



Transport Administration Amendment (Parramatta Rail Link-Property Guarantee) Bill.

Second Reading

Mr HUMPHERSON (Davidson) [10.03 a.m.]: I move:

That this bill be now read a second time.

This legislation arises from the Coalition's continued commitment to ensuring that residents and property owners who are adversely affected by the Parramatta rail link, in particular the tunnel between Chatswood and Parramatta, have an opportunity to seek financial compensation for any loss resulting from its implementation. A similar bill was introduced last year but it lapsed with prorogation and the general election. Residents who live along the rail corridor in a number of electorates—Davidson, Ku-ring-gai, Ryde and Epping—have already been adversely affected by the land underneath their homes, in effect, being stolen from them without compensation, notification or proper consultation. There is evidence that people have been financially disadvantaged. Valuations of their property have shown an assessed reduction in value by as much as \$50,000. The Coalition has always upheld the principle that property owners should not lose their assets because the State implements transport routes, roads or rail for the wider advantage to the community.

This bill seeks to remedy a deliberate oversight by the Government when it introduced legislation to give effect to the Parramatta-Chatswood rail link in 2000. The bill will enable residents who have their land taken from them for the construction of the Epping to Chatswood railway tunnel to seek compensation. In effect, it is a buyback scheme for adversely affected residents, to enable them to sell their property if they wish or to be compensated for the effects of the tunnel. The land taken from the residents is below the surface and some people may ask why residents should be compensated. I will explain why. I have a copy of a letter of 13 June 2002 from the then Minister for Transport to Alan Jones. The letter states:

The depth of the tunnel varies from roughly 13 metres to 70 metres underground.

The Minister failed to mention in his letter that the depth is measured from the floor of the tunnel and that the tunnel is seven metres in diameter. In fact, the depth of the tunnel varies from approximately 6 metres to 63 metres. I cannot imagine any home owner being too concerned about a rail tunnel 63 metres—the equivalent of 200 feet—beneath their home. However, along significant lengths in the Roseville and Terrys Creek areas the tunnel is less than 20 metres below, and in some places just 6 metres or about 20 feet beneath the surface.

The residents whose land is to be taken for the tunnel have now received advice that council records in relation to their properties will be permanently altered and that their land titles have been adversely and permanently altered to note that the development can proceed. The Government does not seem to understand the serious stigma for owners and the adverse effects of the tunnel on the market value of the properties. It is outrageous that the Government has generated the stigma yet denies responsibility to compensate residents for the consequent lowered market values of their properties. After all, those homes in many cases are the life investment of the occupants.

In the letter to Alan Jones, to which I referred earlier, the then Minister for Transport claimed that he was not responsible for legislation that denied compensation to residents whose land was taken for the tunnel, as they were denied compensation by the former Government under its Land Acquisition (Just Terms Compensation) Act 1991. However, the Minister conceded that he was responsible for the Parramatta rail link legislation in May 2000, which clarified the just terms Act by extending the meaning of "tunnels" to include "other underground rail facilities such as stations and concourses".

That is not the same story the Minister gave to Parliament in his second reading speech in support of the Parramatta rail link [PRL] legislation. In Parliament in May 2000 the Minister admitted obtaining legal advice to the effect that the just terms Act did not clearly authorise him to operate the rail tunnel without compensating affected residents. The Minister said that the PRL legislation confirmed beyond doubt that the law denying compensation to residents extended to the operation of the rail tunnel. The Minister's two-faced attitude on this issue was not limited to fine points of legislative interpretation.

I will now address the field of non-intellectual administrative action. In 1997 the Minister pushed through a proposal to construct the now-completed M5 East motorway. The project included constructing a tunnel under

houses in the Kogarah district. When taking land for the tunnel, the Minister bent over backwards to act fairly towards affected residents. I have a letter from the Minister to residents in the Kogarah and Rockdale area in December 1997. Each resident whose land would be taken for construction of the tunnel or—wait for it—permanent rock anchors, and whose land beneath their home would be affected, was offered \$3,000 in cash, an ex gratia contribution. Further, each resident was offered the right to require the Roads and Traffic Authority [RTA] to purchase their house at current market value as if the M5 East motorway did not exist. Residents taking up the offer would also be paid sale costs and relocation expenses, and be exempt from stamp duty payable on the acquisition of a comparably valued replacement home.

I have a copy of an offer from the Minister to the residents in the area in February 2001 extending the range of residents who could require the Government to purchase their house to include residents living within 400 metres of the M5 East motorway exhaust stack. Residents outside the 400-metres radius area would also be invited to apply for this benefit if they could demonstrate hardship. I also have a copy of an RTA press release dated 16 April 2002 advising that the closing date for operation of the M5 East resident compensation scheme had been extended to 9 June 2003. That is one month from today, but it is significant that it is not long after the recent State election.

I am not criticising the Minister's offers of compensation to residents affected by the M5 East tunnel. However, I cannot fathom why the Minister will not make the same offer to residents affected by the Chatswood to Parramatta rail tunnel. The honourable member for Epping put the same question to the Minister in Parliament on 20 May 2000. In response the Minister said that it would be too costly, with costs in the tens of millions of dollars. Ten days later the Minister for Mineral Resources, and Minister for Fisheries in the Legislative Council claimed that the most conservative cost estimate was \$50 million. I challenge both of those estimates because if there is no adverse effect on property values, as has been asserted by the Government and by Ministers, people would have no reason to believe that they would be adversely affected; nor could they justify any claim they sought to make.

Since 20 May 2000 the Minister has extended the range of residents offered compensation in relation to the M5 East tunnel and has further extended the time for acceptance of the offer. How can the Minister continue to refuse to make the same offer to residents affected by the Chatswood to Parramatta rail tunnel? I assume that the Government still wishes lamely to hang on to its administrative cost excuse and to demonstrate that the Coalition can find answers to the hard questions that the Government is now too tired and out of touch to even consider. Currently, we are considering a variation to this bill—if necessary in Committee—in consultation with the Parramatta Rail Link Action Group, which would enable an even simpler and cheaper option to the compensation program offered for the M5 East tunnel. The alteration, if proceeded with, would be fairly simple.

Our proposal is that if a resident's property is affected by the rail tunnel and the resident purchased the property on or before 26 February 2002, which is the date of the tunnel's development approval, he or she may lodge a claim for compensation from the Minister. If at any time until one year after the tunnel commences operation the resident sells his or her property at a price which he or she believes to have been reduced because of the impact of the tunnel, he or she may lodge a claim for compensation from the Minister. On receipt of a claim, the Minister will arrange to appoint an independent valuer to determine the value of the property as if there were no tunnel existing or proposed. If that valuation exceeds the contract sale price the Minister would pay the resident compensation in an amount equal to the resident's notional loss.

This legislation entirely answers the Government's concern that a compensation scheme for residents who are affected by the Parramatta to Chatswood tunnel could involve exorbitant interest and administrative costs. The scheme we propose is far less generous than the Minister's property value guarantee to residents affected by the M5 East tunnel, because we are not necessarily offering the full reimbursement of sale costs and relocation expenses, nor relief from stamp duty on the resident's subsequent home purchase. Of course, there is no suggestion of an up-front \$3,000 payment for residents. The Minister's only costs would be valuation fees and compensation for notional loss. If the tunnel enhances the value of the affected properties—according to predictions that the Government continues to repeat—then valuation fees will be the only costs incurred. There would be no notional compensation.

If the Government opposes this legislation, especially having regard to the manner in which the M5 East residential compensation scheme was implemented and subsequently extended, the people of New South Wales can only conclude that it does not, and will not, represent them all and acts only for the benefit of select, favoured interest groups. In pursuing this matter, I acknowledge the support and work of people such as Mark Morgan of the Parramatta Rail Link Action Group who have been persistent in their efforts over the past couple of years. I acknowledge that residents in the electorate of Ryde have sought to pressure the Government, certainly more recently during the State election campaign. Residents who were adversely affected sought, without result, to get the honourable member for Ryde on side. I acknowledge that councillors from the city of Ryde also took a strong interest in, and will continue to advocate for, fair and reasonable treatment of people whose properties have been or will be adversely affected.

This is a matter of fairness and equity. There is nothing wrong—indeed, it is more than appropriate—with

governments developing infrastructure for the good of wider community interests, in this case to construct rail or road tunnels in parts of Sydney. When ultimately completed, this rail tunnel will be an excellent and wonderful addition to Sydney's transport and rail network. However, it is unreasonable for residents and home owners to be the prime sacrifice, to have lost in some cases a large portion of the value of their homes. When that occurs it is only fair and just that they be compensated so that they are not out of pocket financially. This matter is causing great stress to some residents. I can assure them and the community of New South Wales that we will continue to fight on their behalf. The Opposition has maintained this commitment for several years and into the recent State election campaign, and it will maintain this commitment into the future. I ask the Government to consider the matter in the fairest manner possible and to see fit to support this bill.

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