Speech by

Ray Hopper

MEMBER FOR DARLING DOWNS

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YEPPOON HOSPITAL SITE ACQUISITION BILL

Mr HOPPER (Darling Downs—NPA) (2.55 pm): I rise to speak to the Yeppoon Hospital Site Acquisition Bill 2006. It is important from the outset that we establish that this bill is not about hospitals. This bill is about a forced acquisition of land by this government from a citizen who has successfully appealed against the compulsory acquisition by the department of natural resources under the Acquisition of Land Act 1967.

If this were a bill about a new Yeppoon hospital, the coalition would have no hesitation in supporting it. I state that again: we would have absolutely no hesitation in supporting such a bill. However, the Queensland coalition campaigned heavily during the state election campaign to build a new hospital in Yeppoon. Our commitment was to start work on the Yeppoon Hospital in our first term.

The Premier stated during the election campaign that the legislation before us today would be put forward to speed up the process of building the Yeppoon Hospital. Our response to the Premier's statement is the same as it was during the election campaign—

... this is just an excuse for why the Government has not been able to deliver on their promises, and we will not allow it to be an excuse. We will move to resolve it quickly or find another site and do so quickly.

That was Mr Seeney speaking on 1 September 2006 on ABC News Online. The position of the Queensland coalition is that the bill is unnecessary for several reasons. Firstly, there are no further powers required by government above and beyond those given through the Acquisition of Land Act 1967 for the compulsory acquisition of land. What are we seeing in this House at this very moment? Secondly, this legislation takes away a property holder's rights to appeal against the acquisition decision even though he has successfully done so previously. Thirdly, there are alternative sites that are more suitable, that cater for the potential expansion of facilities and that are more cost effective to the taxpayers of Queensland.

Fourthly, this type of legislation has historically been used only for major projects that cut through many titles and deliver large economic or cultural benefits and have no alternatives but to introduce a bill such as this. A bill such as this is not used to acquire a mere 2.95 hectares of land in Yeppoon for a public facility where other suitable sites are available. Finally, where does this stop? What sort of precedent is the government setting here in the House today? I would like to hear the minister tell us about that in his speech in reply.

Because of the rushed nature of this bill, it has not even been sighted by the Scrutiny of Legislation Committee. Why do we put committees in place? Why do we all serve on these committees? Here we have an arrogant government which bypasses the very committee put in place to scrutinise this sort of legislation. This legislation is being bulldozed through the parliament today.

The role of the Scrutiny of Legislation Committee is to report on and uphold the quality of legislation introduced into this House from the point of view of fundamental legislative principles. This bill appears to breach all of those principles contained in the legislative principles act, and the government should be ashamed of the denial of scrutiny of this bill.

We have heard in the early days of this parliament about the various infrastructure programs the government has planned for this term. These programs will affect thousands of individual property owners

who will object to the imposition of the state government on their land. Amongst these objections, there will no doubt be successful appeals against compulsory acquisitions, but we may as well just throw them out the window. We have such an arrogant government that it will just overrule any appeal it likes anyway. The government is setting a precedent today that is a disgrace to the democracy of Queensland. That is why the National Party is objecting to this. It is an absolute disgrace and goes against why we all sit here. I thought the minister of all people would have done better than this.

Will each individual who successfully defends their property against government acquisition have their success overridden by a piece of legislation such as we are debating today? For every hospital that is planned, will due process be thrown out the door because of this arrogant government and because this government believes it is more important than the individual? Does this sound a warning to landholders? Do not worry about objecting because, if you do, the government will legislate to override your successful appeal.

This legislation is not required, so the Queensland coalition stands up today for the civil liberties of the individual against a government whose very first action after re-election is to arrogantly remove the rights of the individual to a fair hearing. I am looking forward to listening to the member for Caloundra's speech because I am sure he will touch on a few of these areas.

Let us have a look at the effects of this legislation on the real world case of Stan O'Brien. Stan O'Brien is the forgotten man in this bill. He is a man who has defended his right to exercise his ownership of private property and work together with the Livingstone Shire Council, the department of natural resources and the business owners in the area to resolve this case. Stan O'Brien is a businessman who owns the land affected by this legislation. On 8 September 2005, Stan was approached by the department of natural resources for the acquisition of this site. On 16 September, he received the state's valuation of the site. On 20 September, Stan refused the offer. It was then that Queensland Health's request for a compulsory acquisition of the site commenced.

Mr O'Brien objected to the acquisition and the department of natural resources heard his objection. From 18 to 21 April 2006, the matter of the whole objection process was evaluated by the minister's delegate. The culmination of this correspondence was a recognition that Mr O'Brien's case was valid. I would like to read the letter sent by Mr Peter John Gardiner, manager of the Acquisitions and Tenures Services Unit, who acted as the delegate of the Minister for Natural Resources, Mines and Water in pursuance of the provisions of the Acquisition of Land Act 1967. I will table that letter.

Tabled paper: Copy of facsimile transmission sheet, dated 24 October 2006, from Bob Hodge, Acquisitions and Tenures Services, Department of Natural Resources, Mines and Water to Michael Leong, Deacons.

Tabled paper: Copy of letter, dated 24 October 2006, from Bob Hodge to Deacons.

Tabled paper: Copy of Statement of Reasons, dated 24 April 2006, by Peter John Gardiner, delegate of the Minister for Natural Resources, Mines and Water, in relation to objection by Stanley William O'Brien to taking of land.

The letter states—

Some time prior to September 2005 Queensland Health began evaluating their Health delivery infrastructure in the Yeppoon area. This process involved the comparison of the existing Yeppoon Hospital site on Anzac Parade with initially four (4) other sites in the Yeppoon area to determine the most appropriate site for a hospital in the area.

Queensland Health's decision-making matrix disclosed during the objection process detailed some 25 criteria over four (4) broader headings used to evaluate each site.

During discussions with Mr. O'Brien prior to the issuance of the Notice Of Intention To Resume, Mr. O'Brien proposed a further site and this was also evaluated by Queensland Health but discarded as being inferior to their preferred site, generally referred to as the Hoskyn Drive site.

The objection hearing on 27 January 2006, was attended by Mr. O'Brien, his legal advisors Mr. Michael Leong and Ms. Karen Hansen of Deacons Solicitors and by way of a telephone hook-up, Mr. Rod Schlencker, the principal in Schlencker Surveying Pty Ltd, Mr. O'Brien's surveying and planning consultant. This is the objection meeting I chaired as the Minister's delegate under the provisions of the *Acquisition of Land Act 1967*. This meeting was also attended by Mr. Robert Hodge, Senior Property Officer of the Acquisitions and Tenures Services Unit of the Department of Natural Resources, Mines and Water, the case officer attending to the compulsory acquisition process in the Department on behalf of the State.

At this meeting Mr. O'Brien abandoned his first alternative site and proposed a new and additional site, generally referred to as the Erskine Court site. This site also forms part of Mr. O'Brien's land holdings in this area.

Mr. Schlencker who is a very experienced and long-standing surveyor in Central Queensland in presenting his case attempted to use the standards set by Queensland Health's matrix previously referred to, to compare the Erskine Court site in particular to the Queensland Health's preferred site, Hoskyn Drive site.

Mr. O'Brien's team's presentation was of such quality that it merited being referred to Queensland Health for evaluation and preferably a joint on-site inspection with Mr. O'Brien's advisors. I am informed that this joint site inspection took place on 15 February 2006.

I have before me now the all the papers from the objection process including the final responses from both parties.

METHODOLOGY

It is my experience that the site selection process for public access public infrastructure projects e.g., hospitals, schools, police stations and court houses, must consider at least the following, particularly if a compulsory acquisition process is envisioned—

- A site central to the "catchment" for the area,

- A site on or adjacent to a public transport infrastructure corridor,
- A site that by its magnitude caters for the immediate needs of the community in that area and any foreseen expansion of that need,
- A site that maximises the States dollar investment in the property, and
- Otherwise is in the public interest for the area.

Each government agency has "rules of thumb" for the desired or optimum site sizes for particular types of infrastructure.

I have attempted to apply my knowledge and experience to the evaluation of the evidence in this case.

EVALUATION

In essence the evidence in this matter comes down to a comparison and choice between two (2) sites—Queensland Health's Hoskyn Drive site and Mr. O'Brien's Erskine Court site.

I have not been informed who prepared the decision-making matrix for Queensland Health. I do not know if it was prepared by a consultant or another government agency and adopted by Queensland Health or if it was a consensus document prepared by a committee within Queensland Health. I do know that on behalf of Mr. O'Brien, Mr Rod Schlencker a surveyor and planner of long experience in the area undertook this work.

CATCHMENT

In terms of location and catchment, both parcels are within 2 kilometres of the centre of Yeppoon and the difference in their location from the Rockhampton-Yeppoon Road by constructed or to be constructed roads would be less than 500 metres.

ADJACENCY TO TRANSPORT CORRIDORS

In terms of adjacency and access, the Hoskyn Drive site has dedicated access from Hoskyn Drive and I am informed that this would be the access point for the hospital site rather than the Rockhampton-Yeppoon Road. The Erskine Court site does not have legal or dedicated access at this time, but I am informed that in Mr. O'Brien's further development of the area the road system off Hoskyn Drive and Erskine Court will be extended to give that access. I am also informed that it is Mr. O'Brien's intention to build a crossing over the watercourse in this area.

LAND QUALITY AND TOPOGRAPHY

In terms of land quality the Hoskyn Drive site is slightly steeper but higher than the Erskine Court site. Site elevation was not an issue until this last round of responses. I am informed that the Hoskyn Drive site is situated at RL 12.5 m and Erskine Court at 5 m lower at 7.5m. Storm surge inundation at this point is 7.5 m for a 1 in 1000-year event.

SITE MAGNITUDE

Both sites are undeveloped at the present time thereby allowing for the optimum area to be acquired for the infrastructure required.

SITE ACQUISTION AND SITE PREPARATION COSTS

Based on information supplied in Queensland Health's report of the on-site inspection Mr. O'Brien is prepared to make some price concessions in relation to the size of the land acquired by Queensland Health.

SUMMATION

We are dealing here with the acquisition of land for a public hospital. Utilising a public hospital is by its nature the first and only health care decision a large section of the community can make. So, apart from those rare occasions when emergency access to the site is required other than by ambulance, visibility is not a huge issue. The site in the main is not competing for its viability with other health providers in the area. Therefore in my opinion the location of the site a further 500 metres down the road is not a major issue. Both sites are for all intents and purposes equidistant from the centre of Yeppoon and therefore in the centre of the catchment.

Similarly, the variation in distance from a public transport corridor is minimal at 500 metres.

The lower evaluation of the Erskine Court site was a concern to me until evidence was produced that it was on or above the 1 in 1000 year event and that a full study was done of the whole of the development site. I am convinced that even in abnormal storm run events the site would not be in jeopardy. The fact that the site is somewhat lower than the Hoskyn Drive site will give it a price advantage in the acquisition process. The lower elevation may of course raise the site preparation costs somewhat.

At this point in the evaluation taking into account all the attributes of both parcels I see very little difference in the choice.

However when I look to the matter of public interest I do see issues that separate the sites.

Mr. O'Brien is the owner of these parcels and has development plans for them. The local planning authority—the Livingstone Shire Council, has already approved some of these plans. I do acknowledge that Mr. O'Brien is a businessman and is not doing this development on a whim but is interested in the profit motive at the end of the project. The profit motive is only a realistic goal if you are supplying what the market and therefore what the public needs or wants.

CONCLUSION

On balance I can find very little difference ... between the two sites. I do accept Queensland Health's need in the public interest for a new hospital in the Yeppoon area. I do accept that the Hoskyn Drive site would be a suitable site for the relocation of the Yeppoon Hospital, however, so would the Erskine Court site. I do not believe that for the sake of 500 metres the community interests of the people of Yeppoon should be disadvantaged by the loss of the commercial development of the Hoskyn Drive Site. Commercial premises to be successful need the visibility of locations closer to the main road. Thriving businesses are good for the economy of any area, for the additional employment and services that they provide. It is highly possible that businesses will move into the area that are in fact complementary to the hospital.

I therefore uphold Mr. O'Brien's objection to the taking of the land described in the Notice Of Intention To Resume issued on the 24 October 2005.

I recommend that Queensland Health apply for the rescinding of the said Notice Of Intention To Resume issued on 24 October 2005.

I also recommend that Queensland Health enter into negotiations with Mr. O'Brien with a view to obtaining a Section 15 agreement in pursuance of the Acquisition of Land Act 1967 for however so much of the Erskine Court site that it may require.

That was a letter from Peter John Gardiner, manager of the Acquisitions and Tenure Services Unit, delegate of the Minister for Natural Resources and Water in pursuance of the provisions of the Acquisition of Land Act 1967.

I have tabled that response to Mr O'Brien by Mr John Gardiner, manager of the Acquisitions and Tenure Services Unit of the Department of Natural Resources and Water, just to place on record the agreement of the department with his objection and the agreement with his proposal that the land he had offered in exchange, known as the Erskine Court site, was regarded as suitable and acceptable to the department. The landowner has been reasonable in his negotiations, offering a larger parcel of land at a lower price to the department for use instead. The land is approximately 300 metres away from the proposed block and is six hectares rather than 2.95 hectares.

What this correspondence proves is that the objections of Mr O'Brien were justified and that the Department of Natural Resources and Water agreed with him. The umpire within the department agreed that not only did Mr O'Brien have an exceptional case, but also the alternate land in Erskine Court that Mr O'Brien had offered had very little difference to the site that the department originally tried to acquire.

The correspondence to Mr O'Brien proves that the Acquisition of Land Act 1967 has worked. Even without this bill the Department of Natural Resources and Water could acquire the suitable land that Mr O'Brien has provided and therefore allow Queensland Health to build the much needed hospital in Yeppoon.

What has transpired since this correspondence is that Queensland Health has bullied the Department of Natural Resources and Water into a position where it had to introduce a bill before the House today to usurp the rights of Mr O'Brien who is defending the land from compulsory acquisition. Queensland Health has said to the Department of Natural Resources and Water that its assessment is not good enough and it should proceed with the acquisition anyway. This is simply unacceptable. It is also unacceptable that this legislation seeks to take away the right of appeal from Mr O'Brien. As the letter that I have tabled quite clearly shows, Mr O'Brien has appealed and won. He followed the due process that was put in place by legislation passed in this House. Mr O'Brien did the right thing and what do we see now: the bullyboys moving in. I can smell Schwarten all over this.

This bill disregards and makes a joke of the decision by the Acquisitions and Tenure Services Unit of the Department of Natural Resources and Water to make a decision. How would those people feel? They have a process in place that they have to implement. Now it can just be overruled by this arrogant Beattie government. It is very disheartening for those people who worked on this. This bill makes an absolute mockery of the due process. There is a fundamental principle that is being challenged here and that is if one works within the system and if a ruling is upheld—meaning a citizen has won—the government will step in, change the rules, move the goal posts or, as we see here within this bill, legislate to override the government's own advice and change the umpire's decision.

There is an arrogance about this government. In the very first sitting of the new parliament one of its first acts as a re-elected government is to start taking rights away from Queensland citizens who have beaten them. The government has been beaten by Queensland citizens who have used the process available to them to protect their freehold land from compulsory acquisition and succeeded and now we have bullyboy tactics being used to take their rights away.

It is especially arrogant because there are several alternatives to this land acquisition that would have been more acceptable. The first alternative was to accept the ruling of the Department of Natural Resources and Water's Acquisitions and Tenure Services Unit to purchase the Erskine Court site. The site was deemed to be just as acceptable as the Hoskyn Drive site and work could have been started already.

Mr Rickuss: It wasn't on the highway though, was it?

Mr HOPPER: That is exactly right. The government cannot put a big precious Pete sign out the front saying, 'I'm the infrastructure king of Queensland.' That is what this is all about—getting to the bottom of it. We smell a rat about Schwarto's involvement. It is as simple as that. The first sod could have been turned the day after this agreement was made and we could have seen the construction of a brand-new hospital in Yeppoon. What we have at the moment are mere excuses and from these excuses come the heavy-handed tactics of this bill that we see today.

Another alternative to this legislation is if the department did not like this land it could buy some other land. There was a perfectly suitable site in Tamby Road made up of two parcels of land comprising four hectares and two hectares which was already earmarked through a masterplan for aged-care facilities and this is the land that we know about. The letter I have tabled mentioned four other parcels of land that were looked at. Surely there was another option that was good enough. This is a desperate last resort of the Department of Natural Resources and Water to placate the bullyboys in the Department of Health and getting the land that it wants and in doing so ignoring the due process.

This type of legislation has been used before but to use it in this context is without precedent. A bill such as this one today that overrides the Acquisition of Lands Act 1967 has been used about three times in

15 years. This type of legislation has been used to undertake compulsory acquisition of land where major developments involve large parcels of land and usually many titles. One such act is the Starcke Pastoral Holdings Acquisition Act 1994, which saw the purchase of 224,647 hectares of land as a World Heritage listing in Cape York. The Century Zinc Project Act 1997 was used to acquire a transport infrastructure corridor to build a slurry pipeline. Further, the Transport (Gladstone East End to Harbour Corridor) Act 1996 was used to facilitate the cessation of coral dredging to the Gladstone area. These were all major projects deemed to be vital to the economy of Queensland.

What we have are bullyboy tactics. The government is using this act when it does not have to be used at all. It overrules an order that had been put in place by someone using due process. Let us have a bit of a reality check here. The bill we are debating relates to the purchase of 2.95 hectares of land. That is all we are debating here today. The Queensland coalition cannot support this bill. This bill is heavy-handed and unnecessary.

Firstly, there are no further powers required by government for the compulsory acquisition of land above and beyond those given through the Acquisition of Land Act 1967. Secondly, the legislation takes away a property holder's right to appeal against the acquisition decision even though he has successfully appealed previously. Thirdly, there are alternative sites that are more suitable. These sites cater for the potential expansion of facilities and are therefore more cost effective to the taxpayers of Queensland. Fourthly, this type of legislation has historically only been used for major projects that cut through many titles and deliver large economic or cultural benefits, not to acquire a mere 2.95 hectares of land in Yeppoon for a public facility when other sites are available. What is the precedent we are setting by the passing of this bill? Where will this end?

This is an arrogant bill. This bill takes away a Queenslander's right of appeal against a government decision that has previously been upheld. If this bill passes, then no other Queenslander can sleep easily tonight without the threat of a state government department legislating away commonly held rights.

We have seen the minister sworn in just recently. He is a brand-new minister whom I was rather excited about and in whom I had a fair bit of faith. In *Country Life* on 21 September 2006 the minister stated—

I am a listener by nature and I will have far more success in doing the right thing by cooperating with people rather than wielding a big stick.

The minister should hang his head in shame. When he made that statement the people in the bush, the people of Queensland, the people who read *Country Life*, honestly believed him. He sits in the House today—and he is a former lawyer—and has had the big stick wielded at him by Schwarto and the health department to overrule his people, overrule the previous decision, bring this legislation in and put fear into the people of Queensland who wish to appeal a case that they have previously won. They may as well not try to appeal while those opposite are in power.