

SWAN VALLEY PROTECTION BILL 2016

Introduction and First Reading

Bill introduced, on motion by **Hon Donna Faragher (Minister for Planning)**, and read a first time.

Second Reading

HON DONNA FARAGHER (East Metropolitan — Minister for Planning) [12.37 pm]: I move —

That the bill be now read a second time.

The Liberal–National government recognises the importance of the Swan Valley and is committed to maintaining its rural, agricultural and tourism attributes. Subdivision and development in the Swan Valley are generally regulated by the City of Swan’s local planning scheme and the metropolitan region scheme, as part of the regulatory framework created by the Planning and Development Act 2005. These activities are further controlled by the Swan Valley Planning Act 1995. The Swan Valley Planning Act has gone some way to maintain the Swan Valley’s rural character; however, its imprecise objectives are inconsistently interpreted and do not provide adequate protection from incompatible development and land use.

A comprehensive review of governance and land use in the Swan Valley was undertaken by the Department of Planning, the City of Swan and the Swan Valley Planning Committee. The findings of the review were published in the report “The Way Forward: Swan Valley Land Use and Management” in December 2013. The report included the recommendation that a new governance and regulatory framework be developed to provide for the sensible planning and prudent management of land use in the Swan Valley.

The Swan Valley Protection Bill 2016 has now been prepared to repeal the Swan Valley Planning Act 1995. It provides a clearer, simpler framework for the regulation of development and subdivision in the Swan Valley. This bill delivers the following outcomes. Firstly, it repeals the Swan Valley Planning Act 1995 and dissolves the Swan Valley Planning Committee. Secondly, it defines the geographical area to which the bill applies, which is almost the same area as that delineated under the Swan Valley Planning Act 1995. It requires that a plan entitled “Swan Valley Development Plan Area” be held at the office of the Western Australian Planning Commission and be certified by the minister as the plan prepared for the purposes of defining the Swan Valley. Any changes to the boundary, other than minor technical adjustments, such as correcting errors in the cadastral data, would be subject to the normal legislative amendment process. Thirdly, it provides for the creation of the Swan Valley development plan. This is a strategic document setting out the planning, development and land use vision for the Swan Valley. The bill stipulates that the plan’s purpose must be the protection of the Swan Valley’s rural character. The plan applies to the “Swan Valley Development Plan Area” and identifies how land within the valley may be used.

Fourthly, the bill invests the Western Australian Planning Commission with the responsibility of creating or amending the plan. Further, it authorises the commission to prepare amendments to any scheme that applies to the Swan Valley so that it is consistent with, or gives effect to, the plan. The bill provides that the WAPC must consult with the Swan Valley local government—in this case the City of Swan—the EPA and other relevant parties on the plan and scheme amendments as outlined in clause 7 of the bill. Fifthly, the bill reserves authority to the minister to approve the plan. It is noted that the minister cannot approve a plan unless its object is to ensure the protection of the Swan Valley’s rural character. The minister may also direct the commission to undertake consultation on a plan, beyond that already required of it. In practice, the commission will submit to the minister a suite of documents termed a development plan proposal. This will include the plan, together with any metropolitan region scheme and local planning scheme amendments necessary to give effect to the plan or to make the schemes consistent with it. Sixthly, the bill also provides for an expedited scheme amendment process. This is reflective of the extensive consultation and review the plan and any amendments to the plan will undergo. The resulting scheme amendments will simply reflect the plan’s provisions. Applying the existing scheme amendment process would largely repeat the consultation and review already undertaken and delay the plan’s implementation.

Seventhly, the function of the Swan Valley Planning Committee is replaced with a normalised planning process. Planning applications, for example for subdivision or development approval, are determined pursuant to an ordinary framework of schemes, policies and practices. Under this bill, a scheme’s content will be regulated by the plan, which is designed to protect the rural character of the Swan Valley. This will remove the double handling of planning and development applications and eliminate the potential for conflicting advice. Eighthly, subdivision controls consistent with those currently contained in the Swan Valley Planning Act 1995 are to be included in the plan. These will be translated into the local and metropolitan region schemes. This will prevent subdivision that is detrimental to the rural character of the Swan Valley. Under this system, the approval of a development plan proposal establishes the strategic concept for the Swan Valley, through the plan, and

immediately translates that concept into the instruments that control planning activities in the valley—that is, the local planning scheme and the metropolitan planning scheme. There is no scope for subjective interpretation and uncertainty or inconsistency between a regulatory act and scheme, nor will there be a gap between the setting of a strategy and its implementation.

Lastly, it is noted that a draft Swan Valley development plan has been prepared and was advertised for public comment from October 2015 to February 2016. A total of 110 submissions were received in response to the draft and are currently being considered by the Department of Planning. Requiring formal compliance with the consultation requirements in the bill would mostly replicate the process already undertaken. For these reasons, the transitional provisions permit the first plan, and only the first plan, to be submitted for my approval without complying with the formal consultation process under the bill. Noting that the development plan cannot take effect until this bill is enacted, the final development plan will not be endorsed until the bill's passage through Parliament. The bill delivers a clearer, simpler framework for the regulation of development and subdivision in the Swan Valley and will more effectively preserve the valley's rural character.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper 4436.]