



Speech by

Hon. R. WELFORD

MEMBER FOR EVERTON

Hansard 25 May 1999

ACQUISITION OF LAND AMENDMENT BILL

Hon. R. J. WELFORD (Evertton—ALP) (Minister for Environment and Heritage and Minister for Natural Resources) (3.30 p.m.): I move—

"That the Bill be now read a second time."

In introducing this Bill to the House, I would point out that the Bill addresses three important issues together with a number of consequential and minor amendments. I will briefly describe the important issues. The provisions of the current Acquisition of Land Act 1967 require that the Governor in Council perform a deliberative decision making role in respect of all applications for the taking of land.

The current requirements under the Act necessitate the provision of a vast body of reports, studies, documents, plans and like material to be delivered to the Governor in Council in support of each application under consideration. This cumbersome process has become impractical due to the volume and complexity of the material provided and because the Governor in Council simply does not have the time available to consider every application in the required detail.

The Electoral and Administrative Review Commission in its 1990 report recognised that it was inappropriate for the Governor in Council to perform such a deliberative role. Subsequently, most legislation in Queensland which required the Governor in Council to perform a deliberative role has been amended to apply a more contemporary approach. However, the provisions of the Acquisition of Land Act 1967 were not amended at that time and remain unchanged.

These amendments will address this shortcoming by adopting the more contemporary approach whereby the Minister investigates the merits of each application and, if satisfied with the findings, takes forward a recommendation, through the Executive Council process, for the taking of land by Gazette notice. The current practice of publishing a proclamation in the Gazette of the Governor in Council's decision to take an interest in land would be replaced by the publication of a notice in the Gazette.

The next issue relates to the current provisions in the Act that only permit the taking of land using plans of survey. The proposed amendments seek to provide a more reasonable approach for both land-holders and constructing authorities alike by amending the Act to allow for the taking of land using plans which substantially identify the land but are not an actual plan of survey. This amendment will enable constructing authorities to substantially identify the land in the first instance and then prepare a plan of survey of the precise needs of the constructing authority after construction. This ensures no more land is taken than is necessary.

This approach does not in any way limit or alter the land-holder's right to be compensated. In fact, the Department of Main Roads has for about 30 years acquired land using plans which substantially identified the land but were not plans of survey. The precise land needs were identified and surveyed after construction and were the subject of an amending proclamation which was registered in the land titles registry. However, whilst the practices followed are well suited to the type of infrastructure provided by the Department of Main Roads and serve both the public interest and the best interests of land-holders, those practices are now considered not to comply with the provisions of the Act.

This Bill seeks to validate existing acquisitions of interests in land which were not accompanied by plans of survey when applications were made. This validation will ensure that many road projects of

critical importance to the community, such as the expansion of the highway between the Gold Coast and Brisbane, are not disrupted.

I stress at this point that these amendments are not in response to any legal actions pending. Nor is there any attempt to seek advantage for the Government through these amendments. They are in response to recent identification by the Government of a technical but legally significant deficiency in the current acquisition practices followed by the Department of Main Roads. I also point out that the rights of land-holders will not be affected or diminished by the validation provisions. They will retain their right to fair and reasonable compensation. The other amendments in the Bill are of a minor nature and support the more important amendments outlined. I commend this Bill to the House.
