



Speech by

Hon. STEVE BREDHAUER

MEMBER FOR COOK

Hansard 24 March 1999

TRANSPORT (SOUTH BANK CORPORATION AREA LAND) BILL

Hon. S. D. BREDHAUER (Cook—ALP) (Minister for Transport and Minister for Main Roads) (11.59 a.m.): I move—

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

In the early 1990s my portfolio identified the need to consider options for solving the ever-increasing transport demands of the Brisbane to Gold Coast corridor. In response, Queensland Transport in conjunction with Main Roads established an Integrated Regional Transport Plan for south-east Queensland. This is a 25-year blueprint for the transport system, with a key element being the increase in the proportion of trips taken on public transport in south-east Queensland from 7% in 1992 to 10.5% in 2011.

The South East Transit Project busway, at an estimated cost of \$520m, is a critical component of the plan and is part of an overall Government strategy to reduce the number of private vehicle trips on the road system. This will have environmental benefits and free up road space to make industry more competitive. Particularly, the South East Transit Project busway is expected to—

- meet community travel demands now and well into the future;
- improve transport facilities for users by significantly improving the network and increasing the range of transport choices;
- improve the level of service and safety to both through traffic and local traffic; and
- reduce the cost of travel between Brisbane and the Gold Coast.

In August 1996 the South East Transit Project busway construction proposal was released, including the detailing of a two-lane, two-way dedicated busway between the Brisbane central business district and Springwood. The route extends across the Victoria Bridge through South Brisbane and along the South East Freeway from Woolloongabba. After the determination of an alignment, construction began in the South Bank area on 28 October 1998 with the target date for completion of the works in this area being the end of June 2000.

The alignment of the busway has required the acquisition of privately held land which is within the South Bank area as prescribed under the South Bank Corporation Act. To secure the land, formal proceedings for its acquisition for transport purposes were commenced under the Acquisition of Land Act in February 1998 and concluded by decision of the Governor in Council on 11 June 1998. Two land owners affected (J. A. and G. P. Noble and T. and A. Elenis) sought declarations from the Supreme Court that the acquisitions were unlawful. The basic premise was that the South Bank Corporation Act controlled development of the South Bank area and, as a transport purpose is not consistent with the approved development plan, the acquisitions were unlawful. The State's legal advice prior to judgment indicated that there was nothing within the South Bank Corporation Act that excluded the land from acquisition. However, in a judgment delivered on 18 February 1999, Justice Moynihan of the Supreme Court determined that the applicants were entitled to the declarations they sought. The legal action has halted all work intended for the land and jeopardises the completion of the South East Transit Project busway.

Additionally, commitments given to complete the Woolloongabba link for the Olympic soccer tournament in 2000 will almost certainly be unfulfilled unless immediate action is taken. A Bill of

Parliament is the only practical means for ensuring the timely acquisition of all land required for the South East Transit Project busway so as to enable construction to continue and be completed on schedule unhindered by legal challenge and community doubt. Options other than a Bill of Parliament have been thoroughly investigated and taken to their logical conclusion. However, each must now be discounted through uncertainty of outcome and/or the probability of lengthy delay to the completion of the busway. It should be noted that as a precaution against any problems with the Bill an appeal has been lodged prior to the closing date of 17/03/99. But it will not be sought to be expedited and will be dispensed with upon the Bill's passage.

In respect to the Noble and Elenis land, all attempts to negotiate a reasonable and fair settlement have been unsuccessful. Offers have been made based on market valuations of the land, buildings and the relocation of the Noble business. The gap between the last offer made and the claim of Noble and Elenis is substantial. The Government cannot be held to pay a premium which reflects anything beyond market valuation. It would be wrong and contrary to the Financial Administration and Audit Act. The door would be open to spurious claims for any future compensation payable as a result of the Government's desire to acquire land for similar significant State infrastructure projects.

A benefit of the judgment is that it is now realised that an anomaly exists in the operation of the South Bank Act and the Acquisition of Land Act. To accept a negotiated settlement now, in light of the judgment, would do nothing to redress the anomaly and would unduly expose the Government to future challenge over the validity of the acquiring of the corridor. The Bill proposes to retrospectively validate all of the notices of intention to resume and the proclamations gazetted for the acquiring of the busway corridor land falling within the South Bank area. By this measure it ensures the full effect of the Acquisition of Land Act in respect to this land, including the mechanism for the determination of compensation through the Land Court. In order to ensure that exposure to a similar judgment does not occur, opportunity is being taken to also exclude from the South Bank area land for the busway corridor which is yet to be acquired. The result will be the securing of the entire busway corridor within the South Bank area. The land, which is yet to be acquired, is not privately held.

The Bill departs from two fundamental legislative principles as defined in the Legislative Standards Act. They are—

whether legislation is consistent with the principles of natural justice; and

whether legislation does not adversely affect rights and liberties, or impose obligations, retrospectively.

The Bill departs from these fundamental legislative principles in regard to the retrospectivity of its effect in validating instruments made under the Acquisition of Land Act which the Supreme Court has judged to be unlawful in relation to the operation of the South Bank Corporation Act.

It is considered necessary to secure the South East Transit Project busway corridor land without delay and continued legal challenge to ensure the integrity and viability of the State's busway infrastructure initiative. This is a key component of the South East Queensland Integrated Regional Transport Plan, which is at the forefront of proactive measures adopted to deal with growth projections for south-east Queensland into the new millennium. Any legal challenge has the potential to adversely affect jobs associated with the busway and hence the importance of dealing with the effects of the judgment in a comprehensive manner.

In closing, I wish to make it clear that since coming to power the Government has acted fairly and in good faith during the entire course of its dealings with all landowners affected by the alignment of the South East Transit Project busway in the South Bank area. The land acquisitions have only occurred through the Acquisition of Land Act. This Bill does not purport to take land; it validates processes undertaken under the Acquisition of Land Act. This was believed, through legal advice obtained at the time, to be a due and lawfully proper process. In responding through this Bill the Government is seeking to redress, not refute, the anomaly identified by the judgment. Compensation will be available to Noble and Elenis. The Bill, on balance of the options available, represents the only practical, legally comprehensive means for ensuring that all necessary land is available for the timely completion of the South East Transit Project busway.
