Speech by

Shane Knuth

MEMBER FOR DALRYMPLE

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ABORIGINAL AND TORRES STRAIT ISLANDER LAND HOLDING BILL

Mr KNUTH (Dalrymple—KAP) (4.18 pm): The Aboriginal and Torres Strait Islander Land Holding Bill 2012 repeals and replaces the Aborigines and Torres Strait Islander (Land Holding) Act 1985. The explanatory notes state that the main thrust of the legislation is to provide a process to resolve 474 applications that were made under the 1985 act to transfer land held in deed of grant in trust to perpetual leases. The bill also seeks to provide local governments continued access and use of their facilities and permit subdivision of deed of grant in trust land.

I welcome the intention to give Indigenous communities greater autonomy and recognise Indigenous peoples' full and beneficial ownership of their land. However, the bill is proceeding as an isolated proposal about the resolution of one land issue within Queensland's Indigenous local government areas.

This fails to recognise multiple interrelated land issues in Indigenous communities that require resolution. Coordinated reform needs to be developed with clear objectives so that all issues can be addressed and legislative changes result in outcomes consistent with the stated goal to facilitate higher levels of home ownership in Indigenous communities.

The debate about communal landownership versus individual landownership in Indigenous communities is complex. Currently the State Development, Infrastructure and Industry Committee is inquiring into the future and continued relevance of government land tenure across Queensland. The committee is due to report and could possibly propose that land eligible under the Land Holding Act to be granted perpetual leases should be converted to fee simple freehold title. If this land were converted to freehold then there would be less obstruction to individuals to gain private home ownership.

The provisions of this bill to deal with a land tenure issue that will also be addressed as part of a broader inquiry raises serious questions, such as why is the government putting forward a bill that proposes to return land that is the subject of a perpetual or special lease application to DOGIT when the State Development, Infrastructure and Industry Committee may recommend this land be converted to freehold lease? Or are the recommendations from the State Development, Infrastructure and Industry Committee inquiry a foregone conclusion? There is a bigger picture that this bill should be fitting into, but the government is not coordinating the development of that bigger picture.

Landownership across all communities is rightly associated with the ability to generate wealth and provide a platform for self-determination and a means of improving social and economic opportunities. Returning land in Indigenous communities to deed of grant in trust seems to be a step backwards. The Katter leases that are the focal point of this legislation were part of a three-tier approach in 1985 to restore full and meaningful home ownership and self-determination to Indigenous Australians: firstly, the self-management of Aboriginal communities by elected councils; secondly, the introduction of laws granting inalienable freehold title to the Aboriginal reserves, to be held in trust by the councils; and, thirdly, laws to enable private ownership of lands by families through perpetual leases for home ownership and term leases for enterprise development. Over 697 applications were made for perpetual and special leases. Of

these there are still 474 unresolved. The conclusion of this government has been that these leases failed and that the land relating to these applications should return to deed of grant in trust titles.

One of the reasons the Katter leases failed was the change of government that occurred not long after the legislation was passed. As Noel Pearson wrote in the *Weekend Australian* in May 2011—

> With the Labor ascendancy after 1989, Katter's policies were consigned to the dustbin. Hundreds of home ownership leases were left in policy limbo. Hundreds more approved by councils and not processed by the Lands Department were left sitting in files. The Goss government legislated to stop any more leases being approved under Katter's landholding laws. Twenty-six years later this policy limbo remains. Even though the Bligh and Gillard governments—and the Howard government before it—announced policy support for home ownership, not one house on Queensland's Aboriginal communities has been privatised.

However, submissions from the Indigenous communities in Far North Queensland who will be most affected by this legislation revealed a far more complex and fundamental issue, which is the cultural difficulties experienced in the communication between government departments and Indigenous communities. At the hearings it was apparent that government officials felt they had adequately communicated the legislative changes proposed. However, I would like to read from the submission by the Torres Shire Council—

> The limited and minimal communication about the Aboriginal and Torres Strait Islander Land Holding Bill 2012 by the Department of Natural Resources and Mining (DNRM) gives Council cause for concern about how well the implementation process will be managed after the Bill has been enacted. It is essential that all stakeholders are identified and included in any communication process. The stakeholders include the Torres Shire Council and many of its residents. Effective communication must take into account the time needed for people to understand the process and consideration given to the constraints for people living in remote areas such as the Torres Strait Islands. The process must be clearly articulated so that ordinary people are able to understand what their rights and responsibilities are when applying for leases, resolving issues about existing leases or other related matters.

The Torres Strait Regional Council submission stated—

> It is Council's submission that true land tenure reform in Indigenous communities is effected by deregulation, roll-back of paternalistic policy that is Deed of Grant in Trust and Reserve, realising true home-ownership (house and land) in freehold equivalent and self-determination.

There has been consultation with the people who are directly affected by the bill. However, the form of consultation has not been appropriate to the audience and these submissions, as well as the contributions from Indigenous representatives at public hearings, would indicate that the issue of communication needs to be resolved and the rights and available options for Indigenous communities in regard to Katter leases need to be communicated rather than returning the land to DOGIT, which is completely contrary to the submission from the Torres Strait Regional Council.

Considering the small number of communities applying for perpetual or special leases, a direct and appropriate engagement strategy could be implemented. The State Development, Infrastructure and Industry Committee is inquiring into the future and continued relevance of government land tenure across Queensland and it is ridiculous that the Aboriginal and Torres Strait Islander Land Holding Bill is being rushed when the inquiry may reveal a more streamlined and secure land tenure outcome for Aboriginal and Torres Strait Islanders.

On the whole I feel that this legislation has been rushed through with little consideration of all available options. I believe there are good aspects of the bill, such as the ability to subdivide DOGIT land, but in its entirety the bill fails to move Indigenous communities closer to individual landownership that is in line with mainstream Australia.