Speech By

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MEMBER FOR CONDAMINE

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LAND AND OTHER LEGISLATION AMENDMENT BILL

Mr WEIR (Condamine—LNP) (5.13 pm): As a member of the Agriculture and Environment Committee, I rise to make a contribution to the debate on the Land and Other Legislation Amendment Bill 2016. This is the first bill that the committee has considered since I have been a member. Previously, I was a member of the Finance and Administration Committee. During the entire time I was a member of that committee it never considered any legislation relating to agriculture—until it considered the bills that were debated last night. They related to agriculture and were referred to that committee. It was a pleasure to speak to them last night. I realised that it was remiss of me to not acknowledge the other members of the Finance and Administration Committee over the two years that I was a member of that committee. As I look around the chamber, I can see a few of the members of that committee. It was a great committee to be a member of. I thoroughly enjoyed being a member of that committee. The research director and the staff of that committee do a fantastic job. Last night, I did not acknowledge them, so I wanted to correct that today.

The minister, Dr Anthony Lynham, in his role as the Minister for Natural Resources introduced the Land and Other Legislation Amendment Bill 2016 into the House on 29 November 2016. That bill was referred to the Agriculture and Environment Committee with a report date of 7 March. On the face of it, this bill was merely tidying up some loose ends and providing a little more clarity to aspects of the legislation. The examination of this bill by the committee should have been quite a simple process. However, owing to a complete lack of consultation with the relevant stakeholders impacted by these amendments, this proved not to be the case and the examination of this bill required much more of the committee's time than should have been necessary.

The Local Government Association raised concerns about the amendments in this bill relating to the resignation of trustees. This amendment to the Land Act means that the resignation of a trustee would take effect at the point that the minister accepts it. The amendment also sets out the criteria for the acceptance of a resignation. Currently, the resignation takes effect upon receipt by the minister. This amendment can result in a significant period of time between the resignation taking effect and when the trustee is replaced. An indication of the lack of consultation on this amendment was summed up by the LGAQ during the public hearing as follows—

... these amendments did come out of left field and we have not seen any systemic issue to justify a seemingly heavy-handed regulatory response.

The LGAQ suggested that there should be a compulsory notice period prior to a resignation taking place, as this amendment may tie local government trustees to their function for the state potentially against their will. The department has advised that it is holding discussions with the LGAQ to ensure that there is a smooth transition from one trustee to another. I notice that that is contained in one of the amendments that the minister has pre-empted.

The LGAQ also expressed concern about the amendments relating to the provision of notices to cancel, stating—

It is noted that the Minister, not the local government trustee, gives the notice to remedy and the notice of cancellation. To support transparency and accountability, the LGAQ recommends the notice provisions be expanded to ensure a copy of the notice to remedy and the notice of intent to cancel is given to the local government trustee, not just to the lessee/permittee.

The department has undertaken to discuss the matter further with the LGAQ. The LGAQ is concerned that the payment of any compensation is not clearly drafted and could be interpreted as meaning that the trustee is obligated to pay compensation for the cancellation of a document rather than the state. The department stated that compensation payable is implicitly the responsibility of the state and will discuss the matter with the LGAQ. One would say that that should have been done long before the bill was drafted. We are still in negotiations to finalise these matters. There was a lot of confusion over them. The LGAQ was very unimpressed with the process and were asking a lot of questions.

Clause 39 of the bill replaces the current system of settlement notices with priority notices. These have substantially the same function of preventing the registration of an instrument affecting a lot, or an interest in a lot, until the notice lapses, or is withdrawn, removed or cancelled. The system of priority notices has been adopted by the Australian Registrars' National Electronic Conveyancing Council and has already been taken up by most of the other states.

The Queensland Law Society expressed concern around the possible misuse of priority notices to frustrate the rights of other parties and gave the example of 'a prospective buyer during negotiations to gain a tactical advantage over the owner and other prospective buyers or by an owner attempting to frustrate the exercise of power of sale by a mortgagee'. In response, the registrar stated that the likelihood of misuse was low going on previous experience. If someone is going to use something mischievously they can use the words as they stand now for a settlement notice. This was yet another example of the lack of consultation. This should have been all done prior to the drafting of the bill, not after. I was quite astounded that the Queensland Law Society had so many questions regarding this bill. I would have thought that they would have been part of the drafting of this bill from the beginning to the end, but they were still asking questions during the committee process.

Another example of the lack of consultation was in regard to the amendments to the rolling term leases. It was the former minister for natural resources, Andrew Cripps, who finally gave some certainty to the many landholders who rely on rolling term leases. We have already heard from some speakers how many there are in Queensland. Any amendments to those introduced during the last term of government were always going to be viewed with a great deal of suspicion and concern. The fact that Minister Lynham did not consult with the peak agriculture body, AgForce, immediately raised concern and suspicion. If there is one thing that gets an ag body's antennas up it is no consultation. As we have heard, they only became aware of these amendments when the committee sent out a notice for submissions. That is very poor consultation indeed.

This amendment once again took a lot of the committee's time because of this lack of consultation. Let us have a look at these amendments and what caused this deep suspicion. As the legislation currently stands, a rolling term lease may be extended by the approval of the minister. A leaseholder may apply for an extension of a rolling term lease at any time in the last 20 years of the 30 years of the lease or at an earlier time approved by the minister if the minister is satisfied special circumstances exist.

Clause 11 will, if adopted, amend this subsection to provide that only one application for extension may be made during each term of the lease, including terms granted by extension of the original lease. That is, one application may be made during the original term, one during the term of an extension and one in a subsequent extension and so forth.

Clause 12 amends section 164E(2)(a) of the Land Act to provide that an extension may not be granted for a period longer than the original duration of the lease. AgForce stated that the lack of consultation led to concerns that the proposed amendments would limit the number of times that a lease may be renewed and the reasoning behind the changes. Lauren Hewitt from AgForce stated—

Back in December or November when the bill was first put forward, I approached the department, just to see if there was any logic and to ask why. They did get back to me with an explanation of how it would operate. I am aware of the mechanics of how it will operate; I just do not understand the reason. Is there some frivolous or serial litigant or pest who is going for renewals or something? There might very well be a valid reason, but not in the explanatory notes and not that I have received in a response to date.

For various reasons a landowner may wish to apply for renewal of their lease earlier than the last 20 years prescribed in this amendment. This was of some concern to landowners. These reasons could range from a landowner wishing to refinance or transfer title because of a change in family partnership

or to invest in some permanent infrastructure on that property, such as dams, water, sheds, et cetera. The flexibility to renew is very important for future lending and security. Under questioning from the committee, the department stated that the reasoning for the amendment was to prevent banking of leases possibly triggering native title issues. The department stated that to allow multiple applications in the current term would change the nature of the lease, with broader implications under the Land Act as well as native title rights and interest and compensation under the Native Title Act. Under the proposed amendments a lease renewed at the end of 10 years would give a 50-year lease, as was the intent in the bill. The fear is if a lease was able to be renewed again in the same term it would possibly give a landholder an extra 30 years and possibly be challenged as serving the same purpose as a perpetual lease and trigger native title compensation.

It took about three visits from the department to finally get what the purpose of these amendments was. That has not happened in Queensland. There has never been any case of banking. We were told during the hearings that in the Northern Territory it has happened. There is a landowner in the Northern Territory who did bank a lease and is now in the Federal Court facing native title compensation. When that was explained thoroughly to the members of AgForce they became aware of the implications. Nobody wants to see a landowner dragged to the Federal Court for simply trying to protect their interests. As I said earlier, it is very important to have those leases as long as you can so it is only natural that they will take the extension that is possible. In a family business, which I grew up in, there are many times that you need to review your financing and partnerships. There are a lot of changes. Also there are natural disasters and so forth. If you need to refinance with the banks then the longer the term of lease you have in front of you the better negotiating position you are in. That is why there was such concern that this may impact on the ability to renew a lease.

There was concern that whilst a person could apply for their next term in the last 20 years, because some of these situations arise they wanted the opportunity to reapply at any stage in that 30 years—say, inside that first 10 years. The department stated that there are special circumstances that exist for that, but predominantly they have been for commercial interests and not in the rural area. The minister might address that when he sums up at the end because that was a concern and it was felt that it was not fully clarified, which was a bit of a pattern throughout the whole hearing.

The committee is satisfied that landholders' rights are protected, but if the amendments were formulated with the involvement of those most likely to be impacted it would have saved the committee and all involved a lot of time and concern. As other members of the committee know, we spoke to the department the day before we were to table the report. It really dragged out and time got very, very tight at the end. It was completely unnecessary. It was only because so many of those who were involved and impacted were not fully across it. It created a lot of extra work for the committee.

The shadow minister spoke about non-tidal reserves. I am glad he gets so much excitement out of the subject, because I must say it did not generate the same excitement in the committee. The department explained that this is for reserves that are used by the community and that may be along rivers or lakes, so that they can be serviced and maintained. That ability is not there at the moment. As we have heard, the legislation allows for the dispensing of paper certificates of title if they are held by a legal practitioner. In this day and age of electronics, that is only fair and reasonable. It caused no concern to the committee.

As I said, this should have been a very straightforward committee inquiry. However, it dragged on and took so much time simply because of a lack of consultation and a lack of understanding by the bodies that are immediately impacted. I note the member for Gregory will be speaking on behalf of his area, as will the member for Warrego, as leases are a massive part of those areas. Interference with them in any way, shape or form raises immediate suspicion and distrust. People need to have the confidence to work and develop their land and to use it in the most productive way possible. It is very understandable that they are so concerned about any amendments to the legislation.