

047

NATURAL RESOURCES AND OTHER LEGISLATION AMENDMENT BILL

Message from Governor

Hon. S ROBERTSON (Stretton—ALP) (Minister for Natural Resources, Mines and Energy and Minister for Trade) (7.38 pm): I present a message from Her Excellency the Governor.

The Deputy Speaker (Mr Wendt) read the following message—

MESSAGE

NATURAL RESOURCES AND OTHER LEGISLATION

AMENDMENT BILL 2010

Constitution of Queensland 2001, section 68

I, PENELOPE ANNE WENSLEY, Governor, recommend to the Legislative Assembly a Bill intituled—

A Bill for an Act to amend the Aboriginal Cultural Heritage Act 2003, the Aboriginal Land Act 1991, the Coastal Protection and Management Act 1995, the Dividing Fences Act 1953, the Fire and Rescue Service Act 1990, the Forestry Act 1959, the Forestry Regulation 1998, the Forestry Plantations Queensland Act 2006, the Forestry (State Forests) Regulation 1987, the Land Act 1994, the Land Title Act 1994, the Mineral Resources Act 1989, the State Development and Public Works Organisation Act 1971, the Survey and Mapping Infrastructure Act 2003, the Surveyors Act 2003, the Torres Strait Islander Cultural Heritage Act 2003, the Torres Strait Islander Land Act 1991, the Vegetation Management Act 1999 and the Water Act 2000 for particular purposes, and to make minor amendments of Acts as stated in the schedule for particular purposes.

(sgd)

GOVERNOR

Date: 08 MAR 2010

Tabled paper: Message from Her Excellency the Governor, dated 8 March 2010, recommending the Natural Resources and Other Legislation Amendment Bill.

First Reading

Hon. S ROBERTSON (Stretton—ALP) (Minister for Natural Resources, Mines and Energy and Minister for Trade) (7.40 pm): I present a bill for an act to amend the Aboriginal Cultural Heritage Act 2003, the Aboriginal Land Act 1991, the Coastal Protection and Management Act 1995, the Dividing Fences Act 1953, the Fire and Rescue Service Act 1990, the Forestry Act 1959, the Forestry Regulation 1998, the Forestry Plantations Queensland Act 2006, the Forestry (State Forests) Regulation 1987, the Land Act 1994, the Land Title Act 1994, the Mineral Resources Act 1989, the State Development and Public Works Organisation Act 1971, the Survey and Mapping Infrastructure Act 2003, the Surveyors Act 2003, the Torres Strait Islander Cultural Heritage Act 2003, the Torres Strait Islander Land Act 1991, the Vegetation Management Act 1999 and the Water Act 2000 for particular purposes, and to make minor amendments of acts as stated in the schedule for particular purposes. I present the explanatory notes, and 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.

Tabled paper: Natural Resources and Other Legislation Amendment Bill.

Tabled paper: Natural Resources and Other Legislation Amendment Bill, explanatory notes.

Second Reading

Hon. S ROBERTSON (Stretton—ALP) (Minister for Natural Resources, Mines and Energy and Minister for Trade) (7.40 pm): I move—

That the bill be now read a second time.

The Natural Resources and Other Legislation Amendment Bill 2010 provides amendments to a number of acts within my portfolio. Firstly, this bill will amend the Water Act 2000, the Land Act 1994 and the Survey and Mapping Infrastructure Act 2003 to resolve the longstanding uncertainty and confusion about the location of tidal and non-tidal ambulatory boundaries. An ambulatory boundary is defined by reference to a body of water such as a sea or river. The location of an ambulatory boundary may shift over time. This bill will provide criteria for locating an ambulatory boundary; firstly, it will clarify the distinction between the state's jurisdiction over a watercourse and its ownership of a non-tidal boundary watercourse; secondly, it will clarify the location of each of these boundaries.

Confusion in the location of ambulatory boundaries has been the subject of both lower and higher court decisions. For example, in one case the court determined that the ambulatory boundary set at 'high-water mark' was positioned at mean high-water springs. As a consequence some landholders resurveyed their lot to incorporate the land between their original boundary and mean high-water

springs. In some cases this increased the size of their lot and incorporated beach land into private ownership.

To protect beaches for the community, in 2005 the government introduced a stay on the registration of these types of survey plans. During the stay, tidal plans of subdivision lodged by surveyors were first subjected to a technical assessment, for example, has the surveyor followed the relevant survey directions including requirements regarding measurements, and then to a public interest test, including issues such as public access and environmental considerations, before being considered by the minister. Under this process, 15 such plans have been approved for registration, six have been rejected for technical reasons and 10 are being assessed. The bill provides that tidal plans of survey approved during the stay will be treated as if they had been surveyed under the new rules. Where tidal plans of survey are not approved before the repeal of the stay, they will be subject to the new rules which, in effect, will be similar to those that applied during the stay. This bill creates a permanent solution to the problem, providing strict criteria to ensure that beach land cannot be taken into private ownership.

It applies similar criteria for non-tidal watercourse boundaries. For land with a non-tidal watercourse boundary, a change to a boundary on resurvey will not diminish a landholder's riparian rights in any way. Landowners adjoining a watercourse will still be able to take water for stock and domestic purposes, exercise the right of access and bring action against trespassers. This bill will create certainty about ambulatory boundaries for landholders and the state. As a result, it will reduce legal disputes over non-tidal watercourse boundaries.

This bill also provides for the longer term management of the state's plantation interests by the Department of Environment and Resource Management. This includes provisions for ensuring security of tenure and for public access into the future. Also, this bill will establish a licensing scheme where the state will issue a plantation licence for an area. It will ensure plantation forestry land is used and managed for the purpose of forestry and in a transparent and sustainable manner. This bill also ensures that the rights of others using the state plantation forest, such as apiarists and graziers, are preserved into the future. Importantly, the right of access by the general public is also preserved. Given the need to ensure safety and security of persons during plantation operations, such as harvesting, this bill provides the plantation licensee with certain control powers limited to the licence area.

This bill also amends the Water Act 2000 to provide for the much needed finalisation of the Lower Balonne provisions for the Condamine and Balonne Resource Operations Plan. The Lower Balonne provisions of the draft Condamine and Balonne Resource Operations Plan were deferred in December 2008 due to a judicial review action. This resulted in the resource operations plan only covering the upper and middle Condamine catchments. Although the Supreme Court found in favour of the department and dismissed the judicial review application, it is critical the Lower Balonne provisions for the resource operations plan be finalised without further delay. Water users in the Lower Balonne are the only water users in the Murray-Darling Basin who do not have secure water access entitlements and who cannot participate in the Commonwealth government's water entitlement buy-back program to achieve improved environmental outcomes for the basin. This finalisation will provide certainty to water users and the environment and deliver the necessary creation of tradable water entitlements in the area to provide the flexibility for entitlement holders to participate in this program.

The conversion of existing entitlements to water allocations and the resource operations plan provisions will commence on the day the resource operations plan is made. This is the day the proposed legislative amendment, if passed, receives the royal assent. The resource operations plan rules will apply to flows from the day of commencement of the finalised resource operations plan. The majority of unsupplemented water entitlements at the commencement of the resource operations plan will be under an instantaneous water-sharing rule. This is a key feature of the finalised Condamine and Balonne Water Resource Plan. As supporting information to the forthcoming debate on this amendment I would like to table the *Condamine and Balonne resource operations plan amendment incorporating the Lower Balonne area*.

Tabled paper: Document titled Condamine and Balonne resource operations plan amendment incorporating the Lower Balonne area dated March 2010 by the Department of Environment and Resource Management.

This bill also makes minor amendments to the Forestry Act 1959, the Land Act 1994, the Land Title Act 1994, the Surveyors Act 2003, the Survey and Mapping Infrastructure Act 2003, the Vegetation Management Act 1999, the Aboriginal Cultural Heritage Act 2003 and the Torres Strait Islander Cultural Heritage Act 2003. These amendments will provide more legal security for landholders entering into agreements with third parties about ownership of the natural resource products on their land; strengthen provisions relating to lease terms under the Delbessie Agreement; ensure the keeping of registers relating to land is as efficient, convenient and accurate as possible; improve regulation of the surveying profession; and rectify a duplication of regulation for vegetation clearing in relation to national parks. The minor amendments will also clarify the definition of the Aboriginal or Torres Strait Islander native title party for an area to put beyond doubt the identity of the native title party for cultural heritage purposes in the situation where there are two or more previously registered claimants for an area.

In commending the bill to the House I note that in terms of the document I said I would table, I do not have it in my possession at this point in time but I will table it at the earliest possible opportunity.

Debate, on motion of Mr Seeney, adjourned.

~~MOTION~~

~~Suspension of Standing and Sessional Orders~~

~~Hon. JC SPENCE (Sunnybank ALP) (Leader of the House) (7.47 pm), by leave, without notice: I move—~~

~~That, notwithstanding anything contained in standing and sessional orders for this day's sitting, the House can continue to meet past 10 pm to consider government business until the adjournment is moved to be followed by the 30 minute adjournment debate.~~

~~Question put That the motion be agreed to.~~

~~Motion agreed to.~~

~~VALUATION OF LAND AND OTHER LEGISLATION AMENDMENT BILL~~

~~Second Reading~~

~~Resumed from p. 697, on motion of Mr Robertson—~~

~~That the bill be now read a second time.~~

~~Ms SIMPSON (Maroochydore LNP) (7.48 pm): We heard the Oscar rating given by the member for Gympie of this government's performance, particularly aligning their acting cred to that of a B grade movie.~~

~~Mr Gibson: Going to DVD.~~

~~Ms SIMPSON: Or going to DVD early it is so bad, but I think that there is another analogy and that is of a government that is perhaps deserving of an award in the Razzies. They are certainly the worst economic managers that this state has ever seen. While we can laugh about just how bad they may seem, the sad reality is that it is Queenslanders who actually pay for that failed economic management.~~

~~This is the first government that lost its AAA rating. It would have us believe that it was not its fault. In an excuse analogous to the 'dog ate my homework', this government lost the AAA rating at a time when other states did not. Now we see this legislation before the House, which is another milestone on its path to economic disaster because it has no connection or understanding of the business and investment world in which we do live. That is not just big business; it is small business and it is private investment. If ever there has been an example of a piece of legislation that has been crafted in such a way as to fail to understand the most basic principles of investment here in Queensland, this is it.~~

~~If there is a movie that we can align this government's performance to it is probably *Risky Business*. If we look at what industry has been saying about this piece of legislation, they have said this legislation is risky to business. You would think that those who are professional in the area of valuations—professional valuers who are in the business of putting their skills on the line, being willing to go out to the marketplace and make their professional judgements on the valuation of property—may see this legislation as such a great opportunity in that many of them would be called in to undertake revaluations under the government's proposed legislation. But no, they were critical of this legislation. They were highly critical of this legislation because of the fact that it was risky to business. I will read just one contribution from the valuation industry in this regard which I think is quite important. They said—~~

~~The deception—the bill—will serve to make Queensland a risky place to invest.~~

~~That is a very strong statement. As I said, this is not just about big business or even small business, which employs the majority of Queenslanders; it is also about private investors—all those mum and dad investors and people who have money in superannuation funds. What we have seen with this legislation is a sneaky, sly attempt to justify the government's desire to grab more land tax by changing the way that valuations are formulated in this state.~~

~~I have heard all these excuses from Labor members saying, 'It's not really that serious. It was not such a big change.' When we consider the level of extraordinary outrage from across the community in regard to this bill we realise that this government has no understanding of the field in which it operates. Did it conduct consultation? Looking at the explanatory notes, did it consult with the people it was impacting upon the most? The answer is no. The explanatory notes have a paucity of information about those the government has talked to other than government departments. Also we see that it did talk to government departments interstate. But did it bother to talk to mum and dad investors here? Was there~~