

PLANNING APPEALS AMENDMENT BILL 2001

Third Reading

MS MacTIERNAN (Armadale - Minister for Planning and Infrastructure) [7.23 pm]: I move -

That the Bill be now read a third time.

I compliment members on the other side of the House for their participation in the debate on this Bill, particularly the members for Kingsley, Merredin and Alfred Cove, all of whom made constructive contributions. Those contributions resulted in a number of amendments. We have broadened the applicability of class 1 appeals to include houses to the value of \$500 000, provided that third-party persons presenting submissions to a hearing could be represented, and made amendments to make it clear that the tribunal must take all relevant planning matters into account. We also provided for greater disclosure of ministerial directions and determinations in the calling in of appeals, and effected changes to require the minister to review the tribunal's operations after two years. I have also indicated that a range of amendments will be moved in the Legislative Council. This will include the amendment of proposed section 66, which relates to appeals being called in, to require the minister to call for and make public submissions from both parties.

We have agreed to develop amendments to clause 18 of the Bill so that it will refer consistently to local government. We have agreed to amendments to clause 61 to ensure that the president of the tribunal initiates a review of decisions within no more than one month of their handing down, which will essentially impose a time limit on the period in which the president can initiate a review based on a question of law.

The SPEAKER: Order!

Ms MacTIERNAN: It is fascinating stuff. I am sure the members would have been sitting listening had they not been excited by the monumental achievement of this House with the previous Bill.

Consideration will be given to a review of the tribunal's rules.

The SPEAKER: I ask members to take their conversations outside the House so that we can listen to the minister.

Ms MacTIERNAN: Thank you, Mr Speaker. I note the persistent conduct of the Leader of the Opposition in speaking while you were on your feet, Mr Speaker. It appears to be a matter on which he is particularly wanton. I hope one day he will be taken to task for the rudeness that he repeatedly displays in that regard, notwithstanding his capacity to lecture the rest of the members in the House on their behaviour.

We will also give consideration to reviewing the rules to guide the involvement of non-parties who wish to participate in the appeals process.

A number of matters were queried and I said we would provide information. There was a question as to whether it would be possible for an appellant to proceed directly to the Supreme Court on a matter of law to seek a judicial review without first seeking a decision from the president. That will be possible. The reason we inserted the additional step to provide for a review by the president on a question of law was to enhance the availability of a cost-effective and timely resolution of those issues. However, if it is the desire of a party to take the matter to the Supreme Court with the attendant costs involved, at this point we will permit the matter to go there directly. In the fullness of time we may review that provision if the process is abused. However, in the first instance it is our intention that the Supreme Court will be available as a first port of call.

There were questions about freedom of information applications. The FOI information generally provides that a document relating to a court is not subject to FOI, unless it relates to a matter of an administrative nature. Transcripts can be purchased. There will therefore be no need for a freedom of information application. I have indicated to my advisers that I want to ensure that mechanisms are in place for making available the transcripts of proceedings that are conducted purely by way of written submissions.

The member for Nedlands, who wandered in briefly to participate in the debate, said that she did not know of any other body for which the number of tribunal members was not prescribed, suggesting that this was something very unusual. That is very surprising given the experience and the former career of the member for Nedlands. The following is a small selection of tribunals in Western Australia in which this is the case: the District Court, the Children's Court, and the Mental Health Review Board. It also applies to the Victorian Administrative Appeals Tribunal, which performs a similar task to the tribunal that is being expanded here.

Once again, I genuinely thank members opposite, particularly the members for Kingsley and Merredin, who made some very thoughtful contributions to the debate. Their contributions have improved this legislation.

MRS EDWARDES (Kingsley) [7.32 pm]: I thank the minister for her response, particularly to queries raised during the debate. The concerns surrounding the transfer of ministerial appeals to the tribunal have been about

delays and costs. People want a low-cost, accessible and quick decision-making body. We hope that can be achieved. Time will tell. Vigilance will be essential to ensure that these matters are not lost sight of.

I expressed concern that people whom I call the mums and dads and the market gardeners may be more disadvantaged due to the change, particularly the lack of an accessible and cheap option. The review process will enable us to see how it works.

I thank the minister for responding to the many issues and the Opposition's amendments. Although in some instances they did not go all the way proposed, they went a great part of the way. I am sure they will improve the tribunal's operation. I thank the minister and her staff and officers from the Department for Planning and Infrastructure, who provided assistance and briefings to not only me but also my colleagues. I also acknowledge the work and assistance of the many stakeholders involved who put their shoulders to the wheel to ensure that a system arising from government policy will work and be the best possible system. Many people put in a lot of time over a very short period. I thank the minister for the information on freedom of information, on the appeals to the Supreme Court and on the amendments that will be moved in the Legislative Council.

I thought the minister was going to seek further advice on the matters the tribunal was to have regard to under section 56. I think we talked about "use".

Ms MacTiernan: I understood that we explained how that will operate during debate.

Mrs EDWARDES: I will go back over the debate and clarify it in the Legislative Council if I need to. I look forward to the redraft of the rules for the tribunal, further consideration of a potential code of conduct for agents, and the likelihood of the minister discussing with the new tribunal the operation of a court users' group.

Ms MacTiernan: I have done that.

Mrs EDWARDES: That is great work. I thank the minister for all that consideration and I hope the legislation will work, because many people in the community are cautious about it. We must ensure that the system will work for the people who will be the greatest users of it.

Question put and passed.

Bill read a third time and transmitted to the Council.