Speech by

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VALUATION OF LAND AMENDMENT BILL

Mr SEENEY (Callide—NPA) (Deputy Leader of the Opposition) (3.02 p.m.): It is with some pleasure that I rise to make a contribution to the debate on the Valuation of Land Amendment Bill. Land valuation is an important function that is carried out by the Department of Natural Resources. Before that it was the Valuer-General who provided a valuation for land in Queensland. That valuation is known as the unimproved value.

It is an important function because it is the unimproved value upon which the council rates are levied. Therefore, every land-holder takes a very keen interest in the unimproved value of their land and revaluations that may apply. I know that it is almost always an issue of some contention as to how those revaluations are arrived at. I am sure that, not long after becoming members of parliament, most honourable members would have had a number of constituents in their offices complaining about the revaluations of particular properties. It is an issue that causes, and has always caused, a deal of concern amongst the people whom we represent.

I have found that very few people understand how these unimproved values are arrived at and how the revaluations occur. Usually, most of the concern that is expressed about the revaluation stems from the fact that there is only a very shallow understanding in the community generally about the way the valuation system works, what happens after a valuation and what happens between the valuation and the change in council rates, which is what everybody is ultimately concerned about.

The other charge that is levied based on this unimproved value derived by the valuation process is the land tax charged by state governments. Because of the thresholds, the land tax probably does not impact on the same number of people as council rates. Council rates have an impact on every property holder. There is a level of concern about the increasing impact of the land tax which is based on these unimproved land values. They have continued to increase over time and thresholds have not increased accordingly. More people are being caught in the land tax net. More people are being required to pay land tax on properties. That tax is based on the unimproved value arrived at by the valuation process under the Valuation of Land Act.

It is important that there is some integrity in the system. It is important that the community generally has confidence in the system as a whole to produce unimproved land values that are fair and equitable across the community so that the load is borne equitably by everybody in the community—so that everybody pays their fair share of both council rates and land taxes.

Over time a number of anomalies have been identified in the unimproved land value system. In my opinion, we have yet to arrive at a better system. I think that the unimproved land value system becomes more difficult to maintain on an equitable basis the further we as a community move away from a situation where there is an unimproved land base to compare against. In the large urban centres the concept of an unimproved block of land now belongs to the dim and distant past. It is very difficult to find a block of land still in its unimproved state. It becomes increasingly difficult to provide that basis upon which to measure the unimproved value which is the basis of rate collection and land tax.

The system is certainly criticised on a fairly regular basis by people who feel they have been aggrieved by the valuation system. I think the system certainly does have its failings in trying to arrive at an equitable set of values across a wide range of situations. It is understandable that sometimes the system results in a situation that is difficult to understand and not equitable. One of those situations

was the genesis of this legislation. I refer to the large shopping centres that are now a feature of most suburbs and certainly a feature of most urban centres. The large suburban shopping centres have almost become commercial centres in themselves. They incorporate a whole range of businesses and provide a whole range of services to the community generally.

The minister mentioned a number of examples in his second reading speech such as Carindale, Indooroopilly and Garden City in Brisbane, Pacific Fair on the Gold Coast, Clifford Gardens in Toowoomba and the list goes on. There are certainly many more shopping centres of that type such as Pacific Fair in Rockhampton, Sugarland in Bundaberg, Stocklands in Townsville and so on. There are quite a number of those types of shopping centres in just about every large urban centre. The situation that arose was one where the valuation system—that is, the system that produces that unimproved valuation of land—simply could not deal with the changes in values that commercial centres such as that brought to a particular area. The system allowed for comparison with other sales in the area as a means of deriving an unimproved value for that particular piece of land and that certainly did not work in terms of the large shopping centres.

The other provision in the Valuation of Land Act—that is, the proviso method that allows for the unimproved valuation to be arrived at by taking the commercial value of the property and subtracting the physical assets—was the one that was adopted by the department. It produced quite large unimproved valuations, because those centres have an inherent value that is much more than the sum of the unimproved land and the physical assets on the property. When we talk about physical assets, we are talking about the actual value of the buildings—that is, bricks and mortar, which is the term referred to in the minister's second reading speech. The valuation that was produced after taking the commercial value of one of those large shopping centres and subtracting the cost of those physical improvements resulted in a very large value that in some cases was clearly, to my mind, more than could be reasonably said to be the unimproved value of the land.

Under that system there certainly were values within the property that were being transferred to the unimproved value of the land. This legislation arose out of the need to address that unfairness and that inequity. This legislation recognises those intangible elements of value that contribute to the overall commercial value of the shopping centre or the property and allows those intangible values to be subtracted from the commercial value as well as subtracting the value of the physical infrastructure to arrive at a more reasonable and a more accurate unimproved value for the block of land upon which the property is built. Those intangible elements can be a number of things, and there is a definition in the legislation which sets out to define what those intangible elements are. I note that the minister has tabled an amendment already in terms of the definition of those intangible assets, and I guess that that is an illustration of how difficult the definition of those things are.

There can be a number of elements that make up the value of a property that can be said to be intangible and not physical. The one that is probably most common is the lease of the property to a particular corporation or entity who by its reputation and by its name give value to the particular property. That is probably most common in terms of shopping centres and properties where there is a single major tenant that provides that property with a reputation or gives it a focus in the community that it would not otherwise have. There is a certain amount of goodwill associated with a tenant like that that attracts other tenants to a particular property and attracts those other tenants because their business does better there because of the presence of a particular lease.

Those types of things have been defined in the legislation as intangible improvements in relation to the land and they include the benefit that is obtained from non-physical improvements on the land such as a lease or a licence or some other right and the goodwill that is associated with the purpose for which that land is being used. I note that in the amendment the minister has tabled it includes a catch-all section of that clause which is set out as—

... other non-physical improvements prescribed under a regulation.

That basically allows the minister to, as I read it, produce a regulation to take account of any other non-physical improvements that may become apparent over time.

I do not think that conceptually I or any reasonable person would have any difficulty with what is being proposed in terms of the amendment that is part of the bill before the House. I do not think that anyone who understands the Valuation of Land Act and the unimproved value concept would dispute the fact that these types of intangible improvements need to be able to be deducted from the commercial value of the property so that the value that is arrived at after the value of those intangible improvements has been deducted and the value of the physical improvements has been deducted is a true representation of the unimproved value for rating and land tax purposes. Conceptually, the approach that is taken in the legislation before the House is the right one. It is a recognition that those values exist. It is a recognition that those values are major contributing factors to the commercial value and to arrive at a proper unimproved value the value of those intangible improvements must be deducted from the commercial value along with the value of the physical improvements.

Where the legislation before the House goes wrong is in the inclusion of a 20 per cent cap on the level of those intangible improvements which can be deducted from the commercial value. It seems to me to be contradictory to have a piece of that legislation that on the one hand recognises that these intangible improvements exist and they do have a value and that value needs to be recognised in the calculation of an unimproved value and then on the other hand cap or limit the amount which those intangible improvements can constitute a property's value. That seems to be a contradiction in terms. If we are going to recognise that these intangible improvements exist and if we are going to recognise that the value of those intangible improvements needs to be deducted from the commercial value in order to arrive at a fair and equitable unimproved value, then what is the purpose of limiting the value of those intangible improvements to some arbitrary figure—be it 20 per cent or 30 per cent or even 50 per cent? It is illogical to do both things. It is illogical to say that the value of these intangible improvements needs to be deducted to arrive at a fair and equitable unimproved value but then say that in this particular circumstance we are not going to allow them to be deducted if they exceed some sort of arbitrary cap. The two elements are contradictory, and that is the fault in the legislation.

If not for the provision of that 20 per cent cap in the legislation, the opposition would support it. There is no explanation in the minister's second reading speech as to why that 20 per cent cap was arrived at. There has been no explanation to the parliament as to why, first of all, a 20 per cent cap or a limit of any level was thought to be necessary, and there is certainly no explanation in the minister's second reading speech as to why the 20 per cent figure was chosen at all. Every member of the parliament deserves an explanation in the consideration of this legislation as to why that 20 per cent cap is to be imposed.

I do note that the setting of the 20 per cent cap is mentioned in the second reading speech that the minister presented to the parliament, but it is not part of the legislation. The legislation sets out that that limit will be set by a regulation and that regulation mechanism will allow the minister to vary that limit or that cap from time to time. There was a mention in the explanatory notes that the architects of the legislation at least recognised the need to be able to vary that limit.

The point that needs to be made at the very beginning is that there is no need for a limit to be placed on those intangible improvements at all. There has been no case put forward as to why there needs to be a limit on the value of those intangible improvements in the calculation of the unimproved value. As I said a moment ago, if that were done it would simply be contradictory to the main thrust of this bill, which is to recognise that those intangible improvements exist, that they have a value and that that value needs to be taken into account. If that value is in excess of whatever arbitrary figure is chosen for a cap, whether it be 20 per cent or 50 per cent, how can the minister justify including that value in the unimproved value? That is the question that the minister really needs to answer in his explanation: why was this 20 per cent figure included in his second reading speech—and I take it that it will be included in a later regulation to come before the House.

The argument still applies that, whether it is a 20 per cent cap, 50 per cent cap or whatever other limit the minister arrives at in the setting of that regulation either now or subsequently, there will always be an occasion when the value of the intangible improvements of a particular property will exceed that limit. In that case, the value of those intangible improvements will become part of the unimproved value, and that makes a mockery of the unimproved value system. It is because of that dilemma that this legislation is before us in the first place. That is the contradictory situation that we find ourselves in.

We are considering this legislation because a situation arose that needed to be addressed. But in addressing the situation, the minister brought before the House legislation that provides for situations to arise which are the carbon copy of that which the legislation sets out to address. This legislation is a step in the right direction, but it is only a small step. The effect that it will have in correcting the anomalies in the unimproved valuation system has been limited and negated in many instances by the inclusion of this 20 per cent limit, by this arbitrary cap, that the minister is going to set in the subsequent regulation which will come before this parliament at a later time.

It is important to note that the property owners are going to have to establish, first of all, that these intangible improvements exist; secondly, that they have a value; and, thirdly, what that value is. So property owners have to go through quite a long process to establish that these intangible values are part of the commercial value of their property and should be deducted from that value along with the value of the physical infrastructure. It is not something that happens automatically. It is not something that the government will incur a cost in doing. In terms of this legislation it is the property owners' responsibility to have their property valued by a commercial valuer and to put forward a case establishing that those intangible improvements exist and what their values are.

So after having gone through the process of establishing that the intangible improvements exist, that they have a particular value and what that value is, a property owner quite conceivably can then find themselves in a position in which the value of those intangible improvements exceeds the cap that the minister has set by regulation. What happens then is obvious. In this particular case only

20 per cent of the value of those intangible improvements will be deducted from the commercial value in the calculation. The remainder of that value of intangible improvements, be it another 20 per cent, another five per cent or whatever, will become part of the unimproved value of the property and it will be rateable and it will be the value upon which land tax is levied. That makes a mockery of the system and it perpetuates the problem that this legislation sets out to address.

The opposition will not support the concept of placing a limit or a cap on the value of those intangible improvements because of that illogical fault within the legislation. We will not support the inclusion of a limit of any sort upon the value of those intangible improvements. If it can be clearly shown that those intangible improvements exist and their value can be properly established, then that value must be deducted from the commercial value of the property along with the value of the physical infrastructure on that property. In that way the unimproved value that is arrived at in that valuation is fair and equitable and ensures that the rating system and the land tax system have a creditable base upon which it is applied. That cannot happen if we persist with this cap or limit that has been introduced into the legislation. If we persist with that, land tax and council rates will be paid upon the value of those intangible improvements.

So the more goodwill that a particular enterprise builds up, the greater value that they can accumulate in terms of their brand name, the greater those intangible improvements are—and they are built up only by hard work over a long period. If they are in excess of the arbitrary cap that the minister applies, they will find that that value will become part of the unimproved value and the enterprise will pay land tax and council rates on that value. That is an unacceptable proposition and it certainly does not comply with any sort of fairness and equity test in terms of the unimproved land valuation system.

As I said previously, the imposition of that cap or limit is not part of this legislation. It will be included in a regulation that will be introduced into this parliament at a later date. I make it clear at this stage that we will be opposing that regulation; we will seek to disallow that regulation when it is introduced by the minister for all of the reasons that I have outlined in my contribution to the consideration of this legislation.

The legislation itself makes provision for a regulation. Conceptually, we will support the legislation, because it recognises that those intangible improvements exist—it moves in the right direction—but we will oppose the regulation that limits the impact of this legislation to an arbitrary percentage of the property's value. That is a contradictory move and it is one for which the minister provided no justification and no explanation in his second reading speech and for which I do not believe there can be any creditable arguments advanced. So we will certainly be looking to oppose that regulation when it is introduced.

As I said at the beginning of my contribution, the valuation of land has always resulted in some controversy. It is always an area in which constituents find themselves in conflict with the government, be it the Department of Natural Resources or, as it was known in the old days, the Valuer-General's Department. I am pleased to see that in this case the government has moved to address what was clearly an anomaly in the valuation of land system. Regrettably, the government has limited the effectiveness of that intervention by the inclusion of this arbitrary cap provision. I wonder why the legislation has been limited to such an extent. It certainly will impact on the government in terms of the land tax that the government can collect on these properties. As more properties fall within the land tax provisions, obviously the amount of land tax that the state government collects will be greater.

I struggle to understand why this provision has been included in the legislation and I look forward to some explanation from the minister in his reply, firstly, as to why a limit had to be set, and, secondly, why that arbitrary limit had to be set at 20 per cent. No doubt we can deal with that issue in more detail during the committee stage. With those comments, I look forward to the debate on this legislation and hearing the minister's reply to the second reading debate.