

SECOND READING SPEECH

LAND USE PLANNING AND APPROVALS AMENDMENT (STATE AND REGIONAL STRATEGIES) BILL 2009

Mr Speaker, these amendments to the *Land Use Planning and Approvals Act 1993* deal with two distinct sets of provisions.

The first set concerns the introduction of a new initiative to be known as Projects of Regional Significance and the second set concerns amendments relating to the Government's Regional Planning Initiative and the introduction of Interim Planning Schemes.

Mr Speaker, the first of these matters ...that is... Projects of Regional Significance introduces a completely new project category and assessment process into the State Planning System.

The Government considers this is required to fill a void in our planning system.

This void exists for two reasons, Mr Speaker.

Firstly, our planning system does not have a robust and equitable process for dealing with larger projects that have impacts across council boundaries and the wider region ...and... secondly many councils in Tasmania do not have the 'capacity' to conduct the rigorous assessment these 'higher impact' regional projects require.

Mr Speaker, let me further detail the need for a more equitable and robust process for these types of projects.

Whilst we have the traditional *Land Use Planning and Approvals Act* assessment process, it is essentially designed to deal with 'local' projects with local impacts in individual council areas.

Mr Speaker, it should be acknowledged that on occasions when a local project is considered to have a impact on an adjoining council area the councils involved sometimes get together to consult on the particular project, but there is certainly no legislative guarantee or requirement for that level of consultation to occur.

More importantly, there is no statutory requirement for a council to consider the wider regional impacts a particular project might have.

This problem is further compounded Mr Speaker, as there is limited capacity for a council to apply conditions that an adjoining council might consider necessary to support a particular project.

Mr Speaker, currently the only formal method an adjoining council has for putting forward any concerns is by way of the standard representation and appeal process. This is a most unsatisfactory situation.

If we accept the position ... as the Government does ... that projects with regional impacts should be assessed from a regional perspective and that the current processes do not adequately provide for that to occur then the question arises as to what an appropriate assessment process might look like.

Mr Speaker, in coming to a position on this matter we have applied three fundamental principles in addressing the assessment process issue.

The first principle is that any assessment process should reflect 'best practice' which in this context means expert based independent decision making, secondly, the process must involve local representation and, thirdly, the process should be as efficient as possible and therefore governed by strict but realistic time-frames.

We believe that we have addressed each of these principles in the assessment process we are presenting to the Parliament in this Bill.

Mr Speaker, the proposal to refer projects of regional significance to an independent expert panel...to be known as a Development Assessment Panel...or DAP, will not only ensure a professional planning outcome but will also remove any local bias...perceived or otherwise...from the decision making process.

Mr Speaker, I stress the point that the Government has no role in the decision made by a DAP and has no capacity to change the decision.

Mr Speaker, it is also important to note that decisions of a DAP will not be 'appealable' to the Resource Management and Planning Appeal Tribunal (RMPAT).

The decision taken by the Government not to build in appeal rights to RMPAT on Projects of Regional Significance is because the 'original' decision comes from an expert panel.

It would be rather unnecessary and incongruous to provide for a right of appeal against the decision of an expert planning body to a second expert planning body....such as the RMPAT.

And I don't believe there is logic in the argument that appealing to a second expert panel will provide a better planning outcome than the decision of the first expert panel.

The only logic in allowing an appeal to a second planning panel would be if one considered that the original planning panel was in some way of 'lesser status' or even less skilled or competent than the second panel and that is certainly not the intention.

Of course the option of review by the Supreme Court under the Judicial Review Act will still be open to anyone with sufficient interest in a matter who believes a particular DAP process to be flawed.

Mr Speaker, I know that there will be some who will put the view that public hearings should be conducted as part of some form of appeal process...I believe it is more logical to hold hearings as part of the original assessment process and to provide that 'public' input to the DAP before a decision is made.

But the legislation as drafted provides for public submissions and hearings as part of the assessment conducted by a DAP. So public participation is built into this process.

Mr Speaker, I should also add that the DAP will comprise a nominee from the councils in the region involving the particular Project of Regional Significance.

The legislation also provides for referral and any necessary assessment by the Environment Protection Authority Board.

Mr Speaker before I move onto other matters associated with the assessment process I should make some comment in relation to the criteria the Minister for Planning is required to consider before declaring a project to be a Project of Regional Significance.

The government's early position which was reflected in the original consultation documents proposed criteria prescribed by regulations that would have identified particular types of projects that the Minister could 'call-in'.

The feedback from a number of stakeholders, including Local Government, was that such a process would be open to errors and manipulation and perhaps I can go into that in more detail if needed, in the committee stages. I should say though that other stakeholders did support the more prescriptive approach.

Following protracted discussions on this point the Government concluded that the safest way to avoid doubt was to insert legislative provisions describing the broad parameters of projects that the Government considers should be eligible for this new assessment process.

Mr Speaker it is important to understand that the extent of the ministerial discretion that can be exercised is restricted to identifying and declaring which projects will be the subject to the Project of Regional Significance assessment process.

The Minister's only role will be to 'trigger' the assessment under this new process. He or she will have no role in the assessment process or the decision to approve a project or not to approve a project. That decision will be made by a Development Assessment Panel in each case.

Mr Speaker, I will now move on to the second major component of this Bill. This is the legislation necessary to bring into operation the new council planning schemes that are being prepared through the Government's Regional Planning Initiative.

As Members would be aware the Regional Planning Initiative is a partnership arrangement between the Government, councils and various regional representative bodies to prepare new and consistent planning

schemes for each council in the state and for these new planning schemes to be prepared on a more strategic and regional basis.

Mr Speaker, it is an expectation of each regional group that these new regionally based planning schemes when drafted will be brought into operation simultaneously and without delay.

This expectation is reflected in the Memoranda of Understanding signed by each of the councils involved prior to the commencement of the project.

Mr Speaker, to enable these new planning schemes to become operative simultaneously and expeditiously it is necessary to amend the existing legislation as the current Act does not provide for the simultaneous assessment of planning schemes or bringing planning schemes into operation prior to an assessment by the Resource Planning and Development Planning Commission...(which will become the Tasmanian Planning Commission from 1 September 2009).

This is why the Government proposes to amend the current legislation to bring these new planning schemes into operation as Interim Planning Schemes.

Mr Speaker, once these new planning schemes are in operation they would be subjected to the normal rigorous assessment and public consultation procedures as applies to planning schemes in the existing legislation.

This process will ensure that public consultation rights are retained and enables Interim Planning Schemes to be amended if required.

Mr Speaker, once these Interim Planning Schemes are approved by the Planning Commission they will lose their 'interim' status and become 'regular' planning schemes.

Mr Speaker, it is appropriate that I make some detailed comment with respect to this 'retrospective' assessment process in order that the purpose of this initiative is clearly understood.

The Government considers that it is essential to bring these new consistent and regionally based planning schemes into operation as a matter of urgency and the advantages of having these new planning

schemes operational as a matter of urgency far outweighs any negatives that might come with a form of 'retrospective' assessment.

Mr Speaker, there will be significant benefits to councils, developers and the community in a set of planning schemes with common objectives and provisions and prepared on a more strategic and regional basis.

Mr Speaker, I need to strongly make the point that if each new planning scheme has to be assessed by the 'Planning Commission' sequentially before they can become operational a staggered and long drawn out introduction process will inevitably result.

Anyone advocating that these new regionally based planning schemes should be delayed until after they have been assessed by the 'Planning Commission' is effectively saying that the new planning schemes are not urgently required. They will have to justify to the wider community why the schemes' introduction should be delayed for some years into the future.

Mr Speaker, there are two matters that I bring to Members' attention which I hope will be the subject of further debate in committee stages.

The first point concerns the standardisation of new planning schemes and how future amendments to the standard provisions of planning schemes will be required to be considered.

The second point concerns the requirement that future planning scheme amendments will need to be considered in conjunction with regional land use strategies.

Mr Speaker, I commend the Bill to the House.