



NSW Legislative Assembly Hansard

Aboriginal Land Rights Amendment (Gandangara Estate) Bill

Extract from NSW Legislative Assembly Hansard and Papers Tuesday 14 September 2004.

Second Reading

Mr BRYCE GAUDRY (Newcastle—Parliamentary Secretary) [7.31 p.m.], on behalf of Dr Andrew Refshauge: I move:

That this bill be now read a second time.

The object of the Aboriginal Land Rights Amendment (Gandangara Estate) Bill is to amend the Aboriginal Land Rights Act 1983 in order to validate the subdivision and sale of land in a housing estate development at Barden Ridge, Menai, that is being undertaken by the Gandangara Local Aboriginal Land Council [LALC]. The principal Act imposes procedural requirements on local Aboriginal land councils in their land dealings. The bill resolves irregularities in compliance with those procedural requirements as to the land development at Barden Ridge, Menai, known as the Gandangara Estate. Without an amending bill those irregularities of compliance may have resulted in sales of land in the Gandangara estate being invalid. The bill will validate the creation of the estate subdivision as a whole and will validate past sales. It will also validate any registered transfers of title to lots in the estate that may also have been voided by the irregularities in compliance with the principal Act.

The Gandangara Estate comprises the development of a subdivision of land that was granted to the Gandangara LALC under the principal Act in 2000. The land was subdivided into 43 lots, 41 of which are for housing development. Development of the estate has involved a range of dealings with the subject land, including the registration of a plan of subdivision, land sales, the grant of easements between certain of the lots and the dedication of public roads. The principal Act imposes procedural obligations on local Aboriginal land councils for each of these various dealings and for validity of the eventual process of registering new titles with the Department of the Registrar-General. The principal Act provides that non-compliance with its procedural requirements renders land dealings void. Before the procedural irregularities in the development of the Gandangara Estate came to light in May, 20 bona fide purchasers of land, including purchasers of land and house packages, in the estate had entered and completed contracts for sale.

When the irregularities became evident, three transfers of title of lots in the estate had been registered under the Real Property Act 1900. Without the amending bill now before the House the purchasers of lots in the estate will not have certainty of title. They will continue to suffer financial disadvantage due to delays in building on their new land purchases. Furthermore, the finalisation of this exemplary housing development at Barden Ridge will be delayed. I say "exemplary" because in all other respects the Gandangara Estate represents an example of the economic benefit that the principal Act is capable of producing for Aboriginal communities, and an example of the synergy between the Act and the housing needs of the wider Sydney community. My colleague the Minister for Aboriginal Affairs has been provided with a range of opinions from senior legal counsel representing the various parties affected by the legal impasse that exists in relation to the Gandangara Estate. The opinions have all taken the view, after an exhaustive consultation process, that the issues are too complex for any practical resolution of the impasse created by the irregularities. The Minister is now satisfied, after having explored a range of other options, and taking these eminent opinions into account, that an amendment to the legislation is the only means by which the issue can be resolved.

The bill limits the application of the amendments specifically to the validation of the plan of subdivision and the 20 completed sales of lots in the Gandangara Estate. The bill contains a specific definition of the

meaning of "disposal" targeted to the Gandangara context, and applies exclusively to the Gandangara subdivision by specifically reciting the lot and deposited plan number of the plan of subdivision affected. That ensures that the bill will have no legal or practical effect beyond providing certainty for the Gandangara Estate purchasers. Accordingly, the validation of the land sales, and the validation of the three apparently void dealings that have been registered by the Registrar-General, is an urgent and important step for this Parliament to take in order to give certainty to the purchasers.

The circumstances that occurred at the Gandangara Estate should not be allowed to have an adverse impact on the potential for land development by local Aboriginal land councils nor turn away government and private sector partners for land development across New South Wales. At the same time that I seek the Parliament's support for this bill I wish to bring to its attention that the specific need for this amending bill reflects the need for a major review of all of the provisions of the Aboriginal Land Rights Act. To this end, the Minister for Aboriginal Affairs has established a task force that will report to him later this year on how the Act can be improved. The task force will specifically examine the substantive and procedural provisions that relate to land dealings by local Aboriginal land councils as a priority. I commend the bill to the House.