~~Referral to the Legal Affairs and Community Safety Committee~~

~~**Mr DEPUTY SPEAKER** (Dr Robinson): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.~~

022 ~~Sitting suspended from 1.01 pm to 2.30 pm.~~

ABORIGINAL AND TORRES STRAIT ISLANDER LAND HOLDING BILL

Introduction

Hon. AP CRIPPS (Hinchinbrook—LNP) (Minister for Natural Resources and Mines) (2.30 pm): I present a bill for an act to make ongoing provision for particular matters arising under the Aborigines and Torres Strait Islanders (Land Holding) Act 1985 and to repeal that Act, and to amend this Act, the Aboriginal Land Act 1991, the Environmental Protection Act 1994, the Land Act 1994, the Land Court Act 2000, the Mineral Resources Act 1989, the Survey and Mapping Infrastructure Act 2003, the Sustainable Planning Act 2009, the Sustainable Planning Regulation 2009, the Torres Strait Islander Land Act 1991, the Vegetation Management Act 1999 and the Wild Rivers Regulation 2007 for particular purposes. I table the bill and the explanatory notes. I nominate the Agriculture, Resources and Environment Committee to consider the bill.

Tabled paper: Aboriginal and Torres Strait Islander Land Holding Bill 2012.
Tabled paper: Aboriginal and Torres Strait Islander Land Holding Bill 2012, explanatory notes.

I am very pleased to introduce this important bill into the House today. As the Minister for Natural Resources and Mines, I am committed to working decisively to improve the operation and effectiveness of Queensland's statutes across the breadth of my portfolio responsibilities. This bill primarily addresses a number of longstanding issues arising from the operation of the Aboriginal and Torres Strait Islanders (Land Holding) Act 1985. It is aimed at resolving a range of complicated anomalies under the existing laws and providing the tools to resolve them.

The current act is outdated, inflexible and provides no tools to resolve important issues which have impeded its usefulness as a 'home ownership' delivery mechanism for Indigenous Queenslanders. This bill delivers necessary amendments across several pieces of legislation and tackles difficult tenure issues that have been problematic for far too long. These anomalies have impacted upon the delivery of important social housing and the transfer of land that could facilitate higher levels of home ownership in Indigenous communities. By addressing these issues, the government is delivering on our election commitment to work with all trustees, individual community members and stakeholders to remove barriers to sustainable home ownership on Indigenous land in Queensland.

This bill will repeal the Aborigines and Torres Strait Islanders (Land Holding) Act and replace it with a new, more effective and flexible piece of legislation, including provisions to align the new act wherever practicable with related pieces of legislation, namely the Aboriginal Land Act 1991 and the Torres Strait Islander Land Act 1991. A number of members would be aware that in inheriting responsibility for this legislation, I have inherited, as the responsible minister, a legacy of inconsistency and neglect. The land holding act was intended to allow the state's Aboriginal and Torres Strait Islander people to obtain perpetual leases for residential purposes and leases for other purposes over land in Queensland's Indigenous communities. Many people applied for these leases. Unfortunately, while 223 leases were granted, I am sorry to say that many other applicants who were found to be eligible never received their leases. More than 200 eligible Queenslanders were denied their rights to secure leasehold property in their home community.

The result of this poorly drafted legislation has been a raft of tenure anomalies, housing not being constructed within, or even on, the correct lease area and numerous other examples of infrastructure either encroaching on or being entirely constructed on lease or entitlement areas where it should not have been. The Aboriginal and Torres Strait Islander Land Holding Bill seeks to rectify this problem by establishing a process and framework—a 'plan of attack' if you will—to grant these outstanding leases to the eligible applicants. The amendments will enable as many as 436 perpetual leases in 19 Indigenous communities to be formally recognised and for the lessee to be able to be confirmed as a 'home owner' where housing exists on those lease areas, where the lessee is willing to take on that responsibility.

Fortunately, some outstanding leases will be able to be granted quickly. With others, the process will be more time consuming as some complicated scenarios and technical difficulties will need to be overcome with goodwill and community based agreement. In some cases, given the time that has elapsed since they were made, the physical layout of the application area may have been impacted. For example, if part of the land has been unwittingly used for another purpose or has been built upon by others, the survey of adjoining lease boundaries may impact on the parcel's size and location. As the responsible minister, I will not grant a lease to someone who will be burdened with such problems. Challenges of this nature will first be tackled at the local level with a community reference panel,

including the local Indigenous council, working with state officials and individuals to develop viable solutions.

This bill is effectively a legislative clean-up operation to deal with a number of unfortunate legacies created by the land holding bill 1985. Where necessary, the Land Court will be the final and impartial arbitrator where agreement on whether a lease can be granted is not reached. The Land Court will be able to make appropriate orders about alternative arrangements where the grant of a lease is ultimately not possible.

Members may well ask if I can be certain that all the applications that were made were valid, given the time that has passed. Despite our best efforts, I cannot say with complete certainty that every validly made application has been considered and processed properly. To avoid overlooking valid applicants, the Aboriginal and Torres Strait Islander Land Holding Bill allows people to bring forward evidence of their entitlements for consideration—even where this evidence is not otherwise a matter of record. The Director-General of the Department of Natural Resources and Mines will consider the evidence and decide if a case for an entitlement exists.

This bill also makes other important amendments, including modernising the conditions of leases that can be granted and in many ways brings them into line with the provisions of the Aboriginal and Torres Strait Islander land acts—acts now used to grant leases on Indigenous community land. I now turn to the other amendments proposed in this bill.

Many members of this House are aware of the strong connection Aboriginal people have with land and country. Members would also be aware that older pastoralists and pastoral families of long standing also have a strong understanding and connection with the land. Given this strong connection to country, it is no surprise that the Land Act 1994 already allows pastoralists and Aboriginal groups to voluntarily enter into agreements about access to land subject to pastoral leases for traditional and cultural activities. To encourage more of these agreements, I am bringing forward amendments in this bill that will better define their scope and operation.

The amendments will provide clearer guidelines for pastoralists seeking to enter into Indigenous access and use agreements or Indigenous land use agreements. These amendments will ensure that agreements are well balanced and protect the interests of both parties but remain flexible enough to cater for particular needs of specific cases. These provisions will also provide an incentive for pastoralists to resolve native title and will remove some of the barriers such as public liability concerns which have impeded access to and use of pastoral leases by traditional owners.

023 In exchange for a 25 per cent rental reduction incentive from the state for five years, a pastoralist can agree to withdraw from being a respondent party to any native title claim in the Federal Court and will assume responsibility for public liability insurance. This approach takes into account that around 70 per cent of state rural leasehold land leases are within native title claim areas and that, of the more than 100 outstanding native title claims, around 60 per cent include pastoralists as respondent parties. Ultimately, these provisions encourage relationship building between traditional owners and lessees, which may give rise to new opportunities for both parties. These amendments will be beneficial to both pastoralists and Indigenous Queenslanders alike.

These amendments are the result of engagement with stakeholder groups including the State Rural Leasehold Ministerial Advisory Committee; Queensland Indigenous Working Group; AgForce; North Queensland Land Council; and Queensland South Native Title Services. Many of the new provisions included in the bill are a direct result of negotiations with key stakeholder groups facilitated by the National Native Title Tribunal, ensuring that the amendments proposed complement native title process.

I turn now to other amendments to the Land Act, and the Aboriginal and Torres Strait Islander land acts contained in the bill. These amendments will benefit Queensland's Indigenous councils in their management of Indigenous community lands. Perhaps the most important amendment proposed is the protection for ongoing use of existing council facilities where Indigenous community land is transferred. The Aboriginal and Torres Strait Islander land acts provide that the existing Indigenous community lands are to be transferred by way of an inalienable freehold to the appropriate Indigenous grantees as soon as is practicable.

However, an oversight in the acts has been identified. While the acts provide for continued access and use by the state and Commonwealth of their facilities after land transfers have occurred, this protection is not extended to local councils. A local community cannot be expected to properly function where local councils are not extended this protection. Without this commonsense reform, the only thing councils can do is to try to seek a future lease or attempt to make suitable arrangements with the new landowners in circumstances of some uncertainty. This is an unacceptable outcome. Local governments need to be empowered to deliver services to local communities in rural and remote areas. This bill extends to councils the same protection for their existing public facilities and infrastructure. Even when land is transferred, they will be able to access it and can continue to operate their infrastructure for as long as is required.

In addition, the bill makes amendments to the Land Act 1994 to allow for the subdivision of a deed of grant in trust by the trustee. This new provision will allow the trustee, with the approval of the minister, the ability to subdivide the DOGIT. The ability to subdivide a DOGIT facilitates effective land management and opportunities for home ownership in Indigenous communities.

This is an important bill for Queensland's Aboriginal and Torres Strait Islander people. I commend the bill to the House.

First Reading

Hon. AP CRIPPS (Hinchinbrook—LNP) (Minister for Natural Resources and Mines) (2.42 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 Agriculture, Resources and Environment Committee

Madam DEPUTY SPEAKER (Mrs Cunningham): Order! In accordance with standing order 131, the bill is now referred to the Agriculture, Resources and Environment Committee.

~~CRIMINAL LAW AMENDMENT BILL~~

~~Second Reading~~

~~Resumed from 2 August (see p. 1485), on motion of Mr Bleijie—~~

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

~~**Mr HOPPER** (Condamine—LNP) (2.43 pm): As the chair of the Legal Affairs and Community Safety Committee, I would like to congratulate the Attorney-General on this legislation before the House and I bring forward the committee findings. In relation to the increase in mandatory minimum non-parole periods, the committee was in receipt of learned opinions courtesy of submissions and advice. The committee carefully considered a range of perspectives. On balance, the committee noted that the amendments reflect the Liberal National Party's pre-election commitments to introduce amendments to strengthen the sentences in this bill. Mandatory minimum non-parole periods are true to the policy objective of the bill and, therefore, received the committee's assent.~~

~~In relation to punishment for murder, the committee noted that the amendments give effect to the government's commitment to strengthen Queensland's criminal laws relating to murder and will provide strengthened protection to police officers. As for the serious assault of a police officer, mindful of the breadth of criminal conduct covered in section 340 Serious Assaults and the fundamental tenet that the maximum penalty must reflect the gravity of the offence, the committee noted that the bill effectively restricts the penalty increase to the more serious category of assaults upon police officers. As to the abolition of the Sentencing Advisory Council, the committee acknowledged the work of that council and notes the capacity of the Law Reform Commission to contribute in that context.~~

~~As to the evade police offence, the committee noted that the bill strengthened the consequences for the evade police offence and considered these measures will provide further disincentives. As to the consequences of a reduction of guilty pleas, the committee notes the possible consequences of the proposed amendments on the courts and other criminal justice agencies. Accordingly, the committee recommends that the Attorney-General monitor and review the consequences of the proposed amendments and report to parliament within two years from the commencement. As to the estimated cost of government implementation, the committee acknowledged these submissions. However, it supports the government's commitment to introduce amendments to strengthen the sentences for evade police, murder, murder of a police officer and serious assaults committed upon police officers.~~

~~I turn now to the fundamental legislative principles. With regard to the rights and liberties of individuals, punishment for murder, murder of a police officer and serious assault of a police officer, the committee considered the rights and liberties that are potentially affected. The committee notes that the policy objectives of the bill outweigh any potential issues of fundamental legislative principle.~~

~~Our police are front-line workers. There is a need to protect our police, and I really think that this bill before the House today does that. How often have we as members of parliament attended a police remembrance day? It is very moving if one of the officers mentioned happens to be someone you knew and with whom you worked closely and they lost their life in the line of duty. Hopefully, this legislation will put in place some deterrence, which is exactly its objective.~~