014 ~~bill. The stakeholders who have been involved have participated in 15 different workshops. I think all of the issues have been well and truly contemplated. All of the complexities are well and truly understood by not just the stakeholders but those of us in government who have had to deal with this issue that the previous government had not dealt with. So I think the reporting date that is nominated in this motion is very appropriate. It will allow for the finalisation of this matter by the beginning of the next financial year.~~

~~Ms TRAD:~~ ~~I rise to speak on the proposed motion in relation to the time frame in which the parliamentary committee has to report back on this substantial bill. Obviously this is not mischief making. These are very valid, reasonable and rational concerns. This bill was presented to the House on 8 May and it is anticipated that the parliamentary committee is to come back in a matter of weeks with a full analysis of the bill, having sought submissions from stakeholders. I acknowledge the Deputy Premier's words in relation to the consultation that has taken place by his department to date. However, we are to take his word on that. As he would well know, the parliamentary committee itself has its own obligations and its own responsibility to investigate legislation brought before this House adequately and sufficiently, and not just leave it up to the executive arm of government to conduct those consultations on its own. Obviously it is insufficient time for scrutiny of this bill and for appropriate consultation. I ask that the Deputy Premier reconsider the time frame that he has given the parliamentary committee to consider this bill.~~

~~Division: Question put—That the motion be agreed to.~~

~~AYES, 66:~~

~~LNP, 66~~~~—Barton, Bates, Bennett, Bleijie, Boothman, Cavallucci, Choat, Costigan, Cox, Crandon, Cripps, Crisafulli, Davies, C Davis, T Davis, Dempsey, Dillaway, Dowling, Elmes, Flegg, France, Frecklington, Grant, Grimwade, Gulley, Hart, Hathaway, Hobbs, Holswich, Kaye, Kempton, King, Krause, Langbroek, Latter, Maddern, Mander, McArdle, McVeigh, Menkens, Millard, Minnikin, Molhoek, Newman, Nicholls, Ostapovitch, Powell, Pucci, Rice, Rickuss, Ruthenberg, Seeney, Shorten, Shuttleworth, Smith, Sorensen, Springborg, Stevens, Stewart, Stuckey, Symes, Trout, Walker, Watts, Woodforth, Young.~~

~~NOES, 14:~~

~~ALP, 8~~~~—Byrne, D'Ath, Miller, Mulherin, Palaszczuk, Pitt, Scott, Trad.~~

~~KAP, 2~~~~—Hopper, Knuth.~~

~~PUP, 2~~~~—Douglas, Judge.~~

~~INDEPENDENTS, 2~~~~—Cunningham, Wellington.~~

~~Resolved in the affirmative.~~

~~Motion agreed to.~~

ABORIGINAL AND TORRES STRAIT ISLANDER LAND (PROVIDING FREEHOLD) AND OTHER LEGISLATION AMENDMENT BILL

Introduction

Hon. AP CRIPPS (Hinchinbrook—LNP) (Minister for Natural Resources and Mines) (11.48 am): I present a bill for an act to amend the Aboriginal Land Act 1991, the Aboriginal Land Regulation 2011, the Land Act 1994, the Land Valuation Act 2010, the Torres Strait Islander Land Act 1991 and the Torres Strait Islander Land Regulation 2011 for particular purposes, to repeal the Aurukun and Mornington Shire Leases Act 1978, and to make minor and consequential amendments of other legislation as stated in schedule 1. I table the bill and the explanatory notes. I nominate the Agriculture, Resources and Environment Committee to the bill.

Tabled paper: Aboriginal and Torres Strait Islander Land (Providing Freehold) and Other Legislation Amendment Bill 2014.

Tabled paper: Aboriginal and Torres Strait Islander Land (Providing Freehold) and Other Legislation Amendment Bill 2014, explanatory notes.

It is with a great deal of personal satisfaction and some pride that I introduce this landmark bill into the Queensland parliament. I am delighted to be the minister responsible, with the support of my cabinet colleagues, for delivering to Indigenous Queenslanders the opportunity to own their own home in their local community in freehold for the first time. European land tenure systems in Aboriginal and Torres Strait Islander communities have a long and varied history, commencing with reserves established under the Aboriginals Protection and Restriction of the Sale of Opium Act 1897, the Aurukun and Mornington Shire Leases Act 1978, the deeds of grant in trust instruments established over most communities in 1982, the Land Holding Act 1985 that provided for perpetual

leases and ending with the Aboriginal Land Act 1991 and the Torres Strait Islander Act 1991, which enabled the transfer of land to entities representing people in Indigenous communities. This history shows that there has been a steady, some might say frustratingly slow, progression from state control to community control of land associated with Indigenous communities. However, at no time have Aboriginal and Torres Strait Islander Queenslanders been afforded the opportunity to secure property in freehold in their own local communities. The provisions in the bill that I present to the House today propose to change that and this opportunity is long overdue.

This bill proposes to put in place a framework to implement the Newman government's commitment to give Aboriginal and Torres Strait Islander communities the same opportunity to secure freehold title that is available to all other Queensland communities and to remove barriers to home ownership and drive economic development in those communities. Let me be clear: the simple passage of this legislation through the parliament will not create one square inch of freehold land in Indigenous communities in Queensland. The Newman government will not force Indigenous Queenslanders to accept freehold title in their communities. We are simply putting in place a mechanism to enable trustees, in consultation with their respective communities, to choose to make freehold available should they wish to do so.

015 The bill introduces a freehold model based on the following key elements: freehold is voluntary and optional for communities; the trustee decides whether to take up the freehold option in consultation with the community; native title must be voluntarily surrendered or otherwise extinguished before freehold can be granted and the state will not pay for the surrender or relinquishment of native title; the process is self-funding, with any costs incurred by the trustee to be recovered through the freehold land purchase price; it delivers the same freehold title that all other Queenslanders enjoy; and there must be a planning scheme in place for the land being offered for freehold.

The freehold model will be an option for the 34 Aboriginal and Torres Strait Islander communities in either an Aboriginal shire council or an Indigenous regional council. The proposed freehold model gives the trustee the power to request the minister approve the granting of freehold title to specified individuals. The basic premise of this model is that the trustee, following appropriate consultation, will make the decision on behalf of their community as to whether or not to adopt the freehold model. Whether the trustee elects to take up the option of introducing freehold title into their particular community or not, the current leasing provisions within the Aboriginal Land Act and the Torres Strait Islander Land Act will remain available.

The freehold model takes into account the unique features of Aboriginal and Torres Strait Islander communities and potential issues or concerns that may arise from the introduction of ordinary freehold title. This legislation will put in place the mechanism to identify what community land should be made available for the freehold option and who is qualified under the legislation to apply for freehold.

I will now go through the freehold model in some detail. The bill provides a balance of flexibility and control which enables trustees, where they wish to provide the option of freehold, to provide it in a way that best suits their community. The key to this flexibility and control is the freehold instrument, which is prepared by the trustee and sets out where freehold can and cannot be granted and the details of how and to whom the land can be allocated.

Freehold can only be granted in a community with a planning scheme instrument in place. Once the freeholding initiative is approved, it will be attached to the relevant planning scheme and is therefore publicly available so everyone in the community knows where and how freehold will be made available. The bill prescribes what details must be included in the freehold instrument and the minimum level of consultation. The Trustee must undertake appropriate consultation, including with the native title holders for the area, if they have been determined.

All other details are up to the trustees and local communities to develop, so they can decide what is right for that particular community. For example, a trustee and community can choose to make the whole township available for freehold or just certain parts of the township. They can even decide not to make freehold available at all. The freehold instrument is made up of a freehold schedule and a freehold policy. The freehold instrument must have the minister's approval before it has effect.

Following the request from the trustee, the local government will run a notification and consultation process on the freehold instrument, including consideration of any submissions received, in accordance with the approved guidelines. The freehold schedule identifies what land will be made

available for freehold in that community. The freehold policy ensures decisions made by the trustee are equitable, consistent and transparent—in other words, what land will be made available for freehold and who that land will be allocated to.

A freehold policy must be prepared with a freehold schedule for freehold to be granted to an individual and must be in the approved form which sets out mandatory matters to be detailed. These include the method for allocating freehold, any additional eligibility criteria to participate in an allocation process, the sale price and costs, how the community will be consulted about the allocation process and who will be responsible for addressing any native title issues, in accordance with the Commonwealth Native Title Act.

Additionally, the bill provides for two land allocation processes. Where someone has an existing interest, for example a perpetual lease under the Land Holding Act, then only that person, provided they meet the eligibility criteria, can apply for freehold over that land. This process acknowledges that the land has already been allocated for a particular use and prevents people having the land and, more importantly, their home being sold out from under them. It also protects existing interests and uses by the Commonwealth and Queensland governments and local councils.

The other land allocation process is where there is no existing interest in the land. In this situation, the bill provides that the land must be allocated in an open and transparent manner—by auction, ballot or tender. To address concerns about possible conflicts of interest, the trustee must also appoint a probity advisor to monitor the land allocation process from collective to individual ownership.

There are always unavoidable costs in moving from communal tenure to individual freehold title. To minimise these costs the bill provides for model freehold instruments. The model freehold instrument provides a ready-made or template pathway to freehold for a community. The model freehold instrument is limited in its application to land that has been regulated and, as a result, the full community consultation process is not required. This reduces the need for additional consultation and the engagement of a probity officer. By adopting this model freehold instrument a trustee can make freehold available within their community in a timely and orderly fashion.

Not all communities will elect to take up the freehold option—that is their choice. However, this bill assists even these communities by simplifying complex, non-residential leasing arrangements that currently apply under the Aboriginal Land Act and the Torres Strait Islander Land Act. The bill will amend these acts to remove unnecessary restrictions on the terms and purposes of non-home ownership leasing on Indigenous land, so Indigenous communities can respond more quickly to economic opportunities as they arise.

Consultation on the provisions of this bill has been extensive, starting with the release of a discussion paper in November 2012 and followed by the release in December 2013 of a consultation draft of the bill with supporting explanatory material. In addition, the Assistant Minister for Aboriginal and Torres Strait Islander Affairs, the member for Cook, has played a major role in leading targeted face-to-face consultation from December 2012 to February 2014, with local councils, Indigenous bodies and other interested parties.

This extensive consultation included meetings with Indigenous local councils and the Local Government Association of Queensland; Native Title Prescribed Bodies Corporate; the Torres Strait Regional Authority and its Native Title Office; Torres Strait Island Regional Council; North Queensland Land Council and Yarrabah Council; Cape York Regional Organisations; and Queensland South Native Title Services.

016 Fourteen submissions were received in response to the consultation draft bill. I thank those people and organisations who made submissions. As a result of consultation, the freehold model has been restricted to residential areas within townships. This should reduce some concerns that have been expressed about the potential for the Indigenous estate to be sold off and should also reduce costs in implementing the model because of the use of existing township areas.

Following a lack of support for a proposal to enable registered native title bodies corporate to apply for freehold in the initial application, only individual natural persons will be able to apply for freehold. Indigenous councils and other trustees were separately consulted on simplifying the non-home ownership leasing arrangements and these groups strongly supported the proposed amendments. Feedback from the freehold consultation has shown general, in-principle support for the proposed freehold model. There is strong support for the optional freehold model allowing individual communities to provide freehold in the way best suited to each of their communities.

The Newman government understands the challenge in changing land ownership from communal to freehold and, in particular, the sensitivities associated with alienating Indigenous land. To assist in meeting this change, my colleague the Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs will be calling for expressions of interest from communities who wish to road test the freehold model. This pilot program will enable our respective departments to work closely with local Indigenous councils, trustees and communities in implementing the freehold model.

Some concerns have been raised that the existing land administration system in Indigenous communities is inadequate and may frustrate the take-up of freehold if applicants are confronted with higher transaction costs. Historically, Aboriginal and Torres Strait Island communities have not had the same obligations to implement land administration systems, but at the same time they have missed out on the benefits that a rigorous land administration system provides. It is now time to change this.

The Newman government is instigating a coordinated and comprehensive effort to bring the land administration systems in Indigenous communities up to date with comparable non-Indigenous communities across Queensland. Currently, the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs and the Department of Natural Resources and Mines are comprehensively upgrading the land administration systems in Indigenous communities.

This includes working, in partnership with local councils to survey and subdivide all lots in townships; to prepare planning schemes compliant with the Sustainable Planning Act; to resolve road alignments and tenure irregularities including those resulting from the Aborigines and Torres Strait Islanders (Land Holding) Act 1985; and to achieve Indigenous land use agreements to enable future land use, such as the grant of freehold. The end result means trustees and local councils will be better able to plan and develop their own communities and individuals applying for freehold will not have to pay for basic land administration features that other Queensland communities take for granted.

Some may argue that because, under the proposed changes, the state will not contribute to the costs of surrendering native title and also because of the costs associated with native title compensation, that there is a risk the policy will not succeed. I disagree. If a community values native title over freehold title then that community has made a value judgement, or perhaps more appropriately, a cultural judgement, which the Newman government and all Queenslanders should respect. That is their choice. Native title holders will decide whether or not to consent to the grant of freehold, knowing that the land will go to an Indigenous person. This should be a factor in their decision. Any reasonable costs can be recovered through the purchase price set by the trustee.

This bill also proposes to amend the Land Valuation Act to allow the Valuer-General to provide valuations, for the first time, to Indigenous local councils for their use in levying general rates, as is the case for all other local councils in Queensland. To allow time for the Indigenous local authorities to be established on the valuation roll, to be physically valued and Indigenous local authorities to develop the appropriate rating systems, the first valuations are to be included in the annual valuation cycle effective as at 30 June 2016.

Subject to the amendment of the Land Valuation Act, it is proposed to consequentially amend the Local Government Regulation 2012 so Indigenous local councils have the power and are required to make and levy general rates for rateable land in their local council areas, as are all other local authorities in Queensland. It is only after this regulation is made that Indigenous local authorities will be able to levy rates. Once land in their local government area has been valued for rating purposes, each Indigenous local government will be responsible for setting the level of their general rates, taking into account such factors as land valuations, the capacity of the land to generate income and the cost of delivering services to that land.

This bill also includes a provision to repeal the Aurukun and Mornington Shire Leases Act 1978. Unlike other local governments, the Aurukun and Mornington shire councils were established under the Local Government Aboriginal Lands Act 1978. Following moves to ensure greater consistency between the powers and functions of the Aurukun and Mornington councils and those of all other Aboriginal and Indigenous councils, redundant and outdated provisions within the Local Government Aboriginal Lands Act were removed in 2010 and the act was subsequently renamed the Aurukun and Mornington Shire Leases Act 1978. All of Mornington Island shire lease and most of Aurukun shire lease has been transferred under the Aboriginal Land Act. The balance is anticipated to be transferred midyear, and at that time the Aurukun and Mornington Shire Leases Act 1978 will become redundant.

The Newman government's commitment to provide members of Aboriginal and Torres Strait Island communities with freehold title represents a significant change from the existing trust and communal land tenure arrangements where land cannot be privately owned or sold. Private land ownership in Aboriginal and Torres Strait Islander communities will enable Aboriginal people and Torres Strait Islanders to pursue their own social and economic interests and stimulate economic development.

I now turn to amendments to the Land Act 1994 that enable the creation of a conditional right of public access over beaches that are in private ownership. Queensland beaches are a key focal point for our lifestyle and economy. Local residents and visitors access our beaches every day, whether it is for recreation purposes or to get from here to there. Locals and visitors alike love the coast, creating high demand for freely accessible public beaches. I am sure that all Queenslanders would consider it their right to access this state's magnificent beaches.

Generally beaches in Queensland are managed by the state or by the relevant local council. It has never been the policy of the state to grant private ownership of beaches, and generally the coastline is bordered by community purpose reserves and esplanades. However, in some instances, the separating reserve or esplanade can be lost as a result of erosion and the sea can move within the boundaries of private freehold and leasehold properties. In such cases landowners can lawfully prevent public access across the beach area. Indeed, if they do not prevent public access, they may be exposed to a significant public liability risk.

The bill proposes to provide power for the minister administering the Land Act 1994 to declare, on a case-by-case basis, a conditional right of public access to an area of beach where, through erosion, that area of beach now falls under private ownership. To alleviate any burdens to the landowner caused by the beach being within a private boundary, the state will assume the public liability risk over the beach area and will prescribe standard conditions to apply to that access. These standard conditions may also be modified to address the specific circumstances of a land owner or the nature of the desirable public access. Local councils will be provided with the opportunity to take control of the beach access area, but, if they do not wish to take control, the area will be managed by the state.

I commend the bill to the House and, in doing so, reiterate that the Newman government, particularly myself as the responsible minister, is conscious of the significant and historic nature of providing Indigenous Queenslanders with the opportunity to own their own home, in their local community, in freehold—an opportunity that the rest of us have enjoyed since European land tenure systems were established in this state. I am proud to deliver it.

First Reading

Hon. AP CRIPPS (Hinchinbrook—LNP) (Minister for Natural Resources and Mines) (12.09 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Agricultural, Resources and Environment Committee

017 **Mr DEPUTY SPEAKER** (Dr Robinson): Order! In accordance with standing order 131, the bill is now referred to the Agriculture, Resources and Environment Committee.

Portfolio Committee, Reporting Date

Hon. AP CRIPPS (Hinchinbrook—LNP) (Minister for Natural Resources and Mines) (12.10 pm), by leave, without notice: I move—

That under the provisions of standing order 136 the Agriculture, Resources and Environment Committee report to the House on the Aboriginal and Torres Strait Islander Land (Providing Freehold) and Other Legislation Amendment Bill by 11 August 2014.

Question put—That the motion be agreed to.

Motion agreed to.