



Speech by

Fiona Simpson

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ICONIC QUEENSLAND PLACES BILL

Miss SIMPSON (Maroochydore—NPA) (Deputy Leader of the Opposition) (2.34 pm): In rising to speak on this Iconic Queensland Places Bill 2008 I note that this is really an admission that the state government made a mistake in taking away the right of local communities throughout Queensland to have a say about their future due to forced council amalgamations. The fact that iconic places have to be legislated in this bandaid approach to try to protect them from the planning schemes of larger regional councils is an acknowledgement of a problem created by the Beattie-Bligh governments' ham-fisted actions.

This legislation is more a bandaid for a government inflicted wound that has taken away local decision making with local representation. By removing local representation from areas and dissolving smaller councils into larger regional councils, this bill recognises that there is a threat that is posed to some areas that may have chosen very different planning schemes to the rest of the region; areas which have innovated, which have forged a different pathway in their town planning and local governance which is in keeping with the wishes of their community. Under forced council amalgamation there is little opportunity to march to the beat of a different drum if your numbers are swamped by the numbers of larger communities that may have different planning objectives and priorities. Big government does not always mean good government, but the best government—local, state or federal—is one where representatives are closer to their constituents and those constituents are actively engaged in shaping the future of their communities.

While the bill is an admission of poor state government policy, it is hardly a total remedy. It certainly does not replace what these communities previously had with a greater proportionate representation from their local communities. We will support this legislation but with reservations. We will also propose amendments during the consideration in detail stage that seek to ensure greater local representation in local decisions on iconic issues and to streamline some of the bureaucratic aspects of this bill.

According to the government, the stated purpose of this bill is to protect places with characteristics or qualities in their natural or built environment that reflect or contribute in a substantial way to Queensland's character. This bill has primarily come out of the protests from communities such as Noosa and Port Douglas. However, there are many communities that are raising their concerns about where they stand in regard to their planning schemes and local governance; many communities in addition to Noosa and Port Douglas who say they love their area, they believe they are special, they believe they have many values that they have been able to fight for and ensure are reflected in their local governance. But now they are concerned that they will not retain that voice—that they will not be guaranteed that voice—under this legislation. All they will gain, if they are given so-called iconic status in whatever the minister defines as being iconic, is a development assessment panel. These panels will not necessarily consist of local people and decisions can still be overridden by the minister. I will come back to some of the detail of the process in a moment.

This legislation is a direct response to the fears expressed by some local government areas and their communities that widespread local government forced amalgamations in Queensland would rob them of their identity and character through inappropriate planning decisions. In August 2007 we saw this state

government propose this legislation as a way of assuaging people's concerns. The nature of this legislation has raised a number of other issues, as I found when talking to stakeholders, but the bill in essence establishes places considered to be iconic and provides power to the minister to declare others as being iconic. While the minister will say that this will protect those particular values, much depends upon how those values are defined. Many of the pre-existing laws or planning instruments that were put in place may not necessarily have defined what was iconic and were brought about by good local governance. But now the minister has to make a decision as to what he believes to be iconic.

While the policy objective of the bill is to protect places with these characteristics or qualities, it is still quite unclear how the minister will actually define them. The bill will apply to those local governments which will be in a new local government area as a result of the forced council amalgamation process. It does not mandate that these local governments have to propose a declaration for an iconic place. As we have seen, there are a number of communities that are asking for consideration under this legislation.

In summary, the minister must declare a place iconic under this legislation for it to have effect. The minister triggers the bill to become operative by making a declaration that identifies the iconic values of the place, identifies the current planning scheme which protects the iconic values and identifies any local laws which protect and support the iconic values.

Furthermore, local governments have to lodge their requests for iconic status before the council elections in March. This bill must be passed and assented to by 14 March 2008. The bill will provide for development assessment panels to overview all applications and then select the ones it has an interest in. There is some degree of concern that this particular aspect of the legislation will add to the time it takes to make applications. There is also concern about what the cost implications will be for councils, who still have to do most of the initial technical assessment.

The panel will be the development assessor for those identified iconic place applications. Council will still be responsible for the advertising and processing of iconic place applications and will make a recommendation to the panel. This bill proposes that the panel has 20 business days after the council has made its recommendation to make its decision. Ultimately, that decision can still be appealed through the Planning and Environment Court.

What are the issues that we have to consider here? Firstly, there is the lack of a definition of 'iconic value'. As I mentioned, local government areas have made concerted efforts to ensure they protect values that are dear to their communities. They have passed local by-laws or put in place certain town planning laws to this effect. They did this after local representation and it reflects their community's wishes.

Some things may be expressly stated in laws and some things may be expressly stated in town planning guidelines, but a lot comes about due to good local leadership. This legislation cannot replace good local leadership—that is, where people are responsive to their local communities. Ultimately, I do not believe that this bill provides the same level of protection as an act of community representation would.

What is an iconic value? That is really up to the minister to decide. It reminds me a little of *The Castle*—the way you pronounce it depends on your accent—where someone was asked for a legal opinion and the best they could come up with was that it is 'the vibe'. In some regards, determining the iconic values that the minister is going to choose will probably be a bit like 'the vibe'. I do not know how good the minister is at 'the vibe'. I know that he has a bit of a legal background. We will be intrigued how he makes this illuminating decision about who is going to be in the legislation and who is going to be out of the legislation.

Ultimately, it is minister's choice. It is his platter of opportunity to tell us how he is going to enshrine what he believes are iconic values and then which communities will lose because he does not believe they are special enough to be considered in this legislation. There is no appeal against the minister's decision. It is going to be minister's choice about what he thinks is iconic.

The government is going to be liable for the cost of the panels. We note that the full cost of these panels is unknown. As I understand it, the government will also be liable for the cost of the appeals if the panel decision is one which is subsequently taken to court. However, councils could bear the costs of providing additional information to this panel and providing supporting technical expertise.

I would certainly appreciate the minister's advice on how he envisages this process operating in reality. If local authorities are essentially providing all the technical information to the panels there is the issue of the costs involved and the practical issue of how the panels interact with the technical staff and support services in council. This may mean an additional cost to councils.

What are the criticisms? There is more of the unknown in terms of how these panels will operate given that they are an additional bureaucratic process to overview initially all development applications in order to select which ones they will handle and which ones they believe are in alignment with the minister's determination of iconic values for a particular area. In high-volume councils, the concern is that this could add an additional layer of bureaucracy. This legislation is really about trying to address a government

oversight in the way it went about forced council amalgamations. It is a legacy of the Beattie government's policy on the run.

The genesis of this framework is a declaration by the minister of iconic values and the local laws, planning provisions or policies that protect those iconic values. That declaration does not appear to be subject to negotiation, feedback or appeal. Once again I would welcome the minister's advice on how he works out what is iconic and 'the vibe' about which local communities are special and whether he is willing to listen to the concerns of communities and those who wish to be covered by this legislation.

The determination of the panel members is entirely at the minister's discretion. This is an issue that we will certainly be raising further in the consideration in detail stage and goes to the heart of the amendments which we will be proposing. One of the issues for the Noosa community, since they are to be subsumed into the larger Sunshine Coast Regional Council, is that they will lose quite a degree of local representation. That will be true for other local communities.

The Noosa community raised their wish for appropriate local people of good standing to represent their community on these panels. The composition of the panels is important. We need to ensure that it is not just a bureaucratic instrument selected by the minister for the minister, and by the minister for the government, rather than for the people. We will be raising the need to consider the composition of those panels and the need to ensure there is local representation that takes into account local issues.

The minister may at any time overrule the panel's decision. The minister continues to have call-in powers under the current planning framework. Not only do we have a panel process selected by the minister for the minister supposedly in lieu of local representation; we also still have a minister who will have call-in powers. The minister talks about streamlining the process and achieving the outcome. It is of concern whether this is the best way to protect local iconic values and the local values they want to maintain in their local laws and planning guidelines. The panel is said to be funded by the state including support services and remuneration of its members. As I have raised, there are many unanswered questions about the costs associated with the ongoing technical advice that has to be provided by council.

Many of the actions of council which have protected iconic values which this bill seeks to protect may not be enshrined in local government legislation or policy. As the minister works out who is anointed with the status of iconic place under this legislation, he should take into consideration that some of these things have not been written specifically with the terminology that he may have in mind. I would certainly appreciate the minister's explanation as to how he practically will be considering who he anoints with the special status under this legislation.

The other amendment we will move attempts to clarify what we believe is a need to make sure the scope of the development assessment panels is such that it addresses those applications that fall outside the previous guidelines and town planning requirements of iconic places. I believe that was the intention of the government's legislation, but that is not the way it has been written. We support this legislation recognising that it is a poor substitute for the best that can be had through good local representation of local communities that are not subsumed into larger areas.

We will support this legislation with those reservations. We will maintain our right to continue to scrutinise how these panels operate. We will certainly continue to scrutinise and support communities in their fight to ensure that all they hold dear and value in their communities they have a right to not only express but also see enacted in legislation. With regard to this legislation, I note that there is a review mechanism after a number of years. I would suggest that that review mechanism may need to operate a lot quicker than the five years as proposed.