




Speech by

Andrew Powell

MEMBER FOR GLASS HOUSE

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NEIGHBOURHOOD DISPUTES RESOLUTION BILL

 **Mr POWELL** (Glass House—LNP) (12.27 pm): I rise to make a brief contribution to the Neighbourhood Disputes Resolution Bill 2010. I note that the objectives of the bill are to provide rules about each neighbour's responsibility for dividing fences and trees so that neighbours are able to resolve issues about fences or trees without a dispute arising and to facilitate the resolution of any disputes about dividing fences or trees that do arise between neighbours.

I notice also that the fact sheet provided by the justice department in this regard does suggest other general changes including clarification that the ownership of a dividing fence on a common boundary is shared equally between neighbours; a new statutory framework giving the Queensland Civil and Administrative Tribunal, QCAT, jurisdiction to make orders in disputes about trees or fences; two new forms—notice for contribution to fencing work and notice for overhanging branches; the distinction between a retaining wall and a fence; and clearer rules for pastoral and agricultural fences.

The general gist of this bill will go a long way to resolving those prickly issues that arise in our communities from time to time. The explanatory notes go on to state that relationships between neighbours are never static or predictable. Neighbours can be friendly, hostile, distant or close. Fortunately, in my experience, the relationship with my neighbours has certainly been very amicable. Upon moving to the Sunshine Coast nearly a decade ago, I can recall my property had a number of trees with overhanging branches of a very old nature, including one extremely old avocado tree. The neighbour had apparently been very keen to see it removed for some time. I was very keen for it to be removed. In this instance he actually assisted me in removing it. Together we carted the debris off to the dump. I know that is not the situation in all cases. This review and ultimately this bill when enacted will go a long way to resolving those situations where there is a less than amicable relationship between neighbours.

I just want to draw attention to a couple of aspects of the bill. I will speak initially on dividing fences. I note that the bill does make some attempt to discuss the role of the state when one of the owners of the properties is the state. I talk in particular of clause 25, 'Contribution—particular state land'. The explanatory notes state—

This clause caters for the owner of land adjoining a parcel of unallocated state land. If unallocated state land becomes freehold land, then the adjoining owner can recover the relevant contribution to the fencing work for a sufficient dividing fence (already constructed) from a subsequent owner. The State must notify the new owner of this obligation.

It kind of makes sense. The part that I am seeking clarification around is where a landholder has issues regarding the state's responsibility—say, in the instance of a national park where the boundary fencing is not kept up to date or is not there in the first place, or where the state is dragging the chain when it comes to constructing a fence on that boundary. What role will this bill have in resolving issues where a landholder has concerns with the state? Will the state be taken to QCAT because of its negligence? We do not need to go far into the past to think of instances where the government has had commitments to improve boundary fencing, particularly on national parks, and has failed to deliver on that. As the Deputy Premier sums up this debate later on today, I would be interested in whether he could address the situation where one of the owners is the state, particularly in relation to a national park.

The other aspect of this bill largely tackles the tree issue. The bill places paramount importance on the safety of any person and promotes public safety. I think many constituents of Glass House will be very pleased to hear that that is the case and that indeed the bill will go a long way to addressing the conflict that can arise from overhanging branches or roots. One constituent in particular took the time to email me when he heard that this bill was being considered. I would just like to read his email because I think it summarises a lot of the feeling out there in the electorate around these matters. He states—

Dear Mr. Powell,

I believe that the above bill is currently before the House. I have been told that, if passed, this bill will provide a much more manageable and equitable system of handling disputes between neighbours than the present system, which requires an appeal to the Supreme Court. My wife and I own a property and on our neighbours adjoining property are two extremely large gum trees which have the potential to severely damage our property should they be brought down in a storm. It is our intention to discuss the situation with the neighbours and attempt to settle it amicably, however should this not be possible we would not be able to access the Supreme Court option as we are age pensioners.

I would strongly request that you give this Bill your support as it will replace an adversarial situation with one of arbitration, which I'm sure you will agree is far preferable.

Sincerely, Mr Alan Jackson.

I thank Mr Jackson for taking the time to share those sentiments in regard to this bill, and I certainly pass them on. I understand that the shadow Attorney-General has raised and will continue to raise some concerns we have with elements of the bill. But I think in general the intent of it is well meant and it will resolve a lot of issues that we face in our electorates.