

HOUSE OF ASSEMBLY

WEDNESDAY 9TH SEPTEMBER 2015

LOCAL GOVERNMENT (ACCOUNTABILITY AND GOVERNANCE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 1 July 2015.)

Mr PEDERICK (Hammond) (17:06): The Local Government (Accountability and Governance) Amendment Bill seeks to improve local government accountability and governance and is about implementing recommendations made by the Ombudsman to achieve a more consistent and contemporary legislative framework for local government to operate under. It is also, as I remember when the minister introduced the bill, to manage issues around conflict of interest and the appropriate way these are managed. I note that we have to declare any conflicts of interest that we may have in this house, and the other members in the other place.

These amendments are considered necessary because of reasonable confusion amongst council members and councillors interpreting the current provisions of the act. I note that, with elections for local government only being last year, there were many new members elected into office. In fact, some councils had at least half of their members replaced, so there were a lot of new people into local government, which is good to see, but obviously there needs to be a lot of training provided and a lot of the requirements of being a local government member put to these new people.

The issue was around legal opinion on the interpretation of the act. The whole point of this bill is to improve transparency and greater disclosure of actual and potential conflicts of interest. As we know, when we talk about matters in line with what we do, there is a need to keep these provisions in line with what the public expect, what public policy expects, and obviously with regard to the lines of public integrity.

Late last year, not long after the council elections, the personal interest's discussion paper for council members was released. This was promoting discussions about the reform of the conflict of interest provisions of the act. It was based on similar legislation in the Queensland Local Government Act 2009. This indicated that there was significant support for gaining clarity amongst these provisions, also with regard to routine matters and also in seeking to find a better way to define the difference between actual and perceived conflicts of interest.

There have been quite a few responses in regard to this bill, including from the Ombudsman, the Independent Commissioner against Corruption, the Crown Solicitor, the Local Government Association, and councils have also put in

contributions towards the set-up of this bill. What is happening as part of that debate is the fundamental principle that council members must always consider the public interest in any decisions or actions taken in their role as a council member. The private interests of the member must never prevail over the public interest in that context.

I note that there can be difficulties for local members of government, because they could be significant businesspeople in the council that they represent, they could have large farm holdings or they could have properties that may be in a zone that is either up for rezoning for redevelopment over the next couple of years and whether there are any issues around whether some of that land could potentially be fast-tracked, or they could be debating something in local government that relates directly to their business. For example, they could be an earthmoving contractor with a council that actually gets that work done—maybe the hiring of a D8 bulldozer or a Komatsu or something similar—

The Hon. T.R. Kenyon: A little one.

Mr PEDERICK: Yes, a little one—to raise rubble, or other services that could be contracted out. So there are a significant number of issues that people need to contend with. I think the aim of this bill is to make sure that people are not confused, because there would be people concerned about whether they are making the right or wrong decision and declaring what they need to.

The current act requires this change, because it has only one category of conflict of interest and it only provides a council member with one course of action when dealing with it, and that is to declare the interest and leave the meeting. The act obviously does not provide for a councillor to declare potential conflicts of interest. What this bill will do, if it comes into law, is to determine what are material conflicts of interest, and that is where a member may gain a benefit or suffer a loss, depending on the outcome of the consideration of a certain matter at the meeting. Obviously the intent of the bill is to catch most potential conflicts in this category. In regard to what has happened in the past, this bill also requires a member who has a material conflict of interest to declare that interest and to leave the meeting while the matter is discussed and voted on.

There are obviously proposals for serious penalties for a breach of material conflict, and these penalties can go up to \$15,000 or four years' imprisonment. The idea with this bill is to send a very clear message that these are serious matters and must be treated accordingly. The bill also discusses the fact that council members are able to discuss matters of ordinary business for the council, even if they could technically have a material interest in the matter, so it is contained in the bill how to get around that potential conflict of interest.

We all pay council rates, pretty well, and council members are also ratepayers. You would like to think that, for the greater good, all councillors would be part of that debate, because that is one of the fundamental ways that councils raise their funds. Obviously, that is only a certain percentage of the funds councils raise, but they need to get other funds from grants to make everything work at the local government level.

Another category of potential conflicts are the actual and perceived conflicts which are established by this bill and these are matters that are considered to be of a less serious nature than material conflicts. These are conflicts that should be disclosed and documented. These must be matters that are of less significance for a member and it may be in regard to a non-financial or a minor gain or loss.

The bill also talks about exclusions which can be qualified where a council member might have an association with a community group or a sporting club, is a member of a political party, has involvement with a local school or has been nominated by the council as a member of a board, but this exclusion will not be in place every time and this would still need the councillor to recognise whether they have an actual conflict of interest or a perceived conflict of interest. This has been supported and recommended by the Ombudsman, supported by the Independent Commissioner against Corruption and the Local Government Association. These concepts are well known, as we know in this place at the state level, in administrative law, across the country and in other jurisdictions.

I would like to think that in all matters as they are here and at local government level, where many good people give up valuable time whether it is once a month or twice a month and sometimes more often than that, depending on whether they have special committee meetings to have debate, that we should have the appropriate legislation in place so that they can operate effectively and do the grunt work that happens at ground level with our local governments.

I applaud all our local governments for the work that they do at the local delivery level and it is far more than used to be said was roads, rates and rubbish. They do far more than that now in operating, whether it is our towns in our electorates or working around issues of whether you want to build a shed on a farm property or dog and cat management.

We had a select committee on dogs and cats in this place several years ago and I was part of that select committee. Certainly, as a local member of parliament—and I think every member in this place would have the same thing happen—many people come to you about local government matters. They are not really your purview, but I certainly have a policy that if they come to me I have to tell my local council, whichever one it may be, what is going on, have a discussion and maybe have a meeting. I certainly have, as many members do, regular meetings with council mayors and CEOs so that you can have that good discussion around what is happening.

I can recall a meeting only recently with one of the councils in my electorate regarding development issues and it is one of the issues that comes up quite often. There are many people with property, whether it is a small farming property or even a larger farming property, on the edge of somewhere like the main city area of Murray Bridge that they want to see rezoned so that they can not only capitalise on that rezoning but also reduce the size of the block which they are having to look after and which they may have owned for 30 or 40 years.

It is good to have that relationship with councils and get the planning staff in as well because it is one of the those areas that there is much debate and it can get very robust. It is just good to get an idea of how it works at the local

government level with regard to that and sometimes, as we find along the way, it is not that straightforward.

This bill will help bring up to speed the accountability of councillors and I hope it gives local government and councils the clarity that they need, especially with the many new councillors who have come on board since the last election. They have made a commitment for four years. I commend them all for all the work they do. It can be difficult and frustrating and keep them out late at night but I know they do it for the service of their communities and they do a great job.