Speech by

Andrew Powell

MEMBER FOR GLASS HOUSE

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STRATEGIC CROPPING LAND BILL

Mr POWELL (Glass House—LNP) (11.30 am): I, too, rise to address the Strategic Cropping Land Bill 2011. I would like to pick up where the member for Burdekin left off, and that is in congratulating the shadow minister, the honourable member for Hinchinbrook, on his sterling effort in researching, debating and presenting the issues that this bill has raised. In some respects the LNP welcomes this bill, as the member for Burdekin just said. Indeed, we would state that it is long overdue. The LNP has long been calling for the protection of Queensland's strategic cropping land. It is only belatedly that this tired Labor government has reacted to the LNP's calls and to the outcry from landholders concerned at the encroachment of development and mining onto the state's best agricultural land. Whilst this is not what the LNP had outlined as our policy to protect strategic cropping land, it is important that this bill be passed as soon as possible to ensure some level of protection and to inform the decision-making process for new development applications.

Having said that, and whilst we want to see this bill passed, we again raise concerns over the truncated committee process. As a member of the Environment, Agriculture, Resources and Energy Committee, I am again disappointed to say that this committee is starting to be treated with disdain. Those bills that need and deserve significant consideration are being rammed through the committee. In this instance the committee was given a mere month to report—a mere month to receive, process, contemplate, discuss and report on 56 detailed written submissions and the evidence provided through the public hearing; a month to consider one of the most significant pieces of legislation presented before this House—not unlike the Waste Reduction and Recycling Bill before it. It is a disturbing practice and trend.

Mr Rickuss: How many of those 56 support it?

Mr POWELL: Very few gave it a full tick, member for Lockyer. There were certainly a lot of issues raised, and it is those issues that we need to debate today. As I was saying, not unlike what happened with the Waste Reduction and Recycling Bill, it is a disturbing practice and trend and one that makes a mockery of the brave new world of the parliamentary committee system.

Turning to the bill itself, its purposes are to (a) protect land that is highly suitable for cropping, (b) manage the impacts of development on that land and (c) preserve the productive capacity of that land for future generations. It was very helpful that the explanatory notes set up what the bill specifically provides for and did so in a way that the committee then adopted in its report. We note that the bill specifically provides for the identification of strategic cropping land, for validating whether or not land is strategic cropping land, the assessment of the development impacts on the land, projects to be approved in exceptional circumstances, mitigation, developments that are exempt from the bill, an appeals process, transitional project arrangements and the Strategic Cropping Land Science and Technical Implementation Committee. It also discusses enforcement, offences and that no compensation will be payable under the act. The structuring of the bill in this way has assisted the EAREC in consolidating the input provided by both written and verbal submissions.

Despite widespread support for the bill to proceed, as the member for Lockyer and I mentioned and as the shadow minister identified, there is not a single section, chapter or clause that has not drawn comment. To share each concern is not possible in the time allotted for this debate so I, too, draw to the attention of members of this House and members of the public more broadly the EAREC report on this bill and the transcripts of the public hearing. Even within the time constraints imposed on the committee, I acknowledge the fantastic efforts of the committee secretariat. They should be commended for their facilitation and efforts in preparing this report. As per the statement of reservation of the LNP members of the committee, the report accurately identifies the most contentious issues raised by public submissions and in the evidence given to the committee during the public briefing and hearing.

The report also demonstrates lucidly that there is a wealth of additional material that shows that the bill is significantly flawed. In the time remaining I want to draw the attention of the House to some of these flaws. Again I will use the way in which the explanatory notes have broken up the bill. Starting with the identification of strategic cropping land, the concern here is with the distinction between strategic cropping land areas and the strategic cropping land management area. I refer to page 3 of the transcript of the public hearing and to the comments made by Mr Michael Murray of Cotton Australia who said—

There is really no justification for the differentiation between the protected and the management zones. Either this country is worth protecting or it is not. Unfortunately, the management and the rules around that, as we understand them, really allow people to buy their way out of this process and there is no guarantee that they will actually be able to maintain the standard of the soil, so I think we need to move to the fully protected area.

We in the LNP picked up these concerns in our statement of reservation. That statement reads—

Notwithstanding that the explanatory notes accompanying the bill claim that it provides for a consistent process for assessing and determining whether developments are able to proceed on SCL12, this is clearly inaccurate. There are no technical differences between the quality of the soils on SCL in the two protection areas, compared to the quality of the soils on SCL in the management area.

As such, while the bill claims to establish a scientifically based process for identifying SCL in Queensland, it does no such thing. It proposes to create a two tier system distinguishing SCL in the two protection areas from SCL in the management area based only on its location, not its productive capacity. Nothing in the bill's explanatory notes or in the information provided by DERM, justifies this distinction.

That the bill creates this arbitrary distinction is a legitimate criticism of its provisions. This arbitrary provision has been included without any explanation and must therefore be considered a policy decision of the government. This policy decision appears to undermine the stated purpose of the bill. It is reasonable therefore, to question if the public can have confidence in the balance of the provisions in the bill.

Moving to the area of validating whether or not land is strategic cropping land, again our statement of reservation reads—

While the eight physical soil criteria are considered to be relevant tests to legitimately determine the quality of cropping soils, the thresholds set for each of these criteria have been criticised for excluding highly productive land that has been successfully growing high value crops for extended periods. Notwithstanding zonal adjustments allowing for regional differences, the eight soil criteria are considered to be flawed.

I would also like to refer to some of the statements made by Mr Dan Galligan, CEO of Queensland Farmers Federation, and Mr Drew Wagner of AgForce, again as reported in the transcript of the public hearing. Mr Galligan said—

We are very disappointed in some respects with the criteria being solely focused on soils. We represent a number of intensive industries, particularly the irrigation industry. Consideration for the importance of irrigation infrastructure associated with land is one key criteria. We have always felt it important to at least acknowledge in strategic cropping land in that, essentially, it would be crazy for us to be suggesting that we are going to alienate irrigation schemes in Queensland if they want strategic cropping land. So access to water is certainly one of the issues that we will be looking at in the two-year review as well.

Mr Galligan continues—

We have always been disappointed and are still disappointed about the fact that there are 10 criteria and not eight. There is the soil criteria, then the minimum area requirements and the cropping history. The minimum area requirements I think are going to pose significant problems in the validation of SCL, because there will be lands that people have a common understanding would be good cropping lands which will be knocked out, and horticulture and cane are both concerned about that.

Representing the large horticulturally based electorate of Glass House, I echo the sentiments raised by Mr Galligan. He continues—

The cropping history test I will be more scathing of. It is quite ridiculous, to be honest. It is going to impose a bizarre administrative burden—a final hurdle. Really, if you look at the criteria in the bill closely, it would be very rare for anything that was satisfactory cropping land to have not been cropped within that period. It is quite pointless how it has ended up and I never understood the point in the first place. I would also reinforce that by saying that the trigger maps that are referenced in the bill are built on data that includes whether the land that those maps are based on was ever cropped.

Mr Johnson interjected.

Mr POWELL: Exactly. He continues—

So validating on the trigger maps that land has been cropped has already been done via the trigger map.

I take the interjection from the member for Gregory. He is exactly right. The member for Hinchinbrook raised an opposing view in his speech—that is, that, in some instances, it is impossible under the cropping test for good cropping land to actually meet that threshold through such things as

drought. Mr Drew Wagner from AgForce also made comments about this matter. This is indicative of the fact that there are many concerns around the validation of whether land is strategic cropping land or not.

I now turn to projects to be approved in exceptional circumstances. I note the explanatory notes on page 4 go into some detail about how this will occur. They state—

... where a project is likely to have permanent impacts on SCL in a Protection Area, the project cannot proceed unless it demonstrates exceptional circumstances.

To demonstrate exceptional circumstances, the project must satisfy the two-pronged test which requires evidence that on a state wide basis there are no alternative sites for the project and that the project presents an overwhelming and significant community benefit to the State.

Many concerns were raised regarding this matter, but the primary one is that the definition of what constitutes exceptional circumstances is unacceptably vague. The criteria for exceptional circumstances are that there are, as I said, no alternative sites for the development or the project has overwhelming and significant benefit. That benefit is simply not quantified. We raised in our statement of reservation—

Approving a development in a Protection Area under the exceptional circumstances clause, which will have a permanent impact on the SCL in question, is clearly inconsistent with the stated purpose of the bill to protect land highly suitable for cropping, manage the impacts of development on that land and preserve the productive capacity of that land for future generations. The contradiction is plain.

Then there is the issue of mitigation. The long and short of the concern regarding the mitigation clauses is the lack of scientific and technical legitimacy of the proposed measures to achieve the productive restoration of strategic cropping land after a development activity has ceased. I refer again to a question asked by the honourable member for Hinchinbrook and the subsequent response by Mr Galligan at that public hearing. The member for Hinchinbrook asked—

A submission from Growcom raised this issue—

Restoration of cropping land to its original productive state is not something that has ever successfully been undertaken, therefore we question the whole concept of mitigation as it is defined in this Bill.

There is not a representative of Growcom here but Growcom is affiliated with the Queensland Farmers Federation so I suppose I will direct this question to Mr Galligan. Would you as a peak representative body like to offer an opinion to the committee about the science of rehabilitating strategic cropping land? What is able to be demonstrated at this time?

Mr Galligan's response is rather telling—

Thank you for your question. I think what Growcom has raised and a number of submissions have raised is that people have seen no evidence that gives them any confidence that restoration can happen, particularly in higher value cropping areas. I guess the risk is borne out in how well the bill portrays the appropriate precautionary principle in terms of making planning decisions, and that is what we are relying on. The uncertainty is there. Once a decision is made to allow resource development to occur, nobody has given me or any of my members any information that demonstrates that rehabilitation would come back to a level that would be satisfactory.

In relation to a technical point on the bill in terms of mitigation, the bill does not actually outline what standard of rehabilitation will be required so there has always been quite a bit of debate—and it is still not cleared up in the drafting of the bill—as to whether or not rehabilitation or restoration would be required back to any level of SCL. Does that land just have to get back to be able to meet the SCL criteria, or does it have to get back to the productive state given loss of productivity is now one of the effects under the bill? Will there need to be a measure of the productivity of the land before it is alienated and therefore it needs to be brought back to that productive state? Or is it just a matter of getting the soil back to a status that would meet the criteria under any assessment or the level at which it met the assessment prior to development? None of those questions are clear to be honest, let alone the uncertainty over whether or not it could be restored at all.

As raised by the shadow minister, there are significant concerns also regarding the bill's transitional arrangements. In particular, the primary concerns pertain to the unique transitional arrangements for the Springsure Creek coal project. As detailed by the shadow minister, the unusual nature of these arrangements has undermined public confidence in the government's SCL policy. The Springsure Creek coal project is in a regulatory twilight zone, not subject to the processes that governed applications prior to 31 May, but equally not subject to the processes that have governed applications since 31 May. This situation has implications for the integrity of chapter 9 of this bill. Given these flaws, the bill is inferior to the alternative presented by the LNP. I do draw the attention of members of the House and members of the public to our policy as described in detail by the shadow minister.

In conclusion, I return to my opening remarks. In the absence of our approach, and no other imminent means of protection, the LNP will not be opposing this bill. This bill is overdue. As the committee identified, 'It is flawed but should proceed.' The LNP will be seeking from the minister in her summing-up and during the consideration in detail stage clear and unambiguous advice about these substantive flaws.