



Speech by


**Michael Crandon**

**MEMBER FOR COOMERA**

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## **NEIGHBOURHOOD DISPUTES RESOLUTION BILL**

 **Mr CRANDON** (Coomera—LNP) (6.26 pm): I rise to make a brief contribution to the Neighbourhood Disputes Resolution Bill. I will focus my attention on a particular area of the bill, which is the meaning of 'fence'. Clause 11 states that a fence is a structure, ditch or embankment. 'Embankment' is an interesting word. In recent times, some complaints have come my way about a particular embankment between residential blocks that has not satisfied the requirement for a retaining wall as far as the council is concerned. Therefore, the council could not enforce the need for a retaining wall, which I believe needed to be at least one metre high.

I ask members to imagine a situation where there is a slight hill. House No. 1 is being built. A cut and fill has been done to build the home. Somebody else comes along and buys the lower block of land and decides to do the same thing. They do a little cut and fill and start building their house. They end up with something like a three-quarter metre high embankment between the two blocks of land. Say you are on the high side and you want a retaining wall built so that you can tidy things up. The reality is that the creation of the embankment happened as a result of the actions of the people on the block below. The people on that block say, 'No, we don't need a retaining wall at all.' Therefore, they have the embankment. It is extremely hard to build a fence on an embankment, particularly as the maximum height of a fence between two properties is 1.8 metres. If the embankment is 700 millimetres or 900 millimetres high, cutting between the two blocks, material from the high side can be washed away. You end up with a rather nasty embankment that, interestingly enough, in the interpretation in this bill is regarded as a fence in its own right. That is interesting. I seek some explanation on that. It can be a very difficult situation if the owner on the lower side says, 'No, I'm not going to put a retaining wall up; I'm not going to spend my money on that.' The people on the high side have probably already done that on the other side of their block.

It could be that it is virtually impossible to build a fence along the length of the dividing boundary. So there is a common boundary that cannot be built on and if the people on the low side are not keen to do anything about a retaining wall, where does the fence actually go? The bill talks about being able to move the fence line if it is impracticable to construct on the boundary line. Which way do they go? Do they build the fence on the low side? If they do, there could then be a 900-millimetre drop and the people on the low side lose a slice of their land forevermore to the people on the high side. They can only build a fence 1.8 metres high. So from the high side there is a 900-millimetre lift and then the fence. So that fence would be only 900 millimetres high on the high side but 1.8 metres on the low side. Alternatively, do they move up the embankment and build the fence on the high side? Then that 1.8-metre fence would look like a 2.7-metre fence to the people on the low side because of the embankment. More to the point, the people on the high side, who had nothing to do with the cut and fill of that block, have now lost a big slab of their block of land.

This is a common situation. In fact, this scenario that I just described has been presented to me in a neighbourhood dispute, which is exactly what we are talking about in this bill. Where do they find some balance? How do people come to an agreement when the council cannot enforce because there is not a metre of height and when one side or the other can lose a significant piece of their land because the fence has to be moved one side or the other? They can go off to QCAT but I wonder how QCAT would deal with

something like that, given that the bill does not appear to be specific enough. That is the point of my example. There is a lack of specificity in the bill as to how this situation might be resolved. Therefore, in my humble opinion—and it is still very much open to interpretation—the dispute that I have just described, which is a very real one, would continue under this new legislation.

There is massive growth in the Coomera electorate. There are all sorts of undulations of land that are being developed. These types of things are all over the Coomera electorate and certainly all over South-East Queensland. We would still have the dispute. My concern is: how would we resolve this type of dispute, which is becoming more and more common? I can see ongoing disputes and issues related to this particular aspect of the bill.