



Speech by

Hon. Robert Swarten

MEMBER FOR ROCKHAMPTON

Hansard Tuesday, 14 February 2006

INALA SHOPPING CENTRE FREEHOLDING BILL

Second Reading

Hon. RE SCHWARTEN (Rockhampton—ALP) (Minister for Public Works, Housing and Racing)
(12.41 pm): I move—

That the bill be now read a second time.

Today I am pleased to introduce the Inala Shopping Centre Freeholding Bill 2006. I have to say that, after at least five years of trying to find a way through this, I am delighted to have got it to this stage.

This bill provides an opportunity for lessees of perpetual town leases at the Inala Shopping Centre to acquire freehold titles to their lands under a self-governing community titles scheme. The bill will also allow the Department of Housing to terminate its involvement in the management of the centre.

Management of a commercial shopping centre is simply not part of the department's core housing activities. The department has, for a number of years, sought to divest itself from its role in the centre and to place it in the hands of private operators in the belief that its future as part of the Inala and surrounding community is better secured under contemporary tenure and management arrangements. The department has been the de facto manager of the centre and, in that role, has provided essential services such as car park maintenance, security and cleaning of common areas. Rents collected under the leases have not always covered these expenses.

The centre consists of 20 perpetual town leases used for commercial and retail purposes, a public road used as a car-parking area and freehold land vested in the department. The centre was developed in the mid-1960s under a special provision in the State Housing Act 1945 which allowed the department to make land available for commercial and business purposes under state leasehold arrangements.

The leases originally required the lessees to build their own improvements on the land. The leases are now subject to the Housing Act 2003 but are largely governed by the Land Act 1994. Although the leases form part of the one shopping centre, they cannot be converted to freehold land under the Land Act 1994 or the Housing (Freeholding of Land) Act 1957. Members can see how complicated it has been.

As time has passed, the prevailing land tenure arrangements have proved an obstacle to the development and management of the centre. The centre has effectively developed into two separate parts—a modern northern part and an underdeveloped southern part—and there has been no forum for collective decision making by lessees relating to matters concerning the development and progress of the centre.

With this background, the department has actively sought the agreement of lessees to put the land tenure arrangements in the centre on a modern footing. The lessees have now all agreed to convert their leases to freehold land under a layered community titles scheme that will be governed by the Body Corporate and Community Management Act 1997. Such an arrangement will allow the lessees, as freehold lot owners and members of a body corporate, to set their own budgets for common expenses and to make collective decisions relating to the future of the centre.

A layered community titles scheme has been adopted as a means of allowing the southern lot owners to form a subsidiary body corporate that can make decisions relating to their part of the centre without the involvement of the northern lot owners. However, decisions relating to the common property and other matters relating to the centre as a whole can effectively be made by all lot owners as part of the principal body corporate. All lessees were encouraged to obtain independent legal and financial advice in relation to their rights and obligations under the conversion process and under the proposed community titles scheme.

To acquire freehold title, lessees must, once the community titles scheme has been established, pay to the department an amount equal to the unimproved value of their leased lands as set under the Valuation of Land Act 1944 as at 30 June 2003. If a lessee does not pay the conversion cost, the freehold lot will still be vested in the lessee but subject to a charge allowing the department to sell the lot to recover the conversion cost and interest.

To ensure there is fairness in the allocation of costs of the body corporate, any lessee in the subsidiary community titles scheme who is aggrieved by the way in which lot entitlements have been allocated can apply to the Commissioner for Body Corporate and Community Management under the Body Corporate and Community Management Act 1997 for an adjustment of those entitlements. The bill provides that, if a specialist adjudicator makes a determination, the department will, if an application to the commissioner was made within three months after the commencement of the scheme, pay the costs of the adjudication.

The bill provides the opportunity for lessees in the Inala Shopping Centre to finally acquire freehold title to their lands as part of a self-governing community titles scheme. Such a scheme will bring the centre into line with other multiownership commercial and business centres. I commend this bill to the House.

Debate, on motion of Mr Langbroek, adjourned.