



16 January 2017

Research Director  
Agriculture and Environment Committee  
Parliament House  
BRISBANE QLD 4000

Dear Sir / Madam

The LGAQ welcomes the opportunity to comment on the *Land and other Legislation Bill 2016*. The LGAQ supports the policy objective of the Bill to improve administration of the *Land Act 1994* and *Land Title Act 1994*. The LGAQ also congratulates the Department of Natural Resources and Mines for their ongoing support and commitment to consult with local government and the LGAQ.

As outlined in the enclosed submission, the LGAQ is largely supportive of the majority of the amendments with the exception of the proposed changes to section 50. The LGAQ has serious concerns regarding these proposed amendments and how it undermines the relationship between the State and its 18,660 local government trustees that may lead to diminished outcomes on the ground for local communities.

In addition to the specific commentary in the submission, the LGAQ also maintains further opportunities are still to be realised in legislative reform that will promote economic growth and create a modern, adaptable framework for State land.

Please do not hesitate to contact either myself on [REDACTED] or Mr Luke Hannan, Manager – Planning, Development & Environment on [REDACTED]

Kind regards

[REDACTED]  
Sarah Buckler  
GENERAL MANAGER – ADVOCACY



**LGAAQ**

LOCAL GOVERNMENT ASSOCIATION  
OF QUEENSLAND

# **Land and Other Legislation Amendment Bill 2016**

## **SUBMISSION**

**Local Government Association of Queensland Ltd  
January 2017**

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association set up solely to serve councils and their individual needs. The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

## 1. General

The LGAQ welcomes the opportunity to comment on the *Land and other Legislation Bill 2016*. In addition to the specific commentary and recommendations below, the LGAQ maintains further opportunities are still to be realised in legislative reform that will promote economic growth and create a modern, adaptable framework for State land.

**Recommendation 1:** The LGAQ recommends the State Government further investigate additional land tenure reforms to support local government autonomy while removing regulatory burden for State and government entities, including (but not limited to):

- Leaseholders of State land having more flexible arrangements to authorise the use of their land by third parties;
- Local governments having greater autonomy to manage and authorise the use of community purpose reserves;
- Removal of onerous and constraining trustee land management plan requirements;
- Provide councils, as the actual asset managers, greater autonomy to authorise the use of roads under local government control; and
- Undertake a broader State land tenure review of Aboriginal and Torres Strait Islander land, including impacts of reforms on Native Title.

## 2. Vacation of office by trustee – Section 50

Local government rejects the proposed amendments in Section 50 (Vacation of office by trustee) where a trustee of trust land can only resign if a Minister is satisfied with several matters, including “the resignation of the trustee is in the interests of the State”. These proposed amendments essentially remove councils’ ability to resign without condition or restriction. No rationale or systemic issue is identified warranting the removal of local governments’ resignation entitlement.

At present, the trustee can resign without restriction or condition and that ability is understood to be the one item of balance in the relationship between the State and its 18,660 local government trustees.

The practical reality is the proposed amendments will:

- Create additional bureaucratic red tape;
- Diminish the State and local government partnering in Government; and
- Force councils to closely consider whether they accept reserve dedications in the first instance and whether it should decline to grant trustee leases, or particular leases or types of leases (and refer applicants to the State Government for the grant of State leases).

Regarding community outcomes, the amendment creates a policy framework where a reluctant trustee is likely to be an ineffective trustee and may lead to diminished outcomes on the ground for local communities.

**Recommendation 2:** The LGAQ recommends to remove the proposed amendments to section 50. At the very minimum, subsection (b) must be deleted.

### 3. Removal of mandatory Standard Terms Documents – Sections 318A and 320A

The LGAQ supports the omission of sections 318A and 320A, removing mandatory standard terms documents (STDs). The STDs are neither necessary or useful and forced trustees to unnecessarily waste time and money changing their leases to try to integrate them with a document that confuses the STD / lease interface, including an insistence upon lease terms being altered from *Land, Lease, Lessor, and Lessee* to *Trust Land, Trustee Lease, Trustee Lessor, and Trustee Lessee*.

**Recommendation 3:** The LGAQ supports the removal of the mandatory Standard Terms Documents.

### 4. Remedial action – Subdivision 2

It is noted the Minister, not the local government trustee, gives the notice to remedy and the notice of cancellation. To support transparency and accountability, the LGAQ recommends the notice provisions be expanded to ensure a copy of the notice to remedy and the notice of intention to cancel is given to the local government trustee, not just to the lessee/permittee.

**Recommendation 4:** The LGAQ recommends minor amendments to sections 321E, 321G, 321H, 321J, to provide notice to the local government trustee.

### 5. Decision about cancellation – Section 321H(2)

The LGAQ maintains the trustee should be allowed input to the Minister's decision concerning removal of improvements following cancellation.

**Recommendation 5:** The LGAQ recommends section 321H(2) be amended to ensure consultation with the local government trustee is required prior to the Minister's decision. Alternatively, the provision should be amended to state that the conditions must not diminish the local government lessor/licensor's entitlements under the lease.

### 6. Compensation – Section 321K

Section 321K does not make it clear that the State Government must pay compensation.

**Recommendation 6:** The LGAQ recommends amending section 321K to express clearly that it's the State that pays the compensation, not the trustee.

### 7. Covenant by registration – Section 373A(2)

New section 373A(2) is ambiguous and does not reflect the explanatory note. Section 30 distinguishes reserves from land granted in trust, yet the manager of a reserve is called the trustee. Nonetheless, schedule 6 doesn't define a reserve in trust terms. The section needs to state clearly the provision applies to reserves, not just land granted in trust.

**Recommendation 7:** The LGAQ recommends amending section 373A(2) to:

- (2) *However, non-freehold land the subject of a trust, reserve dedication, lease or sublease may be made the subject of a covenant only with the consent of—*
  - (a) *for trust land or reserve land—the trustee; or*