Speech by

Andrew Cripps

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ABORIGINAL LAND AND TORRES STRAIT ISLANDER LAND AND OTHER LEGISLATION AMENDMENT BILL

Mr CRIPPS (Hinchinbrook—LNP) (3.10 pm): I rise to make a contribution to the debate on the Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Bill. The stated objectives of the bill are to amend the Aboriginal Land Act and the Torres Strait Islander Land Act to recognise the rights of Indigenous traditional islands at Seisia, Bamaga and Hammond Island, which are Torres Strait Islanders deeds of grant in trust established on traditional Aboriginal land, and to ensure that the Torres Strait Islander communities established on these lands can continue to prosper; to reduce the number of organisations that need to be established in the community by providing for land to be granted under these acts to bodies registered under the Australian government's Corporations (Aboriginal and Torres Strait Islander) Act 2006, rather than create new land trusts under the acts; to improve the governance of existing land trusts established under these acts; to improve how these acts align with and interact with the Commonwealth Native Title Act; and to ensure that community development can proceed efficiently in communities following the grant of land under these acts.

The explanatory notes accompanying the bill state that the bill also seeks to amend the Local Government (Aboriginal Lands) Act to clarify, simplify and update the legislative framework applying to Aurukun and Mornington shires under this act so that it aligns with and does not unnecessarily duplicate similar legislation applicable to all other local governments generally or to Indigenous local governments specifically. The bill also proposes to amend the Nature Conservation Act 1992 to provide for the revocation of national parks on land declared as Aboriginal land under the Cape York Peninsula Heritage Act.

Several years ago the Aboriginal Land Act and the Torres Strait Islander Land Act were the subject of a review, the aim of which was to better align these acts with the Commonwealth Native Title Act and to improve the efficiency of their administration. Priority was given to certain amendments which were brought forward in the Aboriginal and Torres Strait Islander Land Amendment Bill 2008, which was debated in this parliament in May 2008. The remaining amendments from that review are included and facilitated by the provisions of this bill.

The LNP is particularly interested in providing Indigenous communities with opportunities to pursue economic development that will encourage enterprise and contribute positively to the viability, stability and productivity of those communities. It is important to understand that many Aboriginal and Torres Strait Islander communities face quite unique circumstances in comparison to other communities across this state. In order to provide the best possible outcomes for Indigenous communities, public policy reforms like this one need to focus on the best outcomes in terms of quality of life and economic participation. Nearly three years ago this parliament passed a bill containing the first tranche of changes proposing to facilitate such outcomes. That bill dealt with homeownership, leases for social housing and transfer processes for deed of grant in trust land and aimed to encourage economic development in Indigenous communities.

As the then shadow minister, the member for Condamine, said during that debate, the idea behind DOGIT land was that the community land would be as secure as possible under the state law at that time.

If community land was required for a public purpose for the benefit of the local community, there could be no objection to the normal processes of compulsory acquisition or public dedication of land applying. However, if the government wants to acquire land for a public purpose that was unrelated to the benefit of that local community, that project ought only occur with the negotiated consent of the local community, acting through the trustee, prior to that project progressing.

In my own contribution to that debate in 2008, I highlighted some of the barriers to development in Indigenous communities as a result of obstacles to private and commercial investment. As I said on that occasion, remoteness is certainly a factor in this, but it also had to do with the inability of councils to issue long-term leases or grant private freehold land to third-party proponents. This obstacle was to a degree addressed in the provisions of the 2008 bill. The 99-year leases introduced at that time were an improvement on the provision of the previous capacity of 30-year leases to be issued but still did not afford access by individual Indigenous people to full individual freehold property rights on that Indigenous land.

On the other hand, the compulsory acquisition laws remained in place, creating a bit of an inconsistent approach with other forms of title outside Indigenous title legislation. The 99-year leases were permitted only to be transferred to another Indigenous person for 99 years, to the state for no more than 99 years or to another person who is not Indigenous for a period of only 10 years without the minister's consent. Notably, neither the 2008 bill nor this bill proposes to do anything to address these inconsistent property right arrangements that underpin the basis for the commercial and economic progress that was and is supposedly an objective of both bills.

Today's bill also covers the second stage of the transfer systems and alignments with the federal Native Title Act. The bill aims to provide more options for land transfers, improve governance for trusts and recognition of DOGIT landowners at Seisia, Bamaga and Hammond Island. It aims to update legislation that was written before the Native Title Act and deal with perpetual town leases and future act provisions. The bill aims to provide better alignment with the federal Native Title Act. This act was passed by the Commonwealth government in 1993. The Aboriginal Land Act, amended in this bill, itself is 19 years old. So a lot has changed in that period of time. A part of the bill before us allows for the addressing of native title issues under the Native Title Act before the transfer of land which should achieve the aim of the bill which is currently before the House, as per the explanatory notes, to improve the efficiency of the mechanisms facilitating the management of these issues. As outlined by the shadow minister, the member for Bundaberg, the LNP broadly supports this bill and does not plan to oppose its progress through the House. But there are a few issues that I want to canvass that follow on from the contribution that I made in 2008.

Arguments in favour of providing more financial support to Aboriginal and Torres Strait Islander people usually focus on the state of services and facilities in those communities, levels of unemployment and health indicators in those communities—social and community issues in those areas. Public funding to build infrastructure, create employment, improve health services and address social issues have been the focus of the policy agendas of both state and federal governments on both sides of politics in Australia on the basis that there is an assumed ability to quantify tangible improvements in the material wellbeing of Aboriginal and Torres Strait Islander people.

The separation of Indigenous Australians from their traditional land is regularly pointed to as a major reason they continue to experience higher levels of relative disadvantage. It is argued that land formed the basis upon which Aboriginal communities were constructed and that this separation destroyed that economic, social and cultural balance. Therefore, efforts to restore that economic, social and cultural balance amongst Aboriginal and Torres Strait Islander communities by re-establishing the close relationship between Indigenous Australians and their land ought to be the way to go. Efforts to encourage Indigenous people to use the land and resources that they have acquired traditional title over to pursue commercial opportunities that will enhance their material wellbeing, stabilise communities and return a sense of independence and responsibility consistent with their traditions and culture should be encouraged. The way in which this land is managed will largely depend on the distribution of property rights. The most widely accepted position is that secure, individualised land tenure is essential for robust economic development.

Traditional ownership is generally considered to be rights held in common. Some believe that this does not mean that significant economic gains cannot be made from land held in common by traditional owners. Some assert that a system securing long-term exclusive property rights through leasehold title arrangements in areas of in-common property ownership can be conducive to encouraging increases in the productivity of the land, a stable environment for investment and, most importantly, substantial improvements in the material wellbeing of the individuals involved.

However, the proposition being advanced in the provisions of the bill that the House is considering is based on the proposition that secure individual property rights is a preferable model. Either way, land tenure is just one aspect of the challenge in front of us in Indigenous communities. Of course we need to pay attention to education, health, housing overcrowding, economic participation of community members, cultural preservation, employment and a whole range of other issues.

The explanatory notes also state that an objective of the bill is to ensure community development can proceed efficiently. Economic development in Indigenous communities also needs to be closely related to quality-of-life issues and preservation of cultural outcomes. It is always desirable for economic development to take place in alignment with the community's aims. This is true of any community that Queenslanders live in but it is particularly true for Indigenous communities. It requires consultation with those communities to ensure cultural considerations are achieved alongside those social and economic outcomes.

Housing is a particularly sensitive issue. It is a central issue that is regularly raised by Indigenous communities on their agendas in order to progress their communities. Housing and having a secure home environment are very important to Indigenous families; this is an important part of their culture. It is very important that secure and safe home environments are available.

Access to the housing market, be it ownership or private rental, is needed. Houses to own or rent can be possibilities or options within those communities. It is acknowledged that there are a range of barriers that stop Indigenous people from entering the housing market. Some of them are tenure issues, and the bill in 2008 and the bill we are debating today go a long way to addressing some of those barriers to participation in the housing market.

There are also a range of economic issues that create obstacles. There is a need for a range of practical and affordable options for Indigenous people in these communities to enter the housing market. One of them is of course their access to finance. Debt burdens that cannot be managed are not going to create conducive community environments. The burden of debt is simply going to put access to those housing opportunities out of reach for a lot of people in the community.

An essential part of homeownership is prudent financial management. The same applies to all Queenslanders. Finance must be available at reasonable rates, and there must be the capacity and the reasonable prospect of the finance being repaid. This brings me to the issue of Indigenous people accessing finance through financial institutions, which is a key part of providing Indigenous people with opportunities to secure a long-term lease over a property in comparable circumstances to non-Indigenous Queenslanders.

I want to raise one issue with the minister. How will the establishment of these property markets in these Indigenous communities be managed, given that there will be a limited pool of potential participants in that market being established in the first instance? It will be very interesting to see how that market establishes itself, given that there will be a limited number of participants in the market and given the similarities and differences compared to the wider property market across the rest of Queensland.

I think the member for Bundaberg mentioned that there must be a clear understanding of how contracts are issued and negotiated and also the obligations on people who take out those loans to access the housing market. If a loan is defaulted on, does that then give the financial institution involved an interest in that title within that Indigenous community? If there is no repossession recourse for that financial institution, what interest is there for financial institutions to issue loans to Indigenous people? What reason is there if they will not have an opportunity to exercise their right to recover the equity in that property should there be a default on the loan? There are provisions in this bill relating to the mortgagee having to sell the land within four years, but this means that Indigenous people will still not be participating on an even footing with non-Indigenous Queenslanders.

These issues are not straightforward and will need to be monitored to avoid any adverse consequences for individuals in Indigenous communities. Other issues, such as affordable housing construction, also need to be examined in order to provide the most workable and effective outcome. There needs to be an assessment of the existing housing stock and its capacity, and standard precautions need to be taken to avoid any possibility of speculative investment working against the affordability of housing in Indigenous communities. There needs to be ongoing monitoring to ensure the objectives of the bill are actually achieved.

The goal of the legislation will be to protect the culture of the Indigenous communities involved while facilitating and encouraging economic development. I look forward to hearing the minister explain how this legislation will do that in view of the absence of comparable freehold property rights, the absence of comparable access to finance and the unique nature of the property market that those Indigenous Queenslanders will be operating in. The Indigenous communities will have a range of opportunities that they did not previously have, and I wish them all the very best in securing better outcomes for themselves, their families and their community as a whole.