

**LAND LEGISLATION AMENDMENT BILL 2014**

*Consideration in Detail*

**Clause 1: Short title —**

**Mr C.J. TALLENTIRE:** Clause 1 is a question of title and transparency of title. It has been styled as an amendment bill when, in actual fact, it is about increasing fees. Why does the government not name bills to reflect exactly what they will do? Why would the government not put something in the bill to indicate that the bill is about increasing the fees that are being applied? It seems as though the government is unnecessarily veiling things by describing this is an amendment bill. The government should be more up-front and transparent for the general public, which casts only a cursory eye over our activities. The bill should reflect that it is about increasing fees for the various services provided by Landgate.

**Mr D.T. REDMAN:** The title reflects the fact that there are amendments to four relevant acts that are used to prescribe and work out how the fees are set. As I said in the second reading debate, this bill does not set fees; rather it sets the mechanism for setting the fees. The intent and, indeed, my commitment, is to set some certainty for fees given that, in some cases, they have doubled since 2006. We are making the commitment that fees will not increase more than the consumer price index. In bringing the bill before the house, what we are committing to before its next review is that the fees will not increase in real terms.

**Clause put and passed.**

**Clause 2: Commencement —**

**Ms R. SAFFIOTI:** What has been built into the budget and forward estimates for the revenue and expenditure implications of the bill? Does the 2015–16 year contain additional revenue as a result of this legislation?

**Mr D.T. REDMAN:** Landgate takes its revenue from its commercial activity and from the fees that it sets for those regulated components of its services. The only circumstance in which it would need to consider going to Treasury is when the set fees are under-recovered on the cost, in which case the options for under-recovery are to go to Treasury to get an appropriation to cover the difference. One of the premises for bringing the bill forward is the fluctuating nature of the recovery of the fees; in some cases Landgate will over-recover and in some cases it will under-recover. We are looking to set fee certainty and we are giving a commitment. Additional appropriations will not be required to deal with it in the budget appropriation.

**Ms R. SAFFIOTI:** Sorry, I was talking about the revenue side. I was not talking about an appropriation from Treasury to Landgate, but whether there is a revenue implication in Treasury's forecast. What has Landgate advised Treasury about additional revenue in either this or the last budget process? Has Landgate advised Treasury of any additional revenue that will flow to the consolidated fund from this legislation?

**Mr D.T. REDMAN:** I am sorry I misunderstood the member's question; I understand it now. The answer is that nothing that has been advised to Treasury is different from the normal revenue and dividends and taxing arrangements that are in place for Landgate. I recall having a discussion about seeking an appropriation for times of under-recovery. That has been mentioned and it was made clear up-front in our discussions about bringing this bill to the house.

**Mr C.J. TALLENTIRE:** Looking at the budget from last May, I notice that there is a projected income for the 2014–15 year of \$124 million, which would provide a surplus of some \$16.4 million. Can the minister advise whether we are on track with that estimation?

**Mr D.T. REDMAN:** What is in the budget happens every year. Given all the public corporations, there is a prediction about what the revenues, dividends and tax equivalents to government will be. There is nothing that is not standard about that. The member referred to figures. I have figures from the 2014–15 budget that refer to estimated historical and predicted Landgate profits and estimated returns to the state, which are all standard arrangements in such an authority.

**Mr C.J. TALLENTIRE:** Is the minister able to confirm that the figures presented in the budget are fairly close to what has turned out to be the reality? The reason for my question is that we have made a lot about volatility and that it is hard to project what the revenue will be. I am curious to see how close we are to those projections. If it turns out that we are good at getting our projections accurate and if we get consistently close in our projections, we may be worrying unnecessarily.

**Mr D.T. REDMAN:** Thank you, member for Gosnells. I assume that the member is reading the budget papers, which predict how much Landgate is liable to make in revenue and the returns that will come back to government through taxes and the like. I have some figures on the operating expenses and profits for 2013–14, but I have not seen the figure of \$124 million. Under the current arrangements, the total operating expenses are \$132.128 million, the return to the state from the national tax equivalent payment is \$12.6 million, payroll tax to

the state is \$3.6 million and the dividend payment is \$5.59 million. The member would have the budget prediction for the current financial year, which is not finished, but I am told that we are on track with what is in the budget. I make the point that we are putting figures in the forward estimates that reflect this more certain arrangement for the fee structure and hence the profits that Landgate is likely to make. When the budget comes out, the member will see that the forward estimate figures will reflect the change that this legislation implies.

**Clause put and passed.**

**Clause 3 put and passed.**

**Clause 4: Section 94A inserted —**

**Mr C.J. TALLENTIRE:** I have a question about the detail of the fee setting in clause 4 and the process of collecting those fees. The bill refers to the use of the Strata Titles Act and that the act lists a set of fees for the registration of things such as a change in bylaws. I am curious to know how those fees are collected, because when consulting with various stakeholders in preparation for the consideration of this bill, it was put to me that there is a problem with the ability of Landgate to receive the fees by electronic transfer once they are set. Payment for a form-21 change is required to be made by cheque rather than electronic payment. I realise that that does not exactly relate to the issue of setting fees, but I cannot see where else in the bill I can raise this question. What are the means by which these fees, once they are set, are collected?

**Mr D.T. REDMAN:** I thank the member for Gosnells. To work backwards, the fees can be paid by electronic transfer, cheque or over the counter—all the mechanisms are available, of course, as they are with any organisation. There was an interesting debate on the radio the other day about how long cheques will last. I think those sorts of things will come down to the natural progression of society and how we transact. Landgate is on the front foot of using more contemporary mechanisms to handle transactions.

On the member's first point, this clause gives effect to the changes needed in the other acts in which our regulated fees are set. In my second reading speech, I referred to the four bills to which this legislation relates, and these are the amendments that allow that to happen. This provision also gives authority to the fact that in the review and in making a decision as to whether it should be rolled over for another five years, I have to take into account the efficiencies in the operations of Landgate and whether what we are changing has had the desired effect. I reiterate that that is subject to disallowance through Parliament.

**Mr C.J. TALLENTIRE:** I wonder whether the minister's advisers might be able to help me on this point —

**Mr D.T. Redman:** Which bit is the member looking at?

**Mr C.J. TALLENTIRE:** I am looking at the reference to the Strata Titles Act in clause 4. Proposed section 94A(1)(a) reads —

how the fees prescribed for the purposes of the following Acts have been calculated during the period covered by the review —

The Strata Titles Act is then referenced. People who are interested in these amendments have said that they are prepared to wear the costs of the additional fees and to accept that that will be the way of things, but they are interested in the means of payment. Despite what the minister said before, they have pointed out to me that they cannot currently pay form 21, "Notification of change of by-laws", which is relevant to the Strata Titles Act, by electronic transfer; they must do so by cheque. It sounds like a detailed question but it is the sort of thing that stakeholders ask members when we consult on these pieces of legislation. I hope the minister can help me and provide some explanation as to why that payment can be made only by cheque.

**Mr D.T. REDMAN:** I am happy to get back to the member on that specific question. It is our belief that it falls under a different act and therefore a different set of circumstances. This clause refers to the changes needed in other acts to allow for the prescribed fees, and what needs to be taken into account—that there have in fact been efficiencies—in the decision that the minister makes to extend these arrangements for another five years, which is what this clause gives effect to.

**Mr W.J. JOHNSTON:** I seek clarification on the wording in proposed subsection (4), which reads —

This section expires on a day fixed by proclamation.

Proposed subsection (5) then reads —

The day fixed under subsection (4) must not be before all of the following provisions have expired —

It then lists out the acts also contained in proposed subsection (1)(a). I just wondered whether proposed subsection (4) should read "may expire on a date fixed by proclamation" rather than "expires on a date fixed by proclamation". I took proposed subsection (5) to mean that the date is fixed under proposed subsection (4) before

those other things happen, but we do not know when those other things will happen. We can only know the proclamation date based on those other issues occurring. The wording in proposed subsection (4) is that there will be a proclamation, whereas proposed subsection (5) suggests that it is a condition rather than a certainty.

**Mr D.T. REDMAN:** Let me have a go at responding to that. Obviously, the taxing act here allows us to over-recover and it is end dated or there is a sunset clause, which means that unless a decision is made to allow it to carry on, it stops. It is important to note that any other acts relevant to the fixing of fees do not expire before the taxing act expires; in other words, an alignment needs to occur. The wording in this provision comes from parliamentary counsel, and the advice we have is that this is the best way to achieve that. To get a drill down from me beyond that might be a bit difficult.

**Ms R. SAFFIOTI:** Proposed subsection (2) reads —

For the purposes of subsection (1)(a), the things that the Minister is to consider and have regard to include —

- (a) the principles and methodologies applied in determining the prescribed fees; and
- (b) how those principles and methodologies were applied in determining the amount of each prescribed fee.

What exactly will the minister consider in this subsection? In particular, what principles and methodologies will the minister consider when setting the individual fees?

**Mr D.T. REDMAN:** I am advised that a number of different methodologies can be used to apply fees in the first instance. Landgate will use a particular methodology. In reviewing this, it is important to have regard for those principles and methodologies and, firstly, how it is done and, secondly, how it worked in relation to the methodology that was applied; in other words, was it effective? Did that answer the member's question?

**Ms R. Saffioti:** Not really. Exactly what does the minister consider? Is it affordability or consumer price index increases? What are the factors that underpin the price setting?

**Mr D.T. REDMAN:** I am advised that a range of methodologies can be used. When reviewing anything we need to make sure that it is effective in what it is trying to achieve. It is appropriate that we have the level of rigour over the assessment to see whether it is doing what it needs to do. Member, it is a slightly vague question, I might add.

**Ms R. SAFFIOTI:** I have taken offence, as I do.

**Mr W.J. Johnston:** Do not wind us up, minister.

**Ms R. SAFFIOTI:** Yes, do not wind us up. It is a vague question because it is a vague proposed subsection in the minister's legislation. Proposed section 94A(2) states —

For the purposes of subsection (1)(a), the things that the Minister is to consider and have regard to include —

- (a) the principles and methodologies applied in determining the prescribed fees; and
- (b) how those principles and methodologies were applied in determining the amount of each prescribed fee.

What does that mean? When the fees are reviewed each year, are cost recovery, CPI increases, the volatility of the market and where it is at taken into account? Are previous increases taken into account and is it based on how much the government thinks it can get away with, or does the government set a revenue target up and then work back from there? Does the government say that it needs to spend X million dollars on capital upgrades, produce a revenue target and then work back from there? I do not think that is a vague question. It is a good question because it relates directly to a provision in the minister's legislation.

**Mr D.T. REDMAN:** As someone who has worked in Treasury, the member will be familiar with things like the whole state budget and what sort of methodology is applied—for example, to iron ore prices—and how the figure that goes into the budget is calculated. With all those changing numbers, and to be fair and transparent to the community, some sort of methodology is required to come up with the outcomes so that it is assessed in a transparent and open manner. The same thing applies here. With any organisation or agency—Landgate is one of those—we need to find a mechanism that gives a guide to what the fees should be, whether they are appropriate and whether they reflect on the costs within the agency. We take into account all sorts of pricing and cost structures when doing that. That needs to be open to scrutiny every time we look at the fees. A lot of work has been done by Landgate to ensure that it is appropriate. We have put a level of transparency in this bill that allows that to be properly assessed.

**Extract from *Hansard***

[ASSEMBLY — Thursday, 12 March 2015]

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Mr Chris Tallentire; Mr Terry Redman; Ms Rita Saffioti; Mr Bill Johnston

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Debate adjourned, pursuant to standing orders.