Speech by

# Glen Elmes

MEMBER FOR NOOSA

Hansard Thursday, 3 September 2009

## SUSTAINABLE PLANNING BILL

**Mr ELMES** (Noosa—LNP) (7.23 pm): I rise to make a reasonably short contribution to the Sustainable Planning Bill 2009. The bill is largely the Integrated Planning Act with a new name. Most of its old faults are intact and a few new ones have been thrown in. It is needlessly long and complicated. The Integrated Planning Act has been amended over time by the inclusion of six core integrated planning amendment acts to 63 other acts and reprinted some 85 times. The reform process, which culminates with the bill now before the House, commenced in August 2007 through the process entitled 'Planning for a prosperous Queensland'. As the minister said in his second reading speech, the outcome is evolutionary not revolutionary.

I must congratulate the government on its effort to simplify the act to make the process more transparent. The old Integrated Planning Act had become bloated over time. It had doubled in size from its original version, but the bill before us seeks to simplify the act by adding 140 pages of additional text to an overly large act, and I cannot imagine the scale of the regulations which will additionally accompany this bill. The Amazon rainforest will have to be felled to print them and the regulations will simply enhance the unfettered power of the unelected bureaucrats.

Indeed, the Scrutiny of Legislation Committee had come to the same conclusion. There are any number of clauses about which the committee has expressed some concern and many more about which it has clearly some grave misgivings. The committee restates from section 4(2) of the Legislative Standards Act that fundamental legislative principles require that legislation has sufficient regard to the rights and liberties of individuals. The committee draws attention to the significant number of offences which have the potential to affect the rights and liberties of individuals. The penalties which may accrue under these offences are significant. There are 22 offences listed. Sixteen of these carry a maximum penalty of $166,500. Only five carry a maximum penalty of $16,500. The remaining matter does not specify a fine. However, these are serious penalties. Of greater concern is the words of the committee that 'liability would rise for a breach regardless of the intention or knowledge'. In other words, an offence can be made simply by making a mistake, but that is neither an excuse or a defence under this bill.

The committee restates from section 4(3)(a) of the Legislative Standards Act that whether the legislation has sufficient regard for the rights and liberties of individuals depends on whether the legislation makes rights, liberties or obligations dependent on administrative power only if the power is sufficiently defined and subject to appropriate review. The committee draws attention to a further nine clauses where that definition may be insufficient or may not be the subject of an appropriate review. In this regard, by the conferring of an override state interest power, the minister—primarily this minister—also has the power to go through and exercise these powers.

The committee restates from section 4(3)(b) of the Legislative Standards Act that whether legislation has sufficient regard for the rights and liberties of individuals depends on whether the legislation is consistent with the principles of natural justice. The committee draws attention to clauses 46, 73, 105 and 588, which may be inconsistent with the principles of natural justice, as the rights and liberties of individuals may be affected without the provision of prior notice or an opportunity to provide a response.

From section 4(3)(d) of the Legislative Standards Act, the committee states that whether the legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation does not reverse the onus of proof in criminal proceedings without adequate justification. The committee draws attention to that in clauses 611 and 624 in this regard as they impose a burden on an accused person.

Finally, from section 4(3)(e) of the Legislative Standards Act the committee states that whether the legislation has sufficient regard to the rights and liberties of individuals depends on whether the legislation confers powers to enter premises, search or seize under warrant. The committee draws attention to these powers under clauses 715 and 716.

There are two aspects creeping into Labor's approach to legislation. The first is the increasing exercise of power through regulation rather than legislation. The second is these catch-all powers that confer both back to the minister. Both of the approaches show a serious contempt for both the parliament and the electorate. It is simply not good enough to be putting the exercise of considerable power beyond the reach of parliamentary oversight. This is a development in this process which I deplore.

It would be fair to say that the Scrutiny of Legislation Committee was underwhelmed by the bill. Let us not forget the dumbing down. This new bill tries to create uniformity across the state with seemingly high-minded principles such as consistency, but this will be the death knell for unique iconic nationally and internationally renowned and loved places such as my own electorate of Noosa if it were to follow the templates. Local authorities will be faced with two choices—roll over and have the lowest common denominator prevail or try to get around the templates.

Over time, as the state planning authority, which is what this bill really sets up, redresses attempts by local authorities to meet the needs, wishes and aspirations of their communities, it will be met with ever-increasing complexity. We will finish up with an even worse mess than we have now.

**Mr Schwarten:** How much longer have you got?

**Mr ELMES:** How much longer do you want me to go?

**Mr Schwarten:** About two minutes, actually, or otherwise adjourn the debate and you will be back next time.

**Mr ELMES:** I will see what I can do for you. The key change has not occurred in this bill to prevent development applications being made which are clearly outside the town plan. The DAs waste an immense amount of scarce time and resources with the few remaining genuinely local councils and also the supercouncils considering these matters which should never have to be considered. If the government really wanted to make councils more effective it would stamp out this practice. But then that might be the end of access fees.

As the shadow minister for climate change and sustainability, I am alarmed at many aspects of this bill. The change from the concept of desired environmental outcomes being replaced in this bill with strategic outcomes in clause 88(1)(b) mocks the title of the Sustainable Planning Bill.

**Mr Hinchliffe** interjected.

**Mr ELMES:** That is fine; I will go for another 10 minutes, then.

**Mr DEPUTY SPEAKER** (Mr Hoolihan): Order! Member for Noosa, perhaps we could continue the debate through the chair.

**Mr ELMES:** Thank you very much for your understanding. I will keep the minister for another 10 or so. Community concern over the power for local councils would prohibit certain developments being included. While there is a fear that some councils would simply block every development, there needs to be a better balance. We do not always need to set the bar at the lowest point. People choose to live where they do for a variety of reasons.

**Mr Schwarten:** Adjourn the debate. You have to deal with the people upstairs.

**Mr DEPUTY SPEAKER:** Order! Minister.

**Mr Schwarten:** Do you want to do 10 more minutes?

**Mr DEPUTY SPEAKER:** Minister.

**Mr ELMES:** I am taking my lead from Mr Deputy Speaker.

**Mr DEPUTY SPEAKER:** I ask the member for Noosa to adjourn the debate.

Debate, on motion of Mr Elmes, adjourned.