



Speech by

**Hon. D. WELLS**

**MEMBER FOR MURRUMBIDGE**

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Hansard 14 October 2003

**BEACH PROTECTION LEGISLATION AMENDMENT BILL**

**Hon. D. M. WELLS** (Murrumbidgee—ALP) (Minister for Environment) (12.37 p.m.): I move—

That the bill be now read a second time.

The objective of this bill is to introduce amendments to the Beach Protection Act 1968 and the Coastal Protection and Management and Other Legislation Amendment Act 2001 to resolve issues associated with the registration of titles for land where consent for the subdivision is required from the Governor in Council under the Beach Protection Act 1968.

These issues have been highlighted through the development of a subdivision on the Gold Coast known as Monterey Keys where the land developer has not complied with a condition of the Governor in Council to transfer coastal erosion prone land to the state as required by the decision of the Governor in Council in September 2002.

At this point I would like to acknowledge the efforts of my colleague the honourable member for Gaven, Mr Robert Poole MP, who has been very active in seeking to protect the interests of his constituents who have purchased land at Monterey Keys housing estate. The proposed amendments will serve to—

- prohibit further subdivision of the Monterey Keys estate until such time as the developer has transferred erosion prone land to the state as a reserve for beach protection and coastal management, as directed by the Governor in Council under section 45 of the Beach Protection Act 1968;
- ensure that those people who have contracts to purchase residential land at Monterey Keys who are presently unable to register lots 82 to 96 on plan SP 143333 due to the developer not having complied with the land surrender condition set by the Governor in Council can do so; and
- remove uncertainty for owners of land at Monterey Keys where their titles were registered by the registrar of titles under the Land Title Act 1994 by making those titles lawful.

The ability of the government, through the Governor in Council, to require developers to surrender coastal erosion prone land to the state is outlined in the provisions of the Beach Protection Act 1968 and is at the very core of the government's ability to manage and protect one of our most valuable natural assets—our coasts and waterways. Indeed, there have been 39 previous cases where developers have surrendered land to the state which has collectively resulted in significant improvement in protection of the coast while allowing responsible coastal development. The Crown Solicitor advised that on a proper construction of the Beach Protection Act 1968 no subdivisions could be registered for the Monterey Keys development until there had been compliance with the decision of Governor in Council—namely, the surrender to the state of a strip of land along Saltwater Creek. The Environmental Protection Agency duly notified the registrar of titles, who undertook that no further subdivisions would be registered for the Monterey Keys development until the relevant condition was complied with by the developer.

However, the main reason for the problems at Monterey Keys has been the intransigence of the developer in failing to comply with the requirement to surrender the coastal strip of land to the state. The developer has applied to the Supreme Court for a judicial review of the decision of the Governor in Council. He has also knowingly continued to enter into contracts with prospective purchasers for the

land at Monterey Keys knowing that the registrar of titles could not register the purchase until he, the developer, had surrendered the land along the creek. Recently, the developer wrote to purchasers who have contracts to purchase land at the Monterey Keys estate advising them that, unless they make an additional annual payment of 10 per cent of the purchase price, until such time as the lots are registered they will lose their contracts at the end of December 2003. The government of Queensland does not see why the purchasers of this land should pay the developer an extra 10 per cent to fund the developer's use of procedural devices to delay the point at which he has to comply with the law of Queensland. He ought to comply with the law of Queensland now and surrender the erosion prone portion of the land to the government and people of Queensland now, just as other developers have had to do in the interests of the environment.

I now turn to the amendments. A new section 61 would be inserted into the Beach Protection Act 1968 which declares that, despite the requirements of section 45 of the Beach Protection Act 1968, the registrar of titles may register plan of subdivision SP 143333 which has been lodged with the register of titles under the Land Title Act 1994 and which establishes lots 82 to 96 and lot 100. This will allow those people who have paid deposits for lots 82 to 96 at Monterey Keys to obtain lawful title to these lots by having the titles registered by the registrar of titles even though the developer has not yet complied with Governor in Council consent requirements pursuant to section 45 of the Beach Protection Act 1968. The new section 62 would provide validation for any plan of subdivision for which the registrar of titles has registered instruments of title under the Land Title Act 1994 without regard to the requirements of section 45 of the Beach Protection Act 1968 by declaring that all indefeasible titles created under such circumstances are and remain lawfully created titles.

The new section 63 would also, following the registration of plan of subdivision SP 143333 under the new section 61 of the Beach Protection Act 1968, make it unlawful to further subdivide the area comprising lot 100 on the plan under the Land Title Act until such time as land described in section 63 as 'erosion prone area' is surrendered to the state as a reserve for beach protection and coastal management purposes. Section 63 would also clearly delineate the 'erosion prone area' along Saltwater Creek which must be transferred to the state both in terms of a specific plan and by making reference to the relevant decision of the Governor in Council. This bill also provides that once the Beach Protection Act 1968 is repealed on 20 October 2003 section 63 of the Beach Protection Act 1968 will continue to have force through a transitional provision. I commend the bill to the House.