Speech by

Wayne Wendt

MEMBER FOR IPSWICH WEST

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ACQUISITION OF LAND AND OTHER LEGISLATION AMENDMENT BILL

Mr WENDT (Ipswich West—ALP) (7.39 pm): As everyone knows, infrastructure equals jobs. That is why the Bligh government is committed to ensuring fair processes that will allow us to get on with providing more and more jobs in these tough economic times. As such, we will keep on doing what we have always done best, that is, creating jobs by building important infrastructure.

In rising to participate in the debate on this bill, I particularly wish to address those amendments that will codify the common law issue on disturbance. I think we would all agree that Queenslanders whose land is being resumed by the state deserve fair compensation. That is why the Bligh government is working to make sure that these fair outcomes are achieved. The Acquisition of Land Act 1967 provides the powers under which private interests in land can be acquired by the state or its agencies by agreement or compulsorily, as we heard before. This is to provide infrastructure for services and community facilities, for example, schools, hospitals and rail lines—as we just heard from my learned friend from Lockyer. This is, of course, with the aim of meeting community needs. This act is important in enabling the state to build essential new infrastructure and this act is important in ensuring that Queenslanders have jobs.

If the state did not retain the right to recover alienated land through legislation and had to stand in the marketplace to purchase land required for community purposes, the cost and time for supplying the infrastructure needs of the state would increase considerably. That is why the Bligh government will always ensure that it follows a fair process to ensure that jobs are retained and created.

I am sure that most us here would be aware that the Acquisition of Land Act 1967 has been in operation for over 40 years. I am advised that, during that time, it has never had major amendments. As such, I agree that it is therefore appropriate and timely for it to be modernised.

When land is compulsorily acquired, the fundamental principle governing compensation is that the disposed landholder should receive money for the loss of their land. The purpose of the compensation, of course, is to place a dispossessed owner in as good a position—in financial terms, that is—as they were before the acquisition. I think this is only fair. Clearly, compensation to which a landholder is entitled will include the value of the land resumed. That alone is often insufficient to fully restore a landowner to their former financial position. That is why the Bligh government will now ensure that landowners are not worse off—I repeat that: not worse off.

We all know that a landowner whose land is compulsorily acquired is, therefore, required to move from his or her place of residence or business and will incur a range of other expenses that is involved in relocating. Therefore, the Bligh government believes that as a matter of fairness the owner should also be able to recover those resettlement expenses that were suffered due to the displacement caused by the acquisition. This is where the law of disturbance applies, because underlying the assessment of disturbance is the principle of equivalence, whereby the owner must not be paid more or less than his or her loss.

Disturbance loss is calculated by reference to the economic loss incurred by the claimant as a natural and reasonable consequence of the acquisition. Currently, compensation for disturbance is governed by common law in Queensland and this disturbance may be awarded for a range of relocation expenses, with some obvious examples being removal costs, electricity and telephone connections, mail redirection and legal fees. Beyond these obvious examples are a range of other possible expenses associated with relocation that may also be paid where appropriate. Such costs may now relate to loss of profits resulting from interruption to the claimant's business or reimbursements for the cost of a new school uniform when it is necessary for landowners and their families to relocate to a new area.

The current common law head of compensation, namely disturbance, is not included in the section of the Acquisition of Land Act 1967 that outlines what compensation can be claimed by an owner. However, it has been recognised as being of special value to the owner and is currently assessed separately by constructing authorities in line with a substantial body of case law.

The fact that the disturbance exists only at case law presents several issues. Firstly, a dispossessed landowner who decides to pursue a compensation claim without engaging a solicitor may not be aware of the existence of the disturbance as a common law head of compensation and their right to claim this. However, even if a landowner did know it existed, it would be difficult for that landowner to determine precisely what it encompasses. Even should a landowner use a solicitor—and there are plenty of them here—the solicitor is still likely to have to research the case law, thereby increasing the solicitors's fee to the claimant and the time involved in reaching settlement for an acquired property. Therefore, the aim of this amendment is to achieve a fairer, more cost-effective and timely awarding of compensation.

In conclusion, this government is aware that disturbance forms an essential part of the principle that the dispossessed landowner should receive money for the loss of their land. Therefore, these amendments will mean that it is more readily accessible by being included in the act rather than being left to common law. I commend this bill to the House.