

LOCAL GOVERNMENT AMENDMENT (SUSPENSION AND DISMISSAL) BILL 2018

Third Reading

MR D.A. TEMPLEMAN (Mandurah — Minister for Local Government) [1.09 pm]: I move —

That the bill be now read a third time.

MR T.J. HEALY (Southern River) [1.09 pm]: I seek to make a brief contribution to the third reading of the Local Government Amendment (Suspension and Dismissal) Bill 2018 to expand on my comments during the second reading debate. This bill is about restoring, and making sure that we place a very large emphasis on, integrity and transparency within our local government system. I commend the minister and the other members who spoke on the bill.

During my speech, I mentioned that the Mayor of Gosnells, Glenn Dewhurst, was a Liberal Party member. I want to clarify for the record that he is not a Liberal Party member but he is a Liberal supporter. I have always known him as a Liberal, as a good man. I have known Glenn for many years since he and I worked together. I used to help fundraise for the Kaarakin Black Cockatoo Conservation Centre and I met him through some other good Liberal friends of mine, Ben and Lisa. I wanted to clarify that he is not a Liberal Party member, but certainly a good Liberal man.

I want to state again the importance of transparency and accountability in local government. Unfortunately, in the time I have to speak, I cannot mention all the incredible people I have worked with in local government. But I certainly want to thank the hundreds of very, very good hardworking councillors across Western Australia, and certainly in the City of Gosnells, who work for us. Thank you very much.

MR A. KRSTICEVIC (Carine) [1.10 pm]: I, too, would like to make a few very brief comments about the Local Government Amendment (Suspension and Dismissal) Bill 2018. Firstly, I thank the advisers and the minister for answering all our questions in consideration in detail. It was a very insightful process.

Obviously, as we know, the bill covers suspension, dismissal and remedial action through a number of areas. I think the local government sector is probably at a crossroads and a lot of areas need to be reviewed and that is why the act review is very, very important. I am very supportive of that process and appreciate that the Local Government Act has a number of shortcomings. The amendments in this bill, obviously, are additions to the act and will come in before the act review has any significant impact. However, it is critical, because on a regular basis we see issues in local government, whether the Corruption and Crime Commission is investigating, there are authorised inquiries or councillors are lodging complaints against each other at unprecedented levels. A lot of work needs to be done to try to work through some of these issues to make sure that the sector can deliver the services it needs to at this time. I do not think anyone will doubt that the importance of local government has never been at the high level it is right now. Given the modern world we live in and Facebook and other things that modern technology brings, the opportunity for people to be caught up in the provisions of this bill is like never before. It is very important for people to understand that they have a professional and important role to play in the community and in the future of this state. There is an expectation that they will meet a minimum standard in that process and work not just collectively as a sector, but also with the state government to make sure that together they can deliver the services and outcomes the community expects. This gives us an opportunity, together with the review of the act, to put the sector under a microscope and to work with the sector to get feedback and input on the changes that need to be made. As part of that, I strongly encourage everyone in the sector to speak up and contribute to the act review process and to take any other opportunities, such as that provided by this legislation, to be part of the process to deliver the mechanisms needed to achieve the objectives and fulfil their responsibilities and expectations for themselves and their community so that we can work collaboratively in that system. A lot can be learnt.

It is very important that we take a step back and look at how things are going. I think every council should do that itself and reassess its relationships, what it is doing and how it approaches its various responsibilities. As much as this bill sets a high benchmark, it is a strong message to the sector that things are starting to tighten up. Mechanisms are being put in place to deal with behavioural and process areas of concern that are unacceptable and the minister is ready, willing and able to pull the levers if required, and this process of refinement is only the beginning. It is very important that everyone in the sector understand the seriousness of this legislation and the seriousness of the commitment by both the minister and me to making sure that the sector is supported and that it meets the requirements of not just the Local Government Act but also the community at a broader level.

As I have been from the start, I am very supportive of this legislation. It is critical and should no doubt have been introduced a long time ago. In terms of the timing with other aspects of the act review, as much as there is a good reason to do these things together, this provides a different standard for dealing with suspension and dismissal. The remedial action component is very important because all too often, people know the skill sets that are lacking in certain councillors or they understand they are not very good at conflict resolution. Suggestions are made that they perhaps should go to counselling, mediation or some other process, but they refuse to do that, so I think it is

very important that the remedial action component gets the most use as a result of this legislation. I think that is appropriate and it needs to work on that level.

I do not want to hold up the bill much longer through Parliament because, as I said, it is supported by the local government sector and by the opposition. The only slight query I had was about the suspension and dismissal provisions, which we discussed at some length. If a councillor is dismissed, they can start again after an election; whereas, if a councillor is suspended and the minister does not commute the suspension after they are re-elected or some other process takes place, they could well start their next term for a short time under suspension. That was the only part of the bill that was a bit perplexing. I am sure that if that were the case, there would be a very good reason for the suspension perhaps continuing after the election. If there is not a good reason, as we know, the minister has the power to wave his magic wand and take that suspension from the councillor. That is probably another contentious area from the point of view of understanding the rationale. The system is what it is. From the minister's comments, I do not think that would happen very often, if at all. On that note, I offer my support for the bill and thank the minister for giving me the opportunity to participate in the debate.

MR J.E. McGRATH (South Perth) [1.18 pm]: I rise to make a few points about local government in my contribution to the third reading debate on the Local Government Amendment (Suspension and Dismissal) Bill 2018. I am glad the Minister for Planning is here with us because I believe that local government is going through the most challenging period in its history. It is a very difficult period for local government. People say that local government is the about roads, rates and rubbish. That might have been the case 30 or 40 years ago, but it is not anymore. The population of our state will continue to rapidly expand, creating traffic, housing density and planning issues as local governments try to plan for the future. They do that with the approval of the state government, but the genesis of the planning is with local councils. Housing density is a big issue, especially in electorates like mine and those with train stations and things like that. The view of this and the previous government is that we need density around transport nodes—train stations and the like—and along highways and freeways.

In my electorate of South Perth there are plans for new commercial developments. At the moment there are two applications: one for a Dan Murphy's on the side of the Como Hotel, and another for a Farmer Jack's—a very good supermarket chain—alongside Canning Highway. Those applications have created tension in the community that will initially be handled by the local government. Only a night or so ago, the Mayor of the City of Swan was attacked at a ratepayer meeting. Most of the ratepayers were very angry over the development of Midland Oval; I will not buy into that because I do not know enough about it. Local governments have become embroiled in these situations because they are the keepers of the local government area on behalf of the state government. Local government is a product of, and sits underneath, state government, but it plays a very important role.

I also believe that nimby-ism will be one of the biggest challenges we will face in future. No-one likes change, but if we are to prepare and plan for the future, we have to prepare for and implement change. There will have to be more housing density. A lot of my residents on the South Perth peninsula are very unhappy about high-rise buildings, although we have had taller buildings in South Perth since the Narrows Bridge was built in 1959. Ours was the first area with taller buildings. In the 1970s Alan Bond built one of about 25 or 30 storeys. But people find it difficult to accept change, and I guess we would all find it difficult if we lived in a nice quiet street and found a six-storey building alongside us. That is why it is important that councils have plans in place.

From my point of view, I think this is a step in the right direction. Hopefully, this first step in the reformation of local government will not impact on and reduce the role of local government, but enhance it. Hopefully, local government will be more engaged in meaningful work with the state government, especially in the city where we will be bursting at the seams in years to come. We cannot keep urban sprawl going. We need proper planning—including of transport networks and nodes—for where people will live. That is why I and our party support the Local Government Amendment (Suspension and Dismissal) Bill 2018. Hopefully, there will be further reviews that will lead to a much stronger local government sector for the community of Western Australia.

MR D.A. TEMPLEMAN (Mandurah — Minister for Local Government) [1.24 pm] — in reply: I am happy to reply to the contributions made during the third reading stage of the Local Government Amendment (Suspension and Dismissal) Bill 2018. I thank opposition and government contributors for their comments during the second reading debate and consideration in detail, and the comments of the members for Carine, Southern River and South Perth during the third reading debate. The Minister for Transport was here during the comments of the member for South Perth, and I thank him for his glowing endorsement of the Metronet program! But seriously, I will reflect on the comments of the member for South Perth.

I agree with the member. The local government sector is at an important and very crucial stage. That is why we have moved to amend an act that has been around for over 20 years. It is also why we want the sector to reflect on the importance of its role, and, from an elected member's perspective, how the conduct of that role and

responsibility transfers into the strategic planning that they are charged with for their communities. It is a very important role.

I have said on numerous occasions that people who do not want to make decisions should not go into local government. One of the key things that local governments do is make decisions. I think the role of those in the officer and professional side of the sector is to make sure that the best information and advice is available to elected members so that they can make those decisions. During the second reading debate, a number of members said that the vast majority of local government elected members come to that position with the greatest of intentions. They are very hardworking and committed. I refer to that because that is what this bill deals with. Problems arise when legislation does not keep up with modern challenges, and cumbersome regulations, processes or procedures impede them from doing that important job, or indeed make it more complicated to do effectively. But I think we all work on the premise that local government elected members approach their role responsibly.

However, we know—it is a matter of human nature—there will be times when individuals, for whatever reason, choose not to abide by the codes of conduct, the spirit of democracy or the spirit of working together and choose a different path that has the potential to impact very seriously on the whole of the council's functioning and operation. The current limitations of the Local Government Act are that when such situations occur, quite often they can result in the whole council becoming dysfunctional. The mechanism in the existing Local Government Act allows the minister of the day to address the issues associated with that only by responding with actions against a council in total. This bill's firm premise is that if there is a mechanism that allows the minister to intervene and address issues that relate to only one or two councillors, for example, that will hopefully ensure that total dysfunction of a council is avoided through early intervention. I outlined in my second reading speech—it was pursued; I thank members for their interrogation of the bill because I think it is important—the levels of intervention. I remind everyone here that I would see the successful operation of this bill as meaning that we have no dismissals of councillors. That is why this bill has mirrored levels of thresholds that essentially make it quite difficult for a minister to end up taking the track of a suspension. That would be a course of action taken only on those very extreme occasions, as is the current process with regard to the ultimate dismissal of councils. We highlighted that only four councils in the last 20 years, or since the current act was proclaimed, have been dismissed. However, dismissal is a possible outcome for an individual elected member as part of this bill, but so too is a suspension process, so too is an inquiry panel process and so too of course is the capacity for the minister to make orders that would require some remedial action, including mediation and training. It is a well-balanced bill. The sector has been involved in the consultation and the bill has the support of the sector. I thank the sector for its input into the formulation of the ultimate bill that is about to pass from this place to the other place.

I want to answer a couple of questions highlighted during consideration in detail, when I did not have access to the information. One question related to how many councillors are paid at each band and at what level. As members would be aware, councils are allotted into four bands, depending upon their size and budget et cetera. In band 1, there are 23 councils; in band 2, there are 18; in band 3, there are 36; and in band 4, there are 59. As councillors can be paid a sitting fee or an annual allowance, there are some complexities. In terms of those who are paid the annual fee, remember there is a benchmark of a minimum and a maximum. Advice from the Salaries and Allowances Tribunal—this does not include mayors and presidents, by the way—is that 44 per cent of councils currently pay above 75 per cent of their allocated band. Twenty-six per cent of councils pay between 25 and 74 per cent of their allocated band. Remember, it is a decision by council to determine the allocation of payments. Thirty per cent of councils paid below 25 per cent of the allocated band, which is very noble when we think about these figures. One local government—I wish I knew which one it was; that information has not been provided—provides no payment to elected members, with their endorsement.

I had an interesting discussion with the Leader of the Opposition last night during consideration in detail. We were highlighting the relationship between Salaries and Allowances Tribunal determinations and whether it can suspend people from duty with pay. There was a discussion about someone who is an elected member. My point has always been, of course, that an elected member in a local government is not in a salaried position. That is a distinction between us in here, for example, as members of Parliament. But in the case of other officers, the Salaries and Allowances Tribunal sets the remuneration for many different senior public officials, including judges and magistrates. The provisions are that they continue to be paid during a period of suspension. For the Parliamentary Inspector of the Corruption and Crime Commission, the legislation is silent; for the Corruption and Crime Commissioner, the legislation is silent; and for the Electoral Commissioner, the legislation is silent. Senior public servants can in fact be suspended with or without pay. That would be determined by the nature of the issue.

Finally, it is in the best interests of everyone in Western Australia to have functioning, effective, efficient proactive and responsive local governments. Good legislation to underpin those statutory responsibilities is important. Having good relationships between this level of government and the sector is important. One of the things I am committed to is building on and working hard to secure a good working relationship. For example, as Lynne Craigie has said on numerous occasions, "We won't always agree", but there is a respectful approach to

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that. We all recognise that it is in the best interests of all to have a respectful relationship. I believe that the partnership agreement that was signed last year is an important step forward with regard to underpinning that approach to that positive relationship.

This bill is a mechanism that I would expect will be used sparingly but it is there to address those issues when it is believed that individuals are potentially or are adversely affecting the ability of local government to function effectively.

I thank the opposition. I thank the shadow spokesperson and other members of Parliament for their support. I hope that when this bill goes to the upper house, the members there understand the importance of this reform and that they will support that when it enters that place.

Question put and passed.

Bill read a third time and transmitted to the Council.