



Speech by

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WATER AND OTHER LEGISLATION AMENDMENT BILL

Mr SPRINGBORG (Southern Downs—NPA) (Leader of the Opposition) (9.04 p.m.): I rise to make a number of points regarding water policy tonight. As the shadow minister in this area has indicated, the opposition is generally supportive of the legislation before the House. However, there will be a number of issues that we are raising in clauses which have already been raised and which will be reinforced during the committee process. We will be opposing some of those clauses, I believe for good reason.

Certainly Queensland has gone through a significant process of water reform over the last decade. That water reform process, in many cases, has not reached its conclusion yet, and for many people I think they are only probably still halfway through it. It takes me back to when I was Minister for Natural Resources. At that stage we were about to release the draft Fitzroy Basin WAMP. That was in 1998. I put that on hold because it was just about to come out and I thought, well, the new government, whoever it may be—whether it is either me, the minister or the next minister—will want to have a look at it and balance that against their own set of policy priorities.

A number of years down the track the WAMP was actually released following the release of that draft, and now we are still going through the process of the ROPs in that area. It just goes to show what a protracted process this water allocation planning process and the resource operation plans have been.

I have made the point in the parliament in the past, and it needs to be made again, that there are many people throughout Queensland who are affected by the water allocation planning process and the process of water reform. They have grown somewhat frustrated by it and are basically wanting to see it come to some form of resolution.

In my part of the world I am affected by the Condamine-Balonne WAMP, and I am affected also by the Border Rivers WAMP processes. The water users in that area are waiting with bated breath to see where we are going to be when those water management plans finally come to fruition. They know full well that that is only going to be the start because in many cases they have to then work on the ROP process. Then they know that 10 years after that it is going to be reviewed again.

Government talks long and hard about the need for proper resource planning as a way of ensuring sustainable resource use in this state and in this nation—and they are fair enough principles. But sometimes I think they believe the means justifies the end, that is, the rhetoric does not necessarily match the objective in the desires and the reasonable expectations of those people who are water users.

We know that we have a finite resource, and we know also that as we plan for an appropriate and proper use of that resource we are going to need to have proper science. We are going to need to have a proper consideration of the expectations and industry viability issues that go with being a water user, whether it is for industrial, town water or irrigation water use.

Certainly when we are looking at the Border Rivers water management planning process, we have a draft out there at the moment. It is going to be a matter of time before that comes to finality. I would just like to reinforce some issues for the minister, and I am sure they are matters that he continues to hear about not only there but also around Queensland. A lot of people are saying to me in that part of world, and also the area that is covered by the Condamine-Balonne WAMP, that they just want certainty. They want security. They just want to be able to plan for their business and they want to be able to plan for their investment.

I just say to honourable members: can they imagine a situation where they have not been able to go to the next stage of the development of their property—it might be a house—because there is some government regulation or government process that says 'Until we resolve this you cannot do that, even though you might have been starting to do that five or six or seven years ago'? That is the exact situation.

I spoke to somebody on the Granite Belt today who raised the issue of water metering. He has put in his own private weir. As the minister would know, that is something which is widespread on the Granite Belt. People have put in weirs over many decades and those weirs block up a certain amount of water, generally no more than a few tens of megalitres but sometimes it might get to more than 100 megalitres. The reason is that that is relatively high country and the water flows away very quickly. Those river systems do not store the water at volumes which are necessary for the irrigation of those small crops and tree crops. Even though relatively small amounts of water are required, they just do not store 60 megalitres or 70 megalitres. Those land-holders have put those structures in over a period of time and were given per hectare allocations—that is, they have the right to irrigate maybe 10 or 15 hectares and in some cases they may have been taking up to 10 or 12 megalitres per hectare. Under this water management planning process, those people are going to get a volumetric allocation. There has been some argument over the level of that volume per hectare, and I suppose that is an issue which will be resolved.

However, then there is the issue of metering, and this is the sticking point. Whilst I support the notion of metering insofar as being able to have a proper understanding of the amount of water coming from those systems, people would say, 'We put the weir in. It was basically our investment that has given this particular certainty. We've put a meter in here. We're actually going to have a reduction to start with, probably from the amount of water which we were taking before on a hectare allocation. It's not volumetric but an ability to be able to water so many hectares. And then what happens? Well, the government came along and charged us.' They are realistic concerns that those people have. Another concern they have is that, if a certain regime is agreed to through the water planning process and also the ROP process, what guarantee is there that that is not going to be changed at some future time? We know full well that under this water reform process these water resource plans are going to be reviewed in 10 years time and will be reviewed against enhanced scientific data and there may be an adjustment of that water entitlement.

People are saying that, if that water entitlement is going to become something which they own and that is a part of their property and can be detached from their property and therefore has a greater commercial value and affects their overall viability, if government can change that against a set of policy parameters and it is crucial to their livelihood and viability, there does need to be some recognition of that as a property right. That is something which I very much support. If we are going to potentially reduce a person's water entitlement we need to recognise that will have an impact on the viability of that business. It can be argued that it is being done for environmental or sustainability reasons, and I suppose in many cases that is a debatable point. However, if that is going to be the policy parameter and that then affects the viability or the productive capacity of that property, we need to look at a compensation regime. That has been missing in the response from the government with regard to water policy in Queensland. If somebody is going to lose something and they have paid, in many cases, very handsomely for it—sometimes it was something which was granted to them as a part of a licence application process, but nevertheless has been pivotal to the viability of their particular enterprise, whatever it may be—or it is going to be reduced in some way, there does need to be a recognition that that should be a compensable commodity. I think that is only fair.

That is the sort of relationship which government should have with these land and water owners. I use the term 'water owners', because under this water reform agenda water will be something that the people own and can detach from the land. That is something which we generally support in principle. However, there are some issues with that which the minister is very much aware of—that is, if we detach something from a piece of land in one area, that water is then transferred to another area maybe 200 or 300 kilometres away. There are a whole range of issues with regard to stripping viable capacity from that part of the world and there are also issues associated with the transportation of water over significant distances. These landowners and water users deserve to at least be considered with regard to a compensation regime.

There is also mention in this bill of the reverse onus of proof, and that was something which came through in recent amendments to the Vegetation Management Act. The government has a particular policy reason for doing this and argues certain justifications for doing it. But I would caution the government against this process of generally heading down the track of reversal of onus of proof. In terms of serious criminal charges in our Supreme Court, there have been very limited occasions where there has been reverse onus of proof. I note that the minister has indicated in the past that a comparative example for this is the way that the Traffic Act works if a person gets a speeding ticket. That is one justification I suppose, but no situation is exactly the same. When dealing with some of the

vegetation management issues and water management issues, it is not exactly the same as that circumstance.

One of the real reasons we are seeing this issue of reversal of onus of proof is that there have been some cases where the government has been unsuccessful in the courts with regards to prosecution. There is another issue as well. Anyone who has any relationship whatsoever with departmental officers who are responsible for the issue of compliance and regulation in the area of resource management would know that they are absolutely snowed under with work and demands being placed on them in terms of compliance issues and in formulating the water resource planning process. They have limited resources and limited time. This is my view and I am prepared to concede that I might be approaching this from the wrong angle. However, based on what I am seeing with regards to the volume of work which departmental compliance and planning officers are undertaking, this is going to be an easier way for them to secure prosecutions without having to do as much work because of the current workload on them.

At the moment if there is a suspicion that somebody has done something wrong with regards to taking water, then it is up to the department to prove that they have done something. Under what is being proposed here with regards to reverse onus of proof, there will be an onus on the person who has been accused of breaching regulations to prove that they did not do what they are charged with doing. That shifts the burden of responsibility from the department onto that particular water user or that person who has been charged with a particular breach. That will mean that they need to go and gather all of the information and all of the data and go through all of the hurly-burly of gathering the information which they need to justify the case, or they will just go through the sheer difficulties that can sometimes be associated with proving something like that even though there might be in some cases what seems to be a fairly easily arguable position. Once that onus of proof has been shifted from the department to the person who is being charged with a breach or the person who the department has alleged has committed a particular breach of the Water Act—or whatever the case may be—then it means that they are the ones who are basically in the gun.

This is something which should be of concern to this parliament. As I understand it, it was a concern to the Scrutiny of Legislation Committee, and the Scrutiny of Legislation Committee has the job of reporting on such things. If this has come about because of some difficulties the department has had in sustaining prosecutions or some difficulties which have been brought about because of the inordinate workload which departmental officers have and therefore an easy way to do the job is to shift the burden of proof from the agency to the accused person, that is the wrong way to go about it and the government needs to look to address that issue in different ways.

There are other issues covered in this bill that I will not be going into in detail, such as the Burnett ROP, the Burnett flood harvesters, changing water entitlement, Paradise Dam land resumptions—the Paradise Dam issue has been going on for many years—the Fitzroy River water resource plan and the ROP process, moratorium notices, valuations and so on, which are all fairly important and significant issues. Some of these are incidental and some are consequential. They are matters that nevertheless need to be dealt with in a properly planned and thought out way and not in an ad hoc way.

The point of my contribution tonight is to say to the government: I do not believe that the people who drafted this legislation or those responsible for putting this legislation to the parliament have a real understanding of the extreme concern that water users have with respect to this resource, which is so vital to the future of their industry and their viability. They do not have certainty or security. These people want certainty and security. In businesses that members might have had prior to coming into this place, they would have wanted certainty and security. They would have wanted matters to be resolved expeditiously so that they were not left hanging. Because water users are such a small proportion of the Queensland population they are probably easy to ignore. But what would happen in Queensland if 1.5 million people were not able to make a decision with regard to certain planning aspects of their life because of a protracted process of resource planning? There would be a hue and cry in this state and rightfully so. That is the sort of situation these people are going through.

If home owners' rights or entitlements were taken away through acquisition and they were not compensated for that, how would they feel? They would not be very happy about that, particularly if they have invested hundreds of thousands or millions of dollars. If the government tried to take something away from those people without compensating them, they would not be happy. Yet that is exactly what we are doing in Queensland. All we are asking for is a fair go and for these people to be treated decently and to have water recognised not just as a property right but also a compensable property right. That is something that is vital to modern government. They just want certainty and to be treated fairly. They want the government to be honest and open. They feel like they are under siege. When they see things such as the reverse onus of proof, it only weakens their morale and affects their investment confidence. I ask members to consider those factors when voting on this legislation.