

**PLANNING AND AMENDMENT BILL
(Serial 118)**

Ms LAWLER (Infrastructure, Planning and Logistics): I introduced this bill into the Legislative Assembly on 13 February 2020. The Assembly subsequently referred the bill to the Legislation Scrutiny Committee for inquiry and their final report was tabled in May 2020. The committee received 15 submissions to its inquiry. Although support for the bill varied, nine of the submissions from individuals focused on broad issues rather than specific sections in the bill and did not support it. The remaining six submitters identified a number of amendments they considered would improve the bill.

Legal advice sought by the committee identified a number of minor concerns in relation to clarity and precision of the drafting. Importantly, the first recommendation of the scrutiny committee is for the Legislative Assembly to pass the Planning Amendment Bill 2020 with the proposed amendments set out in its recommendations 2 to 17. I note that many of these proposed amendments are minor.

I will now speak to some of the key recommendations of the scrutiny committee and the resulting Assembly amendments that I intend to bring before this Assembly. All but three of the committee's recommendations for amendments are the subject of Assembly amendments with those not being progressed being recommendations 2, 5 and 8.

Recommendations 2 and 5 of the scrutiny committee suggest amendment of the bill to include definitions of 'sustainable development' and 'native vegetation' in the *Planning Act*. The overarching purpose of the act is to establish a planning system to facilitate the orderly use and development of land.

The amendment to section 2A of the *Planning Act*, as proposed in the bill, identifies a comprehensive range of objectives sought to be achieved by that system. A number of the objectives proposed by the bill separately emphasise components of sustainable development as they relate to planning for the use and development of land. It is considered that this approach will provide a more transparent framework to guide decision making than would be achieved by inclusion of a generic definition of sustainable development.

As noted in the dissenting report from the Member for Spillett attached to the scrutiny committee report, in relation to this recommendation, it is important that decisions made under the planning system balance competing interests. I am confident that the detailed objectives within the bill provide a framework to ensure an appropriate balance.

In the case of the suggested inclusion of a definition of 'native vegetation', I note that the proposed section that refers to 'native vegetation' is merely a minor revision of an existing section that guides prosecution for illegal clearing of native vegetation. Action taken under this section was challenged in the courts and there were no concerns with the interpretation.

Recommendation 8 of the scrutiny committee suggests that proposed new section 139A of the *Planning Act* should require both newspaper and online advertising of proposals. This is contrary to the intention of the section which was to provide for a transition to online only advertising. Within the context of the recent pandemic, which has curtailed publication and community access to newspapers, and the more recent cancellation of the print version of the *Centralian Advocate*, the amendment suggested by the scrutiny committee would represent a risk to the continued operation of the planning system.

Recommendation 3 of the scrutiny committee relates to the issue of amenity within the context of section 2A of the *Planning Act*, which establishes the purpose and objectives of the act. This recommendation is addressed in the proposed Assembly amendment 1.

The committee heard concerns that proposed section 2A(j) relates only to the amenity of a building and does not adequately reflect the broader meaning of amenity, which the *Planning Act* defines as relating to a locality or building.

In response to the scrutiny committee's recommendation, proposed section 2A(j) is amended to make reference to respect for the amenity of the locality to clearly align the objective with the existing definition of amenity in the *Planning Act*.

Recommendation 4 of the scrutiny committee report relates to the identification in the development application of a direct beneficiary of the proposal and is addressed by proposed Assembly amendment 7.

Proposed section 46(3)(aa) in the bill requires that a development application identify not only the owner of the site and the applicant but any person who would directly benefit from the development. This amendment is intended to improve transparency with respect to developers, particularly in the context of potential conflicts of interest when decision-makers are unaware of the identity of a potential developer. In response to the scrutiny recommendation, proposed section 46(3)(aa) is amended to clarify what is meant by the term 'direct benefit'.

An important component of an increased focus on transparency and streamlining of processes in the planning system is to better target notification to those most likely to be affected by a proposed development or rezoning. Components of this reform include longer exhibition periods for more significant developments and local notification requirements of minor development proposals. The drafting of regulations has identified issues with implementing aspects of this proposed reform. In particular, it was recognised that notification of adjoining occupiers would be impractical in situations where there is not direct mail delivery. The Member for Nelson understands that in the rural area. The requirement for a sign on the site will ensure occupiers of adjoining properties and residents from the immediate locality will be aware of the proposal. This issue is addressed by proposed Assembly amendments 10 and 11.

The remaining nine recommendations of the scrutiny committee related to enhancing the clarity of the drafting.

The Assembly amendments also address minor technical issues identified during consultation and subsequent drafting of the proposed amendments to the Planning Regulations 2020. The Planning Regulations 2020 will proceed through a separate Executive Council process.