AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE

Members present:

Mr IP Rickuss (Chair)
Mr SV Cox MP
Mr JM Krause MP
Ms MA Maddern MP
Ms J Trad MP

DEPARTMENTAL BRIEFING AND DISCUSSION WITH STAKEHOLDERS—INQUIRY INTO ATSI LAND HOLDING BILL

TRANSCRIPT OF PROCEEDINGS

TUESDAY, 18 SEPTEMBER 2012

Cairns

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BONE, Kenneth William, Mayor, Cherbourg Aboriginal Shire Council

BUTCHER, Mr Wayne, Mayor, Lockhart River Aboriginal Shire Council

CARSE, Mr Ken, Principal Policy Officer, Aboriginal and Torres Strait Islander Land Services, Department of Natural Resources and Mines

COLLINS, Mr Warren, Chief Executive Officer, Cherbourg Aboriginal Shire Council

GIBSON, Mr Bruce, Private capacity

HAYNES, Ms Tracy, Senior Adviser, Local Government Association of Queensland

HOFFMAN, Mr Brian, Private capacity

PIVA, Mr Paul, Mayor, Lockhart River Aboriginal Shire Council

REEVE, Mr John, Senior Legal Officer, Native Title Unit, Cape York Land Council

ROBSON, Mr Chris, Assistant Director-General, Department of Natural Resources and Mines

Committee met at 8.31 am

CHAIR: Welcome, ladies and gentlemen. I declare this meeting of the Agriculture, Resources and Environment Committee open. I would like to acknowledge the traditional owners and custodians of the land on which we meet and the surrounding areas. I am Ian Rickuss, the member for Lockyer and chair of the committee. Can I also introduce the rest of my committee: Jackie Trad, the member for South Brisbane; Sam Cox, the member for Thuringowa; Anne Maddern, the member for Maryborough; and Jonathon Krause, the member for Beaudesert. We are spread across the state. Shane Knuth and Jason Costigan are apologies. I do not think there will be any other members of parliament joining us here today.

The purpose of this meeting today is to hear from some of the Indigenous communities about the Aboriginal and Torres Strait Islander Land Holding Bill the state government has introduced to parliament. We have been asked by the parliament to examine the bill and to report back with recommendations by 29 October. The parliament will then consider our report and decide whether the bill should be passed as it is written or amended and then passed or not passed at all. The four key aims of the bill are to resolve the longstanding uncertainty involving lease and deed of grant in trust, DOGIT, land; to provide local government with continued access to and use of their facilities on land that is transferred under the Aboriginal Land Act 1991 and the Torres Strait Islander Land Act 1991; to allow subdivision on deed of grant land; and to define the requirements for Indigenous access and use agreements under the Land Act 1994. The changes that are proposed in this bill will not become law in Queensland unless the parliament first passes the bill.

To help us all here today we have asked Chris Robson, the Assistant Director-General of the Department of Natural Resources and Mines. Chris has been around for a long time and has dealt with these issues for a number of years in his role with the department. Also with us we have Ken Carse from the Department of Natural Resources and Mines, principal policy adviser, Aboriginal and Torres Strait Islander Land Services. These officers are here to give facts about the bill. Questions about policy that are behind the bill should be put to the minister, Andrew Cripps. Everyone please note that the briefing and meeting today will be recorded and transcribed. Welcome, Chris and Ken. Would you please state your name and position to make a start.

Mr Robson: My name is Chris Robson. I am Assistant Director-General in the Department of Natural Resources and Mines. I have with me today Mr Ken Carse, who is a principal policy adviser in the department. Firstly I would like to knowledge the traditional owners of the land on which we are meeting today and those of you who are traditional owners of other land. Today Mr Carse and I will give a short presentation to you about the bill and provide answers to any questions that may arise. As I am unsure about the extent of knowledge on this land tenure, particularly Indigenous community land tenure, I propose to go briefly through that before going to the details of the bill.

Queensland's Indigenous communities are generally located on a land tenure called deed of grant in trust, or DOGIT. You will hear the term regularly used today. There are some exceptions to that, such as on Mer Island in the Torres Strait which is a reserve; Aurukun, which is located on a special type of lease called a shire lease; Mornington Island, which is wholly located on Aboriginal freehold, and that only occurred last year; and Hope Vale, which is in part located on freehold and in part located on DOGIT.

This land, excluding Mer and those parts of Mornington and Hope Vale which are Aboriginal freehold, is held in trust by the Indigenous local governments or councils. The state is the trustee of the Mer Island Reserve and the native title body corporate is the trustee of the balance of the Mornington Island and Hope Vale areas. Land tenure types in Indigenous communities are administered under a number of pieces of legislation, and I will just list those out briefly because we will be referring to these later on: the Land Act 1994, which establishes the deed of grant in trust and their trustees; the Aboriginal Land Act and the Torres Strait Islander Land Act, which provides the grant of Aboriginal land and Torres Strait Islander land as freehold land and for the leasing of that land in Indigenous communities; the Aborigines and Torres Strait Islanders (Land Holding) Act 1985, which is partly the subject of what we are discussing today, which provided for perpetual leases for homeownership and special leases for commercial purposes granted in Indigenous communities. This act is proposed to be repealed by the bill we are discussing today. Further other legislation is the Aurukun and Mornington Shire Leases Act 1978, which provided for shire leases over these lands, Aurukun and Mornington, with the local governments as the lessee. Mornington Island has subsequently been transferred as Aboriginal freehold under the Aboriginal Land Act 1991 so that particular act now only applies to Aurukun and when, in due course, that land is transferred under the Aboriginal Land Act that act will cease to have effect. Finally there is the Native Title Act (Commonwealth), which ensures the rights of native title parties to the land is protected in any land dealings.

The Land Act is, I should highlight, the primary piece of legislation administering all state land across the state and it is the primary legislation. There are, under this legislation, significant areas of the state which are held in leasehold which is administered under this act and we will talk more about some aspects of the changes proposed to the Land Act under this bill.

If I could I would like to table a number of documents with you to help explain what we are doing. One is an overview document which is 'Overview of the Bill'; and the second is a summary of the granted leases, lease entitlements and invalid applications made under the Aborigines and Torres Strait Islanders (Land Holding) Act 1985 which is a summary of all the valid entitlements and invalid applications by the community. When you read that through, the impacts of that act and the changes we propose do vary significantly from community to community because of the different status in each community of granted and entitlements and invalid applications.

What I would like to do, if I can, is just very briefly give an overview with reference to this overview document, which in summary describes the bill, and then I will invite Ken to talk specifically about the land holding act amendments. I will talk about the amendments in terms of the Aboriginal Land Act and Torres Strait Islander Land Act. We will share that around. We will go back and forward a bit.

To highlight, this bill amends four main pieces of legislation to implement four separate policy initiatives. It is important to appreciate that there are four separate pieces of policy initiative here. The first amendment is to repeal and replace the Aborigines and Torres Strait Islanders (Land Holding) Act 1985. The second one, separately, is amendments to the Aboriginal Land Act and the Torres Strait Islander Land Act 1991 to provide local governments continued access to and use of their facilities once land is transferred under either of these acts. The third is amendments to the Land Act 1994 to allow the subdivision of deed of grant land and the fourth is amendments to the Land Act 1994 to define the requirements for Indigenous access and use agreements under that act in implementing rural leasehold land renewal processes and native title claim resolution.

I do not intend to read through this whole document because it has been tabled. I would like to invite Ken Carse now to talk and give a briefing on the first one, which is the amendment to the Aborigines and Torres Strait Islanders (Land Holding) Act.

Mr Carse: Thank you. I will just go back a little bit on the background there. The Aborigines and Torres Strait Islanders (Land Holding) Act 1985, which we will refer to as the land holding act, provided that a resident of an Indigenous DOGIT, deed of grant in trust land, or a reserve could apply for a perpetual lease for residential purposes or a special lease for commercial purposes. The perpetual lease was capped at a maximum of one hectare. It is those leases under that act that we are dealing with. Applications were no longer provided for after December 1991, following the introduction of the Aboriginal Land Act and the Torres Strait Islander Land Act. However, that land holding act still continued; leases could be still granted under it, even though no more applications could be made. Chris referred to the fact that there were a number of leases granted and there are a number of applications which we have deemed entitlements. If they are valid applications they are lease entitlements, those people are entitled to a lease, and that table that Chris referred to shows all the records that we have been able to find of the leases granted—what we are calling lease entitlements—valid applications, and those that are invalid applications. We have consulted with the trustees in trying to determine those numbers. Of all the available records, that is what we have been able to determine to date.

This bill does five things regarding the outstanding applications and the granted leases that exist there: the bill repeals that land holding act and replaces it with a new act; it provides that those outstanding lease entitlements will be dealt with under the new act; it aligns those leases as closely as possible with those under the Aboriginal Land Act and Torres Strait Islander Act to the extent appropriate—so it does not change the term or the purpose, and I will go into these in a little bit more detail; and it puts in place processes designed to resolve the issues with those lease entitlements by agreement wherever possible. We will go into that in a bit of detail, but in some cases with those entitlements there are issues that are preventing us from granting the leases. Lastly, the bill gives the Land Court jurisdiction to resolve disputes where we cannot reach agreement. Additionally, the bill continues those existing leases. So they are continued. It is important to note that the leases that have been granted do not change; they continue.

The first thing I want to deal with is the holes in the trust area—so it is like Swiss cheese, as people call it. I draw your attention to that yellow map over there. That is just a rough depiction of a DOGIT. Certain lands can be excluded from the deed of agreement, the DOGIT. Dedicated roads are excluded from the DOGITs, so they are not actually part of the DOGIT tenure. You will also find reserves. When these DOGITs were created, departments used reserves for school purposes and for hospitals. They were on reserves; nowadays they are freehold. But those reserves were also excluded. So if you looked at the DOGIT itself, there would be holes where all of that is.

One of the things that happened with these leases under the land holding act is that, when the trustee approved the application, at that time they ceased to be DOGIT land. They became what we call now unallocated state land—so a hole in the DOGIT. Legally the trustee has no control over that land from the moment they approve it. It becomes the responsibility of the state. The process was then that it would go through and a land holding act lease would be granted. In the case of the leases that are granted, they actually have a perpetual lease over them. They are not part of the DOGIT. In fact, the trustee has no control over that. Where the valid entitlements are, the legal entitlements—they are valid applications—they are holes in the DOGIT and the land is state land. That is a problem in dealing with it. As we will discuss later on, there is infrastructure over DOGIT land and these holes. So to resolve it it is best to have the one tenure there. For all practical purposes, the trustees have been managing this land as though it was part of the DOGIT.

Additionally, these lands are transferable under the Aboriginal Land Act and the Torres Strait Islander Land Act. If they are transferred, the lease stays there but the Aboriginal and Torres Strait Islander freehold goes under it. So we have provided that that land can go under it but we still have these holes. So when the bill is enacted what will happen is that those holes will be filled by DOGIT—so it will be DOGIT land again. So you will have the leases and all the holes will be DOGIT land. So the entitlements will still be there—the people who are entitled to get a lease—and the leases will still be there. There is no change to their tenure but the DOGIT now fills in the holes and the trustees have whatever powers they have in regard to the DOGIT, which means that when we come to trying to amend boundaries or resolve issues we are dealing with the one tenure across it all. So that is the first thing we have done—we have filled in the holes. As I said, on that yellow map, if you look at those red or orange areas—whatever colour you see it as—the DOGIT with the yellow would be underneath it. The roads would still be excluded. The council is obviously responsible for them but they are just straight roads.

As I said, we continued the leases under the new act. For technical purposes they get a new name under the act just to differentiate them. But 214 of those perpetual leases have been granted for residential purposes and a further nine are special or term leases. They could be a larger size and often commercial such as farming or agricultural. They all continue and, for all intents and purposes, there is no change to them.

Next up we are then looking at how to resolve the entitlements. One of the steps that the bill provides for is for the minister to be able to establish a community reference panel for each trust area. This panel will include the trustee, which is generally the council in the case of the DOGITs, and the relevant directors-general of the departments. For example, our department, perhaps DATSIMA—the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs—and the Department of Housing and Public Works may be relevant agencies, and we may need to bring others in. That panel advises the minister on any of the issues regarding the entitlements and that panel can bring others on board—relevant local people and anybody else the panel believes can provide assistance. The minister does not have to form a panel. There may be a community where there is one outstanding entitlement and it is quite simple. So the department may just deal with the trustee and that person and not form a panel. In many cases I assume there will be a panel formed.

If we look at the lease entitlements, they are valid applications. That person is entitled to a lease. Under the current act, the 1985 act, two ministers were involved in the process as it was set up then, but there was no ability for the minister to decide to say no. It was really a process to go through. As long as the application was properly made and there was sufficient information, the ministers were meant to approve it and for those lease entitlements to be made. That is why we call it a legal entitlement. If it has been validly made, they are entitled to have the lease.

We are aware of 222 of these. There could be more out there. But, as I said, we have gone to a lot of effort to try to locate them. We have gone through several departments' files and searched them. We have contacted local governments a number of times and had their records sent to us and have them go through their records. To the extent that we can possibly do it, we have tried to collect them all. But we do

hear stories from people who say that there are more out there. So the process for that is the department will publish a lease entitlement notice. So for every entitlement we believe in that community we will be publishing a notice on the website. That person can come back and say that that notice is not quite correct. If people do not believe that their entitlement has gone up on the website, they can come back to us.

Additionally, once the department has published all the lease entitlement notices for a trust area, we will publish a trust area notice. When I say a 'trust area' we are talking about a DOGIT. Hope Vale is a trust area—we do not believe there are any entitlements there—and Yarrabah et cetera. So by publishing a trust area notice the department is saying, 'We have published all the lease entitlements that we know of in your area, and that is it.' For 18 months after that people can come forward with further information. Somebody may say, 'We have one and it is here.' They can come forward and it will be added. But this is to draw a line as to where the process ends so that it is not continuing on. We will publish those notices on our website. We will be notifying the trustee. We will be seeking for notices to be put in relevant local papers and for the council to put up notices in community buildings. We want to get the information out there as broadly as possible and there is 18 months in which others can then come forward. As I said, we have done all the work that we can possibly do to identify them now. This is just to sort of ring the bell and bring out any others that are out there.

In terms of the hardship certificate, as I said, there are a number of invalid applications and they could be invalid for a number of reasons. In some cases people may have acted on the belief that they did have a lease. In recognising that we cannot grant the lease because the application is invalid—they cannot make new applications; the state cannot grant the lease—if they come forward and show that they had made an application and that they had acted on that or their descendants had acted on that, the director-general can issue a hardship certificate. The result of that is that, if they wish to go through the process of attaining a homeownership lease they can apply for that. A homeownership lease is a private residential lease under the Aboriginal Land Act or the Torres Strait Islander Land Act, which is as close as you can now get to these leases. They are 99-year leases but, as long as you use them for residential purposes, they have a statutory renewal. Almost, in effect, they are perpetual. So as long as you continue to use them for residential they will continue to be renewed.

Under those acts, the normal situation of someone applying for that lease is that they purchase the lease upfront similar to freehold. They pay an upfront price and that is on a sliding scale, going from a minimum of $4,000 for up to 2,000 square metres. If they seek a larger area of land, the price goes up about $100 per square metres, I think from memory. What the hardship certificate does is set the value of that lease at zero for these people in recognition that they had acted on the belief that they had had a lease. I would point out though that, if they wish to go down that path and get one of those leases, they need to apply to the trustee. The trustee needs to approve it and to go through the process of granting it. They will likely have to deal with native title. So they may need an ILUA which on an individual basis is probably not likely to happen, but it may be a case that they can lump them all together or they can be added to state or council ILUAs that are going on in that community. But that will be a matter for them to address there. But native title will likely have to be addressed as it will not have been extinguished.

The next one—and this is probably the important part of this—is looking at what obstacles there are to those entitlements. The bill looks at this as identifying practical obstacles. This is where that community reference panel I mentioned before comes in. In these valid entitlements we will be looking at them and where we can grant them we will simply grant them, but there may be cases where we cannot. I draw your attention to map 2 over there. Those pink lines are applications. It shows a number of what would be deemed practical obstacles. You can see that in a number of cases the boundaries go over roads. In some cases there are two houses on a block or on 1½ blocks and a house goes over. In one case there is a house partly on a block and partly outside of it which means that it is on the DOGIT. So we cannot just simply grant those leases to those people on those boundaries as they are.

One of the problems with how this has arisen is the current act did not require the applications to be done on a survey. They could do the application on a description. In some cases the descriptions were quite good and in other cases they were very poor. People have built where they thought they had described but when we came back with a surveyor, they said, 'The description that you put in is not where you thought it was,' and when you go up there—there was very limited surveying—they had built it slightly off alignment. In that example there, the council has obviously build a road, not knowing where these application boundaries were. They built the road where the road should go and it has crossed over it. Where we do identify these, the minister will be referring these to the community reference panel which will consider this, identify any of the impacts on the grant of a lease and identify suitable solutions to address the obstacles.

It may be that we need to change the boundary. The road may need to move. That is probably unlikely but it is still a possibility. In some cases roads are no longer required. They may have been constructed earlier and they are no longer needed. You might have two houses on one but it may be the same family and they are quite happy with that. Another issue is that maybe the person in the house is not the person who is on the application. That is another issue that can come up.

Where there are these obstacles, the minister can make a deferred grant. The intent is to try to get the entitlements dealt with. So where we can grant, the minister will grant that lease. Where we have obstacles, the minister may make what is called a deferred grant which means, 'Yes, I am granting it. The application is dealt with but it will be deferred until the actual obstacles are dealt with through that process.'

Obviously we will be trying to do that with agreement. If you look at one of those where that pink line goes over the road, that person for the entire time they have been living there probably assumed their boundary stopped at the road and did not realise it went over. So they might readily agree and say, 'Yes, my boundary can come back to the road,' and that is done by agreement. On the other hand, they might say, 'Well, no, I am not agreeing to that,' or seek compensation because they are giving up what they are entitled to. Compensation is one thing that could be dealt with through the agreement but, where it is not done by agreement, there is the opportunity to go to the Land Court to have the Land Court resolve the matter. They will look at it and the parties will be bound by the court's decision.

Comment came up yesterday when we were talking about the court and similarly for leases where we look at boundary relocations. We have gone with the Land Court because the costs of the Land Court, whilst it is still a real court, are lower than if you go through the Supreme Court. It is simpler, they are used to dealing with the Aboriginal Land Act and those sorts of issues. They are dealing with land all the time. It is the relevant court. It is a lower cost and you do not need to have lawyers there as you normally would in the Supreme Court, although you can. For these matters here the state will be taking it forward, so the state will pick up the application costs for the court. If it is agreement, in this case we will not take it forward to the court; it is only where there is no agreement. The only costs on the parties there would be if they wish to use lawyers and lawyers are not required. I think the state would be looking at not using lawyers itself, unless the other parties did. It is a matter of going forward on the evidence that: here it is, explaining the maps, showing the roads and putting it before the court to make a decision. We are trying to make that as low cost as we can, but at the same time to have that governance there of having a court involved to make the decision, not the department.

A similar issue can come up with the actual granted leases. In some cases, the lease may have been granted but never properly surveyed or other construction has come along in the meantime. Some of these communities, I think in all of the communities, the surveying has been at a very low standard for quite some time, until about two years ago when we started to improve it. People constructed where they felt it should have been constructed. Leases did not have to be surveyed and so we get a lot of problems with infrastructure not being where the tenure was meant to go. So you can have granted leases with similar problems. We have a process in the bill for resolving that.

It is a similar process there where we can seek to do it by agreement. The difference is, if there is an agreed boundary relocation for a lease, because we are affecting an actual granted lease and a third party, we even take that one to the Land Court to get the court's imprimatur over that agreed change. Where it is contested, we also go with the court. Again the state makes the application and pays for the cost of the actual application. Where it is done on agreement on both of them, it may just simply be done by the papers and nobody needs to appear.

With the contested boundary, the person can seek to have compensation for any change there and the Land Court has the power to make the decision on that compensation. I think one of the issues that does come up is that we may find that the person who holds the lease is not actually in the house and the house has been done as social housing and there is someone else in it. We have built in the ability to grant subleases. If that is what the person wishes to do, they can grant a sublease to the state to continue to manage the house as social housing. That may be an issue where the entitlements are, so the person may have applied there, they may have lived there at one time but are in another house now, but they do not want to give up the lease. So we have provided that a sublease can be granted, so the state will continue that house as social housing.

That leads onto another point that, unlike most other legislation regarding land, this 1985 act actually provided for a different ownership of the land through the lease and the actual house, which is quite unusual. Normally with any lease or freehold, whatever is on it, unless otherwise stated in the document, belongs to that lessee. This actually specifically provided for a different process. So you could have the lease with social housing on it. The intent was that people, by paying the rent for that, would enter into agreement to actually buy the house. We were going through that to check all those records and, in many cases, people actually have done that and own the house but are not aware of it. We are going through that with the department of housing, going through their records and identifying as many of those as we can. We are trying to get the property and the housing together, which is the normal situation.

I did say that we were aligning them to the leases under the Aboriginal Land Act and Torres Strait Islander Land Act to the extent possible. That deals with who is entitled to hold one of these leases. At the moment, the land holding act looks at residents. The Aboriginal and Torres Strait Islander land acts look at an Indigenous person or their spouse or former spouse, because they may have children in that community. We are aligning them so that it is the same people across all those legislations, because they are in the one community. We are trying to simplify that. A peppercorn rent applies. To be a lease, you need to charge a rent. The basis for these is that it is a peppercorn, which is the same as the home ownership leases under the ALA and the TSILA. We have brought in that they can be mortgaged without requiring the consent of the minister or the trustee. We are bringing all those sorts of features across the leases as much as they can to be the same.

There are just a couple more. The last one would be the Information Privacy Act. We are just applying that act where we need to in resolving these issues. In putting those lease entitlement notices up and the trust area notices, they would normally be a breach and we would not be able to do it because of the privacy act. So we are disapplying it to say we can actually publish those and they go publicly. Partly

that is because in some cases unfortunately the applicant is deceased. We need to get that out there to get people who do know about this to come back to us. People may not be on the list, but unless we publish the list they will not know that. We need to get an exemption from that act. We have done that on a one-off basis in the past, where we have provided to all the councils a list of the valid applications in their areas. We got a waiver or an exemption from the act then, but that was just for a one-off purpose. That is all I would say on the landholding initiative.

Mr Robson: Thanks, Ken. I will talk briefly about another specific provision proposed in the bill, which relates to the deed of grant in trust initiative. This relates to the amendments to the Land Act. Almost all remote Indigenous communities, as I said earlier, are located on deed of grant in trust or DOGIT land. If you look at map 3 behind us there, that is a map of a DOGIT. That is the big one there. What you will notice is that it is basically a very simple map. There is no definition apart from the perimeter. Apart from if roads should appear or reserves, that would be what you would see on a map of a DOGIT as it can currently stands. Essentially, it is one large parcel of land. Within that DOGIT, of course, there can be and there are—if you look at the map—houses, roads, infrastructure, all sorts of things, but there is no identifiable—

Mr Carse: This is the same land, actually.

Mr Robson:—surveyed lots in any way. They are not subdivided. They exist by virtue of leasing that would have been done by the trustee, but they are not identifiable by way of survey mapping, because a DOGIT cannot be currently subdivided. Very simply, we are proposing under this bill that a DOGIT can be subdivided. Enabling it to be subdivided clearly assists the trustee in administering it for both land management and also in dealing with development applications on the land which is subdivided. It can be subdivided to the extent of showing residential areas, commercial areas—whichever the trustee seeks to do. If you look at map 6 below, that is what it could look like once the power to subdivide a DOGIT comes into being. It would simply be a far clearer representation of what actually exists on that DOGIT by way of a map. It is as simple as that. There is nothing more complicated than what is proposed in this case for that matter.

Mr KRAUSE: Chris, at the moment, if a lease is granted it goes out of the DOGIT, doesn't it?

Mr Robson: No. If a lease is granted under a DOGIT, it is simply a lease held by whomever the lessee is, but the DOGIT remains a DOGIT. Nothing changes.

Mr Carse: It was the land holding act that took it out of the DOGIT, but you cannot—

Mr Robson: I am talking about ordinary leasing. That has been done.

Mr Carse: You cannot do those anymore.

CHAIR: That is why the DOGIT hospitals and schools are going to change; is that right?

Mr Robson: It depends. If they are, some of them might be on reserves, state reserve land, so they will continue to be state reserve land and some are not. Where they are not they do not appear on any formal map. But a lease with the trustee, it just does not appear on any surveyed plans or the like because a DOGIT cannot be subdivided.

Ms TRAD: So is that state reserve or unallocated state land?

Mr Robson: That is state reserve, not unallocated. It is a reserve. It could be held for school education, a hospital—whatever—held by, say, the department of health or the department of education and there are those in these communities. But by and large, using the yellow map down there, you will see little bits where they could be reserve, but the yellow cannot be subdivided under the current provisions.

Mr Carse: If there was a reserve it would show up, but it would not be part of the DOGIT. It would show up on the mapping. Map 5 over there is Thursday Island, which shows what subdivision looks like. There are a number of reserves on that, as well as freehold and other tenure. The reserve would show up and it does not form part of the DOGIT, so the DOGIT would still be one large empty block.

CHAIR: That is why TI has nothing virtually on this list here; is that right?

Mr Carse: Thursday Island has no land holding act—

Mr Robson: TI has no land holding act leases.

Mr Carse: Thursday Island was never a DOGIT.

Mr Robson: Never, but to go back to reinforce the point, even if you—

Mr Hoffman: Excuse me for a moment. Would there be community housing or would they be allowed to have a title?

Mr Robson: That would still be community housing and, I was going to say, it would still be part of the DOGIT. The DOGIT, in whole, does not change. It is still held under the trusteeship of the trust, but it is simply defining the areas and showing them on a map. It is nothing more complicated than that. There are other issues. If you want to, say, go down into other forms of tenure, which is not what this bill is contemplating, that is not what we are talking about. That is all I wanted to talk about on that one.

I will ask Ken to talk about the third initiative here, which is in terms of local governments and local governments being able to continue to provide services where there is a land transfer proposal—transferring DOGIT land to Aboriginal freehold land or Torres Strait Islander freehold land. We encounter

issues at times when there are local government infrastructure, community municipal services such as waste water treatment plants, water treatment plants, rubbish dumps and the like in the transferred area and the local government cannot grant itself a lease prior to the transfer occurring. It sounds interesting. Ken?

Mr Carse: The DOGITs and Indigenous reserves are what is called transferable land, and that is land that is legislated under the Aboriginal Land Act and the Torres Strait Islander Land Act to be transferred under those acts. So it will go from the current tenure, mostly DOGITs—and I will just talk about DOGITs, but Mer is an example of a reserve. It will go from that tenure to Torres Strait Island freehold in the Torres Strait and Aboriginal freehold in the Aboriginal areas, and there will be a different trustee normally. There will be a new trustee formed. We can transfer the whole of the land or part of it or do it in stages, but that land is transferable and the minister must transfer it as soon as practicable.

There is a provision in those acts that where the land is transferred, the state or Commonwealth can continue to access and use its facilities to maintain its services. If there was a school built on the DOGIT, they can continue to use it. The reserves are also transferable and those reserves go. Those reserves cease if we transfer them and become Aboriginal and Torres Strait Islander freehold. The ideal is that the state would obtain a lease, but sometimes due to the time framing that is not done. But the state's abilities to use and maintain the land, and the Commonwealth's, is protected under the act. That provision has not applied to local governments.

If you refer to map 3 again, the large one, you can see that wherever the council has infrastructure that land can be transferred and there is nothing over it. If we transferred that, they would then try to obtain a lease, but there has been nothing to protect their right to use and occupy it in the meantime, so the water treatment, the sewage, even the council buildings. The council could grant the state a lease prior to transfer and then, when we transferred the land, the states would have that lease. That is what we would ideally look like. As trustee, they cannot grant themselves a lease.

So what we are providing for in this bill is that a similar provision to what applies to the state and Commonwealth will apply to the local government. If we transfer that land, for example where the council infrastructure is, they will have the right to use, access and maintain that infrastructure and provide their municipal services from it. Additionally, we have also provided that they should be using best endeavours to obtain a lease. But if there cannot be agreement on it the act protects their right to maintain the use of that facility.

Councils have obviously been concerned about doing the transfer: how long will it take to get a lease; what if we do not do one; will we be trespassing if we go on; is there public liability? So this is trying to give a statutory sort of protection of that—that you have the right to use and occupy it, maintain it, provide your services and use best endeavours to obtain a lease, and the lease is the best way to go.

There is a related amendment with that for the state and Commonwealth that, as we identified earlier, the state will have a reserve. So there might be a reserve for a school there. Typically with a school there will be several buildings and a sports field or facilities. When we transfer that, that reserve goes. The state has the right to use, occupy and maintain that land, or those facilities, and we try to obtain the lease. What was not clear was what land that covered. So in the act we are making certain that the land we are talking about is the former reserve. So we transfer the land without getting a lease in place, just because of the time constraints that were on us. The state can continue to use that whole reserve area.

One of the issues that has come up is that at the start of the year schools only get a certain time. They will find the numbers coming in and they will need a new building because of the numbers coming there. They do not have time to go through the processes of obtaining a lease in time to get the funding to put the facility on the ground there. So what this is saying is, 'That former reserve area is the area you can construct on,' so they can proceed to construct on it to put the new building in, but there is still the same best endeavours to obtain a lease.

Ideally, we would prefer to have the leases in place before transfer, but this is just covering off that in our experience sometimes that has not been able to be achieved to meet time frames on us.

Mr Robson: The last provision in the bill I will refer to as amendments to the Land Act in relation to Indigenous access and use agreements, in particular as part of implementing the State Rural Leasehold Land Strategy. Amendments are being proposed under the Land Act to provide a framework for Indigenous access and use agreements, particularly Indigenous access onto state rural leasehold land which is leased for agricultural, pastoral and grazing purposes. To put this in context, that represents probably about 50 per cent of the state, with about 1,800 leases, which, by the way we describe these, have a term of more than 20 years and a minimum area of more than 100 hectares. Largely, these areas of land in Queensland will be in western Queensland and north-western Queensland. There are some on the cape, but most of the 1,800 are in the west and north-west of Queensland. The amendments to the act that are proposed set out the requirements, which we have not had to date, about what are and what should be the requirements for an Indigenous access and use agreement and how an ILUA, an Indigenous land use agreement, could be adopted as an Indigenous access and use agreement under the Land Act.

It can be confusing in the fact that we are using two terms here; I appreciate that. When we talk particularly here about Indigenous access and use, this is under the Land Act; it is not about the native title determination process or extinguishing or anything else about native title. However, there will be cases—

these will arise—where, through a native title process, an Indigenous land use agreement will be struck and if that Indigenous land use agreement provides for Indigenous access onto the leasehold land then we would look at that as meeting the requirements of an Indigenous access and use agreement under the Land Act.

The bill sets out the arrangements for entering into an Indigenous access and use agreement, the benefits of doing so being for the Indigenous parties to gain earlier access over state leasehold land for traditional purposes. Under these arrangements where they can be struck—I must highlight that these arrangements are voluntary. It is up to the parties to agree; we simply provide the framework for establishing those agreements. Should a pastoralist, a lessee, enter into those arrangements of an Indigenous access and use agreement, they will be eligible for a reduction in their state leasehold land rental for a fixed period of five years. The reduction will be 25 per cent for that five-year period, and it is a fixed five-year period. That option exists under the current proposals in the bill to end on 30 June 2018, so there is a fixed period of time. The reason for that is that, within Queensland, about 70 per cent of the state rural leasehold land leases are within native title claim areas, so a considerable amount of that rural leasehold land is within native title claim areas. Of the more than 100 native title claims that are outstanding in Queensland, around 60 per cent include pastoral leases who are respondent parties to the native title claims. So it is also a mechanism by which we are seeking to streamline and simplify the claims process by providing an encouragement, an incentive, for the lessees to cease to get satisfaction, not be a respondent and speed up the claims process.

As I said, the benefit for the lessees is a reduction in rental. They also, though, must then remove themselves from being a party to the native title claim process and also, where it is needed, to provide for the public liability insurance protection themselves, which has been a blockage in some cases. This proposal has been developed in consultation with a number of parties and negotiated under the framework of the National Native Title Tribunal.

Again, I would simply say: they are agreements between the lessee and the Indigenous parties, the native title parties. They are voluntary. When they are struck and established, they would be recognised and attached to the land through its registration on the land title as an Indigenous cultural interest, so they carry forward with the land. Once struck, they remain unless the agreement is separated by the parties to the agreement itself. But it is actually attached to the land. That is probably all I propose to say about that at this point.

Mr KRAUSE: Can I just ask: if the lessee of the land changes—

Mr Robson: It goes with the land.

CHAIR: Thanks very much for that briefing.

Mr Gibson: What if an agreement is not struck?

Mr Robson: In the case of the Indigenous access agreement for a rural leasehold land property, if it is not a native title claim resolution, simply through a lease renewal process—sorry, I should have said also, of course, that the benefit to the rural lessee in that case would be that if it is up for lease renewal they get an extension of their lease term for 10 years. If they do not have an agreement, they simply do not get that further extension of the lease term. So the world does not change in that respect. If it is part of a native title claim resolution process, if there can be no agreement then it will end up in the normal processes through the Federal Court.

Mr Gibson: Within a lot of our Indigenous communities there are traditional owners who reside in those DOGIT areas. If they are leasing lands and they would like to establish a house and they have paid for it themselves, and they do not have the services of a community, are they required to pay some sort of lease to the trustee?

Mr Robson: Presumably they have already an agreement with the trustee for that house in the location and they may or may not be paying rent, depending on the agreement with the trustee. That does not change. I am just trying to think about the situation you are alluding to. These are not land holding act properties, I am assuming.

Mr Gibson: For instance, I have a lease—it is my traditional land. I have improved the lands there myself, with just private moneys. I want to put a house on there. I have not been paying a lease; I just have an agreement with the council. Now I am required to pay a lease. These are my own improvements: I have put the roads in; I have done everything. I have my own water and my own electricity. I have done everything myself. Now I am required to pay a lease. So what happens there?

Mr Robson: Just to help contextualise, in your particular case is that in the township area or not in the township area?

Mr Gibson: No, out.

Mr Robson: There are two elements there. If you put in your water, you put in your power—presumably the power is being provided by Ergon or someone like that—

Mr Gibson: A generator.

Mr Robson: So it is your own power. Therefore, that would be your cost, I would think. In the case of services like roads and water, I do not know. If you are getting council services—

Mr Gibson: No.

Mr Robson: No council services? In that case—this is very specific to Hope Vale, I have to say. Early this year that part of the DOGIT was transferred under the Aboriginal Land Act to Congress. So Congress actually hold that land as inalienable freehold; therefore, any leasing you would be having to arrange through Congress.

Mr Gibson: So as a traditional owner—

Mr Robson: So whatever lease fees that Congress established for being on that land you would have to pay. That is their business.

Mr Carse: Under the Aboriginal Land Act, it does not set out what lease rent would be. It does set a cost, though, for leases for private residential purpose. So you are building a house there and you are going to reside there. In most cases, people would call that a private residential lease. In that case, the act sets out that there is a minimum cost to pay and the trustee cannot change that. For other leases it is up to the trustee to set the rent. So whether you are a traditional owner or not, the act sets out that for a private residential lease there is a minimum of $4,000 for up to 2,000 square metres and it ramps up $100 for 100 square metres additional. That is fixed. You may need to address native title, even being a traditional owner yourself. That is the way the Native Title Act works. The money goes back to trustee for that. What they do with that is another matter for themselves. With Congress being traditional owners, they have to use it for the benefit of the people for whom they hold it on trust. So they could end up giving it back to you, I guess. I am not suggesting that, but they might say, 'This is what we want to do for traditional owners who are doing the house.'

Whether you built the house or council provided the services, that cost is fixed for private residential. Putting those other services in—that is where the trustee may look at recovering cost through lease rental, but that is a matter for the trustee to set up. In your case you are saying that you provided all that, so obviously they do not need to recover it.

CHAIR: In relation to the cost of moving the boundaries, I am still just not really clear on the cost of moving the boundaries on some of those boundary lines.

Mr Robson: It could be either for granted leases or for ones where people thought they had a lease and they have to do some boundary adjustments. In both cases there could be survey cost. As Ken said, there has been a lot of work done in most of these communities for the remote Indigenous land and infrastructure program and lots of survey backbone, basic infrastructure has been provided. But ultimately, if there are survey adjustments necessary it will be at the cost of the applicant.

Mr Carse: I think we will have actually identified it and done the survey itself, because that is how we know there is an issue in some cases. With the example of the road, we are not saying that we are putting our hand up to take it, but I think in all cases we will have done the survey to identify it. So where there is a road, we will have surveyed the road through this program so we know where that boundary is. We have surveyed the lease entitlements, so we know where their overlap is. So by default we actually have the survey that we want to go with. We will have done that ourselves.

CHAIR: Excuse my ignorance, but I have dealt with your department, Chris, over the years. I actually had to spend a fortune getting a survey done when you knew where the boundaries were already.

Mr Robson: I guess that is a bit about having a registered cadastral plan to be able to register for getting that recorded survey standards.

CHAIR: If the department has the plan, will that be made available to the community members?

Mr Robson: It could be that DATSIMA through the program office has these plans as well because they are the ones doing all this work in these communities already. That information would clearly be available in the community.

Mr Carse: Those plans are available through our system to anybody to obtain as well. We have surveyed a lot of this to serve our benefit in that, when trying to put in social housing, we need to ensure we are not constructing on these entitlements. So we have actually ended up surveying them.

CHAIR: You have missed the point a bit. I bought a water lease off the government. It was a little five-acre block attached to one of my blocks of land. You knew there was a survey on it, but I still had to get it resurveyed, which cost me $4,000, even though you knew where it was and you used it to send me out a bill every year with all the data points on it. It was the same sort of process. Even though you have all the data points for these—

Mr Robson: Ultimately, if it requires a registered survey plan, a cadastral survey plan, to properly and fully identify the block to have it then recorded in the state's cadastre, recorded in the title registration system, there is a survey payment that has to be generated. We may have plans which surround that block which will show all the relevant points, but it may not be a plan of that block.

CHAIR: So they still have to do a plan; that is what I am saying.

Mr Robson: That is what I am trying to say.

Mrs MADDERN: The applicant has to do the survey plan, not the council or the government?

Mr Robson: To answer the question simply, yes. This is more community by community because there are going to be differences. As you can see by the numbers there, some are going to be more affected in terms of numbers of actions needed to fix this problem. In the case of those communities where there are more, for example, entitlements or even granted ones where there are these boundary issues, we would hope and expect that the process of working through it community by community will allow it to be done in bulk and, therefore, reduce the cost of surveying and the like. Bringing surveyors out to some of these communities is an expensive business; we know that.

Mr COX: In relation to the grazing and leasing—the 25 per cent—is there going to be a set period of time in which that is going to happen?

Mr Robson: Yes.

Mr COX: How long will that be?

Mr Robson: Five years on the assumption—

Mr COX: Is that five years to make these agreements?

Mr Robson: No.

Mr COX: What is the initial period going to be to have the agreement?

Mr Robson: There are two components in time here. The making of the Indigenous access and use agreement can occur any time in the future, but the benefit to the lessee in the context of the rent and the rent reduction is a fixed period capped at five years.

Mrs MADDERN: Is there a limit as to when that cuts out?

Mr Robson: That is right.

Mrs MADDERN: About six or seven—

Mr Robson: June 2018.

Mr COX: But when is the starting point?

Mr Robson: When the bill commences. The aim is that the bill would commence on, say, 1 July next year. So the parties can then formally seek to have their rental reduction taken—

Mr COX: The quicker they do it, the better. Can they do it in year 1 if they have to? Is there a cut-off period in which they have to have these agreements made?

Mr Robson: No. But I say that the benefit they get from it in terms of rent reduction in a fixed period is five years.

Mr COX: I understand that. It was just how long they have to do it.

Mr Hoffman: Bruce has his own land which was organised by Congress, by the council, but it is his land. He told you previously he has done all the improvements himself. So he legally owns the land.

Mr Robson: No, legally the land is held in his case by Congress—

Mr Carse: In trust.

Mr Robson:—in trust on behalf of the community.

Mr Hoffman: So if Bruce wants to turn his land into freehold, what does he have to do?

Mr Robson: There is no mechanism at this point in this state for ordinary freehold, individual freehold. Communal freehold is what we have. That is the law.

CHAIR: We will have a quick break for a cup of tea, water or whatever for five minutes and then we will be straight back into it.

Proceedings suspended from 9.34 am to 9.47 am

CHAIR: Ladies and gentlemen, thank you very much. We will get this back underway. I would like the community members to give me some advice. This is an opportunity to hear from the groups. We can start a round table discussion now, if you would like. All I request is for you to say your name before you start to speak for Hansard. We might as well start from the front. Do you want to say a few words about the bill? Have you read the bill and had a look at it?

Mr Gibson: One of my biggest concerns is, when you have a look at the Aboriginal communities of Cape York, we have a high level of poverty. It has always been my drive to help support these people of Cape York and through this bill I do not see that there is a way forward when it comes to building the collateral or using some of the land that we have as collateral to progress our families. I am not saying sell all the land, but there should be a parcel of land set aside for Indigenous people so that they can use it as personal collateral. You have traditional owners and you have councils who are struggling to receive rates and this and that from their communities. So there has to be a way forward on how we can build the lifestyles of Indigenous people.

CHAIR: Thank you, Bruce. I was talking to Chris before and I asked him about freehold. He was saying that a lot of this land tenure—about the leases and that—is a big mess. As you can see from the sheets that have been handed around, this bill is to get this tidied up. I think we are going to have to revisit this, though, and try to get the freehold process put in place in the very near future. That would be my own opinion. That is the sort of recommendation that this committee will be looking at.

Mrs MADDERN: On my reading of the material that has been supplied, there is the capacity to put a mortgage on these leases so that the individual property holder could mortgage his lease to build his house; is that correct?

Mr Robson: That is correct. So both the 99-year leases and the perpetual leases are mortgageable, basically depending on a financial institution being prepared to borrow—

Mrs MADDERN: To lend.

Mr Robson: That is it.

Mrs MADDERN: But that capacity is not there at this point in time because of the way that everything is structured?

Mr Robson: In the case of the granted leases and where there are—and I would have to say that there are none yet. Where there were, say, 99-year leases, the capacity exists now under the Aboriginal Land Act and the Torres Strait Islander Land Act. So it really gets down to the willingness of a financial institution to lend money—under what terms. Equally, in the case of a business, there is a framework. We were talking to a gentleman here from Lockhart River. Under the Aboriginal Land Act, a commercial lease could, on application, be granted for a term longer than 40 years—up to 99 years—subject to native title and all of those sorts of issues being addressed. So there is a framework there now, but I guess it is still a developing experience for many people.

Mrs MADDERN: If this legislation is passed, that will give more certainty and more capacity to do that?

Mr Robson: Yes.

Mrs MADDERN: Make it easier.

Mr Robson: And it will tidy up, as the chair said, the mess that exists within the landholding leases, which need to be tidied up, particularly if we are going to go to any other form of community development.

Mrs MADDERN: And it needs to be tidied up if a bank is going to give money for it. Yes. Okay.

Mr COX: If we are talking about freeholding, once this is tidied up—which I know this bill is trying to achieve—there is no problem with transferring those now mortgaged parcels of land into the freehold situation, is there?

Mr Robson: I cannot contemplate that, because that is a policy response.

Mr Hoffman: But you said before—you were saying to this lady—that with this bill that you want to go through Bruce will be able to get a mortgage on his land. I thought you said to me before that Congress owns the lease over the land.

Mr Robson: They do, but it is still a lease. He has an entitlement to a lease from Congress.

Mr Hoffman: So if he wants to raise capital on his land he would have to go to Congress first?

Mr Robson: To have a lease?

Mr Hoffman: He has a lease. So with that lease, he can raise a mortgage on his land without going to Congress—the owner of the land?

Mr Robson: I am pretty sure.

Mrs MADDERN: Can I just make a comment here. He probably would need to seek the permission of Congress, which is the way it normally operates. If you have a lease somewhere—say pastoral leases; they raise loans on a pastoral lease all the time—you would need permission, though, from probably the Queensland government. In this case you would need permission from your community—from Congress.

Mr Hoffman: But it does not make sense. He is the owner of the land. He is the owner of the land. It has been recognised that he is the sole owner of the land. Why does he have to go to his master to ask for permission for him to raise money off his land?

Mr Carse: For the private residential leases and following these amendments for the landholding, you do not have to go to the trustee or the minister to do a mortgage on those leases.

Mrs MADDERN: My apologies, then.

Mr Carse: Generally, you are correct, but specifically for those residential leases we have made it similar to freehold. We have tried to make them in some way similar to freehold—that this is a long-term tenure for residential purposes and if you want to mortgage it, that is up to you to do it and with the financial institutions. One of the key differences between freehold is, because of the closed market—there is still a closed market in this—the real opportunity to go to lenders is reduced compared to, say, a freehold in Cairns. Generally, it is Indigenous Business Australia—the Commonwealth government organisation—that looks at doing funding for that specifically. But if it is a residential lease, you do not need permission. You do not have to go to anyone.

Mrs MADDERN: So that is different from—

Mr Carse: Other leases.

Mrs MADDERN: Okay. Excellent. Thank you.

Mr Hoffman: So is that going to be inserted into that bill, what you just said?

Mr Carse: For the land holding act, it is in this bill to make that the case. For the Aboriginal and Torres Strait Islander acts, it is already the situation.

Mr Hoffman: The situation that he can raise his own money off his land?

Mr Carse: For private residential leases.

Mr Hoffman: And farming and agriculture if he wants to?

Mr Carse: No, it only applies to residential leases. How well—

Mr Hoffman: I thought we were trying to get these people to get off the ground and start doing something for themselves. If he has no right to do any agriculture on his land, what is the use?

Mr Carse: The lease would generally give him the right to do that use and then the trustee would also agree to it.

Mr Hoffman: But why does he have to go to a trustee? It is his land.

CHAIR: Unfortunately, we are stuck with some poor legislation here by the looks of it.

Mr Hoffman: Thank you.

Mr Reeve: I will clarify the position for you over at Hope Vale. The Hope Vale deed of grant in trust lands were transferred to the Hope Vale Congress Aboriginal Corporation. So it owns inalienable Aboriginal freehold title to those lands. Bruce has a house on that land. So what Bruce would need to do is go to Congress and ask them to grant him a lease over that land. The land is within a determined area for native title purposes. So Congress cannot grant that lease unless he obtains native title consent to the grant of that lease by way of an Indigenous land use agreement. So Bruce would need both of those things to get any security of tenure over his house—a lease from Congress and an ILUA consenting to the grant of that lease—both of which end up costing Bruce a lot of money and it is a farcical situation.

CHAIR: All right. Thank you very much for that.

Mr Reeve: Can I go to my point now? I have lots on the cadastre. The whole purpose, as we understand the position, is to try to regularise the tenure position in Aboriginal communities so that they look like white communities, if I can put it that way. If you go to a white community, every block is surveyed. It is on the cadastre permanently. That is not the case in Aboriginal communities. The government and the councils have permitted people to build things all over the place without any regard to proper tenure arrangements. With this welfare housing—the government has a nice soft word; they call it social housing, but it is really welfare housing—the program office is trying to get regular tenure to the allotments over which it is seeking 40-year leases as part of the arrangements with the Commonwealth government. So the program office is going around regularising the surveys of roads where they are as distinct from where they should be according to the plans that exist now and surveying the residential blocks over which it has interests. It is not surveying the Katter lease blocks or landholding lease blocks; it is gathering some information over those allotments, which the government created.

Our position is that, if the government is doing survey work, it should be comprehensive and the whole town should be surveyed and all the allotments should be put on the cadastre. Then we have a good base to start from. The alternative is—and the question was asked of Chris Robson earlier—who is going to pay for the survey of the land tenure leases? Answer: the holder of the lease. The holder of the lease, quite simply, ladies and gentlemen, cannot afford it. How much money did it cost to get a surveyor to go to a remote community and survey one block? The average Aboriginal person has not got the funds to do that. The government created the mess; the government should fix it.

CHAIR: Thank you very much.

Ms TRAD: In relation to that, has there been any modelling done on how much it would cost to survey all the DOGIT communities?

Mr Robson: As a reference point to start with, my memory is telling me that the cost that has been incurred to date—and John Reeve referred to this—which is the work done by the program office, which has been done on the Indigenous communities in which they are working, is in the order of $10 million, roughly, across all those communities—sorry, $6 million. As John Reeve identifies, there is basically what we call backbone infrastructure plus, where they need to—properly aligning reserves, properly aligning the social housing allotments. Also, as part of that process, the program office has actually identified quite a few of the areas of Katter lease lots that we are looking at. I am not saying that they have done it all; I am saying it is a very expensive business at the same time. In terms of what has been done—and that is across the whole community. Previously, as has been said, there was very little, if any, of that survey infrastructure in place. Compared to where we were maybe four or five years ago, we have come a long way.

CHAIR: Does someone else from the community want to talk?

Mr Bone: My name is Kenny Bone from Cherbourg. In regard to leases et cetera, in my community it is not really an issue because the government had us so dependent on government funding in regard to housing. My people are just so used to paying rent in regard to the houses. In relation to boundaries, it is not really an issue. As you might see from the papers, there were three applicants from Cherbourg over the

last 10 years. One of them has passed on. Now there are only two down there. My people are so used to receiving from governments and paying rents. I do not know whether we would like to see some of our people build homes on the land. We have always been dictated to, no matter what solution we come up with. So it is kind of hard. People do not even talk about those things down there.

It has been mentioned a couple of times that we talk about native title and it was not going to be discussed because some of the main issues are within that (indistinct). I would like to see things change for the better. It is kind of hard because nobody from the government comes out and tells the people, explains to the people, 'These are the things that are going to go down. These are the things that the government is seeking.' The council is not really aware of the issues, even what has been handed out to me today and yesterday. I came here thinking a certain way. I knew about the Katter lease. A lot of my people are not really aware of what is happening. Maybe the government should be out there explaining a bit more.

CHAIR: Would you like to see more ability to have freehold in the community again, where they could have ownership?

Mr Bone: I would like to see somebody who has the expertise to explain exactly what is happening to the people.

Mr Piva: Paul Piva of Lockhart River. Just in terms of homeownership in Indigenous communities, a lot of people in these communities think there is too much uncertainty. We are talking about people who have been living in houses for the last 40 years and paying rent for the last 40 years—people who actually want to own their own houses. We have to be moving to the next step where we actually talk to people in communities about buying their houses. Going through legislation and all this red tape slows it down too much. We have an old lady whose son passed away and he had worked all his life. She has money there, and this is a really great opportunity for the community to say, 'Hey, you could be the first person in Lockhart to go and buy your own house and own it.' Then at least they have ownership.

I think we go a little bit too overboard. We make it so simple. People want to actually own their house. People have been living in those houses for three or four generations. When are we actually going to get on the ground and say, 'All right, if you want to buy your house, at least get the process started.' If not, we are just going to go through that same old cycle. I do not want to sound like I am whingeing, because I want to move forward. I want to see people actually owning their own houses in the communities. People have been doing it. People have shown that they have been able to pay rent for the last 40-odd years, yet they still do not own their house.

CHAIR: I hope that from this we will get some resolution so we can move those issues forwards and we can get these surveys and leases tidied up. The next process, then, is what you were just talking about. That is what we hope is going to happen.

Mr Reeve: What is becoming quite apparent here is that things are being addressed in a piecemeal fashion in relation to housing, Katter plots. Really what the government needs to do is take a comprehensive approach to these things rather than a piecemeal approach of looking at one aspect and then looking at another aspect in separation. Regularising tenure in communities in my opinion is not a great big problem. It really is not. People want homeownership. They want freehold tenure. If they can afford it, then they will not need to rely on a welfare housing arrangement with the government. There are so many obstacles put in the way and everyone thinks it is such a terribly difficult task. I wonder, if you sit down and analyse it, whether it is not really quite simple.

Ms Haynes: I am Tracy Haynes from the Local Government Association of Queensland. Specific to this bill the LGAQ does have some concerns about what has already been raised in relation to the potential costs of surveying as well as potential costs in the Land Court if there are disputes. I understand that the Land Court was specifically chosen because it potentially could be cheaper. However, again, this is somewhat of a concern depending on what those fees may be.

More to reiterate the previous point made about the piecemeal nature, I and the LGAQ understand that this bill is specifically designed to fix a particular issue, a historical issue, with Katter leases. However, I agree that maybe there is a need to take a more holistic look. Yesterday we had a briefing with the TSIRC, and Chris and Ken were present. One of the questions raised at that forum was: if there are land transfers occurring in these communities and changes to legislation and tenure, why is that not being undertaken in a holistic way? Why are you trying to fix one individual problem with Katter leases and then at a later date making transfers, changes to reserves et cetera? I think there is a need particularly to help alleviate some of the complexities to deal with this more as a holistic piece of legislation and land tenure and homeownership in an overall fashion.

CHAIR: Apparently this act will replace the 1985 act. The other two acts are still in place. We are getting rid of some of the complexity, but we are almost adding to it.

Ms Haynes: It is a step-by-step process, and I see the need for that. I suppose it is just that this is one piece; what are the other pieces to the puzzle and why can they not be acted on all at the same time?

Mr Hoffman: I will give you an example about turning council houses into freehold. When Jeff Kennett was in power, the rent for all council houses that people had paid for over 10 years was deducted off the price of the house. It was sold to you and then it became freehold. Margaret Thatcher did that with

the London borough council. It was not very hard at all. It is only an act of state parliament. You do not need thousands of pieces of paper to try to prove anything. Just ask Jeff Kennett or ask the Victorian parliament. They would give you that legislation.

CHAIR: That is part of it; some of the people have lived in houses for 40 years and paid their rent quite well. Like you say, they have virtually paid the house off.

Mr Butcher: Wayne Butcher, mayor of Lockhart shire. One of my councillors said that there is confusion on the ground. In one case here we have the government looking at the land situation and on the other hand you have the social houses, too, on the actual property of the land. In this financial time when the government is cutting money left, right and centre, it does not make sense to me that they are not trying to incorporate all these land tenure issues to try to solve them all at once, particularly if the cost of the survey is going to be so large and so on. Then do we come back here in 10 years time, sit around in another committee and try to explain the ownership of the house that is on that property? That is why I think people are so confused. I think we heard from the mayor of Cherbourg that it has almost become a case of 'no matter what we say or do, things are still going to be the same'.

CHAIR: I will ask Chris to explain how this process started. Like you, I am chasing a bit of clarification. Chris, can explain how this process started? Can you give us a bit of a route through it?

Mr Robson: Very briefly, how we got to where we are at the moment is the result of approximately two or three years of work, consultation and developing options in the case of the Katter leases to identify how can we go about addressing them. Also, that required a fair bit of work by the department to actually look at, as far as we can, talking with the trustees and councils about what were and what are the number of applications that are unresolved as per the list we have provided and what are likely to be the circumstances that go with those—and there are very diverse circumstances and they do vary from community to community.

This is a very particular piece of work; there is no doubt about that. It seeks to deal with a longstanding issue that has not been addressed for many years, as can be seen. It has taken approximately three years. There have been a number of consultation papers issued on this. We wrote to every council a couple of times on this issue to get their views and information. There was a public discussion paper issued in late 2010. It seeks to deal with a particular issue. It really is what I would suggest is a foundational piece of work to address a longstanding issue, fix up some of the surveying and boundary issues and enable people to have clarity about what their entitlements are, where they are or who thought they had Katter leases. It allows, then, for other forms of tenure and tenure change to occur. It does not preclude anything else happening; it simply seeks to fix up a problem that exists now.

CHAIR: So to briefly summarise, it is virtually fixing the problems that three pieces of legislation have given us over a generation but it is not taking us to the next step, really, is it?

Mr Robson: It is seeking to fix up particular problems associated with the 1985 act and basically repeal that act and give a minor process to be able to fix up the problems that have arisen out of that act. Our expectation is that the process, hopefully, will be concluded and we will actually find this new act is no longer needed in anywhere between three to five years. That would be our objective. As I keep saying, it does not preclude any other forms of tenure reform occurring; it is simply fixing up the problems we have at the moment in respect of these particular leases.

Ms TRAD: Chris, in relation to that, there is a broader government inquiry that is going on into government land tenure.

Mr Robson: That is correct.

Ms TRAD: And what relationship does this build?

Mr Robson: Within the context of that broader inquiry, which is about state land generally and its tenure and future potential uses, it does fall in the terms of reference to consider Indigenous traditional land.

Ms TRAD: Traditional owners, yes.

Mr Robson: Yes. As I said earlier, this has been entrapped to try to deal with these particular issues in regard to these Katter leases for some time. The government took the view that it is time to at least move forward on those. It does not preclude any other options being progressed on the broader land tenure and other state leasehold land.

Ms TRAD: Given that there seems to be a need to accelerate this particular component, is there a capacity for some of the unresolved issues to be addressed through the broader inquiry, which I think ends later in the year?

Mr Robson: By all means. That committee is running its own public processes.

Ms TRAD: That is right. Can I ask any of the others here if they have been involved or invited to make submissions to the bigger inquiry into state government land tenure in Queensland?

Mr Gibson: Not that I am aware of.

Mr Carse: The Torres shire council has put a submission in. I think there has been one from the Cape York Land Council.

Mr COX: I thought they were just in here last week discussing with them.

Mr Robson: There have been several public hearings by that committee. They were doing some Queensland travel as well, but I cannot recall the exact dates.

Ms TRAD: In Mackay, yes.

Mr Carse: If I may respond on the homeownership issue that came up before, Under the Aboriginal Land Act and the Torres Strait Islander Land Act, you are able to purchase a house and own it, also construct it. Under those acts, you can get a 99-year residential lease which, as I said before, has a statutory renewal so that if you use it for residential purposes, for all and practical purposes, it is perpetual. Under that, you can get that over social housing. So if you are in a social house at the moment in Cairns, you could apply to the department to buy that house, and if they agree to sell it you can purchase it and if it was in Cairns you would have freehold.

On the community land, freehold is not available but you can seek to buy that house you are in. If the department agrees to sell it—generally they would probably look at that favourably but it is social housing and that is one of the concerns of housing in these communities—you can purchase that house and you would seek a 99-year lease from the trustee. With those leases, you can mortgage it and IBA would lend funds. You can purchase that house and have a 99-year lease and own that house. You can pass it on to your descendants. You can get a residential tenancy. You can rent it out if you wanted to move away to get a job elsewhere. You can put it in your will. So you can own a house.

Mr KRAUSE: Ken, a lot of those perpetual leases that you are talking about for residential purposes, are they on DOGIT land?

Mr Carse: I was actually talking about the 99-year leases under the Aboriginal Land Act. They are not perpetual. The land holding act leases—which are the perpetual leases, and they are the ones that this bill is about—are on state land at the moment because we have not filled those holes in the DOGIT.

Mr KRAUSE: When this bill is completed, presuming it is passed in substantially the same form, will there be an option for perpetual residential leases to be granted still?

Mr Carse: Only those entitlements that are here, on these lists we have gone through. They are the only ones that can be granted, or if somebody identifies another one. It is only the applications that have been made under the land holding act that can continue to be granted.

Mr Robson: Just to highlight: we are trying to reflect what the entitlements were that the people had under that act. We cannot take away their entitlements.

CHAIR: They are just trying to tidy up the mess so far.

Mr Piva: This is where the madness is. You have got the 40-year leases. The state will not survey tenure of the other houses except for the houses that the council has signed over 40-year leases. If somebody does want to get a 99-year lease to buy one of the residential houses, it is the same thing we are talking about. Who is going to pay for the land to get surveyed? Instead of coming in there and surveying those houses that the council has signed up for 40-year leases, why not do what you were saying before? Why don't you just survey the whole community?

CHAIR: Does the community understand this? Do you understand what he is talking about with these perpetual leases? I am starting to get confused.

Mr Piva: If somebody does want to buy a house, we have not even got a ballpark figure on how much the house is going to cost so where do you start? How do you go, 'This fellow wants to buy his house. How much is it going to cost him?'

CHAIR: This is a real problem, Ken. Is there any clarity in the community as to what you are talking about, though?

Mr Carse: There is a homeownership team set up within the remote Indigenous program office that is with DATSIMA. They have been going into a number of the communities to do a lot of the groundwork and explain this. They have done it in a number of communities, and I think other communities have requested for them to come in. There is that confusion there.

CHAIR: How long have they been set up?

Mr Robson: They have been going roughly one year.

CHAIR: So it is relatively new.

Mr Robson: Prior to that, the Department of Natural Resources and Mines in its previous form did have what we call a small leasing support team who were able and willing to, and did I believe, talk to quite a few of the community councils—obviously not all here—about leasing options as they existed at that time.

CHAIR: The big question is how many people have got mortgages on their leasehold land.

Mr Robson: At this point in time, I am not aware of any. I do know of about 100 or thereabouts that may be in the application phase.

Mr Carse: We would not necessarily know if they did have mortgages, either.

CHAIR: Somebody in the community has to know.

Mr Carse: There have been no 99-year homeownership leases granted. There have been a number of applications that have been processed, and the homeownership team goes through with them. If they want to purchase the social housing, they have to ask that department who will give them the figure for that house, the purchase price. That is the same as any other area. If you were in social housing in Cairns or Brisbane and wanted to purchase that house, you would ask the department and it would tell you the price for that house.

Mr Collins: Council owns the houses, so why should we be talking to the department of housing?

Mr Carse: Under the leases, when you have got the 40-year lease—

Mr Collins: I am not talking about 40-year leases.

Mr Carse: If it is not a 40-year lease, you do not come to the department.

Mr Collins: Because 40-year leases do not effect Cherbourg.

Mr Carse: That is the council you would go to then in that case, as trustee.

CHAIR: So if the Cherbourg council wanted to sell those houses off—

Mr Carse: They can do it now, as 99-year leases under the Aboriginal Land Act. They would be 99-year private residential leases. You would determine the sale price.

CHAIR: Did you realise that, Warren?

Mr Collins: I had no idea. The biggest problem for us is the valuation on the house.

CHAIR: That is right. Maybe some of the issues we have talked about here with the 10 years, renters and all that sort of thing have to be looked at, haven't they?

Mr Collins: We have got an insurance value, we have got a value of the house on the assets register and then we are going to have a sale value, so there could be three different values.

CHAIR: If Ken has lived in his house for eons and paid his rent and maintained it well, it is a benefit to Cairns, isn't it?

Mr Reeve: But that is not taking into account—

CHAIR: That is what I am saying, and that is what we have to look at. That may be something that needs to be done.

Mr Reeve: What they are doing now is they look at a price for the land and a price for the house and then they say, 'You go and see IBA and see if they will lend you the money to buy it.' It takes no account of the fact that many of these houses are not in a good state of repair but people have been paying rent, as the council at Lockhart said, for 40 years on that lease and they get no credit for that at all.

Mr Butcher: We had a meeting with the program office not long ago actually when we spoke about homeownership. The same thing happened. They surveyed the block first, and we need to value the house before we can talk about the price of the house. The process itself I think—

CHAIR: You are looking at quite an expensive point even to get to the starting point.

Mr Butcher: Plus the time as well.

Mr Hoffman: That is what I said before, Mr Chair. It is very easy. In Victoria, legislation already exists about council houses being turned into freehold. It actually was done in Australia, and if you are not happy with Victoria then go to London. There is one that Mrs Thatcher used to get the council houses off the council and sold it to the people who were renting them for 20 or 30 years. There is no need to be writing reports about that. We just create jobs for the bureaucrats.

Mr Butcher: There is an example of probably an existing model in the country already.

Mr Hoffman: There is, in Victoria.

Mr Butcher: Is it smarter for the state to go interstate?

Ms TRAD: Were they DOGIT based leases in Victoria, do you know?

Mr Robson: I cannot comment. Whether they were on state land of some form, I do not know. As soon as they are on state land, any freeholding or other forms of higher level tenure do get captured as a future act under the Native Title Act. That is fundamental.

Mr Hoffman: The houses in Victoria belong to the state government, for the housing commission.

Mr Carse: With respect, in those situations they are on subdivided lots, which is one of the amendments we are bringing in so we do not have that situation. They are already on freehold so native title is already addressed. You have got a surveyed lot and you have got the owner who can choose what to do with it. It is a much simpler situation. What we are trying to do, step by step, is bring it up to the subdivided state, bring it into the one tenure, which removes two other issues that we currently face.

Ultimately, it is held in trust, so the state has not taken the view that we are going to take it off you and give it to an individual; we have left that to the trust. We also need to deal with native title, which is Commonwealth legislation and we cannot legislate over the top of it. We have to deal with it. That does bring in that balance that the traditional owners may not agree with.

CHAIR: I will just got to the surveyed lots, and I will play devil's advocate here, Chris. The department is going to survey the roads so you have plenty of good data points. I can get a good GPS or whatever you blokes use now. I have seen some very semiskilled DNR staff come around and survey my bores and they write down the points. Would the council then have the ability, once they are using your good surveyed points from the front road and all that sort of thing, to have some trained staff do the rest of the surveys around the back of the blocks and that sort of stuff?

Mr Robson: It would help in locating the boundaries in terms of settling any of the boundary dispute issues for sure. Ultimately, as we said earlier, where we want to have these plans if they are going to be registered in terms of a title registration process, they do have to meet the standards that that provides for—

Mr Carse: You would need a registered surveyor. If I could point out, that is only a small snippet of the map—that one there. All those purple lines are lease entitlements which the state has surveyed. We have done that in a number of communities. At the moment, we do not have the information to say that we have done it in all communities. In many communities we have done, that is the survey of the lease entitlement that the state has undertaken itself.

Mr KRAUSE: It has already been done?

Mr Carse: Yes, we did that and surveyed that. So if there were no anomalies there, we could issue the lease over that block.

Mr KRAUSE: And that relates to this legislation?

Mr Carse: Yes.

Mrs MADDERN: And you could also then issue a registered plan?

Mr Carse: Yes.

Mr Piva: In the start of the year, the Lockhart council had 70 or 80 houses. Lots have been surveyed. We sent a letter to the minister to say that this was a great opportunity, while the houses were still in good nick, to give these people the opportunity to buy the houses. Do you know what I mean?

CHAIR: What happened? What was the response?

Mr Piva: I have not even got a response. This is the madness about it.

Mr Reeve: The response would be that this is social housing stock that has been built.

CHAIR: If you can get the council to send the committee that letter, we will follow that up.

Mr Bone: There is another thing I want to talk about. The thing is, I remember back in the eighties when they started talking about homeownership and they were also talking at the same time about stolen wages from all communities and from our people throughout Queensland. Why didn't the government consider giving back the stolen money like the time before the government did pay some money back? Why don't they compensate in regards to the housing for the people? They were repaid from the government who already took the money from them. Why can't they be compensated for the housing, because there are some people from that era in my community who are still up in arms about what had happened? Like was said earlier, a lot of people in a way have been taught to be as white as they can be. In regards to buying houses, a lot of our people have not got the money to do that and by rights they are paid or the government will take the money off them. So maybe you could consider something like that.

Mr Butcher: Ian, isn't it fair to say, though, that the Katter leases have been floating around in space now since 1985 or whenever in so many jurisdictions and for a short period were on the table? If government do not want to look at sorting land tenure and the Katter leases, why not sell the whole community while they are at it? Wouldn't you think financially that would save money down the track? Would it be more efficient doing it that way? Why duplicate the services?

CHAIR: That is something that the government will have to talk about and will have to discuss with the minister. Unfortunately, we just do not have the ability to say yea or nay to that sort of thing.

Mr Carse: If I could just make one comment on that, I know that sounds a good idea and in some cases it might be easily achieved, but what do we survey? If I just refer back to that map, they are not nice, even little blocks. So if we go into a community and you say for it be surveyed, where do we survey? What boundary? We then end up with the issue of, 'Well, that's not the boundary we wanted. You'll have to come back and survey. That's not what we agreed on.' So you end up having to go through a whole consultation process to work out where the boundaries should be, and that is the process we are doing through this.

CHAIR: So hopefully this will get this tidied up?

Mr Carse: As much as possible and what is left hopefully is not little.

Mr COX: At the end of the day, there are going to be legal requirements here that have to be met. I think from my understanding and from what you guys are saying—and they are valid points—in part this bill is going towards making sure that everything is legal and that there is a process through it, but we determine what is one before it happens, because if you do not I think this would be drawn out over a longer period. People inside those communities have to decide who owns what and wants what.

I asked this question before in another hearing we had right at the beginning: do you think in some cases—and it would be different from community to community—there is going to be a bit of discussion over who really does own what within a community? I think if we do not get this bit done right—and I am not saying I agree with all of this—it might help in deciding that. I do wonder whether there are going to be issues within each community already about who does really own what. Do you think that might be the case? It might only be small in some cases, but there would be some cases.

Mr Butcher: There is just a lot of uncertainty out there. If you look at the short history in land tenure in Indigenous communities—just in the last four years and the dealings we had to do with wild rivers and so on—it is very confusing. It is very confusing. If you look at the parcels of land around these communities, you have to deal with the Katter lease agreement, you have to deal with the DOGIT that is owned by the council, then you have the land trust and then you have PBCs in national parks and wild rivers on top of that.

CHAIR: I might ask Chris and Ken to sum up. I know that there has been a fairly good interaction, I think. The committee has a bit of an idea of the feeling of the room. Is there anything that you would like to sum up with, Ken and Chris?

Mr Carse: No. I think it has been good hearing this. There have been a number of issues which have been discussed which all sort of interact, and that is part of the confusion and the difficulty. But homeownership is a separate issue. Social housing is a separate issue. What we have been dealing with in this bill is the landholding part. A couple of other initiatives which we have put into the bill because of timing, such as the subdivision, is part of the puzzle I think, as Tracy from LGAQ put. So we are trying to address those puzzles and we are taking a deliberate step by step, because in some cases you cannot move until you have done one step.

CHAIR: Would you actually say then, Ken, that we really have to tidy this up before we can move on to more certainty about landownership and title and all that sort of thing?

Mr Carse: Yes, I certainly would say that. People say, 'I can understand some of the concerns coming from there, but I want to own this.' Until we actually have certainty on the ground where things currently are, it is hard to go to the next step. One of the uncertainties out there is: where are these entitlements? Where are these leases? Who owns them? Who is in that house? Let us sort that out and then we can look at other issues after that.

Mr Robson: A brief comment is that this is a step-by-step process. In the six or seven years I have been involved in Aboriginal and Torres Strait Islander land type matters, you need to take it carefully and in a considered way because, as I think a few people have said here, there are lots of interests and lots of people who think they have things and you have to validate and check and confirm, and it is therefore a careful process. To that extent, it is probably a slower process than some people would like—we have to acknowledge that—but it is a process to give long-term certainty, which is what we are trying to do here. So this seeks to fix up a longstanding problem. This framework gives a considerable community engagement process to fix up those problems where that is needed. It gives, I think, a process, through mechanisms of law, to address any unfairness or concerns about unfairness, and it is designed around being as least cost as we can identify it to be. There is never no cost in these sorts of issues, in trying to fix them up. I would finally say that it certainly does not preclude any other future land reform in Indigenous communities.

Mr Hoffman: In November DERM went to Hope Vale, as Bruce and these gentlemen behind me will tell you, and surveyed every single bit of land for whoever owns it. It did not take forever, and some of them were 800 acres, some of them were 100 acres, some of them were 150 acres and some of them were 50 acres with no problems. Everybody identified them. There was a bit of argy-bargy, but then it came to a decision in no time and it was done.

Mr Robson: Mr Chair, I will just comment on that one. I was thinking about that one myself. That is with regard to Hope Vale?

Mr Butcher: Yes.

Mr Robson: We are talking about approximately 30-odd block holders, as they were called, in that community. It did take the department and a number of officers—I would have to say two or three officers—a period over several years and considerable survey costs. I can quote the survey costs. They were in the order of $1½ million to resolve those 38 to 39 blocks, and that involved obviously consultation with the native title parties in terms of those agreements as well. So it takes time. It just takes time. That was difficult, but that is because the community actually wanted to have their say and make sure where those blocks got surveyed were where they should be and all those things.

Mr Hoffman: Mr Chairman, there were 80 blocks in November.

Mr Reeve: I do not think you can draw a map seriously, Mr Chairman, because that was implementing an Indigenous land use agreement that was signed in 1996 which assured the block holders that they would get some security of tenure out of their blocks. So that was delivering on that commitment.

What we are talking about here are blocks of land in towns. We are not talking about surveying outside the towns. The basic unit to deal with tenure is a block on the cadastre and a lot in a plan on the cadastre. What I was trying to say earlier is: put every block in the towns, in the communities, on the cadastre. You then have a unit that you can start dealing with, however you deal with tenure. You have the basic units identified.

CHAIR: So you are saying draw the maps first and then work with them?

Mr Reeve: Draw the map and then the tenure will follow, and it will not be that difficult.

CHAIR: I think some of Chris's argument is the fact that there is some dispute over where the plans are at the moment. That is what the map there with the red lines sort of shows.

Mr COX: Can I also make the comment, Mr Chairman, that I think I could be reading this wrong. We also have to fix up those that are already undecided before we can go and put out the maps, because if we have not decided those ones that are currently in there being disputed—and I could be wrong in saying this—and we go and make a map, if they are not decided the government will not have fulfilled the obligations to those that are already existing. Am I right in saying that?

Mr Robson: That is a good description.

Mr COX: Because that is what I think is the crux of the matter. I think we are forgetting that there are already applications out there. When we get those applications finalised, then we can go and do what you are saying today. I know what you are saying and I agree with you fully, but unfortunately I think we have to get these first ones that are already sitting there waiting to be satisfied which have not been. We must give them their free air to come to that conclusion before we go and do anything further. That is what I am reading from it.

Mr Reeve: I just wondered how many disputes there are, because we deal with Kowanyama and Pormpuraaw where most of these Katter plots are and I am not aware of one single dispute over boundary.

Mr Hoffman: There are no disputes.

Mr Butcher: Ian, one last point: I know the Katter leases have been an issue in the community for such a long time. In terms of the information that we are getting here now, is the government intending to come to the community and hold a public forum, because in our case we have 32 in Lockhart? Is there any intention that you are going to come to the community and just talk to the lessees about it?

Mr Robson: As Ken Carse indicated, the bill that is currently being looked at by this committee provides for a community panel—the department, the trustee, the council in your case and other government agencies, such as Housing, the program office and DATSIMA, to come into the community to talk about what is the best way to resolve, in your case, the 32-odd and any others that might come up. So part of the process is also putting that public notification of what we know about those Katter leases or in terms of applications—getting that drawn out and people putting in their proposals to say that we have missed some and then having a discussion through that panel in the community about how we fix those. So there is very much a community process in there.

Mr Butcher: It depends on the awareness, too, that this process is going to take place, so are you going to use any strategies to say that the program office or someone is coming around already to talk to the communities?

Mr Robson: I will just respond to the question. We obviously cannot do that until we are sure the bill is going to pass. It is out there for consultation at this point. In the expectation the bill will pass, then we will have what we call an implementation plan where we will be talking with the program office and people and we will be creating a program of rolling this out. We have not sat down and worked through the detail of that just yet but we will be, assuming this bill passes.

Mr Butcher: I guess that gives us the opportunity to either say that there should be some room for freeholding in this process as well.

CHAIR: I think we have heard that free and clear. We have heard that very plainly here as a committee, and we will make recommendations through this. That is part of this process. Most of the bills do get modified and changed as we are doing that, so we will make recommendations through this. I will have some discussions also with the people from Lockhart mission and I might even just fly up there myself one day and have a talk to the council or something.

Mr Butcher: You are welcome.

CHAIR: If you welcome me up, that would be good.

Mr COX: Mr Chairman, can I just make a suggestion, then, for feedback from you gentlemen. Again, we have looked at this not much longer than you—in the last three to four weeks—and each time we look at it it becomes clearer in our minds. But you have a think and maybe suggest if we need—and I am not saying that the department has not covered it so far—another look at a step-by-step process as to how this works. That maybe could be presented to clarify it. I know you have the four main points, which were presented to us at the beginning. If you do not think there is any other way that you can say it, that is fine. But if you could just put something out, that is another step by step that each one of these is involved in. They could go and put their own time lines in to say, 'Once the bill's in, we need to be ready to have this consultation. Before the bill's in, we need for this to happen.' I do not know if that can happen.

CHAIR: Sam, I think you are probably getting a little bit into policy, though. It is the next phase of the legislation, really.

Mr COX: I am only talking about what is happening now. I think from our discussions today everyone has a better understanding about what you guys are doing. But this is just to let them know what the next step will be and the actual times for when they have to have consultation.

Mr Carse: You will have to let us know what amendments will be made.

Mr COX: Maybe that has answered my question.

Mr Butcher: What Sam has just touched on there is a critical point. You have spoken to us here at a regional level. When the program office comes up to visit—I think they are coming up a lot in the next couple of months anyway—could they let the community know about the actual bill in terms of the information that you have given to us here?

Mr Robson: Certainly we will be talking to the program office and giving them all the material that we have and what we have given to you guys today, and we will make sure that they have it with them. Chair, I meant to table this before. We have a summary document which gives an overview of all the changes. Ken has talked to some of this. Can I table that and hand that out as well?

CHAIR: There being no objection, it is so tabled.

Mr COX: I think there are just some publications that we need to get out there just so people can really get an understanding.

Mr Carse: We do have our hands tied a little bit in that we need to wait until the bill is passed so we know whether it does change or not. We are working on an implementation plan as to how we go about it. It will specifically involve what is the next step for each trust and what they need to do. But we need to wait for the bill to pass before we can finalise it.

Mr Reeve: What I am struggling to understand is why survey work cannot be undertaken until the bill is passed. I would have thought you could start the survey tomorrow, if a decision was made to do that. I cannot understand why the bill needs to pass. Maybe we could get an explanation for that. I cannot see that the passage of the bill would impede doing the survey.

CHAIR: Shoot me an email on that specific issue and I will raise that issue with the minister. Thanks very much for coming along today. I think it has been a great discussion. It gives us a lot clearer understanding of where the communities are coming from and where the Indigenous view is on this sort of thing. We are now going over to TI to listen to some of the issues there as well. We will be over there today and tomorrow.

This legislation is to clear this up, of course. Our role is to advise the department and the minister on how this legislation can be improved. Probably some of these things that we have talked about around landownership and freehold needs to be put posthaste into legislation that we would like to get into this term of parliament. I can see that there is some frustration in the communities. Like you say, this has gone on for 40 years and people have not got anywhere. It is very frustrating.

I know some of the issues you have. I happen to own a block of land that I sold to my son. I was the first mortgagee. When he went to get a loan he had to come to me to get it signed. I was thinking, 'Why should I sign off this mortgage to him?' and all of that sort of thing. I do know the issues that you have. It is almost like you are running around in circles when you think you are buying a block of land yourself.

Mr Hoffman: Mr Chairman, why can't this freehold thing be inserted into this legislation?

CHAIR: We will have some discussion on that. I do not want to pre-empt what the minister will accept.

Committee adjourned at 10.50 am