Speech by

Andrew Cripps

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ENVIRONMENTAL PROTECTION AND OTHER LEGISLATION AMENDMENT BILL

Mr CRIPPS (Hinchinbrook—NPA) (3.38 pm): I rise to make a contribution to the debate on the Environmental Protection and Other Legislation Amendment Bill. The bill amends a number of pieces of legislation relating to the management of Queensland's natural environment. It proposes amendments to, among other legislation, the Coastal Protection and Management Act 1995, to provide a consistent definition of 'tidal waters' relative to the downstream limit as it relates to the Water Act 2000; the Environmental Protection Act 1994, to include the Exotic Diseases in Animals Act 1981 in the list of legislation that overrides the provisions of the Environmental Protection Act 1994; the Nature Conservation Act 1992, to prevent efforts to move roosts of flying foxes without a permit; and the Wet Tropics World Heritage Protection and Management Act 1993, to expressly allow for a management plan under the act to address the subdivision of land in the Wet Tropics area. I intend to confine my remarks to the amendments that relate to these pieces of legislation, although the bill proposes amendments to a range of others.

In respect to the proposed changes to the Coastal Protection and Management Act 1995, the bill proposes to amend the definition of 'tidal waters' to provide that the downstream limit for the purposes of the act may be declared under the Water Act 2000. Currently, downstream limits are declared by the Department of Natural Resources and Water under the Water Act 2000. When the definition in the Coastal Protection and Management Act 1995 was originally amended to refer to the downstream limit, not all downstream limits were declared in the vicinity of the high-water mark. Consequently, it was necessary for a separate declaration to be made under the Coastal Protection and Management Act 1995 to ensure that only appropriately declared downstream limits affected the definition of 'tidal waters' in the Coastal Protection and Management Act 1995.

This is an important issue in my electorate, as it comprises a coastal area. Indeed, being an area with one of the highest levels of rainfall in Australia there are literally hundreds of waterways that have an interface with tidal waters where the application of these downstream limits could have implications for adjacent landowners and commercial activities in the area. As such, it is appropriate that there is some consistency being achieved with respect to the declaration of downstream limits between the Coastal Protection and Management Act and the Water Act.

I turn now to the proposed amendments to the Environmental Protection Act 1994. The bill proposes to insert a reference to the Exotic Diseases in Animals Act 1981 into the legislation to allow the provisions of the Exotic Diseases in Animals Act 1981 to prevail over all provisions of the Environmental Protection Act 1994 to the extent of its inconsistencies. This proposed change will allow the Department of Primary Industries and Fisheries' emergency response plans, prepared under the Exotic Diseases in Animals Act 1981, to be implemented without being impeded by regulations in the Environmental Protection Act 1994. This is a very sensible amendment and has no doubt been inspired, or at least has been bought into focus, by the recent outbreak of equine influenza. It is important that when such disease outbreaks take place the relevant authorities have the unencumbered ability to take measures to contain and eradicate any such disease. I can only say that I am pleased that such an amendment will be in place in the near future should

any other disease outbreak take place, such as an outbreak of foot-and-mouth disease perhaps in north Queensland.

Mr Finn interjected.

Mr CRIPPS: I am sure he did. It is a pretty serious issue in north Queensland as the feral pig population in that area grows exponentially as we speak owing to the inaction of this state government to control feral pig numbers in national parks and state forests.

I turn now to the amendments that are proposed to the Nature Conservation Act 1992, which will prevent efforts to move roosts of flying foxes without a permit. Flying foxes, of course, are an issue that have been well canvassed in this place, principally by my friend and colleague the member for Charters Towers who has done a commendable job in representing the interests of his constituents in that community who have been forced to endure the adverse impacts of flying foxes roosting in the suburbs of Charters Towers. This amendment makes it clear that driving a flying fox from a flying fox roost is an offence. The intent of the proposed amendment is to ensure that a person attempting to move a flying fox from a flying fox colony roost site must be authorised under the act. The shadow minister for sustainability, climate change and innovation, the member for Burdekin, has canvassed well how outrageous it is to have laws such as this that make provision for $75,000 fines or jail terms for people who try to protect their health and wellbeing and that of their families.

However, Charters Towers is not the only community that has been affected by colonies of flying foxes impacting on local communities. In my electorate of Hinchinbrook a large colony of flying foxes took up residence in Mystic Sands, near Rollingstone, where local residents observed some of the bats actually roosting under the eaves of homes and reported intolerable noise and odour from the colony. At the time officers from the Queensland Parks and Wildlife Service assessed the colony and they advised that it was probably larger in population than the colony that caused problems in Charters Towers. The concerns that were raised by the local community at Mystic Sands were the impact that flying foxes could have on the health of residents in the local area and the negative impact that the flying fox colony could have on property values.

The advice from the state government at the time was really a nonresponse, involving a motherhood statement about the difficulty in balancing community expectations with the principles of nature conservation. There was really no indication as to what would be done to deliver some relief to the community of Mystic Sands. This head-in-the-sand approach with respect to flying foxes is similar to the approach that this government has employed with respect to crocodiles. It appears that the rights of flying foxes and crocodiles are more important than public safety. Certainly, the frustrations of the community in Charters Towers are roundly appreciated by the overwhelming majority of people in north Queensland who are familiar with the habits of flying foxes and understand the need for proactive efforts to protect the community from the health and lifestyle concerns that living with a colony of flying foxes causes, particularly when that population roosts permanently in a community, as has occurred in Charters Towers.

I turn now to the proposed amendments to the Wet Tropics World Heritage Protection and Management Act 1993. Approximately two-thirds of the geographical area of my electorate of Hinchinbrook is state controlled land, be it World Heritage, national parks or state forests. Much of my electorate is within the Wet Topics declared area. Over time legislation created by this and other parliaments has significantly restricted commercial, community and recreational activity on this state controlled land. The environmental conservation of land for the public good is a well-established concept. Indeed, in my electorate of Hinchinbrook, Hinchinbrook Island itself was declared a national park in 1932 because of its unique environmental values, which were well recognised. My concern is that increasingly the policy prerogative of conserving the environment is being pursued without due regard for the private property rights of landowners whose property is affected by various pieces of legislation.

The amendment in this bill provides for a regulation to be made to regulate the subdivision of land or reconfiguration of a lot in the Wet Tropics area. This will regulate subdivisions in the Wet Tropics World Heritage Area under the Wet Tropics Management Plan 1998 to ensure that subsequent developments do not adversely affect World Heritage values. The bill will create a situation whereby a management plan may make provision for any matter for which a regulation may be made under the act. Currently, the legislation does not specify that a regulation may be made to regulate the subdivision or reconfiguration of a lot in the Wet Tropics area.

This bill will increase the regulation of land in an area where land use is already highly regulated. I draw the attention of the House to the case of Mr Robert Zonta, who has a farming property at Bilyana, which is located between Cardwell and Tully. Mr Zonta's property is affected by state government legislation. The issue relates to approximately 110 hectares of land on Mr Zonta's property that was assessed in 2000 as a remnant endangered regional ecosystem, including a surrounding buffer zone for the purposes of conserving the values of that remnant vegetation to maintain biodiversity. Following this declaration, Mr Zonta sought compensation for the loss of use of this land which, if cleared—and he would have had the right to do that on his freehold property prior to the introduction of the state government's

vegetation management legislation which affects his property—could have been used to expand his farm enterprise. Mr Zonta has tried to do the right thing and go through the process of accessing financial assistance for farm businesses affected by that legislation. To date, Mr Zonta has been denied any compensation for the loss of his private property rights, which he purchased in good faith.

In 2006, Mr Zonta sought assistance from the enterprise assistance unit of the Department of Natural Resources and Water. The advice of the enterprise assistance unit was that compensation was not available to areas that would have been prevented from being cleared if the legislation in place before May 2004 was still in force, and that this definition included Mr Zonta's property.

That answer did not deliver any restitution to Mr Zonta for the withdrawal of his private property rights, which he purchased in good faith. In 2007, Mr Zonta then sought assistance from the Minister for Natural Resources and Water, who advised similar to what the department advised—again ignoring the fundamental fact that Mr Zonta had lost his private property rights without any due compensation.

In 2006, Mr Zonta even pursued the possibility of selling the affected parcel of land to the Queensland Parks and Wildlife Service—a division of the Environmental Protection Agency. As Mr Zonta had had his private property rights withdrawn in relation to this parcel of land, he would have been a willing seller to the QPWS to recover at least some of the lost value of his land as a result of the conservation declaration withdrawing his private property rights.

The parcel of land was assessed by QPWS staff. In a letter to Mr Zonta in July 2006, the QPWS advised that the land, which adjoined a section of the Edmund Kennedy National Park, certainly had significant conservation values and provided habitat for important wildlife including cassowaries and mahogany gliders. However, the QPWS went on to advise that the land was not considered to be high priority for acquisition by the QPWS for national park. So the QPWS, the EPA and the state government assessed the property as having significant conservation values, as a remnant endangered regional ecosystem, and is willing to withdraw Mr Zonta's private property rights but will not compensate him for his loss.

Mr Zonta continues to be required to pay rates on this freehold land. Over the last seven years, since the parcel of land has been declared a remnant endangered regional ecosystem, he has been required to pay approximately $28,000 in rates on this land, which he purchased in good faith. The value of these approximately 110 hectares of land has been significantly reduced as a result of the imposition of these land use restrictions, limiting the land use options on the property. The provisions of the compensation package associated with this state government legislation are not providing any semblance of fairness to Mr Zonta, who has lost the private property rights on this parcel of freehold land which he purchased in good faith.

To think that the government, as the government of this state, could consider it fair and reasonable to withdraw Mr Zonta's private property rights with respect to this parcel of land without appropriate compensation, I would argue, is not supported by the vast majority of ordinary Queenslanders. The environmental prerogative is all well and good but must be balanced with the fundamental acknowledgement that private property rights, purchased in good faith, should be respected. If the conservation imperative is strong enough to pursue in the public interest, then the agency acting on behalf of the public—in this case the state government—must compensate the private property owner for their loss. This state government has not done so in the case of Mr Zonta and of many other landowners who have been similarly affected.

As I have mentioned, I, along with my Queensland coalition colleagues, have some concerns about some aspects of this bill, which will be expressed during the consideration of the clauses. I continue to believe that this state government has a lack of understanding about the impact that much of its legislation has on local communities, particularly in north Queensland, and this has been demonstrated once again in this bill.