




Speech by
Curtis Pitt

MEMBER FOR MULGRAVE

Hansard Wednesday, 13 February 2013

ABORIGINAL AND TORRES STRAIT ISLANDER LAND HOLDING BILL

 **Mr PITT** (Mulgrave—ALP) (5.46 pm): I rise to make a brief contribution to the debate on the Aboriginal and Torres Strait Islander Land Holding Bill 2012. As set out by the member for Bundamba in her speech last year, at this point the opposition cannot support this legislation. I will recap what happened last year. During the debate in parliament on 15 November, the shadow minister for natural resources moved a motion to send this legislation back to the committee and argued that it should be considered concurrently with the government's inquiry into the future and continued relevance of government land tenure across Queensland, which includes assessing the needs and aspirations of traditional owners. The Labor Party adopted this position after considering submissions from the Cape York Regional Organisations, Mr Vince Mundraby, Chalk and FitzGerald Lawyers on behalf of the Kaurareg people, the Torres Strait Island Regional Council, the Torres Shire Council and the Local Government Association of Queensland.

It was disappointing that the LNP government used the debate on the motion as an opportunity to engage in political attacks. At the outset of that debate we mentioned that Labor's position was based on the genuine concerns of the community and submissions to the committee that had been ignored by the committee's report. This position was supported by Katter's Australian Party. The LNP government's response was disappointing. The member for Mermaid Beach said—

Quite clearly, the member for Bundamba, who has moved this motion as a deliberate ploy, has become all of a sudden in this House the Queen of stunts for the Labor Party.

The Labor Party in Queensland would prefer that this be a bipartisan issue and not subject to political game playing. I find it fascinating that for all its bluster and petty attacks, in the end this bill was not deemed important enough by the LNP to be passed last year, not even in the subsequent sitting week later in November. Since that time there was a summer recess of this parliament and hence this House has not sat since November last year.

So what then has the LNP government done with the nearly three months since? We know that the bill did not go back to the committee. Has there been further consultation undertaken as suggested by the opposition? In that regard I certainly look forward to hearing the minister's response.

As has been outlined previously, the opposition cannot support the legislation. It is yet to be explained and communicated to the people being impacted by it. It raises the potential for two sets of legislative changes being imposed on the same group of people in a short period creating complexity and it has the potential to impose costs on Indigenous landholders and local governments.

I am very concerned about complaints of a lack of consultation on this issue. We support the transfer of township lands to freehold tenure but only with the right resourcing in place and community support throughout the process. It is concerning that the government has cut \$22.1 million in funding and 18 staffing positions from the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs—DATSIMA. These do not include other cuts to Indigenous mental health and drug and alcohol rehabilitation

programs. In this environment we are concerned about the government's willingness to adequately fund a process of transitioning land to freehold.

We also support the position of the Cape York Regional Organisations, the Torres Strait Islands Regional Council, the Torres Shire Council and the Local Government Association of Queensland that those impacted, including local councils, should not be required to incur costs from the Aboriginal and Torres Strait Islander Land Holding Bill 2012. Another area of concern is the fixing of mandatory terms by the minister and a set format for ILUAs and the potential impacts of this process on native title rights.

The issue of extinguishment of native title requires close consideration and comprehensive consultation—because once it is gone it is gone for good, especially where native title is extinguished without compensation. This process must be undertaken very carefully and with much greater consultation than has apparently been shown so far—not intensive consultation after the legislation has been passed as recommended by the committee. People most directly affected should have an opportunity to have their say and be given sufficient notice of opportunities for them to do so—again, before the legislation is passed.

Sometimes the process for negotiating ILUAs can be lengthy and sometimes frustrating, but the whole process is about reaching agreement which means ensuring a fair process is undertaken. I have concerns about approved agreements simply being at ministerial discretion. These are concerns shared by the submission from Cape York Regional Organisations consisting of the Cape York Institute for Policy and Leadership, Cape York Partnerships Projects, Cape York Balkanu Development Corporation and the Cape York Land Council Aboriginal Corporation. As set out in their submission, the legislative amendments allow the minister to fix mandatory terms and a set format for ILUAs. These mandatory terms and set format are unable to be inconsistent with schedule 3 requirements which are set out in the submission as follows—

prevents agreement for the exercise of a native title right to bury human remains unless native title has been determined and there is prior written consent of the lessee and chief executive. This provision fails to recognise that if there is a native title right to bury, it exists prior to the making of a determination and is not dependant on the consent of the pastoral lessee or the State;

does not allow an agreement to either prevent or be inconsistent with a Nature Refuge or conservation covenant. The creation of such interests should only occur with the consent of the native title holders;

requires that an agreement allows the native title holders to carry out 'traditional' activities. However, this may be insufficient to cater for the full set of native title rights and interests recognised in individual cases.

There is a lot of further work required before this legislation should be passed. To quote the Cape York Regional Organisations again—

It is extremely unlikely that native title claim groups in Cape York will agree to such limitations in agreements negotiated with pastoralists, and this would limit the opportunity for pastoralists to obtain the proffered rent reduction. The policy intent should be to support the negotiation of ILUAs on a case-by-case basis, and to not risk stifling innovation or damaging good relationships.

The Cape York Regional Organisations further advise that additional work in this area is currently being undertaken as part of the review by the State Development, Infrastructure and Industry Committee as part of their inquiry into land tenure. This is just one reason the consideration of this bill in isolation and at this time is ill-considered. While I know the officers in the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs are dedicated to the job of implementing this legislation in a way that considers existing native title rights, this government has stripped resourcing away. As I have said, there have been 18 full-time-equivalent positions cut from the department and \$22.1 million in funding slashed. These cuts will make it harder for proper engagement to be undertaken and make the agenda to close the gap all the more difficult.

The Closing the Gap agenda in life expectancy and life outcomes between Aboriginal and Torres Strait Islanders and non-Indigenous Australians should be a bipartisan issue. It should be an agenda all sides of politics are committed to resource properly and to engage comprehensively with the people impacted. Even at this late stage I urge this government to see reason and not proceed with this legislation at this time. They should listen to the concerns of the community and those being impacted by this legislation and should refer it back to the committee to have it considered as part of the broader inquiry into land tenure across Queensland. The government is yet to clearly respond to these concerns. The Labor opposition is committed to holding the government to account and to stand up for those voices that are being ignored in the community. I cannot support the bill in its current form.