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Flawed Local Government Changes Finally Reversed

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Mr MORRIS (Mornington) — The Local Government and Planning Legislation Amendment Bill is in large part about fixing up what some might unkindly call stuff-ups — that is probably unparliamentary language — changes to the Local Government Act and the Planning and Environment Act that have not been thought through. It also makes small changes to the Crown Land (Reserves) Act, the Environment Protection Act.

The bill also amends the City of Melbourne Act and implements what I think is an excellent initiative from the city of Melbourne, and I congratulate the Lord Mayor and his councillors for their foresight and commitment to the environment in pursuing the 1200 Buildings project. It will result in retrofitting of a large proportion of the city's commercial stock. I think that is a welcome initiative and one that will be eased along by the legislative changes made by this bill.

As the previous member said, the bulk of this bill is really about conflict-of-interest provisions, but it also picks up changes to the electoral review process, gifts regime and so on, and of course it picks up the issue that we on this side have been chasing for a long time and that is the problem of the anomalies under section 55D. I want to acknowledge the usual high standard of briefing we received again, and I thank Mr Gifford and his colleagues for their assistance and of course the minister and his office as well.

As the member for Shepparton indicated, the coalition is not opposing this bill. What is proposed by the minister is a reasonable reflection of the concerns expressed by councils. I would have preferred that these changes occur sooner, but I am certainly pleased the minister has chosen to propose the changes to the house, and I have no problem with what is in the bill.

What is strikingly absent from the bill, though, is any attempt to address the concerns which were presented with such startling clarity by the Ombudsman in his report on Brimbank City Council. I know the Premier said in question time that all issues have been addressed, but we on this side know that they have not been. There was an opportunity with this bill to deal with the problem once and for all. Unfortunately that opportunity has not been taken up. I will come back to that issue if there is time.

During the time the original 2008 changes were in process and eventually being debated by this house, and in the 12-month period immediately following that, the member for Shepparton and I spoke with a large number of councils. Obviously we discussed a lot of matters, some of local concern and some of state concern, but without exception the conflict-of-interest provisions made it onto the table, and they almost always made it onto the table as the first agenda item from the council side.

What struck me — and there were some minor divergences — in most of the conversations we had was the unanimity of opinion. Councils knew what the problems were, they knew how to fix them, and they knew those things almost from the start.

In my view, these problems could have been avoided had the government consulted effectively on the legislation, had it perhaps issued a draft bill and allowed sufficient time instead of the mad scramble — I know there were consultative documents, but they were not the legislation and the two things are not the same — towards the end to get the bill through prior to the local government elections.

I could also say that had the minister responded positively early in the piece to the opposition's request for a review that we put on the table because we could see the problem, then a lot of the challenges, to put it politely, that councils have been enduring over the past nearly two years could have been avoided.

The reality is that almost without exception councillors want to do the right thing. Sure, there are sometimes exceptions, as there are in every walk of life. Obviously then you need processes to deal with those people. Most people know what is right, what is wrong and what they should be doing, and they try to do it.

I am not convinced that the enormously complex conflict-of-interest provisions and the 70-plus pages of explanatory notes that go with them are the best response., and that we have the best operating and most conflict-free form of local government. With the current structure there is a very real risk that councillors can seek to do the right thing but get caught up on a technicality. What appears to be coming through in some of the inspectorate processes would suggest that is the case.

In the report tabled today the Auditor-General identifies the need for local policy support. I think the real issue is that if we have legislation and an explanatory report and the Auditor-General is saying we need local policy support as well, perhaps the legislation and the explanatory information is not the ideal structure. The explanatory information can simply try to explain the legislation, and the fault is almost certainly with the legislation.

People need to do the right thing and be seen to do the right thing. As coalition members are on record as saying, we believe the best way to do that is to have a clear and simple framework and an independent, broadbased anticorruption commission to deal with offenders.

Unfortunately the bill does not greatly simplify the conflict-of-interest provisions, although it certainly improves them to some degree. It does not increase transparency, and it does not help all that much with reduced complexity, but in many ways the changes codify a lot of the concerns that have been expressed to me by councils. I will not go through the changes, but clause 9 through to clauses 17 or 18 reflect most of the concerns and deal with them.

The other welcome change is to the assembly of councillors provisions. I am on record as saying right from the start that I considered this an excellent initiative. I said during the 2008 debate that perhaps those provisions did not go far enough. It was perhaps a classic example of legislating and not providing sufficient explanation of what was required.

While some councils did not go as far as I would have liked, other councils certainly went way beyond. In talking to officers and councillors around the state, the widest possible and perhaps the narrowest interpretations have been put before us. The widest was a suggestion that three councillors and an officer in a car travelling anywhere could be an assembly of councillors. They went all the way through to the other extreme, where if a meeting was not a scheduled, regular meeting and programmed in advance, then it was not an assembly of councillors.

Clearly there are problems with both those interpretations. The more formal definition is an improvement. I am not so sure about the advisory committee aspect of it, but it probably does not do any harm. Certainly the requirement to report to council and therefore to the public in the minutes of the council the process at any of those meetings is welcome as well.

I welcome also the changes made by clause 26, the extension of the Electoral Representation Review period from two terms to three. If you have a growing area you need to ensure that the numbers are balanced and reasonable and that that occurs frequently. I am not sure that in other areas, where very little changes from year to year — some might say from generation to generation — you need to put the community to the expense and through the disruption of going through the process.

I indicated that I would come back to the conflict-of-interest provisions. Unfortunately time is going to beat me. The central point I want to make is that the Labor Party has still not amended its state rules to reflect the intent of changes to the Local Government Act. If you look at the ALP rules of

November 2009, you see that not much has changed, and that is a very sad thing.

