



Speech by

Michael Caltabiano

MEMBER FOR CHATSWORTH

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RECREATION AREAS MANAGEMENT BILL

Mr CALTABIANO (Chatsworth—Lib) (5.32 pm): I am very pleased to speak to this bill. As someone who has spent the best part of the last nine years preserving and enhancing our local environment in the eastern suburbs of Brisbane in working with local communities to achieve some great outcomes, particularly along urban waterways, it gives me great pleasure to speak to the Recreation Areas Management Bill. This bill has been brought before the House to do a number of things. It repeals the present act. It brings the legislation into line with current drafting practices and enhances the consistency with the Nature Conservation Act 1992. It is supposed to provide a more contemporary style of legislation in keeping with present standards and administrative practices. Whether this bill adequately or appropriately achieves these purposes is somewhat questionable though, especially considering the nature of the laws contained herein and the number of provisions that do not accord with the fundamental legislative principles.

The bill establishes a comprehensive system of regulation of access to, and of activities within, recreation areas with provisions that impinge in many ways upon the rights and liberties of individuals who enter or wish to enter such areas. The replacement of the present act with this new act brings with it some great concerns, as have been identified by the shadow minister for the environment, the member for Burnett, Rob Messenger. On my reading of the bill, I am concerned that when it is implemented the freedom people have today to enjoy our beautiful recreation areas will be severely diminished for Queenslanders, for visitors from interstate and for visitors from overseas. There is a raft of powers to EPA officers and Queensland Parks and Wildlife Service officers that far exceed the current powers in the current act and that causes great concern to many people.

Of greatest concern in reading the act and its provisions is the change in the concentration of power to the hands of the minister—whoever that minister of the day might be. When pressure comes from particular interest groups to close down Fraser Island to the general community so that families can no longer enjoy one of our most magnificent assets, where children cannot experience camping on a sand island ever again because the minister of the day said that the regulation would be changed, as he or she is allowed to under the act, and the signs go up, 'No vehicle entry; no camping,' anybody in breach of that is then in serious trouble under the provisions of this bill.

The member for Hervey Bay, who articulately advised us on the pleasures of accessing Fraser Island and camping on Fraser Island, was quite right: it is one of the ecotourism hubs of Queensland. To restrict access through the provisions of this bill would deny that local community any support from those activities. I and my family have been to Fraser Island on many occasions and have enjoyed Kingfisher Bay Resort, Eurong and the beaches, the sand and the camping. It is a magnificent place.

Just recently, with the feeding of the dolphins incident, the minister, who was under pressure from a small minority extremist view that these dolphins should not be handfed, reacted to outlaw a practice that had been going on for decades and a practice that allowed local families and local children to enjoy one of nature's greatest gifts—that of our dolphins and the experience of close-up handfeeding of dolphins in the wild. This is something that not very many people around the world could ever hope to do, but it can be

done here in Queensland. It can be done in a safe environment here in Queensland. What the minister sought to do was to stop this practice.

My greatest concern is that under this bill and under the provisions contained in this bill we will see over time access to Fraser Island, access to Moreton Island and access to other magnificent recreation areas restricted. We heard from the member for Sandgate how wonderful Moreton Island is. I know that the lord mayor shares his view. He is a regular camper on Moreton Island with his family. He regards that as one of the greatest natural assets that we have in the city of Brisbane. To see access to that restricted and families not allowed to use that facility is something that cannot happen. We cannot see access to our great natural resources diminished or ceased. This is a situation that cannot be allowed to occur. These natural assets are owned by the people of Queensland, not by the minister for environment or some sectional interest group that has a particular view that access to any environmental area is detrimental to that environmental area; therefore, there shall be no more moving forward. We cannot support environmental extremism in this regard, particularly with our recreation areas.

I am also concerned about the nature of the powers conferred on officers, particularly the powers in relation to proof of evidence, and the change of onus from the government having to prove its case to the public having to prove its innocence. In this particular bill for these particular circumstances I think that the reversal of the onus of proof is inappropriate and that the former legislation—the current act—has a better balance when it comes to these matters. Some examples of how the balance has shifted too far is in the area of issuing warrants. EPA officers have 14 days to track down and serve a warrant on a person. This warrant can be served at any time in that 14-day period. Compare that with the roles and responsibilities of police officers who have only 72 hours to serve a warrant.

Mr Messenger interjected.

Mr CALTABIANO: That is right. Should they wish to serve that warrant out of hours, they have to justify the reasons for wanting to serve it out of hours and get an appropriate court order to do so.

The bill does not expressly deal with the treatment of Aboriginal or Torres Strait Islanders who have been accused of an offence under this bill. As the member for Darling Downs outlined, the police, by comparison, have a special code for dealing with Indigenous Australians and give full consideration to Murri law. The EPA officers do not have any training to handle this sensitive issue and there are no requirements in this legislation to be sensitive to this issue.

Similarly, there is provision for EPA officers to be conscious of people from non-English speaking backgrounds and what it means to them if the regulations under this bill are breached and similarly with children. The lack of consistency with fundamental legislative principles in a range of areas—whether it be regulatory signage, the powers of authorised officers to give directions, the powers of authorised officers with regard to compliance and investigation, the responsibility of executive officers or the appeal processes—and the raft of changes in this legislation that do not comply with and do not support the fundamental legislative principles make it very difficult to support these parts of the bill.

For example, under 'Powers of authorised officers' and 'Investigation and enforcement', it details the powers of officers to enter private property and, in particular, their right of entry, in a public place, onto or within private property such as a motor vehicle or a tent. The time line, in particular, for this entry being up to 14 days after notification of such offence makes it very, very difficult to enforce in the future. It is difficult to support these clauses of the bill in any reasonable way when they fundamentally breach the legislative principles that are part of our understanding of natural justice in our community.

Under the section dealing with the responsibilities of executive officers, it clearly and explicitly states that if a person acting for another is convicted of an offence then the person for whom he or she was acting is also taken to have committed an offence. It is fine to ensure that a person who commits an act complies with the legislation, but the extension of this to an employer does not seem reasonable.

I acknowledge that similar provisions exist in the licensing act for hoteliers and their employees. However, it is not the same when dealing with a recreation area. For example, an employer may say to an employee who has done a magnificent job: 'Why not go and have a holiday on Fraser Island. Take the family. We will pay for it and look after all the costs.' Acting under the direction of his employer, the employee goes to Fraser Island. He misses the sign that says 'no camping' in a particular area because it has been restricted by the minister of the day. Under those circumstances, it is the employer who is deemed to have committed an offence under the act. The breach of the fundamental principle that a law should not reverse the onus of proof in criminal proceedings without adequate justification is certainly true. It is not a provision that should apply in this act.

We all value our recreation areas, particularly the five areas contained in the bill. I hazard a guess that there is not one single member of this House who would not rank the preservation and protection of our natural environment as the most important thing to our community moving forward. Having said that, we must also balance the desire and wish to preserve our natural areas against ensuring that the community values them. Valuing our natural heritage means that the public must have access to it. They

must be able to see, smell and touch our great natural wonders to truly value their importance. We require a management regime that allows the community to access and enjoy these areas and will allow future generations to access and enjoy our great natural assets whilst at the same time preserving their integrity and diversity.

There are measures within this bill that, if implemented by the minister, go way too far to shutting down recreation areas that should legitimately be able to be accessed by the community. I repeat that we have only to consider the dolphin incident at the end of last year. Several speeches were made in this place, one in particular by the member for Currumbin, which outlined the ridiculous nature of the minister's position with respect to the dolphins. The minister had her head in the sand, refused to listen and outlawed the practice. Community outrage followed. Then 'Powerpoint Pete', the Premier of Queensland, stepped in, said sorry and promised to fix it.

We cannot have that sort of level of political interference in the management of our recreation areas. This bill puts all of the power in the minister's hands for access to our recreation areas, without consultation, without a sensible right of appeal for permits. Instead of going to the Magistrates Court, one has to see the minister if they want to appeal a decision that the minister has made.

I find that there are significant numbers of measures within the bill that leave too much uncertainty and too much power concentrated in the minister's hands to be able to support key elements of this bill.