Speech by

Hon. Jeff Seeney

MEMBER FOR CALLIDE

Hansard Tuesday, 13 November 2012

SUSTAINABLE PLANNING AND OTHER LEGISLATION AMENDMENT BILL

Hon. JW SEENEY (Callide—LNP) (Deputy Premier and Minister for State Development, Infrastructure and Planning) (10.30 pm), in reply: Before I begin my concluding remarks, I table the government's response to the State Development, Infrastructure and Industry Committee's report on the Sustainable Planning and Other Legislation Amendment Bill 2012. I again thank the committee for their consideration of the bill.

Tabled paper: State Development, Infrastructure and Industry Committee: Report No. 13—Sustainable Planning and Other Legislation Amendment Bill 2012, government response [1570].

I thank all of the honourable members in the chamber who made a contribution to the debate tonight. Some very worthwhile contributions were made about the bill before the House. In this summation I will try to address some of the points made. I turn first to some of the points made by the member for Mackay in his contribution to the debate. The member indicated that he will move amendments to the bill during consideration in detail to change the way costs are imposed in the Planning and Environment Court. This has probably been, as I indicated in my second reading speech, the most contentious part of the bill. It was always going to be so.

The member also indicated that he would move some amendments to retain some of the existing declared master and structure planned arrangements. I signal now quite clearly that I do not intend to support the amendments that have been circulated in the name of the member for Mackay as they will fail to address the very real problem with the way the system has been operating. I would note that our proposed amendments already omit clause 59.

As I said in my second reading speech, we can have a debate about how we address this issue but doing nothing about it is not an option. Refusing to recognise that there is a problem is not an option. We need to have, and I think we have had, in the process of the consideration of this bill—in this parliament and in the committee, and in the public debate—a very measured conversation about how we address this issue of costs in the planning court. What I will move as an amendment to the legislation is, I think, a very balanced outcome.

I have the highest regard for the committee and the process it has pursued, as I foreshadowed in my opening remarks. I will move amendments designed to address the concern raised by stakeholders during the committee process while still achieving the intent of the amendments contained in the relevant clauses. The intent is to give the Planning and Environment Court an appropriate discretion to award costs against a party where the particular circumstances of the case warrant such a decision. The purpose of giving the court this discretion is to discourage the abuse of appeals to the court, particularly by vexatious litigants and those looking to gain commercial advantage by delaying the development process through court action and/or imposing court costs on a competitor.

The members for Mackay and South Brisbane both quoted selectively from submissions received by the committee. It is interesting to note that even in these submissions they quoted, for instance the

submission made by the Noosa Residents Association, there was an observation that the cost arrangements could 'maybe be spelt out more clearly'. That is precisely what my amendments will do. I am surprised that the member for Mackay did not realise this when he raised the Costco application that I am currently considering calling in. This type of situation is exactly what these changes are seeking to address. If these commercial parties know that they risk paying the costs of their opponent's action, they might just think again before entering into such an expensive and time-consuming thing.

So did the member for Mackay not realise that it is the current act's costs provisions that result in such unreasonable delays to development outcomes? As a result of the submissions made to the committee, clause 61 of the bill will be amended so that costs are awarded at the discretion of the court, and they will not automatically follow the event. The purpose of this amendment is to give the court discretion to award costs and provides a non-exhaustive list—it provides a long list, but it is a non-exhaustive list—of matters that the court may take into consideration when deciding whether to award costs. Amending the clause in this way will provide greater certainty and transparency for the community, industry and local government when taking proceedings to the Planning and Environment Court. This should ensure that parties that take action in good faith, having prepared appropriately, are not arbitrarily disadvantaged simply by not being successful.

Furthermore, the member for Mackay's foreshadowed amendments will keep us in the past by retaining some existing declared master and structure plan arrangements. I am not sure that the member for Mackay fully understands the way we have carefully enabled the good work done by councils and proponents to be carried forward for up to three years while they transition those plans into their town planning schemes. This is designed to protect the rights of those who have resolved the planning outcomes in these important places throughout Queensland. If any member cares to check, a number of these suggested amendments are already attended to in the amendments I am proposing.

The member for Mackay stated that the amendments to the bill remove the rights of local governments and community groups to have a say in their community. This is quite simply nonsense. The bill empowers local governments to support their communities—something that this government strongly supports and has been doing across a range of regulatory and legislative moves.

The member for South Brisbane asserted wrongly in her contribution to the debate that the government has not taken into account the views expressed by stakeholders. Once again, this is simply nonsense. It is simply not the case, as the amendments I will move demonstrate that the government has not only listened to the feedback received through the committee process but also acted on it. We have accepted every one of the committee's recommendations. Importantly, the government has acted on the committee's recommendations in a way that will ensure the planning framework is improved. The amendments to be moved by the member for Mackay are an attempt to lock Queensland into the backwards thinking that typified the Labor government's term in office.

The member for Bundamba during her contribution to the debate compounded the errors that were made by the member for South Brisbane—that is, that the government failed to consult. Quite clearly, this is nonsense. I take this opportunity to set out in some detail the extensive consultation that did in fact occur during the development of this bill and to which I have referred many times in the past. Again, I would draw particular attention to the excellent efforts of the member for Mansfield, the Assistant Minister for Planning Reform, in convening between May and July this year a series of planning reform forums. I said when I introduced this bill into the House that I thought the consultation process undertaken by the member for Mansfield would stand as a model for many years, for many members to copy. It is a model of community consultation that I think reflects great credit on him and on this government.

Each of those forums spanned several hours and discussed an extensive range of subjects. Groups consulted included the Urban Development Institute of Australia, the Property Council of Australia, the Housing Industry Association, the Master Builders Association, the Building Surveyors Association, the Planning Institute of Australia, the Local Government Association of Queensland, the Council of Mayors South East Queensland, the Queensland Conservation Council and even the Environmental Defenders Office. They were all involved in that consultation process. Furthermore, every council in Queensland was invited to identify matters that required planning reform. This bill is in effect the product of the feedback we received during these extensive consultation processes. It is just nonsense for the opposition to come in here tonight and suggest that we have not listened to the stakeholders in this particular issue.

As I said earlier, the bill allows planners to focus on the four pillars of the economy. To do this, we need to move forward and make the changes proposed in this bill. The bill delivers the government's commitment to restoring efficiency, consistency and certainty to the planning and development assessment system. It is an important first step in simplifying and fixing the planning framework.

A key feature of the bill is establishing a sole state assessment and referral agency to deal with all of the development applications under state jurisdiction other than building applications. Another key feature is removing the ineffective and unnecessary master-planning and structure-planning provisions for

declared master planned areas but allowing for the transition of those already declared into local planning schemes.

The bill removes regulatory red tape for development applications involving state resources. An applicant no longer has to wait until they have their state resource allocation to lodge their development application. They can now seek this entitlement before or at the same time or after the development assessment process. It provides flexibility by giving local governments the discretion to accept applications that do not include all of the mandatory supporting information on a case-by-case discretionary basis. New provisions will allow the Queensland planning provisions to apply to all local government planning schemes which will facilitate consistency through maximum levels of assessment and state-wide codes. Importantly, the bill also gives the Planning and Environment Court discretion in relation to costs and provides a transparent framework for the making of cost orders. Separate rules of court are no longer needed.

Linked to this is the ability of the chief judge to direct the Alternative Dispute Resolution Registrar to hear and decide minor disputes. This is a great outcome and will provide community groups to have their matters heard and resolved in full in court. These new arrangements will commence on assent. These seven proposals are an important step in reforming and simplifying our planning system to drive the economic growth of Queensland. I once again thank the member for Mansfield for his comments on the bill and for his support as Assistant Minister for Planning Reform. Again I thank all honourable members for their contributions and the State Development, Infrastructure and Industry Committee for its thorough consideration of the bill. I commend the bill to the House.