

DEVELOPMENT (ASSESSMENT PROCEDURES) AMENDMENT BILL

13 March 2007

Adjourned debate on second reading.

(Continued from 23 November. Page 1169.)

The Hon. D.G.E. HOOD: I rise briefly on behalf of Family First in order to indicate our support for the second reading of this bill, which seeks to amend the Development Act to improve the state's planning and development system. It is not a particularly controversial bill, and it makes a few commonsense changes to the act. We have received no lengthy submissions with respect to this bill, but that does not mean that we simply rubber-stamp it. As it turns out, it is just as well that we did not do so, and I will point out why in a moment.

Family First is pleased to see the emphasis on water and energy efficiency that is inherent in this discussion. Councils will, it seems, be able to ensure that new developments comply with standards for water efficiency or energy efficiency. During the current drought, South Australian families are getting into the habit of saving water and being discerning as to their use of water and that, of course, is pleasing. Likewise, due to our limited power generation facilities, South Australians know that there is a need to conserve energy. We think that this aspect of the bill is a good measure in that it requires developers to take these things into account—and, in our view, it can be done. Perhaps one day when real estate is sold we will see five-star ratings on the energy and water efficiency of individual homes. I think that this measure in the bill is one of many that can start us thinking about conserving vital resources in this great state.

The other element that I want to touch on very briefly (as I mentioned in the introduction) is something that Family First picked up when scrutinising this bill. Apart from this section, basically, this bill is good law, as far as we are concerned. However, when looking at clause 23 of this bill (and I note that the Hon. Terry Stephens mentioned that clause in his speech a moment ago), we were somewhat surprised by one element of it; that is, the category of people

who could obstruct a development seems to us to have been expanded significantly. In our view, the only people who ought to be able to use such an appeal right are those who are directly affected by the development. Not everyone may see it that way, and we look forward to the debate and to hearing the views of others on that matter. However, by Family First raising this issue, the government has introduced its own amendment, in consultation with the chief judge of the Environment, Resources and Development Court. We cannot quibble with that approach and, therefore, we support it: indeed, we support the government's amendment.

The government has spoken of its desire to encourage the development of this state, which Family First strongly supports. A sure way to frustrate that development is to leave a gate swinging open (for instance, as clause 23 did, as originally drafted) for any interested person to claim a relevant interest in a development and take the matter to court. I might add that such an interested person would take the matter to the Environment, Resources and Development Court instead of the Supreme Court, which would otherwise be the case, and the costs of that jurisdiction would serve as a disincentive for any interested person to appeal the development.

However, clause 23, as it originally stood, would have opened the gate to the ERD Court, which is notorious for being a no-cost jurisdiction because each party bears their own legal costs. The winner does not, as is usually the case, get some or all of their legal costs paid for by the loser. We can envisage a situation therefore, where a clever serial complainant could oppose developments at little or no cost to themselves and cause a great deal of mischief, if you like.

The ERD Court's no-cost jurisdiction is great for the little people who are, unfortunately, affected by a development—and we certainly support that aspect of it—but it does open the gate for nuisance makers to stymie development in South Australia. That is something we certainly do not want to see happen. The government's amendment to this bill narrows that category of people who would be able to pursue nuisance type claims, and we certainly support that. In

short, Family First supports the bill and certainly this amendment, and we look forward to the debate in the committee stage as to opposing views on the matter I have raised.