

COMMONWEALTH OF AUSTRALIA

# Proof Committee Hansard

## SENATE

ENVIRONMENT, COMMUNICATION, INFORMATION  
TECHNOLOGY AND THE ARTS

**Consideration of Additional Estimates**

WEDNESDAY, 9 FEBRUARY 2000

CANBERRA

SENATE

ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND  
THE ARTS LEGISLATION COMMITTEE

**Wednesday, 9 February 2000**

**Members:** Senator Eggleston (*Chair*), Senators Bartlett, Bishop, Bolkus Payne and  
Tierney

**Senators in attendance:** Senators Bolkus, Calvert, Eggleston, Faulkner, Forshaw,  
Hutchins and O'Brien

**Committee met at 9.11 a.m.**

**ENVIRONMENT AND HERITAGE PORTFOLIO**

**ENVIRONMENT, COMMUNICATION, INFORMATION TECHNOLOGY AND  
THE ARTS**

**Senator HUTCHINS**—Thank you, Mr Chairman. I want to ask the minister about some applications that

have been made for National Heritage funding by Penrith Council for the ADI site at St Marys. Yesterday we were able to ascertain from the Finance and Public Administration Committee that the ADI site had been transferred to a wholly owned subsidiary of the Commonwealth called ComLand. This has been subsequently transferred to another wholly owned subsidiary of a body called St Marys Land Ltd. There is, as you are probably well aware, a joint venture agreement between them and Lend Lease for the potential development of the ADI site at St Marys. Are you aware of that, Minister?

**Senator Hill**—I am.

**Senator HUTCHINS**—Are you also aware, Minister, that the New South Wales government has over the past two years or so issued or been in the process of developing a regional environmental plan?

**Senator Hill**—I am.

**Senator HUTCHINS**—As I understand it, the Penrith City Council wrote to you in May of 1998 requesting NHT funding for the area of the ADI site that had been listed by the Australian Heritage Commission - I think it is called - the funding for that to be I suppose assumed by the Commonwealth or by Penrith Council. I am advised that you wrote back to say: I will bear in mind your concerns when I consult with my colleagues about the future of the site once the draft regional environmental plan is exhibited and the questions of Commonwealth accountability under various environment and heritage legislation arise. Minister, that draft was released late last year and the council wrote to you again. In light of the fact that the draft had been released, they asked you in November: I have decided to await the outcome of the New South Wales regional environmental planning process for the area before making a final decision on your project. Minister, I have just a few questions. I do not think I will be keeping you all that long. The Commonwealth, as I have mentioned to you and I am sure you are aware, has total control of that ADI site at the moment under various bodies, whether it is Comland or State Marys Land Ltd. That is correct?

**Senator Hill**—Yes, but yes subject to the joint venture agreement but, as I understand it -

**Senator HUTCHINS**—Subject to the joint venture or what is in the development agreement between ADI and Lend Lease?

**Senator Hill**—Yes, but, as I understand it, the total site is Commonwealth owned, directly or indirectly.

**Senator HUTCHINS**—And Penrith Council has asked you on two occasions prior to the draft REP coming out, and then when the draft came out, the outcome, for NHT funding. I think it is called NHT funding.

**Senator Hill**—Yes.

**Senator HUTCHINS**—Minister, would you be aware that once the REP is finalised then the potential value of that land will increase enormously.

**Senator Hill**—It is a step towards the creation of a very extensive housing and industrial development, so I agree with what you say on that basis.

**Senator HUTCHINS**—In contention, what Penrith Council has been requesting funds for, which you have not necessarily - I suppose one could say you have refused but you have left the door open - they are asking you for funds for that 180 hectares. This is before the rezoning.

**Senator Hill**—A couple of points: firstly, I think the letter was asking for funding, a very large sum of money, way beyond anything that is normally within our realms.

**Senator HUTCHINS**—I am not talking about the federation funding. I know they have been knocked back on that.

**Senator Hill**—No. The first letter was some time ago. Wasn't it \$28 million or something or other?

**Senator HUTCHINS**—I am not sure of the amount.

**Senator Hill**—And I think it was to purchase the whole of the land, not just the land that was being listed on the National Estate.

**Senator HUTCHINS**—I understand, Minister, that the money that the council is seeking or has been seeking is - when the Australian Heritage Commission listed the site - and I have got the map here, I can show you if it will assist you. This bit of land here is the area of contention.

**Senator Hill**—Yes, I know the land and I know the issues and I have met with the Penrith Council and I have some sympathy with what they are seeking to achieve. On the other hand, the government also has a position in which it is seeking to get a capital return for its asset, an asset that -

**Senator HUTCHINS**—This is the Commonwealth?

**Senator Hill**—Yes. And the state government has an interest because it wants a very large housing development to go ahead, it says, as part of its planning for western Sydney, and within that we have the complexity of part of the property being listed on the National Estate. We also have a listing under the Commonwealth endangered species legislation and a listing under the New South Wales endangered species legislation, whatever the particular act might be. Out of all of that, I am trying to contribute to a good outcome. But we needed the state's regional plan to see what part of the property the state intended be retained for conservation values. The part the state is suggesting be retained pursuant to that plan does not cover the total area listed on the National Estate.

**Senator HUTCHINS**—But wasn't the original agreement between ADI and Lend Lease completed prior to the Australian Heritage Commission listing a number of those additional hectares as National Estate.

**Senator Hill**—It is ongoing, but certainly the Commonwealth had entered into agreements with Lend Lease some considerable time before the listing. The Commonwealth listing was only about two years ago, 18 months to two years ago. It might have been originally listed and then there was an appeal process - anyway, in the last few years the National Estate listing has taken place. Similarly, that species -

**Senator HUTCHINS**—That is the area of contention at the moment, is it not, because it is your land.

**Senator Hill**—Yes, but -

**Senator HUTCHINS**—It is your land, is it not?

**Senator Hill**—Yes, but -

**Senator HUTCHINS**—That is your land, is it not? It is Commonwealth land.

**Senator Hill**—It is all Commonwealth land -

**Senator HUTCHINS**—So you own it and you can -

**Senator Hill**—directly or indirectly -

**Senator HUTCHINS**—You could do what you liked with it, could you not, subject to your agreements with Lend Lease?

**Senator Hill**—That is correct - incur the wrath of the Labor government in New South Wales that wants a huge housing development, but, yes.

**Senator HUTCHINS**—I do not know about that but also what I am concerned about and I imagine is a matter of public policy, once the regional employment plan is through the deliberations that are going on now, the public comment and the exhibition of it and the final determination, I would think, from what I understand, and I may be incorrect in this, Minister, the Valuer-General has valued that whole estate - because currently there are areas in it that are eligible for urban development, then there are the old Defence lands that would not be eligible for development, so that the Valuer-General has a -

**Senator Hill**—But I accept your argument that as the planning processes proceed, the planning for a major urban subdivision and a major industrial area, the value would increase. To some extent the potential for that - because this process has now been taking place for some years, that increased value may well be incorporated in earlier valuations - I am not a land valuer - but obviously as an industrial site the property is not worth as much as a major site for residential development and the New South Wales government has been going through a process of rezoning to facilitate a major urban development. I therefore presume that as it goes through that process the value of the property would increase.

**Senator HUTCHINS**—But the value of the property will increase once that program goes ahead, which has been delayed, has it not?

**Senator Hill**—I just said to you that I presume - I am not a land valuer, but I presume the further you go down the process of approval of the rezoning and the planning, the higher the value. But you may well be a land valuer and tell me, no, that would have been taken into account into earlier valuations.

**Senator HUTCHINS**—No, I am not a land valuer, Minister.

**Senator CALVERT**—Could I ask a question about this piece of land? Is this the site that the previous government built a munitions factory on and it never made a shell or a bullet and it cost \$30 million to pull down?

**Senator HUTCHINS**—Which government, the Chifley government or something, or the Menzies government?

**Senator CALVERT**—No. I remember when public works had to deal with this particular -

**Senator Hill**—It was western Sydney but it was -

**Senator CALVERT**—There was obviously contamination on the site. Has that been -

**Senator Hill**—The contamination has been dealt with. We have spent a lot of money decontaminating it, if that is the word, and the issue is now what is the best use of the

site. The Commonwealth's position has been that a part of the site should be retained for conservation purposes and a part of the site should be in effect sold and the Commonwealth determined they would get maximum value for that which they wanted to sell through a joint development with Lend Lease.

**Senator CALVERT**—Isn't the department going through the same process in Melbourne at Deer Park? It cost \$80 million or something to decontaminate that site and that is going for urban development, I believe.

**Senator Hill**—That may well -

**Senator CALVERT**—It is the same process, I guess.

**Senator Hill**—Certainly as is evidenced by the AHC's National Estate listing, at least a portion of the site is very important for conservation purposes. Nobody disputes that. The debate that has been taking place between governments and within governments, whether they be local, state or Commonwealth, has been what portion should be set aside for conservation purposes and whether there should be an issue of payment.

**Senator HUTCHINS**—But since the listing by the Australian Heritage Commission there are 180 hectares that are, so to speak, in dispute, for which the council has asked the government for money on two occasions. Once the REP is finalised and it will obviously be finalised on the basis of this additional 180 hectares and it is say finalised as urban use rather than what it is at the moment, special uses defence, one could almost put money on it that it is going to significantly increase in value, would you not agree?

**Senator Hill**—I have said that I think the value would be rising as the processes of planning proceed. As I understand it, the state is yet to make a decision. The plan is out.

**Senator HUTCHINS**—The plan is out, there is public comment.

**Senator Hill**—And there is a period of public comment and ultimately decisions on planning will be made by the state.

**Senator HUTCHINS**—But it is your land, Minister.

**Senator Hill**—It is our land and therefore -

**Senator HUTCHINS**—You can do with it what you like, can't you?

**Senator Hill**—That is right. So to some extent the point that I think you are seeking to make in relation to increase in values is not so relevant.

**Senator HUTCHINS**—The point I am trying to make, Minister, is if the public comment comes out and it says that it is for urban use under what I gather was the original development agreement between Lend Lease and ADI back in 1994 -

**Senator Hill**—Part of it is proposed urban development.

**Senator HUTCHINS**—then that 180 hectares significantly increased value -

**Senator Hill**—But some of that area, even within the New South Wales plan, is to be retained for conservation purposes.

**Senator HUTCHINS**—Not the area I am referring to here. This is not going to be. As I said, I can show you the difference between.

**Senator Hill**—I do not think there is a dispute between us.

**Senator HUTCHINS**—No.

**Senator Hill**—The part that the New South Wales government proposes be retained for conservation purposes is less than the AHC's listing.

**Senator HUTCHINS**—The AHC's listing has been done but I am saying, as we have agreed, it is your land, you can do with it what you like.

**Senator Hill**—That is correct.

**Senator HUTCHINS**—I am saying it is virtually going to be impossible for you to do whatever you like once the REP comes down. It may recommend urban land use there as the original agreement between the Commonwealth and Lend Lease suggested.

**Senator Hill**—No, that is not correct because, as you have reminded us, it still remains our land. We may have more options as a result of the changed zoning in relation to our land but we can still within those options do what we like. But the position of the government has been that some of the land should be retained for conservation purposes and some of it should be sold for a capital return and the debate is about the detail of that.

**Senator HUTCHINS**—Under this Australian Heritage Commission Act the section 30 obligations on the department or the minister, there are obligations obviously on you to protect the National Estate. Correct? Obviously there are?

**Senator Hill**—There are obligations in the terms of the act. It does not actually say 'protect the National Estate'.

**Senator HUTCHINS**—So do you think if we have this REP come out - I gather in the act it says 'the existence of a prudent or feasible alternative'.

**Senator Hill**—That is correct.

**Senator HUTCHINS**—This may evaporate as this planning process moves forward.

**Senator Hill**—At some stage, and I do not think it has happened yet, I would expect that the AHC will give the action minister, in this instance the Finance Minister, advice under section 30 and that advice, as you say, may be that if the action he proposes to take in relation to land on the National Estate, assets on the National Estate, can reduce the National Estate values, has he taken into account all prudent and other alternatives. Is that roughly what section 30 says?

**Senator HUTCHINS**—As I understand, Minister, the Valuer-General has I suppose a rough figure on that land now because of its special use as defence. It is nearly \$10,000-odd per hectare, which would make it worth about \$1.9 million now. A similar comparable site, say Glenmore Park, which is a few kilometres south, which is now a fully urban housing estate, is roughly \$400,000 a hectare, which would make it about \$72 million that the Commonwealth may have to look at forgoing. I suppose that is the difference in the argument, \$1.9 million to \$72 million.

**Senator Hill**—I understand that point but I am not sure exactly where - I have seen the Penrith Council argument. They say you should buy it now for conservation purposes because it is cheaper than it would be, but we are actually buying it from ourselves.

**Senator HUTCHINS**—At what might be, after the REP comes out, \$72 million forgone.

**Senator Hill**—What the Commonwealth is seeking to do, as I said, is to get a good conservation outcome plus maximise its capital return, but the area that becomes tricky in that regard is the difference between what the REP intends be applied for conservation purposes, although theirs is not just conservation, is it, it is for open space. But there is a debate within that as to what the appropriate use of that piece of land is. It is the difference between that and the national estate listing which is the sensitive debate at the moment.

**Senator Hill**—We are diligently applying ourselves towards what I hope will be a good outcome and have been for the last of couple of years.

**Senator HUTCHINS**—That is all I have, thank you.