Speech by

Liz Cunningham

MEMBER FOR GLADSTONE

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STATE DEVELOPMENT AND OTHER LEGISLATION AMENDMENT BILL

Mrs CUNNINGHAM (Gladstone—Ind) (5.07 pm): I rise to speak to the State Development and Other Legislation Amendment Bill 2006. I thank the minister for allowing her officers the opportunity to give those of us on this side of the House a briefing. I was not able to attend the original briefing. They made time this morning for another briefing. I left before that briefing was finished. That was partly my fault. I went with a lot of concerns about the actions of the Coordinator-General in terms of the community. It was not the forum to really discuss that with the officers. It was inappropriate. I acknowledge that I have some concerns about the human face interaction with the Coordinator-General, which I will be raising in a moment. They are good words on paper but they have to be put in terms of their impact on people in the community. Those impacts are significant and at times tragic.

It is stated that the genesis of this legislation was proponents of major industries complaining that regulatory agencies—local governments and some state departments—take too long to make decisions. The general thrust of conversation since then has been that it is predominantly the fault of local councils. The activities of the Coordinator-General in my electorate are significant. We have a major project base there. A number of projects fell into the category of major projects before this legislation. Those projects went through the normal approval process.

However, I found it novel that the explanatory notes list those people and organisations that have been consulted. In industry and community no-one was consulted but interdepartmentally a number of departments—Crown law, Queensland Treasury, Queensland Transport, Office of Urban Management—are listed. No local councils and no members of the community who might be affected by it were consulted. There is no input from those people who will be on the receiving end of the powers contained in this legislation. However, industry was consulted because the proponents complained to the minister before the election and that started the ball rolling of getting this legislation in train. So they have had an input, but the community and the councils have had a very poor run in terms of consultation as far as the government is concerned.

The LGAQ articulated quite a number of concerns with the minister's office and I believe that in part the amendments that have been circulated will address some of those concerns. I do make the point before I make my next few comments that some of what I am about to say may be addressed in the amendments that the minister has circulated and, if that is the case, I commend her for that. The concerns that the LGAQ articulated included that there had been no identification of any particular project approval problems which cannot be addressed with the existing powers available to the state government. It is pertinent to reflect on the fact that IPA was put in place as a planning instrument for the state, yet this legislation is a mechanism to circumvent IPA. In IPA there is a ministerial call-in power and it was explained to me that this is a softer option to the call-in power. However, it no less circumvents the normal approval process that was put in place with IPA.

It is my understanding that councils in my electorate—and I will not be specific—have found that the greatest problem they have in following the IPA with regard to major projects is that their first obligation

when they get a project application is to circulate it to the relevant government departments. Those departments have—and I stand to be corrected—about 20 days to provide their comments. One of the first things that those departments do as a matter of course is to send in the application for an extension letter. The council gets it all of the time. It may be easy to sheet home the responsibility of protracted processes to local government, but they are merely following the process that they are required to follow under IPA. If there is a problem with IPA in that there is a loophole to allow departments to extend the application and assessment process, we need to fix that problem. We do not need to further impede the rights and liberties of people and councils which represent the community in a different way but no less than we do here in this chamber.

It could be stated that this legislation assists the big end of town to circumvent IPA but the smaller developers and the small end of town cannot. That was a comment put to me by somebody who is directly involved in the approval process and the relationships between councils and government and vice versa. There was a lot of concern expressed to me about the fact that the Coordinator-General is effectively being given the call-in powers and not the minister. At least in the majority of the other instances where these call-in powers or overriding powers have been legislatively provided for, the call-in power is held by the minister—the elected person—and the community at least has an opportunity to have a comeback at the elected minister, the member for wherever. This removes that identification—this accountability—and places significant power in the Coordinator-General's role.

There was concern expressed about no definition of a prescribed project. However, that may be answered in the amendments. Returning to the point in relation to the Coordinator-General rather than the minister having the call-in power, public accountability is diminished significantly with a public servant deciding what is to be called in, and, as an adjunct to that power, appeal rights in the main have been totally removed. Judicial review has been removed. In the briefing this morning the minister's officer rightly said that councils could go to the Supreme Court, but most councils are very nervous about that. There is a significant cost involved. There is risk and the ratepayers get very jaded if perhaps the councils take matters to the Supreme Court and are overridden.

Another concern articulated is that the Coordinator-General can require agencies, including councils, to do tasks with no recompense for costs incurred. I believe that an amendment is proposed that will obligate proponents to pay infrastructure charges to councils providing they are reasonable and lawful. However, my question is: is it possible that, in the overriding powers that are being given to the Coordinator-General, the directions the Coordinator-General gives to councils could incur costs? If so, will councils be able to turn back to the Coordinator-General and request recompense for the additional work that the Coordinator-General is requiring, not the proponent, or is the state government proposing to make the proponent shoulder all of the costs irrespective of whether they were authors of those costs or not? Again, I reiterate one of the LGAQ's concerns. There have been no specific instances given that identify the types of problems that are being corrected with this legislation. I believe that there are grounds for significant concern on the part of the community and councils in relation to the structure of power, the relationship between councils and state government and indeed the disempowerment of councils in relation to their negotiations with proponents of major industries.

There are a lot of good people working in major industries, but there are some who will take any authority that they are given to the nth degree. I will give an historical example. There was a proponent who built a small project in Gladstone. They have moved on. The project has been sold to people who are much more community minded and much more fair-minded. I was mayor at the time. The project was going to have significant impacts on our road infrastructure. Product was going to be carted through the Boyne Valley on timber jinkers before the road was bitumenised. The negotiations had occurred in Brisbane between the state government and this proponent before it even saw the light of the day. The two councils in my electorate were not involved because the product was sourced outside of the electorate.

The agreement was made with the proponents to build the project in the state development area with no contribution for infrastructure in relation to road damage. If there was any heavy rain and the road was cut, they had to go through Biloela. However, as soon as the road was trafficable the jinkers would come back through the Boyne Valley because it was quite a significant distance shorter. The damage to the road was significant straight after wet weather, but there was no road infrastructure contribution required of that company. The proponent met with the council after the deal had been done with the state government and I raised, as was appropriate, with the proponents these concerns that council had. The proponent—as I said, he is no longer operating in the district; they have sold the business—literally folded his arms and said, 'I don't have to talk about it with you. We've done the deal with the state government.'

Therefore, there needs to be that recognition that there will be some proponents who will be averse to negotiating with all of the parties that will be impacted by a project and will use, or endeavour to use, these overriding powers to their advantage. Fortunately, the majority of major infrastructure investors in my electorate are not like that. They are very reasonable. The most recent one, which has been rebadged, was brilliant in terms of its community consultation. It was good to deal with, and I am sure that the state government would acknowledge that as well. The major players in my electorate have all been good. But if

there is a way to reduce the process, to simplify it and to leave people out who should naturally be consulted, I believe that human nature endeavours to circumvent that process.

Another concern that was articulated was that, because local government is the lead agency for most development proposals, local government gets the blame when things take time under IPA. I have raised in part before that government departments are concurrence agencies—for example, the Main Roads, EPA and DNRM—and some have a habit of holding things up with requests for extensions of time. Whilst this may impact on state departments, the major negative implications will be that local government is not doing its job. I want to reiterate that the councils in my electorate work tirelessly to see benefits for their communities. I would not like to see any legislation that impugns the reputation of the local authorities in my electorate. The local authorities work tirelessly.

The power in this legislation is far reaching in that the Coordinator-General can rescind decisions already made, override objector appeals and make decisions with or without conditions. There is a lot of power enveloped in this legislation, and it is power without accountability.

Earlier in my contribution I said that I wanted to put a human face to this legislation, because whenever individual and community rights are trampled people will be negatively affected, and we should always remember that. I know that major projects provide work, investment and income to state governments as well as to individuals in terms of pay packets. The major projects in my electorate also have national significance. I would not like the minister to think that I have said anything that would undermine the importance of those projects. However, process is important as well. We have had a significant amount of involvement with the Coordinator-General in my electorate in terms of the acquisition of land and service corridors. Indeed, I believe that the amendments are going to require that, if a project is over $50 million, the Coordinator-General's powers will automatically be able to come into play. If it is under $50 million, the minister or the Coordinator-General must then go through a consultation process.

As an example of the way things happen on the ground, recently there was a corridor project that the Coordinator-General became involved with in my electorate. The consultation by the staff of the Coordinator-General's with the local councils was to ring the council up the day prior and advise the councils that there would be an advertisement about the proposed corridor, its route and impacts in the paper the next day. That was the consultation. That is the concern that councils have.

It is possible to misrepresent issues very easily. The minister is subject to the advice that she gets. The minister asks, 'Have the councils been consulted?' The officer says, 'Yes, Minister, we've talked to them.' Unless the minister thinks to ask when that was, how often that was and how long that was before the project became so far in train that it was irreversible—unless the minister has the time to think of those questions—it could be that the consultation was the day before and councils effectively had no input.

I turn to the issue of the human face. The Coordinator-General has purchased a number of properties in my electorate. I am not criticising whoever the Coordinator-General is because they do not do the actual negotiation. A lot of the time—and I use those words advisedly because I do not hear from all of the people who have been hurt through this process—people have been offered a pittance in comparison to the replacement value of a like property in the electorate. They have very little recourse. If they argue the value, the compulsory acquisition occurs and it goes to the Land Court. However, there is a lot of pain before that. A lot of physical and emotional adjustment has to happen.

A couple has come to me in the last couple of weeks, and the matter has gone to the relevant minister's office. They moved to my electorate and purchased a property north of Targinie. They are not in the Targinie buyout. They were in the process of building a house and had a knock on the door. It was a representative of the Coordinator-General's department to say that their property was required for a corridor. No-one argues the necessity of a corridor, but the amount of money that was initially put on the table—it was not a compulsory accusation because governments now like negotiated purchases—was not going to resettle them. The wife came in very agitated—she was more than agitated. The husband could not come in because he was so upset. As it turned out, they were a couple who had been bought out at Traveston. They were not given enough money to resettle in that district so they had to shift up to my electorate because the land values were lower. The wife said to me at the time, 'John's not coping. He cannot face another process with the Coordinator-General's department like he's been through.' I sent the material down to the relevant minister's office to see if there can be a more compassionate process for this family, which had already been through this once at Traveston. As it turns out, I do not believe the land down at Traveston was needed.

I had word yesterday that the family has left. The wife and the four children have been put into sheltered care, and the husband is receiving psychiatric treatment because the work of the department of the Coordinator-General lacked compassion. That is the human face of this legislation. Members see it in their electorate office, and I see it a lot in my electorate office. It is imperative that there is proper accountability and proper recourse by people to be able to argue for the value of their property—at least the replacement value of like for like—and we do not have that in Queensland.

There is an insufficient ability for landowners to represent their concerns, and there is an insufficient ability for landowners who are affected by negotiated purchases or compulsory acquisitions by the Coordinator-General for me to have confidence in these extended powers. I have seen too often in recent times—in the last 12 months or so—how representatives of the Coordinator-General's department, in exercising what are already significant powers, have devastating effects on the family. To give the Coordinator-General more rights to trample judicial review and appeal rights is not acceptable until that department shows that it can treat people with dignity and respect.