Speech By

Hon. Cameron Dick

MEMBER FOR WOODRIDGE

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ECONOMIC DEVELOPMENT AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. CR DICK (Woodridge—ALP) (Minister for State Development, Manufacturing, Infrastructure and Planning) (5.34 pm): I move—

That the bill be now read a second time.

This legislation modernises economic development and planning legislation in Queensland and supports job creation. I begin by acknowledging the State Development, Natural Resources and Agricultural Industry Development Committee's report on the bill tabled on 8 November 2018 and note that the government's response was tabled on 6 February 2019. I also take the opportunity to table an erratum to the bill's explanatory notes.

Tabled paper: Economic Development and Other Legislation Amendment Bill 2018, erratum to explanatory notes 434.

I thank the committee for its consideration and close scrutiny of the bill. I know that the committee made five recommendations to the House, including that the bill be passed. The government notes recommendation 1, that the bill be passed.

Recommendation 2 relates to the establishment of a local consultative committee for provisional priority development areas, provisional PDAs, that includes a representative from local government. The government supports this recommendation, and I will later move amendments during consideration in detail to address this matter. The amendments will require that where a provisional PDA is declared the Minister for Economic Development Queensland, MEDQ, will appoint a consultative committee as soon as is practicable after the provisional PDA declaration. The purpose of the committee will be to provide local input in decision-making through representation from the local government as well as other entities and the local community affected by development in the provisional PDA. The amendments will prescribe that the functions of the committee will be to advise on the impact or potential impact of development in the provisional PDA and community needs and expectations.

A local consultative committee will provide a significant new opportunity for local input in decision-making for provisional PDAs. I am pleased to make these additional amendments to the bill in response to the committee's recommendation. This process will formalise the kind of approach Economic Development Queensland used with the Oxley community for the Oxley PDA. This process involved an initial broad-based consultation to understand the community's values, preferred site uses, concerns and potential opportunities, and included establishing a community panel to inform the development outcomes in the PDA.

Recommendation 3 of the committee report seeks clarity that PDA exemption certificates will not have a detrimental effect on the cultural heritage significance of Queensland heritage places. I would like to respond by saying that in PDAs the MEDQ has responsibility for managing proposed development of Queensland heritage places. Accordingly, Queensland heritage places are considered when preparing development instruments under the Economic Development Act 2012, the ED Act, and also when assessing development applications involving Queensland heritage places.

This consideration of cultural heritage will be extended to any request for a PDA exemption certificate and is provided for in the bill through the requirement for the MEDQ to consider any relevant state interests in deciding whether to issue a certificate. The provisions also clarify that a PDA exemption certificate may be given, subject to stated requirements. This provides for any necessary requirements to be imposed to protect Queensland heritage places should MEDQ decide that the circumstances warrant a PDA exemption certificate. On this basis, I can confirm that exemption certificates will not have a detrimental effect on the cultural heritage significance of Queensland heritage places.

Recommendation 4 of the committee's report recommends that during this speech I clarify the powers for investigation and enforcement of PDA development offences under clause 102 of the bill and outline the need for such powers. I am pleased to provide this clarification to ensure that committee members and other honourable members have comfort that the powers for investigation and enforcement of PDA development offences are appropriate, relevant and necessary.

Investigation and enforcement are critical elements of a robust and orderly planning system. They provide a way for the government to protect the community and environment if there are contraventions or offences committed under the act; for example, carrying out development without a permit or not complying with the conditions of a development approval. Under the current ED Act, the only option for dealing with a development offence relating to protection of a heritage matter in the Bowen Hills PDA, apart from less powerful administrative action, was to progress the matter to the Planning and Environment Court. This caused costs and delays that could have been avoided if EDQ was able to take a more direct enforcement action approach, such as issuing a show cause notice to the developer, without having to go to court.

These new powers will provide the scope to deal with these matters in a timely and efficient manner. However, the current provisions and powers for investigation and enforcement under the ED Act are considered inefficient and not as comprehensive or contemporary as those used by local governments under the Planning Act 2016 despite the ED Act delivering a comparable system for regulating development. The bill aims to improve on enforcement powers in the act to manage compliance efficiently and effectively and further protect the community.

The current inspectors' powers in the ED Act derived from the Local Government Act only and do not provide for action to be taken in relation to development offences. It is not correct as stated in the statement of reservations that the inspectors' powers proposed by the bill can only be exercised by police under a warrant. These powers are available to local governments to deal with development offences under the Planning Act and are considered necessary to protect the community's interests. The bill seeks to apply the enforcement provisions of the Planning Act, including those related to local government inspector powers.

The Planning Act investigation and enforcement provisions were reviewed by the former Infrastructure, Planning and Natural Resources Committee in its inquiry into the planning bills in 2015. The parliamentary committee, local government and industry stakeholders did not raise any objections to the Planning Act investigation and enforcement provisions which are now proposed to apply to the ED Act. I trust that this provides the committee and members of this House with certainty that these additional powers are important, relevant and necessary to provide for a robust regulatory system under the ED Act.

Recommendation 5 of the committee report recommends that the department correct a typographical error in clause 190 of the bill, which amends new section 79 of the Planning and Environment Court Act 2016. The government supports this recommendation and I will move amendments during consideration in detail to correct the error.

The purpose of this bill is to amend the Building Queensland Act 2015, the Economic Development Act 2012 and other acts consequential on the operation of the ED Act, the Planning Act 2016, the Planning and Environment Court Act 2016, the Queensland Reconstruction Authority Act 2011, the Sanctuary Cove Resort Act 1985, the South Bank Corporation Act 1989 and repeal the Southern Moreton Bay Islands Development Entitlements Protection Act 2004. I also want to thank the community for participating in the committee inquiry through the public submissions process.

Turning now to the Building Queensland Act, the amendments to the Building Queensland Act 2015 stem from the recommendations of an independent expert review of Building Queensland and the Queensland government's response to the recommendations. Building Queensland was established as a statutory body in December 2015. As with many newly established statutory bodies, the government decided that there should be a review of Building Queensland's operations after 12 months to ensure it was being effective. A national infrastructure advisory firm, E3 Advisory, was appointed to conduct the review. A report authored by Dr Peter Wood was prepared and the report was completed in May 2017.

The review considered Building Queensland's functions and activities, its compliance with legislative requirements and its governance arrangements. Both the review report and the government's response to the recommendations are published on my department's website.

Part of the government's response requires three amendments to the Building Queensland Act. One amendment is an adjustment to the threshold for business cases that Building Queensland is required to lead and the other two amendments change the frequency of publication of the infrastructure pipeline report to annually and also allow for government Building Queensland board members to nominate a proxy for a single board meeting. Key infrastructure stakeholders were consulted about these amendments before the bill was introduced into the House. They included the Infrastructure Association of Queensland, Engineers Australia, the Queensland Major Contractors Association, Consult Australia, the Civil Contractors Federation, the Asset Institute, Cement Concrete & Aggregates Australia, the Property Council of Australia, the Urban Development Institute of Australia and Construction Skills Queensland. I am pleased to report to the House that none of these stakeholders raised any concerns about the amendments.

The Property Council of Australia said about the proposal to reduce the frequency of publishing the infrastructure pipeline report—

> ... the amendment to change the frequency of the Infrastructure Pipeline Report to align with the annual release of the State Infrastructure Plan will make the service more efficient and is also supported.

As I have already noted, this review is on the public record and was also provided to the committee during its consideration of the bill. Building Queensland will continue to update the community, including the infrastructure community, about the status of projects and new projects being added to the pipeline.

The bill also makes minor changes to the Economic Development Act. This is the Economic Development Act that was initiated, drafted and passed by the parliament during the term of the Newman LNP government. It was, of course, supported by the Leader of the Opposition and the member for Glass House. It was also supported by the members for Everton, Kawana, Maroochydore, Chatsworth, Burdekin, Burleigh and Broadwater, and that includes both members for Broadwater—the current member for Broadwater in his then capacity as the member for Mundingburra and of course that icon of the 54th Parliament, the long lamented Miss Verity Barton.

Amendments to the Economic Development Act 2012, or ED Act, will improve its operation within the current frameworks established by the ED Act for facilitating economic and community development in the state and I thank the honourable members opposite for their support for this. These frameworks include the processes for declaring PDAs and for the planning and management of development within these areas. I repeat that this is the Economic Development Act that was initiated, drafted and passed by this parliament during the term of the Newman government. The framework, including the processes for declaring PDAs and for the planning and management of development within these areas, is very important. The bill does not propose to change the purpose of the ED Act or its fundamental processes. The ED Act has proven to be effective in delivering economic and community development in many parts of the state.

Proposed amendments to the ED Act, including amendments for consideration in detail, reflect the government's firm commitment to consultation when undertaking processes and making decisions under the ED Act. Increasingly, PDAs are being seen by local governments as a planning tool to realise their own local goals. Nine of the 14 PDAs declared since the ED Act commenced have been made at the request of local councils. These are PDAs that stretch from Townsville to the Gold Coast and include the Mackay Waterfront PDA, the Maroochydore City Centre PDA, the Southport PDA and the Townsville City Waterfront PDA. I value an ongoing and productive working relationship with councils where PDAs are a feature of the planning landscape.

For example, when declaring provisional PDAs, a mandatory consultation process has been introduced for a draft provisional land use plan. The plan is finalised three months after declaration. While the plan is a draft, a decision cannot be made on development that would be inconsistent with the planning scheme. This maintains the status quo until the provisional land use plan is finalised. However, the provisions for declaring PDAs have unnecessarily constrained the creation of these short-term PDAs to the point that none have been declared since the ED Act, as drafted by the Newman LNP government, came into effect.

I need to make it clear that the provisions for provisional PDAs are different from those that apply to other types of PDAs. In particular, the requirement that the implementation of the local planning scheme must not be compromised does not acknowledge that the local planning scheme may no longer reflect the best use of the land or community expectations. For example, the former school site at Oxley may have lent itself to a provisional PDA because it is not a particularly complex proposal and a provisional PDA may have enabled community outcomes to be delivered more quickly. The bill and

amendments for consideration in detail strike an important balance between providing new opportunities for local government and community input and delivering a streamlined plan-making process.

The bill also provides for PDA boundaries to be amended to correct drafting errors and to reflect changed priorities. For example, the bill provides for minor amendments to the boundary of a PDA in limited circumstances. The ED Act does not currently allow any changes to a PDA boundary, but if a minor error has been made—perhaps in relation to the alignment of the boundary along a road, or the PDA boundary cuts to a parcel of land—this creates situations where one parcel of land is administered under two different jurisdictions. Where a significant boundary change is required, the bill allows for this through the establishment of a replacement PDA using the usual PDA declaration process. This will include community consultation on the proposed development scheme for the new PDA. Currently, the ED Act does not provide for these situations. A PDA only can be returned to administration under the local government planning scheme.

The bill provides greater flexibility around planning time frames for PDAs and their instruments, including the option to extend the life of an interim land use plan from one year up to a maximum of two years. This option provides for the situation where there are known significant planning and infrastructure at declaration that would benefit from a longer development scheme preparation time. The decision about a longer period may be made only at the time of declaration, not at a time after the period has started.

The bill also includes amendments that provide for more effective development assessments in PDAs, including with respect to managing PDA development applications, provisions for infrastructure agreements and interaction with other acts, such as the Building Act 1975 and the Environmental Protection Act 1994. New requirements around information requests and notification of applications will provide clarity and greater certainty for the applicant about the status of an application.

The bill refines the provisions for when PDAs cease. PDAs will cease either at the end of three years for a provisional PDA or by a revocation regulation once there is no longer a need for the ED Act to be utilised to achieve government objectives. Amendments to the ED Act will improve an administrative matter in relation to consumer disclosure statements under the Body Corporate and Community Management Act 1997. This will not impact on consumer protection. Furthermore, requirements for public thoroughfare easements under the Local Government Act 2009, the City of Brisbane Act and the Land Titles Act 1994 have been amended. I also want to confirm that this does not affect the rights of the local government as the landowner to grant the easement. However, it provides the opportunity for a developer to provide high-quality public spaces at their cost that would otherwise be unavailable or at the cost to the community.

Amendments to the Planning Act 2016 will address operational matters arising since its commencement in July 2017. There is broad support for the proposed amendments, which respond to a number of key matters raised by the courts, councils and industry practitioners. Over the last year, the courts and industry practitioners have made clear that the requirement for a submitter appellant to notify other appellants of the appeal is simply not working. It is proposed that this requirement be removed as there are already effective ways for a submitter to stay informed of appeals, such as the Planning and Environment Court appeals information on the department's website. Importantly, removing this requirement does not change a person's ability to access appeals information.

The bill also removes a barrier in using electronic forms for notification of certain planning and development assessment documentation, which is strongly supported by councils in particular. I take the liberty of quoting the submission provided by Cairns Regional Council, which states, 'This amendment has the potential to result in both a significant time and cost saving.' In planning and development assessment, local government sometimes needs to provide many pages of printed documents to numerous recipients. The time, resources and costs associated with printing and postage of hard copies is not always pragmatic in this electronic age. The amendments propose to remove the limitations on the electronic service of documents while specifying that hard-copy documents may still be requested and must be provided as soon as practically possible.

Infrastructure charges are an important aspect of development assessment and decision-making in Queensland. Local governments rely on the ability to levy infrastructure contributions from developers to provide the necessary services to our communities across the state. The background of these amendments largely arises from a recent court matter in which certain infrastructure charges notices were considered to be invalid because they did not adequately meet the requirements to give the reasons for a decision under the SPA. This has created uncertainty about the validity of infrastructure charges notices issued by councils across the state and opens the door for developers to retrospectively recoup charges already paid to councils under the SPA regime since 2014.

The financial risk and uncertainty for local governments, industry and community are too great not to progress the proposed amendments. The bill restores certainty in the operation of the infrastructure charging framework for councils, the community and industry by validating certain infrastructure charges notices issued under the repealed Sustainable Planning Act to the extent that they did not adequately include reasons. To be clear, the bill will not make a charge valid where it may be flawed for any other reason.

The amendments also confirm that actions that have occurred or will occur in relation to the recovery or payment of the levied charge under those particular infrastructure charges notices are valid. The infrastructure charging regime has been in place for several years and was subject to extensive industry consultation during development. The industry has known that it was expected to pay infrastructure charges and has routinely been levied for, and paid, those charges to councils. It is an expectation of, and costed into, development in Queensland. That is why key industry stakeholders such as the Queensland branch of the Urban Development Institute of Australia, the Queensland branch of the Planning Institute of Australia and Queensland Law Society support the proposed amendments. The validation of these particular infrastructure charges notices clarifies that the technical omission of reasons means that ratepayers would not be forced to subsidise the cost of providing infrastructure and councils will not need to defend court actions by developers on the basis of a technicality.

The Planning Act already clearly sets out the requirements of an infrastructure charges notice, including how the charge has been worked out and appeal rights. However, the bill also introduces a provision that infrastructure charges notices must state any other matter prescribed by regulation. This is an opportunity to engage developers and councils to ensure that all parties have a clear understanding and expectations about what, if any, additional matters should be included in an infrastructure charges notice. If consultation with councils and industry identifies a need for an infrastructure charges notice to have further requirements, this may be the subject of a regulation amendment in future.

The bill also proposes to amend the Planning and Environment Court Act 2016. These amendments respond to a request from the court and achieve operational efficiencies for dispute resolution arrangements under Queensland's planning framework. Currently, the court is able to refer matters to the Alternative Dispute Resolution Registrar. This amendment provides powers to the court to use a private mediator where needed—for example, to support the workload of the Alternative Dispute Resolution Registrar or where expertise on a particular subject is needed.

The bill proposes to amend the Sanctuary Cove Resort Act 1985 to list a retirement facility and residential aged-care facility as possible future uses at the resort. The amendments will help Sanctuary Cove residents retire close to family and friends. Being able to stay close to home in an environment you love, surrounded by the people you love, is important for residents in all communities as they enter their later years. The Sanctuary Cove Resort Act is over 30 years old and does not provide for a retirement or residential care facility at the resort. This limits opportunities for the resort community to retire in a place they know and in an environment where they feel safe and comfortable. These amendments are consistent with our government's policy to support diverse housing options and the ability for the community to age in place.

The bill ensures that applications may be made for proposed retirement facility and residential care facility uses at nominated zones or sites at the resort. To be clear, the bill does not automatically allow a development of this nature to occur at the resort. I am aware that some resort community members have concerns about the possible adverse impacts of a retirement or residential care facility at the resort. However, it is important to be aware that the bill does not change any existing processes under the act regarding making applications, voting or decision-making. The voting entitlements under the act also remain unchanged. This means that the community will have an opportunity to provide their views about any future proposal for a retirement or residential care facility at the resort.

The bill also proposes to repeal the Southern Moreton Bay Islands Development Entitlements Protection Act 2004. The act's repeal will provide certainty for landowners through the Redland City Plan and ensure that the planning framework for the community is up to date and contemporary. Repealing the act will make sure that planning for the islands in the southern Moreton Bay area, including Russell, Macleay, Karragarra and Lamb islands, is up to date and contemporary.

Since its inception in 2011 as a temporary agency, the Queensland Reconstruction Authority has managed a $14.5 billion program of reconstruction works and become a national and international leader in disaster management and the empowerment of local communities during recovery. This summer alone has delivered some of the worst that Mother Nature can throw at Queensland—from droughts and bushfires to severe tropical cyclones and flooding. These events have resulted in loss of life; millions in damage to public infrastructure, agriculture, industry and tourism; and billions of dollars in insurance losses.

As the most disaster impacted state in Australia, we need to ensure that the QRA has the legislative authority and clarity to deliver its much needed and appreciated work while building a stronger and more resilient state. Amending the Queensland Reconstruction Authority Act will ensure that the QRA can undertake an all-hazard approach to its responsibilities, continue leading the coordination of resilience and recovery policy in Queensland and facilitate the delivery of mitigation and betterment activities outside of post-disaster events.

We need to continue building our state's resilience, make our infrastructure and services stronger and equip our communities with the tools to better prepare for disasters. Amendments to the act will extend QRA's functions to facilitate that. I have no doubt that this amendment will ensure that QRA carries on doing what it does best, but with greater certainty and purpose as we continue building Australia's most disaster resilient state. I commend the bill to the House.