Speech by

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STATE DEVELOPMENT AND OTHER LEGISLATION AMENDMENT BILL

Miss SIMPSON (Maroochydore—NPA) (Deputy Leader of the Opposition) (3.56 pm): I am pleased to rise to speak in the debate on the State Development and Other Legislation Amendment Bill 2006 which amends the State Development and Public Works Organisation Act 1971 and provides for state planning and development through a coordinated system of public works organisation, as well as environmental coordination of those public projects.

It is well recognised and acknowledged that members on this side of the House are strong advocates for better economic and social infrastructure and are strong supporters for the better administration of development in Queensland. Our advocacy and support is unequivocal. The coalition parties are the genuine pro responsible development and free enterprise parties in Queensland. Our record in government of getting timely and critical infrastructure established is obvious the length and breath of the state.

However, being pro responsible development does not mean the coalition parties support legislative mechanisms which remove transparency or put at risk inbuilt accountability and probity measures which in turn prevent corruption within a public entity. We certainly do not support measures that undermine good environmental and social outcomes resulting from good decision making.

What we see is that there is a great risk in this bill. It provides unfettered powers to the Coordinator-General. At this juncture I must point out that I am not saying that the current Coordinator-General is corrupt. However, what we are saying is that Queenslanders may not be so fortunate in the future considering this bill provides for an unelected member of the government to have more power than the minister or the parliament.

There is no reason that infrastructure, critical or otherwise—including the government's proposed water grid—cannot be processed through the existing provisions of the Coordinator-General's powers. The existing powers are extensive, but they are subject to strict control. There is every reason to insist that in each case a compulsion or an authority is used by the Coordinator-General that it is subject to parliamentary scrutiny and therefore subject to parliamentary authority.

It is the parliament that is supreme in our system of government. The parliament is not an obstacle to progress and should not be seen as being obstructive. The State Development and Public Works Organisation Act is a very important piece of legislation. It is always worth remembering the act's history. Since 1938 Queensland has been fortunate in having generic statutes which have promoted public works and sensible development throughout the state. In line with the evolving role of the Coordinator-General, the act was amended in 1971 to provide for a means of environmental coordination of development, the establishment of state development areas and enhanced powers to facilitate development of the mineral and energy resources of the state.

The 1971 amendments laid the foundation for the Coordinator-General's role in the facilitation of major private sector development projects in Queensland. The Office of the Coordinator-General and the

functions available through the State Development and Public Works Organisation Act 1971 will remain integral to the economic, social and environmental development of this state. Since 1981 the act has been amended some 20 times, but the amendments being debated today provide the Coordinator-General with unprecedented power. Major infrastructure projects have, by and large, been provided by public sector agencies. However, the coalition parties appreciate and are supportive of the important role that the private sector plays, and will increasingly play, in the physical and social development of the state.

Running a state on behalf of the people of Queensland, which is the essence of responsible government, is similar to running a company on behalf of its shareholders. Queensland is a giant enterprise with many facets, some of them not so obvious to the broader community. However, the government has stewardship of the books, not ownership of them. That ownership belongs to the people of Queensland. Major projects create jobs and numerous flow-on benefits such as valuable export revenue as any economic development strategy reveals, and an integral part of an economic development strategy is a need to promote infrastructure development. Infrastructure supports the delivery of essential goods and services to all businesses, industries and households across the state. It includes transport systems, water storage and distribution systems, production and transmission facilities for electricity and gas, information technology and telecommunications. Providing adequate and cost-effective infrastructure is essential to meet the government's commitment to increase the standard of living and quality of life for Queenslanders.

For the past eight years the coalition has been urging the ALP government to pursue the provision of adequate infrastructure. The coalition was quite prepared to provide the government with our own economic development strategy which was about ensuring Queensland was the best place to do business in Australia because we had the necessary infrastructure—energy, water, roads, rail and ports—and had developed a coordinated and rigorous policy framework which aimed to ensure that energy, water, transport and telecommunications networks were in place to support further growth and development across the state; to continue significant microeconomic reform to reduce prices of major imports such as gas and electricity for Queensland business and industry by introducing competitive markets into infrastructure service provision; and to gain an increased focus on innovative ways of meeting users' needs, including introducing private sector involvement in infrastructure and service delivery through public-private partnerships.

Even though the coalition constantly urged the government to get to work and develop essential infrastructure, in the main the coalition was howled down by various government ministers and members who claimed we were out of date. We were viciously criticised for wanting to build dams, roads and bridges and we were even accused of scaremongering when we raised serious concerns about the ability of electricity suppliers to provide a secure electricity supply.

Whilst the Labor government remained inactive, infrastructure development stalled. But the government still managed to enter into backroom deals with some groups, including some environment groups, which is particularly interesting considering that this bill provides for voluntary environmental agreements. What this means with regard to government owned companies doing business with the government is something that we are very keen to hear the Deputy Premier explain, because there certainly are not any explanations in this legislation, the second reading speech or the explanatory notes.

Supposedly this bill's provisions mirror those contained within the Nature Conservation Act. I say 'supposedly' because in briefings we have been advised of the detail of the policies applying to these voluntary agreement acts and provisions that are yet to follow but we have not seen it. The Nature Conservation Act provides for conservation agreements which are quite specific in their intent—that is, a definition, a person's rights, management principles, prohibitions and restrictions. A conservation agreement under that act is also subject to revocation by the Governor in Council. However, under this amendment bill the power is entirely in the hands of the Coordinator-General once the minister has approved his request to enter into a voluntary environmental agreement. I will state that again: this amending bill puts the power entirely in the hands of the Coordinator-General once the minister has approved his request to enter into a voluntary environmental agreement.

Whilst on the subject, let us look at some other provisions of the Nature Conservation Act and, in particular, how those provisions relate to the state or the relevant landholder. For example, under the Nature Conservation Act a conservation agreement may be entered into which may contain terms—

(a) requiring the State to provide financial or other assistance; or

(b) requiring the State to provide technical advice; or

(c) requiring the State to carry out specified activities ...

In this instance, under the Nature Conservation Act the operative words are 'the state'. However, a comparison within the amendment bill reveals that a voluntary environmental agreement may contain terms—

(a) requiring the applicant to provide financial or other assistance; or

(b) requiring the applicant to provide financial assurance to the State; or

(c) requiring the applicant to provide technical advice or carry out stated activities ...

It certainly provides a shift in responsibility from the state to the applicant. As I have said, there are many unanswered questions as to how this is going to be applied—whether in some circumstances it is the surreptitious movement of costs and debts from the state's balance sheets, and once again we are expected to accept this lack of clarity and transparency of the money trail because the government has put this legislation through in this format.

We have already seen a classic example of funding trails which are obtuse with regard to the development of Suncorp Stadium and somehow we are being expected in this legislation to trust the government if, through its development process, it shifts the cost sideways—whether that is a private sector involvement or a government owned entity, and there is certainly a track record with government owned entities and parking the real costs of projects under government owned companies.

Another concern for the public is the fact that the applicant has no access to judicial review, only a costly exercise through the Supreme Court—a costly exercise because it is done without the benefit of statute law provision and would have to be a civil claim. I will talk more about this removal of the appeal rights in a moment. One has to question why the government wants to depart from sound legislative principles.

Section 4(3)(b) of the Legislative Standards Act 1992 provides that legislation should be consistent with principles of natural justice. Natural justice principles are derived from the common law and include the right to be heard, an absence of bias and procedural fairness. In relation to the Beattie Labor government's undermining of natural justice principles, the explanatory notes state—

The new section 76P(1) provides that the Coordinator-General's decision is conclusive and not subject to any objection or appeal under the SDPWO—

that is, the State Development and Public Works Organisation—

Act; or the relevant law.

In relation to section 76P(1), the Scrutiny of Legislation Committee found—

The effect of this provision is to deprive affected persons of access to any of the usual statutory appeal processes.

Similarly, in relation to decisions about critical infrastructure projects, progression notes, notices to decide and step-in notices, essential parts of the Judicial Review Act 1991 will not apply. The committee outlined further that—

Part 5 of the Judicial Review Act essentially declares that the Supreme Court retains its original common law jurisdiction in relation to the prerogative writs of mandamus, prohibition or certiorari, but that the writs in question are no longer to actually be issued by the court (s.41(1)). An equivalent remedy must be provided in the form of an order (s.41(2)). Part 5 extensively regulates the processes for obtaining redress in reliance on the Supreme Court's 'original' (inherent) jurisdiction.

It continues—

In essence, s.76W declares inapplicable all of part 5 except for s.41(1) (which provides that the three prerogative writs shall no longer be issued).

The committee noted that the provision of section 76P and 76W, both inserted by clause 7 in this bill before the House, removed the normal statutory appeal rights and severely curtailed, or even completely removed, rights to judicial review, the first in relation to prescribed projects and the second in relation to such projects that are also declared to be critical infrastructure projects. No member in this House could honestly state that these provisions are fair, particularly where natural justice is spurned and procedural fairness is rejected.

I note that other outside bodies have also criticised this extraordinary removal of appeal rights. The Local Government Association, which was not consulted in the lead-up to this legislation being formulated and tabled, said that no appeal rights or judicial review rights, except for critical infrastructure projects in relation to decisions made by the Coordinator-General, is unprecedented and inconsistent with fundamental legislative principles.

Coalition members understand the need for speed in the delivery of infrastructure, particularly for the much-needed infrastructure such as water storage and distribution, energy, road and rail, which this ALP government has failed to deliver for the past eight years. However, as this Labor government grew fat and lazy and basked in the glory of the hard work of previous governments' sound economic and developmental achievements, what was happening under its collective noses? Queensland's growth was running at an average of two per cent per annum since 1995, but this Labor government chose to engage in spin instead of delivering substance. I have to commend the state government for its superb media management. It makes a virtue out of trying to fix the problems it has created, such as the south-east Queensland water crisis. No doubt the government will try to sell this extraordinary piece of legislation as essential to overcoming the infrastructure logjam, which is what there is after an infrastructure drought.

The important issues—such as building the southern regional pipeline, the western pipeline, the desalination plant and other measures—are now urgent, and there are critical time frames for resolving

them. On that we agree. Brisbane could run out of water within the next couple of years if the pipelines are not in place to deliver fresh water. Dams that have been contentious will not, in fact, be online for years to address the immediate water crisis, but additional storage capacity is still necessary. Thus, there is the Coalition's own south-east Queensland water strategy, which we released months before the government, and there is our ongoing commitment to seeing water infrastructure put on the public agenda over a number of years.

The state Coalition agrees that there is an urgency for these pipeline projects to proceed and for proper water infrastructure to be put in place in a timely way along with other state infrastructure. However, what we do not agree with is the scope of this legislation as it delivers almost unfettered powers into the hands of a high-level bureaucrat with virtually no right of appeal or checks or balances upon that. We have supported the important role of the Coordinator-General, as outlined in previous legislation. However, we do not believe that this legislation is, in fact, necessary to deliver the timely infrastructure when it can just cancel out the rights of individuals and overcome good decision making.

Despite the minister's staff and the briefings referring to this legislation as a 'softer' approach than the existing provisions, it really is a grab for power. There is nothing 'softer' about the huge extension of the scope of the Coordinator-General's powers, where he does not have to subject his decisions to the accountability of parliament or, in many cases, even legal review. Once again, we have to ask: why is this legislation necessary when the power is already there in existing legislation to do the job of building the infrastructure?

We have not yet heard of one specific project mentioned, or the detail of where the bureaucratic logjam is, that requires this bill. In one briefing, logjams were vaguely blamed on the government departments. In another briefing the government said it was local governments that were to blame. I think it is time that the government came clean about what specific projects this legislation is supposed to address.

Instead, I would identify that the real answer lies at the higher level. The failure to do anything earlier in regard to infrastructure for our growing state was not a problem with the legislation; it was a leadership failure. It was a failure by the Beattie government to live beyond the 24-hour media cycle and plan for growth, which has been fairly constant for the last 30 years. We have seen something like a 2.1 per cent growth just in the last couple of decades. At times in the eighties and nineties there was up to three per cent growth. Currently it is running at about 2.1 per cent growth. Growth was predictable. It is leadership that has failed from this government that has been in place for eight years.

Before the government tables the proposed legislation, the current legislation was sufficient in order to ensure that the government got Suncorp Stadium built. The government had enough legislative power to get its new arts centre built. It had enough legislative power to get the library built. Why did the government not have enough power to put in place the water infrastructure and the other critical economic and absolutely necessary infrastructure for the basics of life? The government had the power under the legislation; it just did not have the intestinal fortitude. The government did not have the right decision making. That is why today, whilst some of these lovely iconic buildings are being opened, we are saying, 'Where's the water infrastructure?'

In speaking to this legislation, I have noted a number of the coalition's concerns. However, to summarise, the ramifications and concerns we have with this bill are, firstly, a lack of demonstrated need with government representatives unable to identify logjams within the decision-making process other than tardiness within government departments. This is clearly a reflection of poor management and should not be corrected by legislation. Secondly, there has been a lack of consultation. There was no consultation undertaken with industry or the community. As a consequence, the Local Government Association of Queensland, which is the representative of most of the development decision makers, were not informed about the bill's provisions until the association's public outcry. Thirdly, the lack of judicial review. The bill departs from provisions under the Legislative Standards Act 1992, which provides that legislation should be consistent with principles of natural justice. Natural justice principles are derived from the common law and include the right to be heard, an absence of bias and procedural fairness.

Another point is voluntary environment agreements. This raises the question as to how it will enable the government to push through what it wants to do with Traveston Dam. We know that there are major environmental concerns with voluntary environmental agreements. Does this mean that the government enters into agreements with itself through a government-owned company? Does it technically mean that a government agency cannot be challenged under judicial review?

The other issue that has to be addressed, too, is the potential cost to ratepayers and the general public. The Local Government Association of Queensland described the bill as 'using a sledgehammer to crack a nut' and is concerned that the Coordinator-General could direct councils to do certain works, irrespective of the cost to ratepayers and whether the community supports the works or not. Then there is the lack of good governance. This bill jeopardises good governance, particularly at a time when the state governments around the nation are under the spotlight due to corruption and accountability issues.

It was interesting that the Deputy Premier alluded to the COAG meeting as being one of the reasons for this legislation before the House. I would welcome her explanation as to where the detail within the COAG agreement is reflected in this legislation. Certainly some of the documentation that has been tabled does not back that up. I would welcome detail of what exactly she has signed off on. In the meantime, I will table a document that I understand relates to what COAG recommended. I do not see anywhere that it would recommend this extraordinary grab for power that is in this particular legislation.

Tabled paper: Copy of document titled 'Infrastructure Regulation'.

I once again reaffirm the state coalition's belief in the need for timely infrastructure. It is also our belief that the power is there in the legislation to deliver timely and good infrastructure. What has not been in Queensland under this Labor government has been a commitment for leadership to ensure that the right decisions are taken in a timely way.

This should not be an excuse to give these extraordinary powers to a high-level bureaucrat and remove them from the scrutiny of the parliament. Now more than ever there is a need for scrutiny to ensure that the process of providing the infrastructure that is necessary for the economic, social and environmental sustainability of this state is open to public scrutiny. That will deliver better governments and better decision making. It will also ensure that the debacles that have occurred with this state government and its track record on infrastructure cannot repeated.

The coalition is opposed to a number of provisions of this legislation. I note that the proposed government amendments—they were not available before I commenced my contribution; I saw them about five minutes into my contribution—will address some of the concerns of the Local Government Association. Unfortunately, although we were given a briefing of the intentions of some of those amendments at 8.30 this morning, I did not see the drafted amendments prior to the debate of this legislation. We will certainly scrutinise those amendments but continue to raise the issue that this government has not addressed the overarching concerns that we have about the necessity for this legislation.

The power is there now to deliver timely and good infrastructure for Queensland. This legislation is simply a power grab to make up for the poor decision making of a government that no longer wants to be accountable to the parliament or to the people.