory time frame that I referred to that 85 per cent of local planning schemes in 2022–23 were processed in.

**Hon Dr BRAD PETTITT:** I think I understand. I assume that 85 per cent of planning schemes and amendments were processed by the Western Australian Planning Commission within 90 days. I just wonder about that because that is not the experience of local governments. Am I correct in understanding that that then goes to the minister? Is that the point of delay? What I have heard from local governments all across the state in the last few weeks is that there are long delays. Is there a time frame for how long that takes to go from the Western Australian Planning Commission to the minister before it is signed off?

**Hon JACKIE JARVIS:** I am advised that even though it is not outlined in any statutory requirements, by practice, the minister deals with fortnightly scheme meetings and they are processed in a timely manner by the minister's office. The delay is not there. I wonder if perhaps councillors were talking about historic delays. I did note in my second reading speech that in 2015–16, only 14 per cent of scheme amendments were dealt with within the statutory time frame. In 2016–17, it was 32 per cent. It has steadily gone up. For 2017–18, it was 70 per cent. It has gone up every year. Last year, in 2022–23, 85 per cent of scheme amendments were processed by the WAPC within the statutory time frame. I am not discounting the information that the member has been given, but I am saying that I wonder if it is possible that people are speaking historically. I certainly have data in front of me that shows that there has been a significant increase.

**Hon Dr BRAD PETTITT:** The reason I have been focusing on schemes is because they become very important. The heart of this amendment bill in some ways is the view that local governments will no longer be doing any planning approvals or that their primary planning function will be in creating planning schemes. Of course, if it is the wish of the government that that be the case, local governments need to be able to put forward those schemes. I have heard stories of six-month delays to even getting schemes advertised. That is live. That is now. I find it quite interesting that a local government cannot even get a scheme advertised. One local government told me that it was constantly apologising to developers that it cannot change its scheme quickly enough to actually support their approvals.

I appreciate that there has been a lot of focus on red-tape reduction in this; however, it sounds like some of the red tape is actually around local governments that want to be nimble and facilitate developments that their communities want but are finding blocks and slow dealings around them. In fact, I think the very idea that local governments need the Western Australian Planning Commission approval to advertise a scheme is a bizarre bit of red tape that we should frankly get rid of. Let a local government do its job and advertise its scheme. At the end of the day, if the Western Australian Planning Commission does not want to sign off on it, that should be the point of intervention, not whether a local government that is doing its job can even advertise a scheme. If we are serious about red-tape reduction, it seems like there is a whole bunch of stuff there that should be looked at.

I have a quick question on this before I move on to my amendment. Have any reforms around how the WAPC works and deals with schemes been considered as part of this legislation?

**Hon JACKIE JARVIS:** I am advised that under this bill, the minister will now be approving advertising of schemes. It is thought that that will expedite the process of advertising schemes.

**Hon Dr Brad Pettitt:** Is that a change from the current arrangement?

**The DEPUTY CHAIR (Hon Dr Sally Talbot):** Member, you must wait for the call. It is not a conversation.

**Hon Dr BRAD PETTITT:** Through you, deputy chair, is it a change in this bill that the minister will now approve the advertising of schemes rather than the WAPC?

**Hon JACKIE JARVIS:** I am advised that it was introduced in 2020. However, during the drafting process of the regulations, it was realised that there was a legal anomaly that prevented this from happening, which will now be corrected by this bill. With the passage of this bill, the minister will be able to approve the advertising schemes.

**Hon Dr BRAD PETTITT:** Thank you. That is very interesting. I now want to move on to my amendment on the supplementary notice paper that seeks to restore schemes as the foundation of our planning. In many ways, it accepts the many other parts of the bill that remove local government's ability to approve major developments, because that will go to the DAPs. Anything beyond a single house will go to a DAP, and anything that is a single house will go to a CEO. The planning role of local governments and councils is pretty much around planning schemes. The amendment accepts that that is the case. However, I find a great contradiction in the heart of this bill. It does that, and then it says that there are a whole bunch of ways through the significant development pathway. As I said in my second reading contribution, it is not that significant. Not much can be bought with 20 million bucks. Any development of any scale can pretty well go down this significant development application process. It then provides many options for the Planning Commission to approve them. I will read from the legislation on page 15. This is what I will seek to delete. It states that the commission may determine an application that conflicts with the applicable planning instrument—in this case, the planning scheme—because the application is considered to be of state importance, which is undefined, or in the public interest. It is pretty undefined and loose. Maybe it is because the

planning scheme is a bit old. The bill refers to five years, but I appreciate that it will change to 10 years as it goes through. It might also be that the conflict is of a minor nature—again, that is not particularly well defined—or that, in the opinion of the commission, the determination is consistent with the general intent of each standing policy, planning code and regional planning scheme that is relevant to the development. There are literally so many ways around the local planning scheme that you could drive a truck through it. If we are serious about local governments pulling together really good, robust, forward-thinking planning schemes, then let us at least have a process that sticks by them for the significant development pathway.

It was interesting to hear some of the examples from other states that we were talking about earlier. The significant development pathway could be confined to those developments that actually meet the planning goals that this state wants to reach. A development could go down this pathway only if it were a transit-oriented development or in a place that we want to see development that meets both state and local government strategic goals, and not every ad hoc development that is over \$20 million and could be anywhere. That is why this needs to be deleted. If someone puts up a \$25 million development—frankly, that could be a walk-up three-storey apartment in the suburbs—they will not have to abide by the planning scheme because they could make the argument that it is in the public interest or that there are other reasons that they should be able to do it. What we need is a planning system that gives the local community and the local council confidence that the planning scheme that they have been part of creating is robust and will actually be followed. WA is going down a planning route that is increasingly ad hoc, developer-led and giving us pretty poor outcomes of poor density in the wrong places rather than good density in the right places. Being able to get around planning schemes in this way is only going to exacerbate that problem.

I have a motion without notice to consolidate my amendments to clauses 11 and 82 into one question so that we do not have to go through this over multiple clauses. These amendments will have flow-on effects at clauses 11, 66 and 82. I assume that I just read this out. Is that correct?

**The DEPUTY CHAIR:** Yes.

**Hon Dr BRAD PETTITT** — by leave: I move —

Page 15, line 1 to page 16, line 20 — To delete the lines.

Page 23, line 7 — To delete “171R,”.

Page 101, lines 19 and 20 — To delete the lines.

Page 101, lines 22 and 23 — To delete “and amended section 171R(1)(b)(ii)”.

**Amendments put and negatived.**

**Hon NEIL THOMSON:** By way of reflection, there was a certain level of sympathy for the sentiment expressed by Hon Dr Brad Pettitt in relation to those amendments, because I think there are feelings and concerns out there in relation to the planning schemes consistent with some of the concerns raised by me in this discussion. Notwithstanding that, the fact is that the opposition has chosen to not oppose this bill in its entirety. For the record, I make the point that there would not have been support from the opposition for those amendments.

I think the issue here is that the government appears to have made a genuine attempt to tighten up the part 17 process, which will effectively be replaced by the proposed part 11B process. Notwithstanding that comment, I think there are still potential problems with it that will come down to how this is exercised. The issue will be the effect of how that is managed by the commission. In time, the test will be whether applications that go through the proposed part 11B process will provide the good planning outcomes that we all desire; the good opportunities that we seek to see within our communities, particularly around affordable housing and areas that are difficult to develop; and particularly around the consultation that is likely to occur with local governments. I think that some shortcomings in the part 17 process may have evolved over time in terms of the practice of the commission. I think the commission’s practice has improved somewhat from the very first step; that is certainly the feedback I have had, notwithstanding ongoing concerns about some of the approvals that have been granted to specific developments that did not meet the transit-oriented development criteria of being close to a train station.

For the record, that is where the sympathy comes in. It sounds like I am standing on the fence a bit, but I think it is really a case of saying to the government, “This is your legislation.” There were and are mechanisms in the existing Planning and Development Act, putting aside part 17 and proposed part 11. There are mechanisms for urban renewal and there are mechanisms for improvement schemes and plans, and that is the work that has been missing.

If I can give the government any counsel—yet again, I am providing advice to the government, which I often do because I sometimes think the government actually does take notice—it is that more work needs to be done by Minister Carey in and around strategic planning and the train stations. He needs to start using those powers, particularly for improvement schemes and plans, which I think are vital.

If the question on the amendments had gone to a division, as is the practice in this place, we would have stood with the government on this issue, because we are not going to stand in the way of the reforms overall, notwithstanding some of our concerns. That, I suppose, is the message. Really, the onus will be on the government to show that it can do that in a way that is not going to cause chaos in our communities. There are ongoing concerns in certain parts of our community that some of these developments do not really conform with the expectations of the community.

I would like to comment on proposed section 171Q, “Procedures for dealing with significant development application”. The explanatory memorandum states —

This section provides a flexible approach to dealing with Part 11B applications and that the procedures, such as the time period and process for accepting an application, public advertising, additional information, and consideration of submissions, for dealing with Part 11B, are set in regulations.

I assume that the regulations the minister just tabled insert all those procedures.

**Hon JACKIE JARVIS:** Yes, they do.

**Hon NEIL THOMSON:** The explanatory memorandum states that under proposed section 171Q, the commission is not bound by the procedural provisions in the applicable planning instrument. The question is simple: does that effectively mean that those procedures have primacy over any other procedures that might exist in the obvious regulations?

**Hon JACKIE JARVIS:** I am advised that this is procedural shorthand that allows the Western Australian Planning Commission to cut-and-paste processes that already exist in the ordinary planning system. As an example, the WAPC may wish to adopt processes set out in the deemed provisions of the local planning scheme regulations 2025; however, it will provide the WAPC with some flexibility that will be appropriate for a significant development pathway when some bespoke tailoring of processes might be warranted.

**Hon NEIL THOMSON:** We touched on proposed section 171R, “Determining significant development application inconsistently with applicable planning instrument in some circumstances”. The minister may want to provide a truncated answer to this if she so chooses, because she went to this to a certain degree earlier. I will focus on one issue, because I do not want to repeat what we have been over. The explanatory memorandum states that the commission is empowered to approve an application that conflicts with the existing planning framework in four instances, including “Pursuant to subsection (1)(d), if it is of a class prescribed in Part 11B.” The four instances outline when there can be an approval that conflicts with a planning framework. What are the classes prescribed and could the minister please could go through those classes?

**Hon JACKIE JARVIS:** I am advised that the paragraph the member is referring to is a standard head of power. No actual classes are prescribed by regulation under that. It is a provision that would allow future governments to modernise the act, if they wish.

**Hon NEIL THOMSON:** I do not quite understand what that means—as a head of power. The explanatory memorandum states —

Pursuant to subsection (1)(d), if it is of a class prescribed ...

I would have thought there would be a prescription somewhere or a list of what those classes might be. We are talking about a class of development here, are we not? Or is the minister saying this is something that the government may choose to add to the list later?

**Hon JACKIE JARVIS:** Proposed section 171R applies in some circumstances. The bill states —

- (1) The Commission may determine a significant development application under section ...
  - (a) if the Commission is of the opinion that —
    - (i) the application raises issues of State or regional importance; and
    - (ii) the determination is in the public interest; —

Which we have already discussed —

- (b) if —
  - (i) the applicable planning instrument is a local planning scheme; and
  - (ii) the local planning scheme was not first published ... in the preceding 5 years ...

We have amended that to 10 years. Proposed section 171R continues —

- (c) if —
  - (i) the applicable planning instrument is ...

... conflict is of a minor nature; and

(iii) in the opinion of the Commission, the determination is consistent with ... general intent of each State planning policy ...

Then we come to proposed paragraph (d). As I said, (d) is there as a head of power so that regulations could be drafted for future provision. Basically, we have regulations drafted related to proposed paragraphs (a), (b) or (c). There are no additional circumstances envisaged at this stage that could go under (d); it is just a head of power that will allow future governments, if they wish, to come up with a new class of a significant development application.

**Hon NEIL THOMSON:** As I said, I appreciate that the minister went through it and refreshed our memories. The issue is that proposed paragraphs (a), (b), (c) and (d) are “or” and not “and”. There is a question whether proposed paragraph (d) would ever be used. I cannot imagine a circumstance in which it would.

**Hon Jackie Jarvis:** It may never be used.

**Hon NEIL THOMSON:** In response to the minister’s interjection, given the broad application of proposed paragraphs (a), (b) and (c), which the minister just went through very thoroughly, I am trying to imagine a situation in which we would not be able to get an application through on proposed paragraphs (a), (b) or (c) and therefore need (d). Clearly that was not a consideration. It raises an issue that goes to the heart of the concerns raised by Hon Dr Brad Pettitt expressed by local governments. It might have been a more cautious approach to be more explicit with proposed paragraph (d) and have it prescribed as a sort of development, as Hon Dr Brad Pettitt mentioned, something that might be able to be defined as, for example, a transit-oriented development that was 500 metres from a Metronet train station, or something that already had an improvement plan or scheme to be under consideration. It obviously would not need it if it were produced, because that would then be finalised. I could envisage quite a few opportunities in which proposed paragraph (d) could have been prescribed partly in proposed paragraph (b) and put in place, which might give a lot more comfort to people within those leafy suburbs.

Let us face it, the concern about planning and this provision boils down to two issues. It comes down to issues of overlooking, whereby someone tries to undertake a development in an area where there might not be an expectation of high density, and/or a decline of amenity in relation to traffic or noise. Those are the sorts of things that happen when a high density development is placed in a location where the expectation might be that that was not going to occur because the scheme had not predicted that to occur and there had not been consultation with the community in advance. It is interesting that in proposed paragraph (d), circumstances might have been prescribed when we already had these broad points. It is worth noting that I doubt the minister will ever do that under proposed paragraph (d).

Have I been talking over you, deputy chair? I am sorry.

**The DEPUTY CHAIR (Hon Sandra Carr):** No, I have been very politely listening, honourable member.

**Hon JACKIE JARVIS:** No, the member finally made his point and notes were taken.

**Progress reported and leave granted to sit again, pursuant to standing orders.**