

**WESTERN AUSTRALIAN LAND AUTHORITY AMENDMENT BILL 2003**

*Committee*

Resumed from 3 June. The Deputy Chairman of Committees (Hon Simon O'Brien) in the Chair; Hon Ken Travers (Parliamentary Secretary) in charge of the Bill.

**Clause 1: Short title -**

Progress was reported after the clause had been partly considered.

Hon JIM SCOTT: The Greens (WA) will continue to support the Bill. However, we are disappointed with some of the proposed amendments on the supplementary notice paper and concerned about statements and commitments made by the Government.

My concern relates to the diminished capacity for the authority to be involved in the redevelopment of contaminated sites either on its own or jointly. In many cases a new area of contamination on a site might need immediate attention. The requirement to involve other persons in that immediate action could hold up the immediate action necessary to protect, for instance, underground water supplies or even above-ground water supplies within catchments. I want to know how swift action can be taken to provide that sort of protection, given the proposed changes on the supplementary notice paper.

It seems that many of these sorts of authorities are being, what I term, corporatised. That is the case with LandCorp. The corporatisation of agencies makes proper scrutiny of their activities difficult. Despite the new corporate structure, will people seeking information about its activities have access to data under the Freedom of Information Act? Will that also apply when the authority is involved in a development in partnership with a private developer? I am seeking that information even though I do not want to hinder the passage of the Bill; overall it is a very good Bill, especially without the amendments. I will oppose the amendment that will reduce the capacity for the authority to immediately remediate contaminated sites. I would like the parliamentary secretary to explain how the amendments will work. During the second reading debate he said that the authority would continue to be involved in developments. I would like more explanation about that.

Hon Ken Travers: On contaminated sites?

Hon JIM SCOTT: Yes. Further, I want to know the Government's good reasons for taking away the level of capability that existed before. I have not heard any good reasons, which is why I have some concerns.

The only other issue is that I believe that contaminated site issues have a community service aspect as well as a redevelopment aspect. I have concerns that the Western Australian Land Authority will be moving away from its community service role. An important part of the Western Australian Land Authority's role is its capacity to provide not only a corporate outlook, but also a community service outlook. The proposed amendments will reduce that to some degree. I ask the parliamentary secretary to comment on those issues.

Hon KEN TRAVERS: That is a lot to cover, but I will do my best. I hope I do not miss any points.

I refer to the initial point made by Hon Jim Scott about the immediacy in dealing with contamination. That role is currently conducted by the Environmental Protection Authority and it will continue to be conducted by the EPA. LandCorp tends to come into it at the point of remediating or redeveloping a site. The immediate containment of pollution is the role of the Environmental Protection Authority. The amendments proposed in the Bill, as I understand them, do not deal with the EPA. The recent legislation we have dealt with relating to environmental harm ensures that people stop any pollution that is immediately -

Hon Jim Scott: I assumed that they would develop some capacity to deal with those situations and that we would have a government body to deal with them.

Hon KEN TRAVERS: Not in terms of the immediacy. LandCorp certainly has a role to play in the redevelopment phase. It deals with a longer time scale. That then takes us to the issue of remediation and the redevelopment, which was Hon Jim Scott's second or third point. As I said earlier, LandCorp currently deals with the remediation and redevelopment of contaminated sites. An example is the Omex site in Bellevue. The Government resumed that land. Even if the original changes had gone through, the Government would not have remediated private sector land without having some arrangement that would probably include taking the land back into state ownership. In that sense, if the Government had taken ownership of the land, it could remediate the contamination under the existing legislation. Likewise with the proposals, there may be the capacity for it to enter into a joint venture with the private sector to deal with the contamination and to use the private sector's expertise as part of that. That would be a case of the private sector wishing to go down that path. Although the changes would have been beneficial, in practical terms they are not going to make a significant change to LandCorp's capacity to deal with remediation.

Hon Jim Scott asked: what is a good reason for making that change? As we all know, Governments come and go, but government agencies remain long after we have been through this place. We may spend time on both the government and opposition benches. If we can achieve our objectives for an organisation such as LandCorp - the Government believes that the passage of this Bill will meet its objectives - and those objectives can be achieved with the cooperation of the other parties in this place, particularly those that are likely at some stage to form government and be a part of the process, it is a good process. We entered into discussions with the Opposition with the aim of reaching a general agreement. As the member also knows, if we do not have that sort of agreement in this place, legislation can take significantly longer to pass than would otherwise be the case. Obviously we would not seek an agreement if we thought that it would change the legislation and the Government's intent to such a degree that it would not be able to achieve its outcomes. In this case, we have been able to reach a balance that allows us to deal with contaminated sites and to deal with them in a constructive way that will allow us to move forward.

The member raised the issue of freedom of information. Yes, the Western Australian Land Authority is subject to freedom of information laws.

Hon Jim Scott: Can you clarify whether that applies to partnerships in development?

Hon KEN TRAVERS: Western Australian Land Authority documents are subject to freedom of information laws. That is the case with any government agency in that situation.

Hon Jim Scott referred to the community service role and the like. The amendments we are dealing with today do not in any way change the commerciality clauses of the Land Administration Act. The circumstances in which LandCorp does something on the basis of a community service obligation will not change. However, the amendments we are dealing with today will require it to consider the triple bottom line in its decision-making process. If anything, that will enhance its community service obligations. It will be required to consider the triple bottom line and to consider not only the commerciality aspect but also the broader picture. The basic commerciality clause will not change. Considering the triple bottom line when assessing projects will require it to look at not only the economic aspects but also the environmental and social aspects. That is a move in a positive direction. No-one can argue that the amendments will have a negative impact. I hope I have answered the points raised by Hon Jim Scott.

Hon GEORGE CASH: I rise on clause 1 to reiterate the position of the Opposition. Normally that would not be necessary, but members will be aware that the Legislative Council first dealt with this Bill on 4 June 2003. That was some 17 months ago. There was considerable inaction before the Bill was again dealt with on 3 June 2004. At that time, I had the opportunity of putting forward the Opposition's position on various issues. During the period of inactivity in the House, I had the opportunity on a number of occasions to correspond with the Chairman of LandCorp. On one occasion I had the opportunity to meet with the chairman and another director of the LandCorp to discuss the Opposition's position on the proposals contained in the Bill. I made it clear that the Opposition would not support a number of the propositions advanced in the Bill, and that it would vehemently oppose them for the reasons I stated some time ago in this House and of which I had advised the Chairman of LandCorp. I had some discussions with the parliamentary secretary at that stage. The parliamentary secretary approached the minister and advised him of the issues that I raised. I agreed that I would reconsider the Bill on the condition that certain amendments to the Bill be agreed to. The minister and the parliamentary secretary subsequently advised me of certain proposed amendments that were contained in supplementary notice paper No 1 dated Tuesday, 4 May 2004. Having seen those amendments, I went back to the Liberal Party and proposed that the Bill should be agreed to with the additional amendments. The Liberal Party agreed to that and I conveyed that position to the parliamentary secretary, who advised me that in due course the Bill would be reintroduced.

I have outlined that process because it is important to understand why there has been a significant delay in the processing of this Bill. In his response to Hon Jim Scott, the parliamentary secretary indicated that the Government believes it is important that any amendments made to the Western Australian Land Authority Act be made with reasonable agreement between the various parties in Parliament. I agree with that because LandCorp is very much a trading arm of the Government. From time to time it is required to carry out activities at the direction of the minister, or on behalf of the Government; those activities can be made at the request of other ministers who approach the Minister for Land Information, who has responsibility for the Act. It is important to have a degree of agreement and general acceptance between the parties on what should be LandCorp's activities and functions. Some years ago I had the opportunity of being the Minister for Lands. At that stage the Western Australian Land Authority came within my jurisdiction. I was always concerned at the time that LandCorp was stepping beyond the original functions that had been entrusted to it and was entering upon areas that could be adequately served by the private sector. In that regard there was an undue duplication of services. I made my position clear on a number of occasions and, as a result, LandCorp restrained itself to a degree while I was the minister. However, that restraint did not last long after I ceased being the minister. The

good news for LandCorp is that I have taken an interest in its activities over time. I suggest that upon forming Government in February next year, we will again look seriously at the functions and activities that LandCorp carries out. We will ensure it does not duplicate existing services and that the functions it provides are well and truly within the scope of its authority as set out in the Act under which it operates. I say those things as a general overview of where the Opposition stands on this matter.

Most members of the Liberal Party are not happy with the way in which LandCorp carries out its duties. That is because at times LandCorp wants to get a bit ahead of the pack, so to speak, and engages in activities that it was not intended it would engage in when the Western Australia Land Authority was originally set up in 1992. I remember that well because I was involved in some of the debates at the time.

LandCorp has an opportunity to redeem itself. However, if anyone asked me for an example of the way in which I think LandCorp's administration of the Act has strayed, I would give the example of the land in the Kwinana area that has been resumed under the authority of an Act of Parliament. I think the general administration of the resumption of the land and the way officers of LandCorp have dealt with certain people leaves a lot to be desired. From time to time people have been the subject of land resumption or have entered into agreements rather than have their land resumed. LandCorp is always of a view to say that the people who entered into those agreements were willing participants. However, they were not willing at all; they just accepted what they thought was the best of a bad deal. There is ample evidence of LandCorp taking a very heavy-handed approach in its dealings in that area. In its defence LandCorp would no doubt argue that it was carrying out its responsibilities to the letter of the law. The letter of the law is one thing, but that does not mean to say that within the letter of the law there is no scope for compassion or discretion. I do not believe that LandCorp used the discretion and compassion that was available to it in its dealings in the Hope Valley area. As a result, many families in that area are very upset about the way in which they have been dealt with.

I have a view about compensation that is payable when land is resumed for a public work or for some other reason that the Government is entitled to resume land. That happens on few occasions, but on many of those few occasions the impact on the landowner is very significant. Rather than the current solatium of 10 per cent being applied, I believe there is room for the Parliament to consider a much greater quantum to the solatium. The solatium was designed to ease the pain, so to speak. It was designed to be an amount in addition to all the economic factors that should be taken into account when land to be resumed is valued. That additional amount was meant to offer compassion and provide an opportunity for the person to relocate himself as a result of the Government taking his land from him. I have never met a person who has been the subject of land resumption who has said that the 10 per cent solatium was an adequate amount. Although we are not dealing with that issue in this Bill, it is a matter that I think the Parliament will need to address. It comes back very much to the report Hon Barry House introduced into this House regarding private property rights. That matter is probably more relevant to that area than it is to this Bill. It is not a political issue. It is an issue that all political parties should consider.

If the Government wants to put a road through a dozen homes that have been occupied by the owners for a long time, the Government must have regard for the impact the resumption of that land will have on the owners' lifestyle, economic wellbeing, employment opportunities and other social costs etc. I hope that the matter can be dealt with in the next Parliament. I just raise those issues to bring the House up to date on the Liberal Party's position so that we can make some progress.

Hon KEN TRAVERS: I will be brief. I concur with the member's comments about Hope Valley. The Government accepts there was a need to pay an amount over and above the market rate to those residents. As a former valuer, Hon George Cash would well understand that there will always be arguments about valuations.

Hon George Cash: In opposition you were very supportive of the people of Hope Valley.

Hon KEN TRAVERS: Having been a member of the committee that was chaired by Hon Barry House, I fully understand the issues. Valuations and compensation over and above the value of the property are very difficult questions. When we came into government we allowed a certain amount for the Hope Valley-Wattleup community, even though it was not automatically provided for by the legislation. As Hon George Cash pointed out, these resumptions were not compulsory but were done through so-called willing sellers. The report refers to that matter, but we have allowed for payment in lieu of solatium, for want of a better word. The Government's response to that committee report referred to a five per cent payment that it would be making in the future in lieu of solatium in those circumstances. I guess there will always be a debate about the quantum of that payment, but the Government is moving in a similar direction to that outlined by Hon George Cash.

**Clause put and passed.**

**Clauses 2 and 3 put and passed.**

**Clause 4: Long title amended -**

Hon KEN TRAVERS: I move -

Page 3, lines 14 to 19 - To delete the lines.

I have previously outlined the reason for this amendment. This is the first of the amendments that seek to remove the specific provisions regarding expansion of LandCorp's powers for the remediation of contaminated sites. LandCorp currently does that under its other powers and it will continue to do so when it is able. I cannot think of an example of a contaminated site on which LandCorp has not been able to do that under existing provisions. In the case of OMEX, following the resumption of the land, LandCorp was able to proceed with the remediation of that contaminated site.

Hon JIM SCOTT: I oppose this amendment. I will keep doing so all the way through the Bill, but I oppose this amendment for not only environmental reasons but also planning reasons. A number of redevelopments have occurred in the South Metropolitan Region that are certainly not ideal. Private developers have been able to obtain land requiring remediation at a very cheap price because the Government does not want to expend funds itself. It has allowed what, in my opinion, are inappropriate developments to occur on those sites. I guess the Government has the feeling that someone will clean up this mess. As a result, a piece of ad hoc planning occurs that has no linkages or anything else with the rest of the urban community in which it is situated. This often has a lot of undesirable effects on the community in terms of coastal access and proper planning for the future with regard to rising global sea levels. All these things go out the window because the Government is very keen to see areas cleaned up and redeveloped and it does not want to incur the whole expenditure itself. There are a couple of such cases south of Fremantle, and a third one on the way, in which the desire to get those things to happen has meant that the Government has put under threat important rail linkages by chewing into the rail reserves at a time when we should be adding to the amount of freight going into that area. In a lot of ways these are really internal government problems, because the Government could prevent them with proper planning and by insisting on creating a redevelopment area something like East Perth and Subiaco. Rather than deal with the important planning issues that need to be considered for those areas, such as coastal access and rail access to the port and so on, the Government has allowed these developments to occur because somebody has come in and cleaned up the site and helped out the Treasury component of government. It is very important not to allow ad hoc developments on a site that requires remediation simply because somebody sees a business opportunity in that area. There must be good planning for the future, particularly in those coastal areas, because they will be threatened more and more. I do not think the Government recognises the level of threat that exists in those areas, otherwise it would not allow this sort of thing to occur. The Government should have the capacity to develop and remediate those types of sites to ensure that the planning, development and design of those areas is controlled, thereby providing the existing community with access to important places such as ports. Furthermore, the Government should consider the other needs of the people who live in those communities, rather than allowing these sorts of things to happen in an ad hoc way. I agree that this does not happen with only contaminated sites, but contaminated sites have provided cheap land. In the case of the Coogee developments in particular, the Government is picking up most of the tab for the clean-up anyway and, at the end of the day, it will lose money. These sorts of things occur because there is not a government body to create some competition in those areas. This would also add a community planning purpose over and above these types of redevelopments, otherwise a lot of mistakes will be made.

I have probably said enough about this amendment. For the reasons I have given and a number of others, which are minor, I disagree with the proposal to delete those lines. I am aware of the numbers in this place. I think this is the amendment that Hon George Cash wants removed.

Hon George Cash: I correct you. I do not want anything removed myself. However, my party has agreed to a position, and that is the position I represent.

Hon JIM SCOTT: I am glad I understand that point. The Greens (WA) have exactly the opposite position. However, we do not have the numbers. We are going through a period in which time seems to be the essence rather than the importance of matters. I express my opposition to this clause as it will be amended; we will say no, but not divide the Chamber.

The DEPUTY CHAIRMAN (Hon Simon O'Brien): I am sure members appreciate that this clause deals with the long title of the Bill. The Chamber is debating the title of the Act, if passed. It is not the occasion to debate the other clauses of the Bill. I am sure the honourable member is aware of that situation.

Hon GEORGE CASH: In speaking to clause 4 - that is, the long title as amended - I recognise that the long title determines the scope of the Bill or Act. The Liberal Party agrees that the words should be deleted because it does not believe the scope of the Act should be such that it would enable LandCorp to go into the remediation business at the expense of others who are currently conducting remediation work around Western Australia and, indeed, the rest of Australia. I speak very much to the question of the long title. The Liberal Party view is that

government should intervene in the marketplace only when there is a demonstrable market failure to which the private sector has not adequately responded. It is on that general principle that the decisions of my party are based in respect of this legislation. Remediation in Western Australia is a relatively new business. It is gathering significant credence with the changes to environmental protection law. Therefore, a greater call is being made for the remediation of sites than had previously been the case in our State. Engineering and environmental groups and other associated groups of people are able to get together as a consortium to act as a remediation facilitator to remediate a site. Although not many companies specialise in remediation alone in this State, many professional partnerships and contracting organisations come together as the situation requires it to make themselves available for significant remediation projects. The Liberal Party is not in the business of trying to restrict LandCorp from involving itself in remediation when that remediation is incidental to a development. However, the Act is written in a way so that LandCorp has the opportunity to branch out and become the biggest government-sponsored remediation group in Western Australia. It was the failure of the Act to adequately constrain LandCorp to matters incidental to its other agreed functions that caused us to take this view. This view is strongly supported by the commercial sector in Western Australia. We recognise the need for remediation - we are all for it. However, others out there in the community are already doing it and can do it successfully without creating another government empire for the purpose of remediation.

I say those things recognising that we are dealing with clause 4 and the scope of the Bill. I indicate why we believe the scope of the Bill should not be widened to allow the remediation or development as it is presently written in the Bill to be carried out. The functions of the agency are set out in section 16 of the Act. Those functions are adequate. As the parliamentary secretary has already indicated, LandCorp already carries out some remediation functions. In due course, will the parliamentary secretary tell me under what authority it carries it out? I understand that it is incidental to other work carried out, and not a separate function it has taken upon itself in contravention of the agreed functions in the Act.

Hon KEN TRAVERS: The debate from Hon Jim Scott and Hon George Cash encapsulates the matter, as support for this measure will narrow the scope of the Act. This provision will have a flow-on effect to other clauses. The Chamber is dealing with the scope at the moment. This highlights the situation. The Bill is not about LandCorp seeking to compete with the private sector in that regard, but about allowing LandCorp to deal with orphan sites for which there has effectively been market failure. With orphan sites and market failure, and when people cannot remediate a site economically, LandCorp in some way needs to become involved in the development, either through the new provisions in this Bill or through the resumption of that land and incidental remediation in the development of that land. LandCorp is currently able to do that. Hon George Cash was absolutely right. LandCorp currently deals with contaminated sites in a manner that is incidental to its other work. LandCorp currently performs five to 10 per cent of all remediation work in Western Australia, which is a product of the amount of contaminated land government owns. That is why LandCorp has built up the expertise.

Hon George Cash: I assume that the remediation work done by LandCorp is authorised under section 16(1)(a) of the Western Australian Land Authority Act, which provides the board with the opportunity to do work that is conducive or incidental to the performance of functions referred to in the section. If it is not that section, no other section provides the authority.

Hon KEN TRAVERS: It is primarily that provision. In part, it comes in response to section 16(1)(b), which reads -

to be an agency through which the Crown and public authorities may dispose of land; . . .

Part of the process - I guess this is derived from section 16(1)(a) - is that land needs to be remediated before it is passed on. It is allowed as an incidental process. LandCorp is only the project manager in such circumstances. Even when it carries out these projects, it uses private sector consultants for that work. It operates as the project manager and does not necessarily have all the knowledge and expertise in-house. Outside consultants are used.

I now refer to the issues that Hon Jim Scott raised. LandCorp will not remediate every contaminated site in Western Australia. That was never the intention when the clauses were originally included in the Bill. The intention was that they would come into play when there was a market failure. There would be market failure because a private sector developer does not believe it can clean up the site and make an economic return. Hon Jim Scott has concerns that a private sector developer will always look at whether it can seek to have, through the orderly planning processes of this State, a different use for the land that would make it economic to conduct the remediation. With or without this clause, this Bill will not change those circumstances. The sorts of issues Hon Jim Scott was talking about come down to this Government and Parliament ensuring that the State's planning laws are maintained and developed. I think our planning laws are excellent. When the new Bill goes through, they will be even better and more modern. We have a good process in Western Australia. In many of the cases mentioned by Hon Jim Scott, this Parliament has had a role in the planning process. Whether it is LandCorp or the private sector, developers will always look to see whether there can be a different use for land

other than its current zoning or use that would give it a higher value and, in some way, recoup the costs of the remediation. Those pressures will be there with or without the amendments to the Act. We need to maintain orderly planning processes. I believe that has been the case.

Hon JIM SCOTT: I had not intended to speak again but I must make a few points about the position of Hon George Cash on the concerns of the private sector, which has already geared up to do a lot of the work. I have no problem with the private sector doing a lot of the work. However, there are some very important areas that have strategic importance that need to be considered differently from others. They cannot be left to the market to determine. I will give an example. One area is in South Fremantle. It is located next to South Beach and is subject to a redevelopment proposal. The area extends to a former rubbish tip and includes the site of an old foundry, which had been polluting the area for a long time. The pollution was not just on-site; it travelled off-site as well and extended as far as the ocean. The site also contains the rail loop that runs south from Fremantle and extends to Kewdale. We know it is the Government's intention to increase the freight load from the port of Fremantle by 30 per cent. The proposed development lies across the route from Fremantle. In order for the development to be feasible for the market - according to the stories - the developers must build between the ocean and the railway line to make it a viable prospect. There is more than one problem. To have sufficient room it is required that part of the rail reserve be taken up in order to build these nice, more expensive houses between the railway line and the beach. The rail reserve is an extremely important linkage and should be protected for strategic reasons into the future. If we are to see more developments further south, such as Coogee and others, we will reach a point at which the passenger rail will be brought back into service in the region. Passengers as well as freight will be moved by rail. In order to make it good for the market, we are messing things up strategically. The developers have promised to undertake a high-level clean up and all those sorts of things, which I have no problem with.

Another problem is the shoreline. Agencies and planners have been dealing with a false shoreline. The old business that used to be in the area dumped rubbish onto the beach and into the ocean. There has been a large build-up of rubbish along the water's edge. The shoreline is disappearing very quickly because the dumping has finished; it is receding towards the railway line. We will see a nice commercial proposition that the market will supposedly handle by building nice houses but, in the future, we will see two levels of problem. One is the need to build something at the base of the houses so they do not fall into the sea. Unless it is some sort of wide wall that can be walked on, it will cut off community access to the parkland and cycleway that runs alongside. It is all starting to fall into the ocean. The houses will be put at risk as will access to the port of Fremantle by rail and the ability to expand any rail in the area because of the loss of rail reserve. That is when the market does not always work. There are cases in which we need to bring bodies like LandCorp into action to redevelop such areas, which may not make an immediate return or profit required for a market-driven approach. However, we need such bodies to develop those areas in a way that the other factors involved will not cost the community a great deal in the future. If we do not, we will see commercial disasters for the taxpayers of Western Australia with that type of development in that type of location. It is important that we have the capacity and will because I believe the Treasury has run from the Department for Planning and Infrastructure in getting its own way. The pennies spent now will save us dollars in the future. If we are to have good planning, we must have an authority that can redevelop an area like that in a strategic sense and protect the interests of the wider community rather than have a market-driven approach on every occasion. I am not against a market-driven approach when it is appropriate, but there are some cases when it is not. I needed to explain that because I do not believe that the market always solves things. That is a fallacy and a religious belief. It just does not in cases like that because it survives only through large amounts of money being put in by taxpayers to build walls etc and create solutions for the extra rail access needed in the area in the future. I believe that this amendment should not be supported as it would take away that focus of the Bill. As I said before, the Greens (WA) will not be voting with the ayes on this amendment to delete the words.

Hon GEORGE CASH: I need to respond. We are dealing with the scope of the Bill and the question of remediation. The various issues raised by Hon Jim Scott are important. However, nothing he raised would prevent the Department for Planning and Infrastructure imposing conditions on a developer that would take into account the needs of an area. The point that Hon Jim Scott has made to support his argument is that at times it is uneconomic for the private sector to enter into these sorts of projects and, as a result, things are not done; that is, development does not occur and opportunities are lost. Therefore, he argued that a government agency should be able to develop such an area, as it could have less regard for the economic return than could a private operator. I understand that. However, there is nothing in the changes to the Act that will prevent LandCorp from doing that, because if LandCorp is given the opportunity to redevelop an area of land, and within the development project there is a need for a degree of remediation, section 16(1a) of the Act, which sets out the functions of the organisation, would come into play. Section 16(1a) states -

It is also a function of the Authority -

- (a) to do things that the board determines to be conducive or incidental to the performance of a function referred to in subsection (1);

The Act enables LandCorp to do certain remediation works. The proposal in the Bill could have been read to allow LandCorp to go into the remediation business per se, and that was why the objection was raised. I said in my earlier comments that that was allowed to occur either because of poor drafting - that is one possibility - or because there was an intention that LandCorp go into the remediation business. If the second option were intended, the Opposition would not support it, because it does not support the intervention by government in those types of issues unless there has been a demonstrable indication of market failure on behalf of private enterprise or private operators. In the first instance, the Liberal Party believes that private commercial operators should be able and encouraged to get on with their job; that is, to employ people and to carry out their functions while having regard to any conditions imposed by government. The Liberal Party does not subscribe in the first instance to a public authority doing everything. Our view is that the public authority aspect should cut in only when there has been demonstrable market failure. I do not think that my party and the Greens (WA) are at great odds on this matter. We are arguing a technical issue of whether LandCorp should be able to go into the remediation business as such. It should not. However, there is sufficient opportunity in the wording of the Act to allow LandCorp to conduct remediation works that are incidental to one of the functions set out in section 16. In that regard, we support the deletion of the words.

**Amendment put and passed.**

Hon GEORGE CASH: On page 3, line 24, are the words “for related purposes”. We are dealing with the long title and the scope of the Act. We are amending the long title to include the words “for related purposes”. Can the parliamentary secretary tell me what the Government intends those words to mean?

Hon KEN TRAVERS: The advice that I have been given is that as a result of the changes to the Act, LandCorp will no longer be an agency. The wording “to dispose of surplus Government land assets” was felt to be no longer appropriate. It is being removed by the amendments. It was felt that a better way of describing that same function was to insert the words “for related purposes”. The amendment is as a result of technical advice from State Counsel on how the long title should be worded. As LandCorp will no longer be a state government agency, it will not be able to dispose of surplus government land, but it will still carry out the same function.

Hon GEORGE CASH: I understand what the parliamentary secretary has said. I do not want to delay the passage of the Bill, but will the parliamentary secretary give me an undertaking to provide some further advice on the meaning of the words “for related purposes”? I believe they reach far wider than he has said. I do not want to delay the matter, because we could argue forever on those words, but they do not all have the meaning that the parliamentary secretary has just ascribed to them. I would be very happy if the parliamentary secretary could provide this at a later stage, or he may wish to make some comments now and provide some additional information in due course. They are some very important words when they are put into the title of the Bill.

Hon KEN TRAVERS: I will make one brief comment, but I certainly undertake to get the further advice for the member. This relates to the long title. The ability for LandCorp to undertake actions will still be restricted by the functions and objects that are contained later in the legislation. We will obviously be making some amendments when we get to certain parts, and the member may or may not have some points then.

Hon George Cash: That is a more reasonable answer than the first.

Hon KEN TRAVERS: The first answer was the background of why the amendment was brought in. I guess the second answer is that certainly LandCorp’s actions will be restricted by the objects and functions. If the member requires further advice, I will be happy to get it.

**Clause, as amended, put and passed.**

**Clause 5: Section 3 amended -**

Hon KEN TRAVERS: I move -

Page 4, lines 8 and 9 - To delete the lines.

This amendment is as a result of reducing the long title and is one of the necessary consequential amendments, as the provision would otherwise be outside the scope of the Act.

Hon GEORGE CASH: We are agreed that this is a consequential amendment that is required as a result of the amendment made by the House to the long title.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 6: Section 4 amended -**

Hon KEN TRAVERS: I move -

Page 4, after line 13 - To insert -

- (1) Section 4 is amended by inserting before “In this Act” the subsection designation “(1)”.

This amendment is necessary because amendment 7/6 on the supplementary notice paper will provide for an additional subsection. The amendment is necessary at this stage to deal with amendment 7/6.

**Amendment put and passed.**

Hon KEN TRAVERS: I move -

Page 4, line 30 to page 5, line 3 - To delete the lines.

Again, this is a consequential amendment following our earlier decision.

Hon GEORGE CASH: We agree that this is a consequential amendment as a result of the earlier decision on the long title.

**Amendment put and passed.**

Hon KEN TRAVERS: I move -

Page 5, line 18 - To delete “that would” and insert instead -  
determined to

The wording of this amendment is based on advice from parliamentary counsel to clear up the provision.

**Amendment put and passed.**

Hon KEN TRAVERS: I move -

Page 5, lines 19 to 22 - To delete “within the meaning of the Corporations Act if the Authority were a body corporate to which the Corporations Act applies; and” and insert instead -  
under subsection (2); or

This is again a simple change of the wording, on the advice of parliamentary counsel. The provision is effectively the same, but the wording is better.

Hon GEORGE CASH: We agree with the deletion of the words. However, will the parliamentary secretary indicate where the words “under subsection (2); or” will go? Will they go after the word “means”, which follows the word “subsidiary”? If that is the case, which subsection (2) are we referring to?

Hon KEN TRAVERS: If the amendment is passed, the provision would read -

“**subsidiary**” means -

- (a) a body determined to be a subsidiary of the Authority under subsection (2);

Hopefully, we will insert a new subsection (2) when we consider amendment 7/6.

Hon George Cash: Which subsection (2) are you referring to?

Hon KEN TRAVERS: It will be a new subsection (2). I have previously moved an amendment to put all the current definitions in proposed section 4(1) of the substantive Act. If this amendment is supported, I hope we will also have the committee’s support for the new subsection (2) to be inserted, which is provided for in amendment 7/6, which is the next amendment on the supplementary notice paper. That will be a new subsection (2), and that is the subsection (2) to which we are referring. We are deleting the reference to the Corporations Act in the definition of “subsidiary” and including it as a separate subsection under section 4, which sets out the definitions.

Hon GEORGE CASH: The reason for my question is that this is prospective on an amendment that is about to be moved. It is not in the existing Act.

Hon Ken Travers: Yes, that is right.

**Amendment put and passed.**

Hon KEN TRAVERS: I move -

Page 6, after line 14 - To insert -

- (5) At the end of section 4 the following subsection is inserted -  
“



- (2) Part 1.2 Division 6 of the Corporations Act applies for the purpose of determining whether a body is a subsidiary of the Authority.

”

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 7 put and passed.**

**Clause 8: Section 5A and 5B inserted -**

Hon GEORGE CASH: This clause deals with an amendment that proposes that the Western Australian Land Authority not continue to be an agent of the Crown. Can the parliamentary secretary, firstly, advise me on the benefits and/or disadvantages of the authority not being an agent of the Crown? Secondly, will this change affect any previous contractual obligations entered into by the authority?

Hon KEN TRAVERS: I will answer the member's second question first. This change will not affect any previous contractual obligations. Any obligations the authority currently has will continue. The reasoning behind the amendment is to seek to mirror the Port Authorities Act 1999, so that there is uniformity across legislation. The amendment seeks to put the Western Australian Land Authority or LandCorp on the same playing field as the private sector, so that it will no longer be able to hide behind the shield of the Crown. Members have mentioned the concern that the authority often competes with the private sector, and this amendment would mean that it would have to compete on exactly the same terms. The expectation is that it would lead to the private sector being far more willing to deal with LandCorp, because it sees it as operating under the same terms and conditions as those under which the private sector must operate. As we consider the amendments proposed in this Bill, members will see that one of the issues is to provide for LandCorp to work in joint ventures with the private sector to a far greater degree than it does currently. It is expected that the amendment in clause 8 will facilitate the ability to work in joint ventures and to involve the private sector far more in the authority's work. Finally, the amendment would require that the authority operate under the same procurement policies as would normally operate in the private sector, which would facilitate that process.

Hon JIM SCOTT: I certainly am happy in this instance for the authority not to be an agent of the Crown and not to have the powers and immunities of the Crown. However, I am never happy to hear people say that government agencies have an advantage over the private sector because they have these particular immunities, because government agencies have the countervailing disadvantage that they are required to abide by the Public Sector Standards Act and take account of the public interest in whatever they do.

Debate interrupted, pursuant to standing orders.

[Continued on page 8123.]