



Legislative Council

Environmental Planning And Assessment Amendment (Anti-Corruption) Bill Hansard - Extract

18/06/2002

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Industrial Relations, Assistant Treasurer, Minister Assisting the Premier on Public Sector Management, and Minister Assisting the Premier for the Central Coast) [9.07 p.m.]: I move:

That this bill be now read a second time.

Local councillors have an important responsibility to the community to ensure that they exercise their statutory functions honestly and with integrity. It is very important that the community has confidence in their elected representatives and in the planning system. There are 172 local councils in New South Wales. Every year those councils must determine more than 120,000 development applications across the State. These applications cover all forms of development. All development that is approved has implications, be they environmental, economic or social. Development takes place within a community. The community must have confidence that the process for obtaining approval for that development is untainted by the corrupt conduct of any local councillor.

The Minister for Planning recently announced a comprehensive package of reforms aimed at restoring public confidence in the development assessment process in New South Wales. This confidence has been somewhat shaken by the recent allegations of corrupt conduct made against certain Rockdale councillors in the inquiry held by the Independent Commission Against Corruption. The Minister for Planning does not want to pre-empt the findings of this inquiry. However, it is clear that the Environmental Planning and Assessment Act requires strengthening to give clear power to both the Minister for Planning and the Land and Environment Court to suspend any development consent that has been obtained corruptly.

The Land and Environment Court is to be given broader jurisdiction not only to suspend a decision of a consent authority that is tainted by corrupt conduct, but also to revoke such a decision. The bill provides the power to suspend or revoke development consents obtained through serious corrupt conduct. Serious corrupt conduct is defined in the bill as "corrupt conduct [within the meaning of the ICAC Act] that may constitute a serious indictable offence." "Serious indictable offence" is, in turn, defined in the Interpretation Act as "an indictable offence that is punishable by imprisonment for life or for a term of five years or more".

In cases where building work has substantially commenced, or the property has been transferred to an innocent third party, thereby making suspension or revocation of consent impossible, the Director of Public Prosecutions will be able to take action in the Supreme Court under the Confiscation of Proceeds of Crime Act to seize profits from the original developer. The Carr Government appreciates that it is important to ensure that there are appropriate safeguards in the legislation to protect the interest of any innocent third parties who may be affected by either the revocation of a development consent or its suspension. Accordingly, the bill provides that the Minister for Planning, or the Land and Environment Court, respectively may not suspend or revoke a development consent if the work authorised by the consent or modification has been substantially commenced. The Land and Environment Court cannot revoke a consent or modification if the revocation will significantly disadvantage a person who was not a party to the corrupt conduct.

A further safeguard is that the Minister for Planning may lift a suspension at any time and if proceedings to revoke the development consent are not commenced within six months of a suspension, the suspension is automatically lifted. The Land and Environment Court may also lift a suspension imposed by the Minister. Another important initiative will enable the appointment of an administrator to assume the environmental planning and assessment functions of a local council under the Environmental Planning and Assessment Act. The Minister can take such action where the ICAC recommends that consideration be given to such an appointment because of serious corrupt conduct by any of the councillors.

The Carr Government recognises that the majority of local councillors take the exercise of their functions seriously and act honestly. Unfortunately, there are a few rotten apples in the barrel. The Carr Government is determined to ensure that there are sufficient powers within the Environmental Planning and Assessment Act to actively discourage those who would seek to gain an unfair advantage from mis-using the planning system. The old adage remains true: cheats shall not prosper. I commend this bill to the House.