Speech By

Hon. Dr Steven Miles

MEMBER FOR MURRUMBA

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HEALTH AND OTHER LEGISLATION AMENDMENT BILL

Hon. SJ MILES (Murrumba—ALP) (Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympics Infrastructure) (2.30 pm): I am pleased to speak today in support of the Health and Other Legislation Amendment Bill 2021. Part 2, division 3 of the bill amends the Environmental Protection Act 1994 to include a reference to ministerial infrastructure designations in schedule 1 of that act.

Queensland is the place to be. Following our strong health response to the pandemic, we have seen a rush on our state from people wanting to take advantage of our booming economy and our wonderful lifestyle. We have had more interstate migration than other states or territories, with 30,000 people relocating to Queensland in 2020 alone.

Thanks to the sacrifices made by so many Queenslanders, we have an unprecedented head start on economic recovery and we are working to take advantage of that head start and create jobs for Queenslanders. Our COVID-19 economic recovery plan is working, with more Queenslanders in jobs now than ever before. Just last week the Treasurer announced that Queensland had created 17,400 jobs last month. Australia as a whole created just 12,900 jobs in net terms. That means that without Queensland Australia would have gone backwards. Now that we are on our way to becoming an Olympic city, that will mean thousands more jobs in the lead-up to 2032 and beyond, making Queensland even more desirable.

We are investing in infrastructure that unlocks development, generates construction activity and creates long-term employment throughout the state. If we are going to power on with our economic recovery, we are going to need sensible planning to make sure development is keeping up with the boom. We want to make sure we seize the opportunity this influx will create to increase social infrastructure and make our cities and regions even more livable.

Ministerial infrastructure designations are an important tool under the Planning Act 2016 to facilitate the development of critical infrastructure. They allow us to streamline the development processes for facilities like schools, hospitals and police stations. They are also a vital planning tool for surges in population growth, as assessment time frames for a ministerial infrastructure designation are normally around four to five months whereas a typical development assessment process could take up to 12 months.

A proposed ministerial infrastructure designation is subject to careful evaluation by the Department of State Development, Infrastructure, Local Government and Planning, including consideration of relevant planning documents. A ministerial infrastructure designation can only be made if, as the planning minister, I consider that it addresses community expectations for the efficient and timely supply of the infrastructure. Before making a designation, I must also be satisfied that there has been adequate assessment and consultation undertaken.

The minister's guidelines and rules, which is a statutory instrument under the Planning Act, require substantial public notification of proposed designations, including through publication of public notices, posting signs on the premises and direct notification of key stakeholders including the immediately surrounding community. Consultation is also undertaken with affected landowners and the relevant local government.

A designation may include requirements which act in a similar way to conditions of a development approval. A requirement may regulate the physical form of the development such as design, scale or height. It can also regulate the resulting ongoing use—for example, through limiting hours of operation or imposing environmental standards. This ensures that any environmental or other issues identified in assessing a proposed designation can be adequately addressed through enforceable limitations on the development and use of the infrastructure.

The Environmental Protection Act regulates environmental harm. Environmental nuisance is the lowest level of environmental harm and includes nuisance caused by contaminants such as dust and noise. The regulation of nuisance is substantially devolved to local governments. For example, the Environmental Protection Act establishes default noise standards but allows local government to vary these through a local law. Contravening a noise standard is an offence carrying a penalty of up to 1,665 penalty units.

However, the Environmental Protection Act schedule 1 prescribes a number of instances of nuisance which are not an offence under the Environmental Protection Act, including nuisance regulated under other laws. This reflects the expectation that the regulation of nuisance under those laws allows for a more tailored and fit-for-purpose approach than the general noise standards and offence provisions under the Environmental Protection Act. Among the matters already included under schedule 1 are development approvals and exemption certificates under the Planning Act. However, schedule 1 has so far excluded ministerial infrastructure designations, despite the ability to explicitly evaluate and deal with nuisance impacts under designations in the ways I have already described.

The proposed amendment to the Environmental Protection Act addresses this by including a reference to ministerial infrastructure designations in schedule 1. Under the amendment, the existence of a ministerial infrastructure designation does not of itself displace the offence provisions of the Environmental Protection Act. For this to occur, the designation must contain a requirement that explicitly regulates the nuisance. This is similar to the existing exemptions for development approvals under schedule 1 and is designed to ensure that the impacts of the nuisance have been specifically evaluated and addressed through a requirement of the designation.

I also emphasise that the use of this provision, in the same manner as the corresponding power is used in respect of development applications, is likely to be used as an exception rather than be invoked on a regular basis. In situations where this new provision may be considered, it would be expected that the proposed ministerial infrastructure designation would be supported by relevant technical information and studies to justify alternative requirements in respect of managing environmental nuisance. These details would be made available during the public consultation on the proposed ministerial infrastructure designation, ensuring stakeholders are aware of the proposal. This will ensure transparency and appropriate input in the exception where this new provision may be used.

I note that the report of the State Development and Regional Industries Committee into the bill recommends that the minister provide detail about how instances of environmental nuisance relating to a ministerial infrastructure designation as exempted by the amendment would be investigated and regulated. Under the Planning Act, failure to comply with requirements under a designation is a serious offence, attracting a penalty of up to 4,500 penalty units. This is more severe than the penalties of between 600 penalty units and 1,665 units under the Environmental Protection Act for causing environmental nuisance.

The Planning Act clearly prescribe enforcement authorities in relation to a range of offences. For failure to comply with an infrastructure designation, the enforcement authority is the relevant local government. This reflects the significant experience and expertise most local governments have in investigating and prosecuting offences under the Planning Act, particularly in relation to development approvals. It is particularly relevant to nuisance as local governments already have significant responsibilities, expertise and experience in this area under the Environmental Protection Act. Local governments are already afforded significant powers of investigation under the Local Government Act 2009 which can be used to investigate and prosecute offences, and they are best placed to respond in a timely way if noise related nuisance occurs. I commend the bill to the House.