HOUSE OF ASSEMBLY

WEDNESDAY 19TH OCTOBER 2016

STATUTES AMENDMENT (PLANNING, DEVELOPMENT AND INFRASTRUCTURE) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 21 September 2016.)

Mr PEDERICK (Hammond) (12:25): I rise to speak to the Statutes Amendment (Planning, Development and Infrastructure) Bill 2016. It is heading towards a year since we started debating the original bill, which was the repeal of the previous planning legislation from 1993. My concerns at the time were that some of the issues that arose from that debate were when we were well into the committee stage. We had made our second reading contributions, and next thing there were quite a few amendments coming through. In fact, I believe there were something like 300 amendments through the houses, and about 200 of those came from the government.

For big legislation like this—and the government is the one with the resources—it beggars belief why so many amendments had to be drafted for the legislation that was being debated at the time with the many years and months that would have gone into (or what I believe should have gone into) the introduction of the bill, which then became the planning act.

The biggest thing that concerned me at the time was when we were in the committee stage debating clause 50 and we got to the area of environment and food protection. This concerned me because it obviously brings in more red tape: it changes a whole range of things in development across a fair swag—a large area of the state. During the debate, when I was questioning the minister what concerned me even more was that these environment and food protection areas, or the big area, as outlined to me, would be the equivalent of what happened when the legislation went through for the Barossa Valley and McLaren Vale protection areas.

I think it is totally wrong that a major planning change such as this suddenly came in at that stage of the debate, and it did seem to be rushed as we looked to find maps of what it meant. For me, the major concern was that, apart from the major area that was impacted—which is essentially an area just north of Kapunda right through to Goolwa, at the bottom of my electorate, including the full area of the Rural City of Murray Bridge—there was a lack of complete consultation with local government on the issue. So, I contacted my local mayors, with varying responses, and I said, 'You really need to have a look at this, and you need to talk to people to see what this means.'

At the time, the mayor from Murray Bridge came back to me and he said, 'No, I've talked to my planning people, and they don't seem to think it's going to be a huge impost.' I said, 'I think you need to have a look.' It is up to them how hard they look at it. I was only talking to Mayor Brenton Lewis about three or four weeks ago on this matter, and he said, 'Yes, now we are concerned when we realise the implications.'

Some people may question my thoughts on this, as a farmer, that I would like to see protection, but let's be frank: we have to manage planning appropriately. This whole state was once farmland, so if you are going to start excluding areas fully, we have

already built on the best land in this state, certainly in the Adelaide Plains area, certainly right here where we stand today, some of the most fertile country in the state.

What I struggle with in this blanket environment and food protection area is the fact that there are many different landforms between Kapunda and Goolwa. There are many different landforms, and the value of your country, especially in production, is in the eye of the beholder. You can be in high-production country, whether it is some of the higher production country around Coonalpyn, some of the red flats, some of the high-production country on Yorke Peninsula. There is high-production country on Eyre Peninsula. When I say high-production country, I am talking about cropping country here, but equally you have station owners in the Far North who believe that their land is valuable country and high-production country.

You only have to look at the debate over the proposed Kidman stations sale to see how that has focused many across the country and overseas on the debate of the value of Australian land. It is certainly in the eye of the beholder, and I think they were the appropriate places to go in the planning legislation. It was disappointing that this was brought to us in the committee stage of the debate. It should have been far better handled, and I hope that with this so-called consultation that is going to happen there is actually some consultation with local government. They do play a big role in planning, and it would be nice to think that they are involved. Frankly, I have seen no evidence of it so far, and it certainly needs to happen.

This bill has been introduced by the minister to provide for the implementation of the Planning, Development and Infrastructure Act 2016 by the amendment of many acts and the enactment of transitional provisions. It certainly amends 24 different acts. This legislation is supported by a commitment of almost $26 million over five years, July 2016 to June 2021, for the implementation of the new planning scheme for the state, and this would include the introduction of the new e-planning system. It was noted that in the 2016-17 state budget it was highlighted that council levy and development application fee increases will provide $3.716 million in revenue from 2017-18 to 2019-20.

This is a transitional bill that will provide the steps to take us from the current Development Act 1993 to the Planning, Development and Infrastructure Act, allowing the planning and governance frameworks to be introduced in stages down the line. The minister has noted that the bill is procedural and enables the government to commence a 'coordinated, orderly and phased three to five-year implementation program for the new planning system'.

The minister has relayed that he hopes for the new planning commissioner to be appointed by March 2017, and that process of appointing the commissioner will have to get on the boat, because it is expected to take six months for the appointment to be approved through state cabinet. The bill outlines that provisions supporting the establishment of the state planning commission will come into operation on 1 April 2017. The bill also provides for amendments to replace the commissioner with the minister in the area of preparation of state planning policies, and there will certainly be, from what I understand, some questions raised about that during the committee stage.

The minister conveys in his speech that the amendments are practical in the sense that the responsibility for an ownership of state planning policy rests, ultimately, with the Minister for Planning and the government of the day. I quote, 'notwithstanding that their policies will be informed by the commission and its consultations'. There are some amendments in place that reflect an inconsistency of an amendment of the Planning, Development and Infrastructure Bill in the Legislative Council.

These are in areas originally intended to operate by ministerial direction to the commission that were amended during the debate, and it looks like this will be changed, but there will be some clarification through the debate on this current bill. I have also already talked about the establishment of the state planning commission, for which the provisions are in place, so that can commence on 1 April 2017. There will be planning regions, as per the Planning, Development and Infrastructure Act. The government, on recommendation of the minister, may divide the state into planning regions, and this also relates to metropolitan areas.

Certainly, part of it is about the fact that the commission is to prepare the community engagement charter on behalf of the minister. The shadow minister, the member for Goyder, was informed at a briefing that the Department of Planning, Transport and Infrastructure is now commencing the tender process relevant to the development of a draft community engagement charter, and that draft will be ready by April and will be put out for formal consultation once the commissioner is established. We should be happy that there is a draft program on how to consult going into place because what we have been used to with this current government is 'announce and defend' policies. It is interesting that the government is now consulting on how it should consult.

A planning and design code is coming in, but it is not required to provide for all the matters in relation to key provisions about the content of the code until 1 July 2020. The planning and design code and new streamlined assessment pathways are anticipated to be implemented by mid to late 2018, and, as such, a development plan under the Development Act will have effect, meaning that assessments will be based on the repealed legislation until the codes are implemented.

It is interesting to note that e-planning is proposed to be operational by 2019, and councils are to be part of the start-up process and contribute to that and to the ongoing management of the system. This bill certainly provides for the transfer of the Development Assessment Commission and other entities' statutory functions to the commission. There will be a transitional scheme involved with the Council Development Assessment Panel, and it gives, through this bill, the minister the right to constitute regional assessment panels.

As per the new act, each assessment panel is required to have an assessment manager, and that would be an accredited professional, or a person of a prescribed class. A person may hold that appointment for more than one assessment panel. I have already talked about my concerns in regard to the environment and food protection areas. This is the minister's quest, to curb urban sprawl, but I think it could have been managed far better than just putting blanket bans on development. I think it will certainly have some major implications into the future.

This transitional arrangement will work over a two-year designated transitional period. I certainly hope that we have the appropriate consultation, with everyone involved, moving ahead. Pilot infrastructure schemes will be put in place for debate, and some people have expressed their concerns with them. Local heritage values will be determined under values in the planning and design code and this is to be dealt with under a separate piece of legislation, potentially to be introduced before the end of this year. That is just waiting on some discussion paper feedback.

Significant trees will be valued under the planning and design code. The bill also outlines the process relevant to existing applications that have not been determined by the designated day, which is the commencement of the new assessment scheme. The bill is designed to support business as usual during the implementation phase until each element of the new system is fully introduced. It does this by making clear that processes commenced and rights secured under the existing Development Act 1993 will be transitioned to the new system.

The Development Act 1993 will continue to apply in relation to an existing proposed development or project that has not yet been the subject of a decision of the Governor. The same applies to an application lodged for Crown and infrastructure development not yet determined before the designated day. In regard to building work, access to land and activities that affect stability of land or premises, depending on development approval and notice served to the owner of the affected site prior to the designated day, the bill enables this clause to come into force.

In regard to land management agreements that are held by councils, they are to be provided to the minister within three months after the designated day. This is in response to issues like rural living agreements and other matters. Advisory committees will be dissolved by force on 30 June 2019, but they will be established initially to provide advice on the local government sector relating to entities involved in undertaking development within the state, community participation and ecological sustainability and livability.

I note that the minister has established a collaborative advisory team, which includes representatives from the Department of Planning, Transport and Infrastructure, the Local Government Association, the Urban Development Institute of Australia, the Property Council and Master Builders Australia. The purpose of this team is to provide high-level advice on the development of various aspects of the planning reforms. I note in particular that the Housing Industry Association has not been invited to be part of this team.

In regard to the e-planning part of the legislation, the Local Government Association has provided some advice on proposed fees that councils will be required to pay from 1 July 2017, as advised by the Department of Planning. There will be a two-part council fee comprising a $4,000 flat fee applicable to all councils, plus a second component indexed to development values of the council. The annual value of development by council area council fees are: over $100 million, $32,000; over $50 million but less than $100 million, $24,000; over $10 million but less than $50 million, $12,000; and less than $10 million, $4,000.

I will be interested in the discussion on this bill as it goes through. I will quote from the minister's second reading explanation when he introduced the bill. He said:

> To ensure the most efficient and effective introduction of the changes, preparation for the implementation of the new system is already occurring in partnership with Government departments, councils and industry groups. Indeed, many of them have indicated their support and enthusiasm for the initiatives contained in the new planning system.

That may be true, but there are certainly many people I do not believe have been consulted who should be consulted. That consultation should already be happening, especially in regard to the environment and food protection areas, so that councils can put their planning in place, especially into the transitional period in the next couple of years as things transition to the new legislation, so that people know exactly where they stand moving into the future.

As I indicated at the beginning of my contribution, it is disconcerting to find out that initially councils had not been advised on the implications, they had not even been advised they were going to be part of the environment and food protection area. In such an area of planning, and as we saw during the debate, hundreds of amendments come in—at least 200 from the government on their own legislation—so it is a complex matter and it needs to be dealt with appropriately.

People need to be part of the conversation and not dictated to regarding what happens as things unfold, or suddenly get a rude shock in a couple of years' time when certain

development proposals come through and they realise that those opportunities have been blocked off because of the planning legislation in place. So I urge the government to consult widely, to work with people and not dictate to organisations, especially councils, in regard to how the new planning legislation will pan out. This does affect every South Australian. I hope it is speedy, because it needs to be; however, it also needs to be appropriate so that we get planning right in this state.