

WESTERN AUSTRALIAN LAND AUTHORITY AMENDMENT BILL 2003

Second Reading

Resumed from 24 June 2003.

HON GEORGE CASH (North Metropolitan) [12.43 pm]: This is a Bill to amend the Western Australian Land Authority Act 1992 and for related purposes. Members will be aware that LandCorp was originally established by the then Labor Government in 1992 by amalgamating what was the Joondalup Development Authority, the Industrial Lands Development Authority and an organisation known as LandCorp. The then Opposition gave cautious support to the proposal and that support was conditional upon LandCorp not duplicating the services provided or able to be provided by the private sector. In the ensuing 12 years since the Western Australian Land Authority was established there has been significant debate in the land development industry on the market penetration of LandCorp, the economic and political power wielded by LandCorp and the perceived preferential position of LandCorp when compared with the private sector. From time to time in this place members have raised complaints about the way in which LandCorp conducts its business, because there is no doubt that it is a very powerful organisation and, in my view, at times it does not pay sufficient attention to those with whom it deals. This Bill will extend the land development function of LandCorp to include urban renewal.

The Bill came into the House about 12 months ago. The Opposition indicated to the Government that it could not support the legislation in its present form. We had discussions with various industry groups and other interested parties and, in the form in which the legislation came into the House, which is the form in which the Bill is presented to this Legislative Council, we said that, for instance, the function of including urban renewal was not something that we could agree with. We did not want to expand LandCorp's authority or capacity in that area. It was not a case of the Opposition not wanting to do it; it was a reflection of what private enterprise was saying. I indicated that to the parliamentary secretary who was handling this matter on behalf of the Minister for Planning and Infrastructure, and I had discussions with the Chairman and one of the directors of the Western Australian Land Authority. The chairman and that director went back to the minister and the parliamentary secretary. As I understand it, certain additional amendments will be proposed in the committee stage to bring the Bill more into a form that we are able to agree with.

I will run through some of the functions and intentions of the Bill. It will enable LandCorp to engage in revitalising urban centres. It will provide LandCorp with the additional roles or functions of land remediation and development of contaminated sites. I hasten to say that that was not one of the areas that was agreed would be deleted during the committee stages. It will enable LandCorp to become a developer of crown lands, taking over that function from the former Department of Land Administration. It will enable LandCorp to be the primary agency for the redevelopment of surplus government lands and will ensure LandCorp is able to maintain its unsatisfactory conflict of interest position by retaining its power of resumption whilst acting as a developer, buyer, seller and trader in the market. It is also intended in the Bill to remove the status and protection of crown immunity from LandCorp. The Bill also provides that LandCorp will be able to provide employment-related land, that is, industrial and commercial land. The Bill will enable LandCorp to enter into what is referred to as meaningful partnerships with the private sector. The Bill requires LandCorp to have regard for what is termed the triple bottom line theory - that is, social, economic and environmental outcomes - in carrying out its functions. The Bill will also corporatise LandCorp by changing its reporting functions to bring them more in line with, for instance, those of the port authorities around Western Australia. The Bill will also require LandCorp to amend its administrative and financial reportings to comply with the Corporations Act. As I say, that is a similar model to the 1992 Port Authorities Act model. In that regard we agree with the changes in the administrative and financial reporting requirements. I said earlier that I had had the opportunity to discuss with industry its views on the Bill. I will give the House an example of the comments that I received. First, the industry generally claimed that an expanded LandCorp would create unwarranted competition between government-funded, government-sponsored organisations and the private sector. Second, it would create an uneven playing field because LandCorp would receive preferential treatment from other government agencies by claiming that it could intervene in government policy. Third, it was claimed that the Bill would enable LandCorp to enjoy lower interest rates because of its close association with the Government, thus creating an anticompetitive environment when compared with the private sector. There was also comment about what appeared to be a significant potential overlap with the continuing role of individual redevelopment authorities.

The potential for a conflict of interest between the duties LandCorp representatives owed to the State versus the fiduciary and statutory obligations owed by other parties in commercial arrangements was also raised. The lack of incentive to minimise staff salaries once restrictions on the policies of government wages had been removed was also raised during the discussions with industry. There was a general view that LandCorp should be empowered to participate in development projects only when it can be demonstrated that the private sector has

failed to adequately respond, and that any increase in LandCorp's functions would exacerbate the market power that it currently wields.

The industry also expressed concern at LandCorp's history of broadacre purchases, which, if developed with regard to political considerations and in an ad hoc manner, could be detrimental to the market balance. I was reminded by industry to think back to some years ago when the State owned hotels, butcher shops and sawmills in Western Australia. I must admit that when industry asked me to cast my mind back that far I was not able to do so because a lot of those things occurred before I was born. However, I was reminded of the WA Inc saga in the early 1980s in which the Government became involved. It wanted to compete with the private sector in various enterprises and that, of course, cost the State a huge amount of money. The general view is that the Government should facilitate an environment that is conducive to the operation of the private sector. Further, it should not favour a government-sponsored organisation, and it should intervene in the market only when the private sector has not adequately responded to a demonstrable market failure. The other overriding point made was that the Government should not be both a policy maker and a market participant. I support the views put by industry in that regard. As a result of some of those concerns, the Government has now agreed to amend the present Bill when we are in the Committee of the Whole. I indicate that when I first spoke to the Property Council of Western Australia about its views, I was given a rather lengthy document that pointed out the pitfalls in the Bill. In September 2003, the Property Council wrote to me again and stated in part -

A recent discussion with the Chairman of Landcorp, Neil Hamilton, has satisfied our executive that the positive aspects of the proposed Bill outweigh the perception that it may provide Landcorp with the capacity to act as a more aggressive competitor in industrial, office and land developments.

The final paragraph reads -

The Property Council, therefore, does not oppose the Western Australian Land Amendment Bill 2003.

I mentioned that because I want to put on the record that the Property Council changed its mind, as did the Urban Development Institute of Western Australia which, in our original discussions, indicated that it was opposed to many areas of the Bill. The letter it wrote to me in October 2003 reads -

I refer to the UDIA's previous comments in relation to the above Bill provided to you earlier this year. After further consideration and consultation with industry leaders, there are two specific areas of concern for the industry.

Firstly, there is a philosophical view amongst our membership that the private sector is the most effective vehicle to develop land in this State which then raises the question of whether a government land developer should exist or not. We confirm that our view on this matter formed part of our response to you regarding the legislation at the time our comments were previously conveyed to you.

The two issues of the proposed Bill that we would like to see specifically addressed in the provisions of the Bill are to ensure:-

That LandCorp is required to joint venture with the private sector in large scale (100 lots or more) urban growth projects; and

That LandCorp should not be permitted to actively purchase privately held land that is not required as an integral part of existing or planned development of government assets which would put it in an unacceptable competitive position with the private sector.

If the above issues are adequately addressed in the Amendment Bill, UDIA is prepared to support the safe passage of the Bill.

I do not believe that the amendments that the Government proposes will satisfy everything that UDIA is looking for. However, I make the point that UDIA's position seems to have changed since I first spoke to it after it was lobbied by persons associated with the Western Australian Land Authority. The Government has made an attempt to alter the form of the Bill to make it acceptable to the Opposition. We will discuss the proposed changes during the Committee of the Whole. I hope that will satisfy some people in industry, although I recognise that there are some overriding problems perceived in the general conduct of LandCorp's business operations, and that the current Bill before the House does little to address those particular issues.

HON JIM SCOTT (South Metropolitan) [12.58 pm]: I like some aspects of the Bill and others I am not so keen on. For instance, LandCorp's capacity to enter into partnerships to develop areas of land that have been contaminated is very important, given the substantial issues that have resulted with the redevelopment of those types of areas. Such issues have caused a great deal of contention in the community. An example is the Omex site in Bellevue. That land was heavily polluted and caused problems in the community, including a significant pollution fallout with large fires and the like. The reactionary approach to the planning of some of those areas of land after the pollution was cleaned up has worried me considerably for a long period. An example in my

electorate is the current redevelopment on polluted land at Coogee, which is extremely contentious. Some Governments have been prepared to accept developments that do not fit into the regional context in order to clean up the area, because it will require a vast amount of finance to clean it up and put it to good use. There has been a tendency in the past to leave good planning principles behind in order to ameliorate the redevelopment of an area because somebody has come forward with a plan that will remove a lot of the heat from the Government.

Debate interrupted, pursuant to sessional orders.

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Sitting suspended from 1.00 to 2.00 pm

The DEPUTY PRESIDENT (Hon Jon Ford): Members, we are dealing with non-official business. Before giving the call to Hon Christine Sharp to move the motion on the business paper, I draw to the attention of the House a mistake in the business paper. The motion reads, in part -

That this House considers that the import risk assessment

This should read -

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