Speech By

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MEMBER FOR CONDAMINE

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LAND AND OTHER LEGISLATION AMENDMENT BILL

Mr WEIR (Condamine—LNP) (6.31 pm): I rise to speak to the Land and Other Legislation Amendment Bill 2022 in my role as shadow minister for natural resources, mines and energy. Before I speak to the bill, I would like to take this opportunity to express my sympathy to the family, friends and work colleagues of the two miners, Dylan Langridge and Trevor Davis, who lost their lives in a workplace accident at Dugald River mine. The minister informed the House yesterday that an investigation is underway by the Mines Inspectorate and we look forward to those findings. Let's hope that this is sooner rather than later.

The Land and Other Legislation Amendment Bill 2022 was introduced into the parliament and referred to the committee on 17 March 2022 with a reporting date of 6 May 2022. Here we are, nine months later, ready to debate the bill.

The committee has made three recommendations. Recommendation 1 is that the bill be passed. Recommendation 2 is that the minister revisit the proposed amendment to certify the regulation vegetation status rather than this being included in the Vegetation Management Regulation, and the minister has moved amendments to that, so I will speak to that later in my contribution. The committee also recommended that the minister table a corrected version of the explanatory notes as a matter of priority and ensure the electronic version of the document is the same as the tabled document. This caused great confusion for the submitters.

This is an omnibus bill that amends a number of acts and regulations. Some are innocuous and some are more substantive. The proposed amendment to the Cape York Peninsula Heritage Act 2007, for example, in clause 4, updates the definition of 'landholder for the land' to reflect that the Aboriginal land under the Aboriginal Land Act 1991 is not only held by land trust trustees. The Cape York Land Council advised of their support for this proposed amendment.

The proposed amendments to Central Queensland Coal Associates Agreement Act 1968 under clause 7 insert a new schedule 7 which contains the proposed 2022 agreement between the parties to the Central Queensland Coal Associates Agreement. The agreement provides a process to allow the removal of a special coalmining lease from the agreement, or the removal of an SCML from the agreement and transfer of removed lease. The department advised that—

The agreement act legislates an agreement between the state and various BHP Mitsubishi Alliance entities for the mining of coal in Central Queensland. There are four special coal mining leases under the agreement act that are part of larger Central Queensland metallurgical coal projects.

The proposed amendments will allow the companies to make an exit application to remove a special coalmining lease from the act and the agreement without the transfer of interest in the lease or a transfer and exit application to remove a special coalmining lease from the act and agreement and transfer of the interest in the lease. If the exit application is approved, the act and the agreement will no longer apply, and the removed mining lease will be administered under the Mineral Resources Act 1989. It may be then transferred under the provisions of the Mineral and Energy Resources (Common Provisions) Act 2014.

The committee sought assurances that the proposed amendments do not trigger any new provisions for the leaseholder in terms of the application process. The department explained that there are two new application processes. It is not actually a transfer, but removes a special mining lease from the operation of the act and the agreement. Then it would be basically a normalised mining lease under the Mineral Resources Act. The application process is simply as listed in the current legislation, so they just need to make that application to the minister.

The second one is a transfer and exit application where again the parties would apply to exit from the operation of the act and the agreement, however would potentially be seeking to transfer some of the interests in the mining leases. In response to the committee's questions about whether the proposal will trigger additional environmental, water or other aspects in the transfer process, the department advised that—

It will normalise the mining leases … The existing requirements under the Water Act, for example, will then apply to the new holder of the mining leases … The environmental authorities in a transfer follow the mining lease …

The amendments to the Land Act and the Land Regulation were supported by submitters apart from some concerns regarding clause 22 which inserts proposed new section 165B which enables the chief executive to decide to offer to convert a lease to either freehold land or a perpetual lease. This amendment enables the chief executive to proactively manage the leasehold land estate by providing an alternate pathway for initiating conversion. The department informed the committee that the eligible leases are those for which there is no underlying tenure or interest in the land that is incompatible with freehold tenure, and when there is no public purpose associated with retaining state ownership of these tenures. Freeholding such land aims to provide greater tenure security to support business development and growth which is critical to contribute to Queensland's economic prosperity. The amendment will basically allow the department to proactively offer the opportunity for freehold to that tenure holder. They will not be obligated to accept the offer and if they do not, the tenure continues as it is.

The feedback that the department has received is that with the process of getting the application together with the requisite information and the uncertainty as to exactly where you can and cannot expect to get a positive outcome can be a daunting experience to some applicants. If they then choose to take up the offer to convert their lease to freehold, it will be a much more streamlined and clearer process to them as to what that means and what it looks like. The department went on to say that while the change will streamline the process, it does not remove any of the checks and balances necessary in dealing with relevant state land tenures. Before a conversion offer can be made by the chief executive, an assessment of the suitability to convert the land will be undertaken by the department. This assessment considers relevant state and local government requirements, strategies and policies relating to the land.

There are also a number of safeguards in the Land Act and other pieces of legislation that ensure leases over land that has a public benefit are not converted to freehold. This includes leases over community purpose reserves, national parks in some instances, and state forests. Other requirements such as resolving native title under the Native Title Act 1993, a Commonwealth act, will also need to be addressed before leasehold land can be converted to freehold.

AgForce advised the committee that while it is supportive of the introduction of an alternative, it considered that term lease tenures require further attention. AgForce believes that the state government should consider the implementation of a further tenure conversion program aimed at improving tenure security for term leases. As a preference, this could see the conversion of all leases to freehold or, at the very least, the conversion of term leases to perpetual.

AgForce provided an example of the types of issues that might be encountered during the process. As the value of land goes up, freeholding land is a very interesting conversation to have with leasehold people because, to use an example, at the moment in Boulia the land revaluation is proposed to be over 300 per cent two months from now. When you start a freeholding process, that is the moment at which they determine the cost of that transfer.

This bill introduces the long-awaited amendments to the Stock Route Management Act 2002. The explanatory notes state that the bill achieves its policy objectives by amending the Stock Route Management Act so that local government can retain permit fees and other charges collected. This is to improve cost recovery for the local government arising from managing the stock route network. Local government can charge an application fee—the amount to be prescribed when the Stock Route Management Regulation is remade—to cover some of the administrative costs arising from managing access to the network while giving local government the flexibility to waive these fees in cases of hardship such as during drought, for example.

The Minister for Resources no longer needs to consider a local government's draft stock route network management plan. Local government no longer needs to establish working groups to advise on preparing draft plans. The processes for updating and publishing the stock route network map utilise contemporary technologies and reflect local circumstances and community input. Local government stock route network management plans are extended to harmonise their review time lines with the state's Stock Route Network Management Strategy so that actions in the strategy can be incorporated into local government plans. Local government is required to consult with state agencies where stock routes are co-located or next to state controlled roads, waterways and protected areas to minimise risks to road safety, transport infrastructure, park management activities and biodiversity.

The bill introduces important changes to the act that are the result of extensive stakeholder consultation over many, many years. An important component of the bill is that all revenue from the use of stock routes will stay with the local governments that manage and maintain the network. Currently local governments are required to remit 50 per cent of the fee revenue they receive to the state government.

The bill introduces a new fee to cover some of the costs incurred by local government in assessing applications related to travel and agistment permits. The uniform statewide fee will be established in the Stock Route Management Regulation. This will ensure the fee regime is fair and consistent across the state. The bill provides local governments with the ability to waive that application fee if they believe circumstances, such as financial hardship for the applicant, warrant such a waiver. Enabling local governments to keep 100 per cent of the revenue and collect application fees will support better cost recovery for local governments, which will continue to use this revenue for the management of the network in their area.

Clause 55 provides that the chief executive has the power to decide stock routes for the state by certifying a digital electronic map showing them. The clause also provides that the certified map must be published on the department's website. Both AgForce and the LGAQ supported the process of updating and publishing the stock route network map online. However, the LGAQ advised that, given all roads can be used as stock routes in addition to stock routes that are not roads, concern was expressed by local governments that the community found it confusing that not all stock routes were clearly identified on the map. The LGAQ recommended that the department develop consistent communication and education tools for all stakeholders to ease the burden on individual local government officers who are required to respond to concerns regarding grazing on stock routes not identified on the maps.

The department advised that it would work with the LGAQ and other members of the Stock Route Strategy Stakeholder Working Group in relation to the development of appropriate communication and education material. The LGAQ advised that local governments, as managers of the network, have the knowledge and expertise to identify where changes to the mapped stock route network are appropriate. They went on to recommend the establishment of a map amendment process outside of the legislative framework to support input by local government regarding changes to mapping and network categorisation and additional consultation with local governments about the extent and classification of the stock route network including the determination of appropriate service levels for each category of the stock route. In response, the department advised that it will continue to engage with the local governments most impacted by any proposed changes before any updated stock route network map is finalised. The Department of Resources acknowledged that local governments, as managers of the network, have knowledge and expertise to advise where changes to stock routes may be appropriate.

Clauses 63 and 67 relate to the proposed fee regime for stock route management. The LGAQ advised the committee that the stock route network is approximately 150 years old and comprises approximately 70,000 kilometres of roads, reserves and corridors on pastoral leases, state land and dedicated reserves which are used to move stock on foot as well as provide emergency agistment. The network provides feed for the agri-industry as well as some major infrastructure and transport of water, power and communication. It also has some significant native flora and fauna, remnant vegetation and cultural heritage.

The consultation report identified most of the formal submissions supported stock route fees being based on a user-pays principle, the adoption of the proposed fee framework comprising fee unit structure for indexation, increases in travel and agistment permit fees, fees for small stock being set at one-seventh that of fees for large stock and the standard application fee. Submitters generally acknowledged that fee increases are long overdue and necessary to make up for the significant shortfalls in cost recovery. Overall, they considered the proposed fee levels to be reasonable and more representative of the value of the benefits to stock route users and the agistment fees are more aligned with commercial rates. There was general support for a user-pays approach. However, the concern was that fees should not increase to levels which make droving unviable.

Clause 63 amends section 116 and implements the proposed application for permit arrangements, including allowing for a local government to waive payment in case of financial hardship. Clause 67 replaces section 187A to achieve the policy objective of greater cost recovery by local governments by allowing local governments to keep all revenue received from application fees, permit fees, water facility agreements and fines for reinvestment in the stock route network. Proposed new section 187B provides that a local government receiving revenue from stock route application fees, permit fees, water facility arrangements and fines must use the amount for the administration, maintenance or improvement of the stock route network in its local government area.

In relation to application fees, the LGAQ explained—

Clause 65 of the bill essentially creates this process where there is the ability for local governments to have an application fee.

The LGAQ also highlighted that, while not specifically addressed in the bill, the fees for travelling permits have not changed since 1989 due to the existing permit fee being so low that it does not trigger the annual indexation rules. Fees for grazing are subject to regular indexation but are significantly below commercial agistment fees and are not representative of the true cost incurred by local government. The costs incurred by local governments in managing the stock route network have been estimated at approximately $4.8 million per annum. Local governments can recoup some of the management and maintenance costs by charging fees for travelling stock and agistment, but the overall revenue captured in 2017-18 was just $324,000. This means local government recovered between four per cent and five per cent of the cost of managing the network depending on seasonal demand.

It is the ratepayers who carry the majority of the burden just because the current fee structure has not changed in some 20 years or so. When we think about ratepayers, it is important we think about some of Queensland's smallest and remote councils. Many of them do not have enough own-source revenue as it is to adequately sustain their existing and planned operating budgets. However, there are those local governments that have not seen travelling stock for years coupled with limited demand for agistment permits, resulting in an inability to recoup the costs of managing the network regardless of how much the permit fees increase. The LGAQ confirmed that, while the proposed amendments allow for local governments to retain 100 per cent of the application fees, there would still be out-of-pocket costs for councils and, hence, the need for us to talk about long-term, ongoing opportunities to make sure the network is well funded and maintained.

In response, the department indicated that this issue would be considered during the remake of the Stock Route Management Regulation. Acknowledging that the proposed amendments will not provide 100 per cent cost recovery, it increases the level to around 40 per cent—again, on average. Some councils will have a better level of cost recovery and others less, depending on their local circumstances.

In relation to state government funding, the current allocation is around $940,000 per year for councils through an annual application, or a submission to seek funding from the state for capital works and for the maintenance of infrastructure on the stock route network. Predominantly that relates to water infrastructure—everything from dams, bores, windmills and troughs to pads associated with those watering points—to make sure that essential infrastructure is provided. The LGAQ advised the committee that it would welcome the opportunity to work with the state government to identify other mechanisms for local government cost recovery following the completion of the regulation review.

The bill provides for a number of provisions, particularly those relating to fees, to be included in the Stock Route Management Regulation, which is to be remade. The department stated that the existing stock route regulation is quite old. The new regulation will be made subject to the passage of this amendment. The new regulation can then be put in place with the new fee structure that was outlined in the consultation report that the department released earlier this month.

Whilst there was widespread support for the stock route amendments, the same could not be said for the amendments to the Vegetation Management Act 1999. The department stated that the proposed amendments to the Vegetation Management Act will enable regional ecosystems and their conservation status, regulated regional ecosystems and unregulated grasslands to be identified through a certified database rather than in the schedules to the Vegetation Management Regulation.

The Queensland Herbarium, in the Department of Environment and Science, is responsible for identifying, describing and mapping regional ecosystems. Periodically, the Herbarium makes changes to regional ecosystems to reflect improved scientific knowledge. This currently requires subsequent amendments to be made to the Vegetation Management Regulation to keep it up to date. Clause 94 proposes to amend section 8 to provide for regional ecosystems to be identified through a certified

version of the Vegetation Management Regional Ecosystem Description Database rather than through the Vegetation Management Regulation 2012. Section 8 currently defines vegetation to be—

… a native tree or plant other than the following—

(a) grass or non-woody herbage;

(b) a plant within a grassland regional ecosystem prescribed under a regulation;

(c) a mangrove.

Clause 94 proposes to amend section 8(b) as 'identified in the VM REDD as having a grassland structure'. The VM REDD is defined under amendments to the schedule in clause 107 to mean 'the version of the Regional Ecosystem Description Database certified by the chief executive under section 22L'.

Clause 97 amends existing section 20AK to insert a new section, 20AK(3), to clarify that a 'regional ecosystem number, for a regional ecosystem, means the regional ecosystem number established under the VM REDD'. Clause 97 provides that the regional ecosystem number that applies to a regional ecosystem is that shown in the certified VM REDD and not the Queensland Herbarium's Regional Ecosystem Description Database.

Clause 98 amends existing section 20D(3)(b). The proposed amendments will provide that a change to a regional ecosystem—for example, a change to the conservation status, number or description—is done by certifying a new version of the VM REDD.

Clause 99 inserts a new section to clarify that each mapping category can be shown on the regulated vegetation management map or on a property map of assessable vegetation. The explanatory notes state—

Previously the definition of mapping categories didn't include PMAVs and only referred to the regulated vegetation management map.

The explanatory notes also state—

The clarification does not alter any existing PMAVs or the process for assessing PMAV applications.

Clause 100 amends existing section 20HB to clarify the circumstances in which the chief executive must amend the regulated vegetation management map. The explanatory notes state—

The amendment corrects an error of terminology, in that there is no provision under the Act for amending a property map of assessable vegetation (PMAV).

Clause 101 inserts a new section which provides for regional ecosystems to be identified through the VM REDD. The explanatory notes state—

This approach will produce significant savings for the Department of Resources and the Department of Environment and Science by not having to process regulation amendments to update schedule 1-5 …

The department advised—

We currently have a disconnect in that there is the regional ecosystem database that is online, published by the Herbarium, and then there is the regulation under the Vegetation Management Act. The issue that we encounter currently is that the two can get out of sync. When the regional ecosystem database is updated by the Queensland Herbarium, we then need to amend the regulation. Having two points of reference for the same information is a recipe for confusion.

The joint submission from the Environmental Defenders Office and the Wilderness Society highlighted their concerns regarding the proposal to certify the REDD as providing the regional ecosystem conservation status rather than having the status currently listed in the Vegetation Management Regulation. The submission states—

Under the current process, changes to the regulations are tabled in Parliament which would allow for the provision of a disallowance motion in the event that grasslands were inappropriately changed from regulated to exempt. However, under the new proposed process, such a change would not pass through Parliament and would, therefore, not be subject to the rigorous checks and balances currently in place.

AgForce agreed, advising that it did not support the proposed changes and recommended that the government retain the declaration process in the Vegetation Management Regulation. AgForce further advised—

Any changes to regulated vegetation status needs to be advised in advance and not subject to an unknown publication …

With regard to the mapping process, AgForce advised that it—

… has been extremely supportive of the Queensland government's efforts, particularly through the Herbarium, in understanding and mapping the vegetation across the state and the regional ecosystems across the state and having those accurately identified because there is a whole legacy and history of that mapping being either semi correct, incorrect or so forth.

Clause 96 amends section 19Q to clarify that a development that is clearing vegetation under an accepted development vegetation clearing code is only categorised as accepted development under the Planning Act if it complies with all of the requirements.

AgForce sought clarification regarding how code-compliant clearing will impact on other relevant purposes listed in section 22A of the Vegetation Management Act, such as coordinated projects under the State Development and Public Works Organisation Act. AgForce noted that coordinated projects are outside the scope of the clearing codes and the referral stages of the Sustainable Planning Act 2009. The department stated—

Clearing for a coordinated project is a relevant purpose under VMA s22A. Where the clearing does not comply with an ADVCC and is not exempt clearing work, it is assessable development under the Planning Regulation 2017 and a development approval is required.

AgForce also expressed some concerns as to the intent of PMAVs. It states—

We have some considerable concerns about discussions of which we have been aware of some moves to change the PMAV instrument within the act, to perhaps introduce more controls within that PMAV instrument …

The committee report states—

Stakeholders who commented on the proposed changes to the VMA, including AgForce, the EDO and the Wilderness Society, were in agreement that any change in a regional ecosystem status should remain within the Vegetation Management Regulation.

The committee noted the department assurance that landowners could be notified, but since then the minister has announced that he is going to address that recommendation in the committee report, and that will alleviate those concerns that were raised.

The fundamental legislative principles analysis highlighted the unprofessional standard of the explanatory notes which, as I stated earlier, created a lot of confusion. The report states—

Explanatory notes were tabled with the introduction of the Bill. Under the heading *Consistency with fundamental legislative principles* this statement appears:

> The Bill has been drafted with regard to fundamental legislative principles (FLPs) as defined in section 4 of the Legislative Standards Act 1992 and is generally consistent with these provisions.

Such an imprecise statement as 'generally inconsistent' implies that the Bill is not wholly consistent with the FLPs.

…

In this instance, after stating the Bill is 'generally consistent' with fundamental legislative principles, the explanatory notes continue:

> Although consistent, some amendments may be regarded as impinging on FLPs. The following will address this perceived impingement.

The explanatory notes continue—

However, using language such as 'may be regarded as impinging' and 'this perceived impingement' is an inappropriate, almost begrudging, way to describe and acknowledge areas of inconsistency with FLPs.

The analysis in the explanatory notes in the section regarding issues of FLP is poor. Variously, the explanatory notes at times fail to:

. identify the specific FLP that is said to arise

. articulate how there is an inconsistency with FLP or how an issue arises

. clearly set out any justification for any inconsistency or breach.

The analysis goes on to state—

The explanatory notes also contain numerous errors. The notes on provisions, the relevant clause numbers do not correctly align with the clause being explained. Obviously, the committee would not be able to identify where information may have been omitted.

Not only the committee but the stakeholders and submitters to this bill. There were 36 clauses that were incorrectly numbered in the explanatory notes. The lack of professionalism in compiling these explanatory notes, which the minister tabled in the House, is simply staggering and raises questions as to the functionality of the minister's office. Despite this, we will not be opposing the bill. As I stated earlier, this is a long-awaited reform of the stock route legislation—the third attempt, as I understand it—so we will be supporting the bill.