**DEVELOPMENT BILL 1993**

**LEGISLATIVE COUNCIL, 1 APRIL 1993, PAGE 1849**

**Second Reading.**

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): Imove:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in Hansard without my reading it.

Leave granted.

The legislation before the House represents the culmination of a process of study, review, and consultation over a period of almost three years.

The establishment of the Planning Review, the publication of 2020 Vision, and the comprehensive process of consultation which underpinned the work of the Review team, are reflected in the Bill we are now considering.However, the Bill is also the continuation, and the next step, in the development of a planning system for Adelaide which has a much longer history.

In 1962 Stuart Hart drew up a plan for Adelaide which formed the policy basis for the next thirty years. The 1967 Planning and Development Act set out the statutory control system to implement that plan. Over time there were modifications to those controls. Most notably the 1976 Inquiry into the Control of Private Development which, led to the 1982 Planning Act.

The emphasis over this period was on a physical plan enshrined in a development control system. However, in the more complex world of the nineteen eighties it became clear that this focus was too narrow and had resulted in a system concerned with control. The emphasis was on what could not be done rather than facilitating the planning of what should be possible.

The history of planning legislation demonstrates that Acts and Regulations cannot exist in a vacuum. Nor can they operate without the support of a broad community consensus that the system is essentially fair, accessible, and consistent. Recent history shows that by the end of the nineteen eighties, for a variety of reasons, consensus had been overtaken by division with the result that planning authorities lacked the confidence to plan, developers lost the incentive to develop, and the broader community lost faith in the ability of the system to maintain and extend their physical environment.

The result has been an all-pervasive perception that the South Australian community is incapable of supporting imaginative, value added development. Irrespective of the accuracy of that perception our task is to address these challenges.

The Government’s Economic Development and Planning Strategies will give the necessary clarity and direction to attract and facilitate investment in South Australia’s future. The Government is firmly committed to achieving sustainable development, meeting the community’s social, environmental and economic aspirations. These initiatives are founded on a partnership approach between Government and the community. This Bill forms part of this process.

Consistent with the collaborative approach promoted by the Government, the terms of reference of the Planning Review and its method of operation, were directed towards reaching a shared vision for the future development of Adelaide that would support changes in legislation and procedures. It is why this legislation is designed to establish a process by which that shared vision can be maintained, renewed and held relevant to the planning system and the State’s economic strategy.

Work on the Planning Review and Strategy and formulation of the legislative framework for future development have proceeded in concert with related legislative reforms. They include the planned Environment Protection Bill and revamped Heritage and Coast Protection Acts.

In the next Parliamentary session, the Government intends to introduce the new Environment Protection legislation, establishing a South Australian Environment Protection Authority and single, integrated environmental licensing system for ongoing oversight safeguarding the quality of our environment.

The Government is working to ensure that the Development Bill and the proposed Environment Protection Bill are directed towards facilitating sustainable development and that the two key legislative measures dovetail and link in important respects. Vital linkages relate to both policy formulation and integrated decision making on development applications.

The Development Bill becomes an important, integrating legislative scheme.

The Bill is founded on three broad principles.

The first is that legislation which sets the framework for the physical development of metropolitan Adelaide and the rest of the State must be based on strategic planning for the future and focus on achieving results. It must relate to the overall economic, social and environmental strategies for the State as a whole.

The second is that it must resolve any conflicts which arise quickly, and with certainty.

The third, is that the systems and processes it establishes to carry out its objectives must be as simple as possible, visible, and fair.

The Bill introduces a number of key reforms to the planning system to support these principles. Of fundamental importance is provision for the preparation and publication of a Planning Strategy which sets out the Government’s vision for the development of the State. The Strategy itself will not be a statutory document. However, it will link the statutory plans with the process of Government policy formulation and decision making. It will ensure that Government policy is declared and accessible. The community will be involved in the preparation of that strategy and the Bill requires the Premier to report regularly to Parliament on that consultation process, the implementation of the strategy, and any alterations which have been made to it.

Work on the Planning Strategy, including detailed area plans is already underway. This work involves consultation and collaboration with Local Government. It is expected that the Planning Strategy for metropolitan Adelaide will be finalised later this year with the work on the rest of the State completed by 1995.

The new provisions to resolve conflicts and to manage contentious developments, are also significant. In relation to major projects a new Environmental Impact Statement process requires specific guidelines to be prepared for each project to specify the scope and level of assessment needed. The Bill also allows an early “no” decision which is not possible under the existing legislation. This will impose a certain discipline on Government to be clear and prompt in its initial consideration of projects. That consideration will be aided by reference to the Planning Strategy. More importantly the new process will allow for proponents to be given progressive approvals, giving them greater certainty before the preparation of costly detailed designs.

The Government understands and accepts that all sections of the community, from the largest developer to the smallest home renovator, need a planning approval system which is simple to understand and use.

At present proponents are faced with the difficult problem of gaining a variety of licences, consents, permissions and approvals from a multiplicity of Government agencies and local councils. While the Development Bill does not integrate all these requirements into one piece of legislation, it deals with those which are most significant and establishes an integrated development control system based on local government as a single point of access for developers. It also links with other legislation referred to earlier. In addition, it also provides the framework for a wide range of development controls to be incorporated into this integrated system over time.

To reduce this to everyday examples. Under the present system to build a house requires two applications if planning consent is required. Under this Bill that is reduced to one application with one approval covering all matters.

For infill development, or Strata units, three applications are required at present, with the potential for universal notification and third-party appeal. The Bill reduces this to one development application, one approval with the possibility of neighbour notification with no appeal.

For complex commercial development a single application will be required for planning, building and land division.

In all cases approval can be granted in stages if the applicant so desires.

Under this legislation the criteria against which applications of the type I’ve referred to will be assessed are to be set out in statutory planning policy documents to be called Development Plans.

The legislation provides for these plans to reflect the overall Planning Strategy and to contain matters of a social, economic environmental and land use nature. They may also set out objectives or principles relating to ecologically sustainable development which will need to be prepared in consultation with environmental, development and industry groups, as well as the community.

The Bill contains a more flexible and less time-consuming system for the amendment for Development Plan policies than now exists with emphasis being placed on resolution of major issues at the initial stage, through agreement between the Minister and a council on a Statement of Intent.

To ensure that development plans remain relevant and linked to the Planning Strategy, councils are required to carry out periodic reviews of their Development Plans in order to determine their appropriateness and conformity with the Planning Strategy. The first such review must be carried out within three years of the commencement of the Act and thereafter every five years. This should ensure that a coherent and contemporary approach is maintained. The Minister has power under the Bill to prepare plan amendments if a council refuses or neglects to do so on the Minister’s request. While Councils have the right to propose amendments to Development Plans in their areas, the final responsibility for these Plans is the Minister’s. Nevertheless, we do not intend to interfere in matters of purely local importance.

A new Environment, Resources and Development Court Bill also has been prepared to provide for the creation of a separate Court to deal with both enforcement and appeal matters related to the Development Bill. This Court will also become the relevant Court for matters dealt with under proposed Heritage and Environment Protection legislation.

The Bill establishes two statutory bodies. The Development Policy Advisory Committee will advise the Minister on any matters relating to planning and development or the design and construction of buildings. The Development Assessment Commission will assess development proposals where appropriate and report on matters relevant to the development of land.

Broadly speaking these bodies replace the Advisory Council on Planning and the South Australian Planning Commission. However, a significant change is that in determining their membership the Minister must invite expressions of interest in appointment from the community.

The legislation was drawn up after extensive consultation and has itself been the subject of further discussion with the community and key groups. Consequently, consultation is an essential part of the legislation with an increased level of public involvement on some applications.

Other major provisions of the Bill to which I draw the attention of the House include:

* Crown development will now be bound by the same policies and standards in the Development Plan as apply to private applicants. Crown development will require an application, and approval by the Minister, unless exempted by the Regulations. The Minister must report to Parliament any approval which is at variance with the Development Plan. New Crown development will be required by the Bill to comply with the Building Rules.
* Land management agreements have been limited to management issues to avoid the use of these agreements to circumvent the Development Plan policies.
* The Development Bill changes the focus of responsibility for ensuring proper standards of building construction from councils to builders and landowners.
* The Bill introduces the concept of Private Certification to the assessment of compliance with the Building Rules. This will particularly benefit developers using standard designs for a large number of buildings.
* Consideration will be given to granting exemptions from application of the Building Rules, as was done by proclamation under Section 5 of the Building Act. Changes in building standards, settlement patterns and the size of farm buildings over the last twenty years mean that the former proclamations cannot simply be re-made.
* In the event of defective building work, changes to the liability provisions will lift some of the heavy burden which has fallen on councils previously, and re-distribute it more equitably on other parties, including the designer, builder and owner.
* An integrated system of enforcement and appeals is now proposed in the Bill and the complementary Environment, Resources and Development Court Bill.
* Third party civil enforcement is made more accessible by the Bill. However, there are safeguards written into the Bill and the Court will have the option of requiring a bond to avoid abuse of the civil enforcement process.
* All policies relating to the identification and alteration to local heritage places will be contained in the Development Plans. The Bill contains specific criteria to be used in the listing of local heritage places in order to provide greater certainty in this area.
* The City of Adelaide will now become subject to the same development legislation as the rest of the State.
* The Bill, together with complementary changes to the Mining Act introduced by the Statutes and Repeal (Development) Bill, will streamline the assessment of mining applications and help clarify these procedures. Policies relating to mining, including the provision of buffer areas, will be set out in the statutory Development Plans.

Other complementary legislation being presented at this time includes the Statutes Repeal and Amendment (Development) Bill which repeals in their entirety the Building Act, Planning Act and the City of Adelaide Development Control Act and amends the Coast Protection Act, Local Government Act, Mining Act, National parks and Wildlife Act, Real Property Act and Strata Titles Act. It also provides for a wide range of transitional provisions to allow for a smooth transfer between the repealed Acts and the Development Act.

As part of the introduction of the integrated planning and development system, the Government will undertake an education and information programme for councils, the development industry and the community. In addition, the Local Government Association is proposing to streamline council procedures relating to development applications through its Local Approval Review and through the Local Government Training Authority Process.

A new Heritage Bill is also to be introduced. The bill now before the House is dependent on the progress of that legislation.

I referred earlier to the Planning Review which was established by the former Premier. I would like to acknowledge the work of the review which has led to the reforms contained in this legislation. The Review team led by Brian Hayes QC, Professor Stephen Hamnet and Dr Graham Bethune have met their brief of designing a planning system which can takeAdelaide and SA into the twenty first century. It is now our responsibility to give legislative form to the results of this comprehensive process of review.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.