

Agriculture, Resources and Environment Committee  
Parliament House  
Brisbane Qld 4000

28 October 2013

Dear Committee

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**Submission to the Committee on the North Stradbroke Island Protection and Sustainability and Another Act Amendment Bill 2013**

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### **Quandamooka People**

The Quandamooka People have always been, and will always be the owners of North Stradbroke Island, Minjerribah. They are Yoolooburrabah, the Peoples of the sand and sea. They have never ceded sovereignty over the Country.

Quandamooka Country is runs from the mouth of the Brisbane River to the mouth of the Logan river, and includes Moreton Bay and the Bay islands, and relevantly, North Stradbroke Island.

When mining has long passed, the Quandamooka People will continue to protect and care for their Country, Naree Budjong Djara, as they have always done.

QYAC refers to your call for submissions on 18 October 2013 on the North Stradbroke Island Protection and Sustainability and Another Act Amendment Bill 2013 (**Bill**).

### **Summary**

QYAC submits that the Bill should be rejected by the Parliament for the following reasons:

- It breaches the contractual rights of the Quandamooka People under their ILUA;
- It invalidly affects the Quandamooka People's native title rights and interests and neither the State nor Sibelco has sought their prior informed consent;
- It impacts upon the human rights of the Quandamooka People recognised by the UN Declaration on the Rights of Indigenous Peoples;
- It is racially discriminatory;
- It unreasonably favours a foreign owned private company over the rights of Traditional Owners;
- It impacts upon sensitive environmental areas, and areas proposed to become National Parks;
- It significantly reduces environmental controls and increases the environmental impact of Enterprise Mine on the Moreton Bay Ramsar Area;
- The justification for the legislation has no basis, in respect to the economic, employment, education or sovereign risk arguments put forward by the Government on Sibelco's behalf; and
- There are real issues of probity, and corruption risks in the Premier and his Government progressing the demands of Sibelco through this Bill
- Sibelco has a poor track record in terms of obtaining appropriate approvals for their activity and off lease impacts.

Despite several assurances from the Premier and Minister that it would be otherwise, QYAC were not consulted on the proposed legislation, or the proposed tenure changes which extend mining.

QYAC notes that the Government's response to the tabled questions on notice dated 23 October 2013 states that QYAC was the recipient of "*targeted and limited discussions early in the policy development phase*" It was not.

At the QYAC meeting with the Minister on 8 May 2013, he said he had requested that Sibelco bring its "A" game and outline the plan to extend mining to Quandamooka but that he was not there "to row its boat" and that he had asked Sibelco to meet with QYAC.

At the meeting with Sibelco, QYAC was advised that Sibelco would brief them on the detail once the Government had passed its legislation.

Accordingly the proposed tenure changes and subsequent impacts upon native title rights and interests were not discussed with QYAC by either Sibelco, or the Government, despite several assurances from the Premier and Minister that such consultation would occur.

The proposed legislation represents a substantial reversal of the position of the Quandamooka People achieved through the consent determination and their agreements with the State.

At no time did the State ask for, or consider Quandamooka People's rights and interests prior to introducing this Bill to the Parliament. The Government's response to the tabled Questions on notice dated 23 October 2013 states "*Individual meetings were held with Sibelco and QYAC in relation to the Bill which was introduced into Parliament on 17 October 2013.*" The meeting that the Government refers to occurred after the introduction of the Bill, on 19 October 2013. QYAC submits that this response is misleading.

QYAC contrasts its treatment with the numerous meetings held with Sibelco and senior members of the Government, including meetings with no departmental officers present. Further over 1000 documents have been generated internally in response to Sibelco's proposals, and the Government has denied access to each of them on the basis they are either Cabinet in confidence or commercial in confidence.

Quandamooka People do not believe that this submission process is adequate to constitute "consultation" on the proposed amendments and this submission, and our participation in the hearing does not constitute any form of consent from the Quandamooka People to the proposed Bill.

Quandamooka People strongly oppose the proposed Bill.

### **Native Title**

On 4 July 2011, the Federal Court of Australia with the consent of the State of Queensland (**State**) and other respondent parties recognised the Quandamooka People's native title over land and waters on and surrounding North Stradbroke Island, and islands in Quandamooka (Moreton Bay) in *Delaney on behalf of the Quandamooka People v State of Queensland* [2011] FCA 741.

As part of the broad settlement of native title, the Quandamooka People also executed two (2) agreements with the State of Queensland that establish how rights and interests will be exercised on the ground:

- (a) the Quandamooka Land & Sea Indigenous Land Use Agreement (**ILUA**), fully executed on 15 June 2011; and
- (b) the Quandamooka Indigenous Management Agreement (**IMA**), fully executed on 15 June 2011.

Quandamooka Yoolooburrabee Aboriginal Corporation RNTBC (**QYAC**) is the agent prescribed body corporate representing the Quandamooka People's native title rights and interests over North Stradbroke Island and surrounding part of Moreton Bay. It is a party to the agreements with the State.

QYAC is the only body authorised to represent the Quandamooka People's native title rights and interests.

In broad terms, the ILUA with the State sets out the following:

- (a) native title consents to agreed acts including the dedication of Prescribed Protected Areas under the *Nature Conservation Act 1992* (Qld) (**NCA**), the dedication of recreation areas under the *Recreation Areas Management Act 2006* (Qld) and the dedication of Indigenous Joint Management Areas;
- (b) the validation, consultation and compliance processes for State projects and activities;
- (c) the roles of the parties in the joint management of various areas in accordance with management principles under the NCA, a Plan of Management for Protected Areas, and entry of the parties into the **IMA**; and
- (d) the surrender of and limitations on the ability to exercise some native title areas in relevant areas within the Agreement Area,

in exchange for compensation and other benefits including the grant of Aboriginal land under the *Aboriginal Land Act 1991* (Qld) (**ALA**) to the Quandamooka People.

The IMA facilitates the staged creation by the State of areas which are to be jointly managed by the State and the Quandamooka People. It reflects the parties' commitment to joint management of Indigenous Joint Management Areas (**IJMAs**) within the parameters of the NCA and ALA, and sets out the details of the working relationship between the Quandamooka People and relevant State department in their joint management of the IJMAs.

## **Recognition of and Respect for the Quandamooka People**

The Quandamooka People were not consulted on the proposed changes to mining leases and associated environmental authorities by either the Queensland Government, or Sibelco.

There is no doubt that the Bill, if passed, will have a significant impact on the exercise of native title rights and interests over the Mining Lease areas, suppressing the exercise of such rights for a further 5 (Yarraman Mine) or 13 years (Enterprise Mine).

There will be significant suppression of the Quandamooka People's native title rights and interests including on the rights to access, camp, hunt, land and water management, continue and maintain cultural and spiritual activities. In the context of the legal recognition of such rights as recently as 4 July 2011, to wrench away such rights without any consultation shows a distinct lack of respect for the Quandamooka People, and their rights and interests by the Queensland Government.

An extension of the mining leases in the manner proposed by the Queensland Government through this Bill, may mean that the generation of Elders of the Quandamooka People who fought hard for 13 years for the recognition of, and the right to enjoy such rights, may not live to walk that upon part of their Country.

Native title encompasses the human rights of individuals, as well as the Quandamooka People as a community.

QYAC notes that the UN Declaration on the Rights of Indigenous Peoples, to which Australia is a signatory, requires that the Quandamooka People give their free, prior and informed consent to acts which affect their interests, such as the right to renew Mining Leases, and mine over additional areas.

To the extent that the proposed Bill affects the rights and interests of the Quandamooka People in respect to their land, and fails to provide a right to provide their consent to the proposed mining acts, it is racially discriminatory and offends provisions of the *Racial Discrimination Act 1975* (Cth).

### **Broken Promises**

The Premier, Minister Cripps, and Mark Robinson all promised QYAC that they would be consulted on the proposed tenure changes.

The Premier assured QYAC that the traditional owner's interests would be taken into account (Annexure 1). This did not occur. QYAC was very concerned that the Bill will be introduced prior to any consultation and wrote directly to the Premier reminding him of his promise (Annexure 2).

The Premier, the Minister and the local member have all asserted that nothing in the Bill affects the implementation of the ILUA, nor native title rights and interests. QYAC submits that the Bill clearly does breach the ILUA, and significantly affects their native title rights and interests.

QYAC notes that even if this is a reasonable and honestly held view of the Minister, it does not eliminate the need for detailed and transparent consultations with the native title holders, the Quandamooka People, about the future use of significant areas of their country, for a significant time.

QYAC did not at any time refuse to meet with the Minister, and we demand the Minister cease making such statements forthwith as they risk misleading the public and the Parliament.

## High Risk Economic Approach

The Minister has asserted that the transition period is too short and would risk economic failure on the island. It is the North Stradbroke Island economy's exposure to international markets in minerals sands which represents the greatest risk to our economy, and this Bill increases that risk.

There is no information in the public arena as to how the extension of mining provided by this Bill will assist in transitioning to a new sustainable economy on North Stradbroke Island. Nor has the Queensland Government outlined any investment in transitioning the economy to new industries, such as nature based tourism, recreation and education. This is political hubris given that Education Minister John Paul Langbroek as recently as August announced the closure of the Dunwich Secondary School on North Stradbroke Island.

QYAC is dubious that there is a funded strategy, and is of the view that this extension to mining is lazy, leaves the island economy and community dependent on an unsustainable, and overexposed to, an economically unviable market (heavy minerals).

The \$130 Million annual expenditure and 125 job assertions of Sibelco, repeated by the Minister, are not based on data that is publicly available and, despite repeated requests, the Government has been unable to provide the basis for such assertions.

QYAC strongly submits that the basis for both assertions should be made available publicly and tested independently of Sibelco, prior to the Parliament's consideration of this Bill.

QYAC's research shows that the publicly available data does not support Sibelco's assertions and that the Parliament and the Government should avail themselves of some independent data (Annexure 3).

Further, QYAC notes that by not investing in alternative economic futures, the Government will provide a barrier to alternate industries being established on North Stradbroke Island.

A process analogous to the 'Dutch disease' is likely. This is where the rapid expansion of an export industry (pastoral industries in the Australian case of the 19th century and again in 1910-20s' iron ore and coal in the 2000s) has undercut other export industries and import substitution ones (tourism, agriculture, education and manufacturing in the present period)

The continuation of mineral mining (and the possible digging and shipping of construction sand as envisaged by Sibelco) will (a) remove incentives for other industries and (b) increase the cost base for those industries, especially start-up ones

## Sensitive Environmental Areas

The Minister assured the Parliament that no sensitive environmental areas or national parks on North Stradbroke Island would be affected by the Bill.

Much of the Island's environment immediately adjacent to the Enterprise Mine and within ML1117, ML1105, and ML1120 are sensitive environmental areas which had been protected

by the *North Stradbroke Island Protection and Sustainability Act 2011* (Qld) through a legislated end date for the Mining Lease, and providing a restricted mining path with no winning constraints on those leases.

The restricted mining path in particular avoided damage to environmentally significant areas such as:

- Remnant Vegetation containing of Concern Regional Ecosystems (12.2.1, 12.2.5, 12.2.7, 12.2.10);
- Essential Habitats under the *Vegetation Management Act 1999* (Qld) for Wallum Sedgefrog, Wallum Froglet, Wallum Rocketfrog and the Cooloola Sedgefrog;
- Vulnerable Ecosystems; and
- the Moreton Bay Ramsar Area.

This Bill will enable mining to significantly impact upon those sensitive environmental areas (see enclosed maps Annexure 4).

Contrary to the Minister's statement to Parliament, the proposed Bill, by removing the restricted mining path and reducing significantly buffer zones, will allow mining to occur in environmentally sensitive areas and impact upon Rare and Vulnerable species listed in the NCA.

Further, a significant part of the *North Stradbroke Island Protection and Sustainability Act 2011* was the provision of a process to declare 80% of the island as National park to be jointly managed with the Quandamooka People by 2027.

This Bill significantly delays, and jeopardises those declarations of additional National Park, intended to be jointly managed with the Quandamooka People. It will authorise mining on a significant portion of those areas proposed to be National Park so it will unquestionably affect the timing and quality of the proposed National Parks.

### **Cultural Heritage**

QYAC has been duly registered as the Aboriginal Cultural Heritage Body (**Body**) for North Stradbroke Island, pursuant to section 36 of the *Aboriginal Cultural Heritage Act 2003* (Qld) (**ACH Act**).

Despite reasonable requests of QYAC, Sibelco has not yet (more than 2 years after they consented to the Native Title determination recognising the Quandamooka People) agreed to recognise the need to revise their previous Cultural Heritage Management Plan to represent the status of QYAC as the registered Aboriginal Cultural Heritage Body, and current best practice with respect to Aboriginal Cultural Heritage protection.

This Bill is silent on Cultural Heritage. It fails to provide even the basic requirement to enter into a further Cultural Heritage Management Plan with the registered Aboriginal Cultural Heritage Body.

The proposed extension of the mining path area will significantly impact upon areas of cultural significance to the Quandamooka People (Annexure 5 – to be kept confidential).

The Queensland Government has not consulted, nor has Sibelco consulted QYAC, on the significant impacts the removal of the restricted mining path will have on the cultural heritage of the Quandamooka People.

The 2006 Cultural Management Plan is completely inadequate, out of date and should be terminated.

### **Sovereign Risk**

QYAC notes that the Queensland Government is concerned with Sovereign risk exposure. QYAC has requested, and would like the Committee to ensure that, the basis for such concern is made publicly available, as it is of the view that there is none with respect to the mining leases.

Mining Lease 1117 expired in 2007. Any grant of a further interest allowing mining activity on that land would have to occur in a manner consistent with the *Native Title Act 1994* (Cth).

Any assertion that there is any sovereign risk exposure to Sibelco is strongly refuted by QYAC. Sibelco acquired ML1117 long after it had lapsed, and in full knowledge that the Mining Lease had expired and would ordinarily be required to meet the public interest test in section 286A of the *Mineral Resources Act 1989* (Qld).

In fact, the *North Stradbroke Island Protection and Sustainability Act 2011* and the associated consents in the ILUA facilitated mining by Sibelco for a further period by granting certain Mining Leases up to 2027. This more than compensated for the early end to uneconomic mining activities at Vance and Yarraman.

QYAC submits that the most significant sovereign risk exposure relates to QYAC's direct and committed investment in the tourism market on North Stradbroke Island, not the least of which their reliance upon the *North Stradbroke Island Protection and Sustainability Act 2011* to assist those investments.

QYAC and the Quandamooka People have made a significant investment in the future tourism industry of North Stradbroke Island with a direct injection of \$11.2 million into the island economy over the next 5 years with Minjerribah Camping.

That investment was made in view of the legislated end to mining, the adoption of the North Stradbroke Island Economic Transition Strategy and public commitment to expenditure the Queensland Government made in that document.

The Queensland Government's complete about face on a commitment to a strong green future for North Stradbroke Island, with a diversified and robust economy which generates and spends income locally, significantly exposes QYAC's investment in the tourism industry on North Stradbroke Island.

### **Lack of Appropriate Controls – Environmental Authority**

The removal of the non-winning, and restricted mining path from the Environmental Authority ML100971509 will increase the environmental impact of Enterprise Mine, in particular it will increase the impact on the adjacent Moreton Bay Ramsar Area.

QYAC is of the view that such an increased period, and extent of mining requires further Environmental Impact Assessment prior to grant of the Environmental Authority.

Condition G5 is an admission that baseline studies, and any assessment of the impact of the proposed activity has not been undertaken and raises significant compliance issues with the Environmental Protection Act 1994.

QYAC is also of the view that the current Enterprise Mine, and the expanded mine contemplated by this Bill requires referral to the Federal Environment Minister under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) due to the likely inevitable impact of the activity on the Moreton Bay Ramsar Area. The areas which are proposed to be mined are coincident with the Ramsar boundary (see Map on page 40 of the Bill). There is no buffer between the Ramsar area and the mining activity

The Environmental Authority MIN10097509 has a number of controls which are not replicated in the environmental authority proposed by the Bill, namely:

- No requirement for baseline environmental studies and environmental studies Report;
- No requirement that there is no environmental harm beyond the boundary of the proposed mining tenements (there are direct boundaries with National Parks and no buffer);
- No requirement that mining not occur on Category A or Category B environmentally sensitive areas, except for ML1109 – thereby allowing mining on environmentally sensitive areas on ML1117, ML1120, and ML1105 (see G3).
- No condition requiring the rehabilitated areas to be free of Class 1 and 2 declared plants under the Land Protection (Pest and Stock Route Management) Act 2002;
- No condition requiring that none of the following species not be present in densities that prevent the rehabilitation criteria being achieved:
  - *Pinus* spp;
  - *Poaceae* spp, including signal grass, green panic, guinea grass, molasses grass, whiskey grass and red natal grass;
  - Class 3 declared plants under the Land Protection (Pest and Stock Route Management) Act 2002

The removal of the prohibition of any environmental harm beyond the boundary of the mining tenements is a significant weakening of the conditions, because of the additional requirements of sections 16 and 17 of the *Environment Protection Act 1994 (Qld)* to demonstrate an economic impact for material or serious environmental harm..

Despite the determination of Native Title there are no prescribed conditions protecting the Quandamooka People's Native Title rights and interests on the adjoining National Park and areas which are exclusive and non exclusive native title areas (Annexure 8), as is provided for in section 212 of the *Environment Protection Act 1994 (Qld)*.

QYAC requests the opportunity to be consulted on appropriate conditions to reflect the determination.

Condition G10 is inadequate and must ensure that all trigger level exceedances are reported within 24 hours and enable the Department to undertake investigations and enforcement activity.



The conditions relating to complaints should require quarterly reporting of all complaints and expressly enable the regulatory authority to undertake investigations in respect to the complaints, and that the holder of the authority must comply with all reasonable requests for information relating to such complaints, including the holder's own investigations.

The condition G18 should require the provision of such reports to the regulatory authority within 7 days of completion and provision to the holder of the environmental authority.

Recent Hydrological investigations have shown that the hydraulic gradient predicted by the hydrological models, may be as much as 4 m above predicted outcomes. It is clear that the current hydrological models are inadequate to support decision making and need a considerable program to increase piezometers and require calibration should there be a significant deviation from predictions (ie more than 5%).

Further to adequately monitor the implied obligation that there not be any off lease impacts requires piezometers on adjacent areas, particularly the Ramsar area, and should be linked to a Government agency charged with the responsibility of enforcing such controls in real time.

### **Probity Concerns**

QYAC is very concerned that the proposed legislation is the result of an impermissible, and undesirable, influence of Sibelco on the Premier of Queensland, and as a result, his Government.

This Bill has a number of unusual clauses, such as clause 9 which inserts a new section 11D(1) which requires the Minister to renew the mining lease, if the application to renew is valid, and appears to remove Ministerial discretion.

Sibelco registered as a third party donor in the March 2012 State Election. They lodged a return late, and appear to have breached the electoral cap on expenditure as the return discloses over \$91,000 expenditure and fails to disclose that the majority of that expenditure was in the Premier's seat (Annexure 6).

It also fails to include the vast majority of expenditure by a public relations campaign during the election period run by Rowlands. QYAC notes that the Electoral Commission QLD raised queries with Sibelco in respect to that expenditure in July 2013 (Annexure 7).

QYAC is very concerned that the Electoral Commission does not make independent inquiries of alleged breaches or any investigation, but instead appears to take an entirely passive role and relies upon the assertions of third party donors that there is no breach.

The Explanatory memorandum clearly links this Bill to the Premier's commitment made during the election campaign.

*"The government made an election commitment to deliver a framework to extend mining on NSI, recognising that the NSIPS Act did not allow sufficient time for the economy of NSI to transition to one which is not dependent on mining"*

Apart from QYAC's concern that such a commitment is tainted by the significant expenditure by Sibelco in the Premier's seat which was marginal, the Premier's actual commitment was not to extend sand mining, rather:

*“we will allow the mine to proceed in the way it was originally allowed to prior to the actions of the last 18 months”.*

As outlined above, ML 1117 had expired.

It was the Act which enabled ML 1117 to be extended, an act which was expressly consented to by the Quandamooka People in their ILUA, on the understanding that mining would cease in 2027, and that it would only occur in the restricted mining path on that lease.

To renege on such an agreement, in favour of a third party donor which still has a number of questions over its activity in the election campaign, raises serious probity concerns about the influence of Sibelco over the Queensland Government, and the Premier in respect to this Bill.

### **Caring for Country**

The Quandamooka People have the longest and most successful track record of land management on North Stradbroke Island, and the longest experiential record of climate and species knowledge essential to successful rehabilitation.

The Quandamooka People note that much of the revegetation done to date by mining companies, including Sibelco have been woefully inadequate, and have not considered the knowledge and skills of the Quandamooka People.

QYAC rejects the premise in the Bill that Sibelco should be the one granted the rehabilitation lease and work, and submits that rather the liability to restore and rehabilitate the land should stay with the mining company, and that the Quandamooka People be granted the rehabilitation lease, and sufficient funds to undertake the rehabilitation to the specified standard.

This will facilitate the earliest return of the Quandamooka People's rights and interests in their Country.

**“To our father's father**

**The pain, the sorrow**

**To our children's children**

**The glad tomorrow.”**

If you have any questions with respect to this submission, please contact me on mobile number 0488 499 571.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Costello", is written over a light blue rectangular background.

Cameron Costello

CHIEF EXECUTIVE OFFICER



# Premier of Queensland

For reply please quote: *DNRM/ERP – TF/13/18866 – CTS 21/203/13*

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08 OCT 2013

Mr Cameron Costello  
Chairperson  
Quandamooka Yoolooburrabee Aboriginal Corporation  
PO Box 235  
DUNWICH QLD 4183

Dear Mr Costello

Thank you for your further letter of 21 August 2013 about the Quandamooka people's native title rights and sandmining on North Stradbroke Island.

The Government's election commitment is to deliver a framework for an orderly ending of the mining leases on North Stradbroke Island. This commitment requires Sibelco to remediate to the highest environmental standards and allow the island appropriate time to transition to a new economy.

While I agree sand mining does not employ the majority of people working on North Stradbroke Island, I'm told that sand mining does employ approximately 145 island residents. The loss of this employment would be significantly felt, not only by individuals but also due to the flow on effect for services currently enjoyed by residents.

I would like to clarify that a return to the status quo prior to the enactment of the *North Stradbroke Island Protection and Sustainability Act 2011* (Qld) (the Act) is not possible due to the Indigenous Land Use Agreement (ILUA) between the State and the Quandamooka people. While some of the Enterprise mine leases had nominally expired in 2011, they were continued in force due to the provisions of the *Mineral Resources Act 1989* (Qld) until a decision whether to renew them was made.

I understand your concern to be involved in discussions about Sibelco's tenure proposal. I also note your preference that the State not facilitate such a meeting but that Sibelco and Quandamooka meet between themselves.

The proposal the Government is currently considering from Sibelco does not include the extension of mining over any Indigenous joint management areas. The Government's position remains that any amendments to the Act will not affect the rights or interests of the Quandamooka people arising out of the ILUA, nor will they impact upon the State's ability to meet its obligations under the ILUA.

At this stage a decision has not been made on what amendments to the Act will be required and what the timeframe for amendments will be. I'm expecting that the Cabinet will discuss a way forward before the end of 2013. If any legislative amendments are made, they will be done in accordance with the future Act provisions in the *Native Title Act 1994* (Cth).

The focus for the Economic Transition Strategy and the related Business Action Plan was to assist with planning to help North Stradbroke Island transition to an economy without sand mining. The Government's position is that even with these initiatives, the time line for the cessation of sand mining is too soon to ensure the economy of the island smoothly transitions to a landscape without mining.

With regard to your comments about my Cabinet colleague, the Honourable Andrew Cripps MP, Minister for Natural Resources and Mines' statements during Estimates, I'm told there was reluctance on the part of the Quandamooka people to meet with Government in late 2012 and early 2013 to discuss the proposal to extend sand mining in the context of new ILUA negotiations. Please be assured I appreciated the Quandamooka people's willingness to meet in May 2013.

I understand the public statement by Mr Mark Robinson MP, Member for Cleveland was simply that there has been no suspension of the ILUA and the Quandamooka Yoolooburrabee Aboriginal Corporation was still receiving cheque payments from the State pursuant to it.

As you have noted, the roundtable did take place on 26 August 2013 in order to aid and facilitate the ILUA's implementation. The Government remains committed to delivering the objectives within the ILUA by continuing to hold quarterly roundtable meetings and I strongly support this collaborative approach.

Again, thank you for writing to me about this matter and I hope this information is of assistance to you.

Yours sincerely



CAMPBELL NEWMAN

Campbell Newman  
Premier of Queensland  
P.O. Box 15185  
CITY EAST QLD 4002

Your ref: DNRM/ERP – TF/13/18866-CTS 21203/13

14 October 2013

Dear Premier

Thank you for your letter dated 8 October 2013 regarding the Quandamooka People's native title rights and the State's desire to extend sand mining.

The Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC) thanks you for your commitment to the Indigenous Land Use Agreement. We also note your letter of 11 October 2012 to Dr Valerie Cooms, Chair, QYAC where you stated:

*"No decision has been made yet about the amendments to the Act. In making decisions regarding future amendments, I can assure you that the interests of the traditional owners will be taken into account."*

In regards to your clear commitment to consult with traditional owners, QYAC would welcome the opportunity to present its interests to the State so the views of the Quandamooka People can be duly considered by the Cabinet before it makes any decision to amend the Act.

Please advise the appropriate means to ensure Cabinet is accurately and fully informed of our interests and views on any proposed amendments.

Yours sincerely



Cameron Costello  
CHIEF EXECUTIVE OFFICER

## The contribution of Sibelco to the Island: An initial summary

Howard Guille July 2013

### Employment

The table shows information for the Island (postcode 4183) for the last three censuses on the industry in which Island residents are employed. The second table shows the proportion by industry of the total employment of residents. Data is given for the main industries of employment.

The employment can be on or off the Island.

Persons employed by industry (residents of NSI)			
	2001	2006	2011
Mining	173	134	112
Accommodation & food services	140	144	154
Construction	71	78	76
Education & training	54	61	69
Health care & social assistance	56	76	89
Total	908	857	850

Proportion of total employment of Island residents			
	2001	2006	2011
Mining	19.1%	15.6%	13.2%
Accommodation and food services	15.4%	16.8%	18.1%
Construction	7.8%	9.1%	8.9%
Education & training	5.9%	7.1%	8.1%
Health care & social assistance	6.2%	8.9%	10.5%
Total	100.0%	100.0%	100.0%

#### Important points

- Number of residents employed in mining has fallen by 35% over ten years.
- Employment in all other major sectors has increased and in the case of health care and social assistance by 59%.
- A 6% reduction in the total number of residents in employment has occurred.

### Aboriginal employment

Information is available for the 2006 Census (but not 2011) on the number of Aboriginal and Non-Aboriginal persons employed by industry.

Number of Aboriginal and Non-Aboriginal employed by industry 2006			
	Aboriginal	Non-Aboriginal	Aboriginal proportion of island total
Mining	22	112	16%
Accommodation and food services	11	133	8%
Construction	11	67	14%
Education & training	8	53	13%
Health care & social assistance	26	50	34%
Total	118	739	14%

#### Important points

- In 2006 Health care was a larger employer for Aboriginal people than was mining.
- This was gendered with 19 men and 3 women employed in mining compared with 23 women and 3 men in health care
- Aboriginal people were 14% of total Island employment with a high of 34% in health care and a low of 8% in accommodation and food services.

#### Housing

The most recent information on housing is that the mining company at one stage owned around 85 houses on the Island.

The company sold 83 houses around December 2002. Most of these were freehold, some (about 5) were leasehold (freeholding leases) that have since been paid out.

The company still owns 3 houses in Illawong Cr.

The sale of houses seems to have coincided with the move to increase the proportion of the mines workforce travelling over to the Island daily. In addition, there has been increasing use of contractors and reduction in directly employed workers. There is no public data on this.

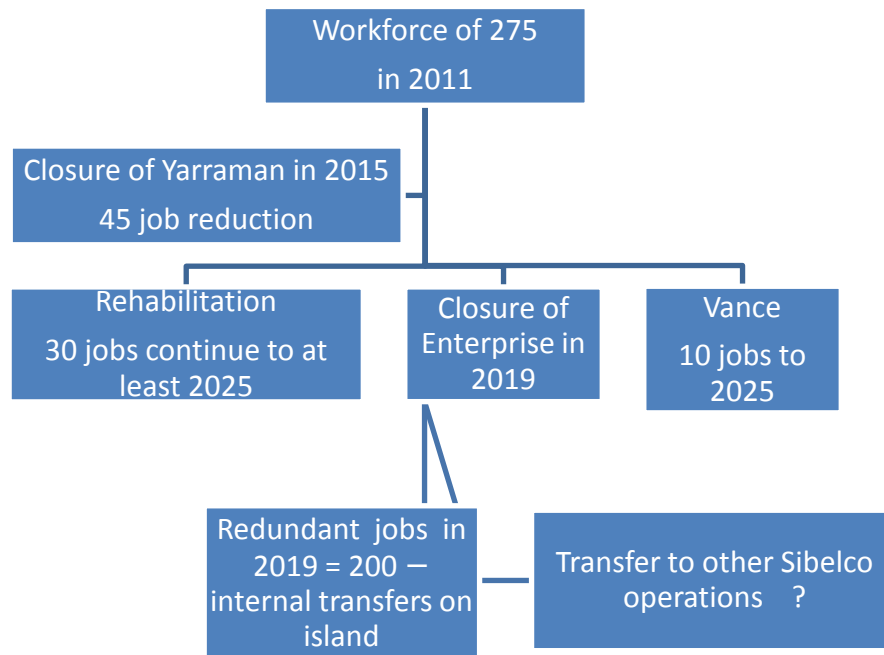
#### Sibelco employment

There is no ready source for the total number of people employed by Sibelco or by their contractors. Sibelco refused to release information during the NSI Economic Transition Studies in 2011. Some information was gleaned for the Education Island Report. This includes

- For 2011 the workforce directly employed by Sibelco in sand mining is 275 workers, with somewhat over a half being Island residents. This does not include contractors.
- The mean and median ages of the mining workforce are very similar to those of the total Island workforce
- The bulk of the mining workforce is not close to retirement

In the Education Island Report we made the following estimate of the effect of the closures planned under the *North Stradbroke Island Protection and Sustainability Act 2011*. Sibelco 'did not disagree' with the numbers.





### Mining companies contribution to Island infrastructure

Information is still being gathered. At this stage it seems

- Sealing of some roads in 1970s including all or part of Beehive Rd from Amity turn-off.
- Advice from RCC is that Sibelco does not contribute to main road maintenance (responsibility of State Govt).
- The bulk electricity supply to the Island is from Beenleigh and the companies may have paid all or part of the original installation in the 1960s. This is the connection that now supplies the townships.
- Advice from RCC is that while the mining company agitated for improved power supply over the recent past, they have not contributed to the cost that has been met by Energex.
- Sibelco makes much of its contribution to the new Dunwich pontoon opened in 2010. Sibelco contributed \$100,000. Advice is that this is around 4% of the total cost.

### Economic Contribution to the Island

Sibelco rely heavily on a study commissioned from Synergies in 2010. The Sustainable Stradbroke [web-site](#) of Sibelco states that

*A 2010 report prepared by Synergies Economic Consulting showed Sibelco Australia contributes \$130 million into the Queensland economy each year.*

This figure can be accepted within the confines of the economic model used for the calculation. Note the \$130m is a contribution to the 'Queensland economy' and not necessarily to the Island.

The study is an orthodox input-output model and the authors are technically first rate and enjoy high credibility. However the conclusion is from an economic model and so depends on the assumptions of the model.

Recently, the Land and Environment Court of New South Wales hearing an appeal against the Minister for Planning and Infrastructure set aside approval for the extension to the Warkworth coalmine operated by Rio-Tinto in the Hunter Valley ([The full decision](#)). The judge was explicitly critical of the cost-benefit analysis and economic studies done to support the development. These included an economic model like that used for the Sibelco study.

Sibelco, under the name of Campbell Jones, [claims](#) that '*Sand miners contribute \$70 million a year to North Stradbroke Island*. The same document says '*more than 145 of those employees being long-term residents of North Stradbroke Island*'.

It is difficult to accept this figure. The 145 residents is an over-estimate compared with the 2006 and 2011 Censuses. Of more interest is how the \$70m per year is contributed to the economy. It is not through wages - with 145 workers it would require an average cost of wages plus on-costs of \$483,000 per person. A more likely figure of around \$150,000 annual labour cost and 120 workers is a contribution of \$18m per year.

It is very difficult to conceive of where the other \$50 m or so comes from. There are few other linkages between mining and the Island economy since the other main inputs -electricity, fuel, water transport and machinery and capital goods are all sourced from off the Island.

Another [claim](#) by Sibelco that '*sand mining accounts for almost half of the NSI economy*' should be treated with caution. One reason is that the measures used to assess the size of an economy (like gross domestic product or net state product) are based on value-added. The measure of a company's contribution relies instead on some measure of total sales. Another reason for caution is the sheer difficulty of defining what is the "*Island economy*" - for example, is it limited to economic activity for which the receipts (wages, profits, rents) flow-back to Island residents. In which case, the profits going to Sibelco shareholders who live elsewhere would not form part of the measurement of net island product. Nor would wages paid to Sibelco or other workers who travel to the Island for work. On the other hand, wages and profits earned by Island residents off the Island would count.

The even bigger matter is who gets the \$130 m 'economic value'. Census data and comparison with the standard poverty line show that in 2011, for the Redland Bay Islands (including NSI) **39.5 per cent of Indigenous households and 38.0 per cent of other households had a weekly income under \$400**. Almost all of these are existing below the Melbourne University poverty level which is the accepted measure of household poverty. Note the high level of poverty among non-Indigenous households is because of the available data covers the Southern Moreton Bay Islands.

More complete and separate data is available for NSI residents for 2006. **The estimate is that in 2006 about 18 per cent of non-Aboriginal households and up to 45 per cent of Aboriginal households in NSI were living below the poverty line.**

### Some alternative considerations

The critical task is to compare the economic, social and environmental impact of mining with that of other possible activities. This can be done in a straightforward matrix as illustrated below.

The first step is to describe alternative futures to mining- three are suggested here - a substantial tourist industry, niche cultural industries which could include some education courses and an option of self-sufficiency without a major 'export' industry or activity.

The second step is to summarise the impacts under economic, social and environmental heading. While some of these might be quantified and modelled this is not absolutely essential.

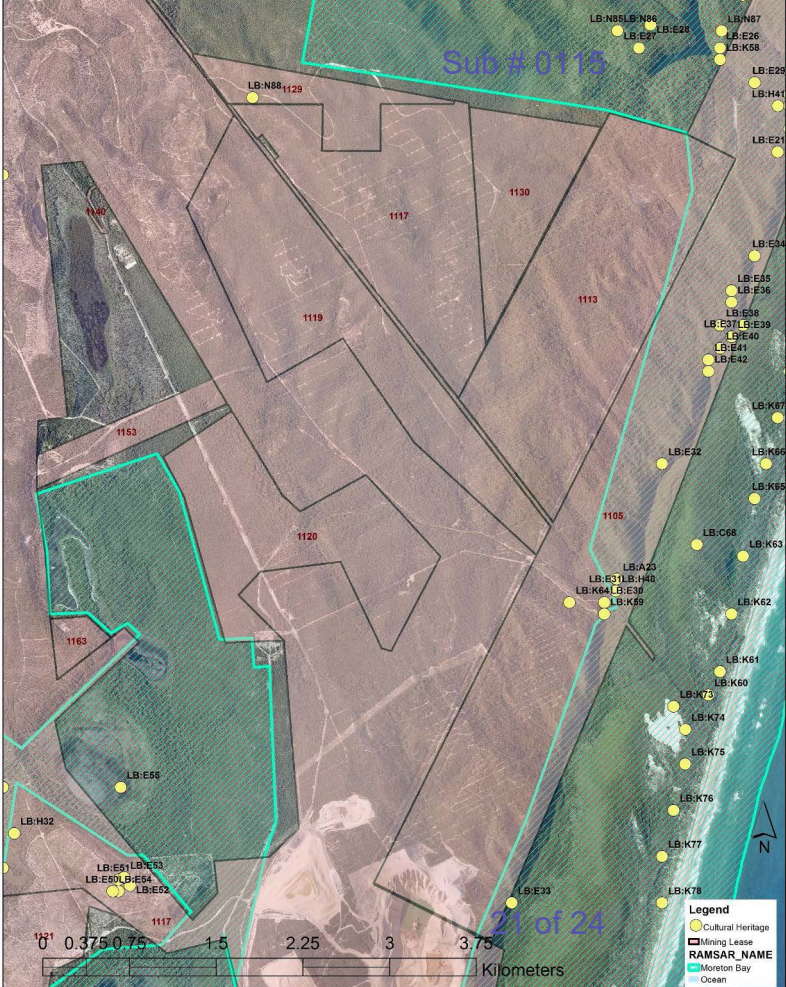
Main industry	Economic	Social	Environment
Mining	Very limited links between mining activity and the local Island economy since few mining inputs are able to be produced on the Island	Limited and declining population directly involved in mining Limited new job opportunities for Island Income & social gap between mining work force and residents	Large scale disruption and expenditure on rehabilitation
Tourism	Tourism can use more Island inputs and has a higher labour intensity. This is offset by lower wages and part-time employment. Current tourism is low value with low daily spend and highly seasonal	Tourist numbers strain housing and other facilities and infrastructure and price locals out of housing especially in 'prime' areas. Issues of social & cultural impact of large tourist numbers	Environmental impact (erosion, vehicle damage, rubbish, animals etc) can be severe especially at most used tourist sites. Management of sites is critical
Niche cultural industries	Can have high level of Island inputs and can sustain higher incomes but for a smaller workforce.	Important source of support for Aboriginal population as could be Aboriginal managed, owned and staffed. This would reduce some of gap between Aboriginal and non-Aboriginal populations.	Environmentally benign and would make facilitate rehabilitation of environmental. Probably incompatible with long-run mining.
Self-sufficiency	Economy based on existing resources including retirement incomes & superannuation, welfare incomes and remittances augmented by local food, art and craft production and providing services.	Requires acceptance (a) that total population will fall and some loss in property values (b) overall objective will not be to maximise economic' growth' Need thought about careers for young people and also about limiting existing income gaps	Environmentally benign -public support needed to restore and maintain environment

### Extending mining may delay other economic activities

One of the arguments for extending mining to 2035 is that it will provide more time for an alternative base to the Island economy. This raises a number of points

- Meaningful dialogue is needed with the Aboriginal and non-Aboriginal populations about what they 'want the economy to do' - notably about how 'big' it need to be (this is partially covered in the previous section)
- An adequate 'new' economic base is unlikely to occur spontaneously but require incubation by a mixture of public and private resources. These need to be long-term, to be sustained and to be under the control of the Island residents.
- The extension of mining may well work against the incubation of new economic activities.
- A process analogous to the 'Dutch disease' is likely. This is where the rapid expansion of an export industry (pastoral industries in the Australian case of the C19th and again in 1910-20s' iron ore and coal in the 2000s) has undercut other export industries and import substitution ones (tourism, agriculture, education and manufacturing in the present period)
- The continuation of mineral mining (and the possible digging and shipping of construction sand as envisaged by Sibelco) will (a) remove incentives for other industries and (b) increase the cost base for those industries especially start-up ones

Sub # 0115



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- Legend**
- Cultural Heritage
  - ▭ Mining Lease
  - ▭ RAMSAR\_NAME
  - ▭ Moreton Bay
  - ▭ Ocean

Agency:	Electoral Commission of Queensland
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**TOPIC: SIBELCO****RESPONSE:**

Sand mining company Sibelco North Stradbroke Island ran a third party campaign for the 2012 State general election.

Sibelco registered on 22 March 2012 as a third party for the election. (This allowed expenditure caps of \$500,000 state-wide or \$75,000 if the campaign were limited to one electorate)

A disclosure return was lodged (late) on 5 October 2012.

- \$91,840 *electoral expenditure* was disclosed.
- Nil *gifts and donations* were disclosed.
- Disclosure of *expenditure for a political purpose* is not required.

Information from Australian Broadcasting Corporation journalist Peter McCutcheon indicates that the campaign related to more than one electorate with cinema, television and press advertising. Mr McCutcheon raised questions as to whether all *electoral expenditure* was included in Sibelco's third party return.

ECQ wrote to Sibelco North Stradbroke Island's agent on 11 July 2013 concerning a campaign by media consultants Rowland; asking that they review the material and advise whether an amended disclosure return is needed or if the return lodged is correct.

**Aside**

Sibelco's failure to include a proper authorisation on some material was brought to ECQ's attention. The company was promptly contacted and it is understood that corrective steps were taken.

**Summary**

ECQ is unaware of any breach of disclosure obligations or capped expenditure. Sibelco has been contacted about allegations with an opportunity to voluntarily correct any error or omission.

OUR REFERENCE

EL/1233/DBG

YOUR REFERENCE

TELEPHONE

1300 881 665

FACSIMILE / EMAIL

(07) 3036 4999 / ecq@ecq.qld.gov.au

ABN 69 195 695 244

11 July 2013

*Please register and bring up for one month.*

Mr Paul Smith  
Agent  
Sibelco North Stradbroke Island  
PO Box 47  
DUNWICH QLD 4172

Dear Paul

**Third Party Disclosure – 2012 State General Election – Saturday 24 March 2012**

I refer to the disclosure return that you lodged at this office on 5 October 2012.

Questions have been raised with the commission about material that can be viewed on-line at <http://www.rowland.com.au/case-studies/sibelco-australia-sustaining-sand-mining-operations-on-north-stradbroke-island/>.

The material on Rowland's web-site relates to testimonial style examples of their work by reference to the design and/or execution of a campaign for you at the 2012 election. In particular, it has been suggested that your disclosure return omitted *electoral expenditure* related to this campaign. Please review your records and then either lodge an amended return or advise that the return lodged by you last October is correct.

When reviewing your records, it may be helpful to keep in mind that *electoral expenditure* would include expenditure for advertising that advocated a vote for or against a registered political party or candidate printed, shown or broadcast during the *capped expenditure period*. The capped expenditure period for the 2012 election started on 20 May 2011 and ended at 6pm on polling day, Saturday 24 March 2012. As you may appreciate, the commission has not seen all of the material used in the campaign designed and/or executed by Rowland.

Advertising election issues, during the *election disclosure period*, without advocating a vote for or against a party or candidate at the election is *expenditure for a political purpose*. A third party which incurs *expenditure for a political purpose*, whilst it must lodge a return detailing gifts or donations used to incur the expenditure, is not required to give details of that expenditure. Only *electoral expenditure* must be disclosed.

Please contact me on ☎ 3035 8030 if you wish to discuss this matter.

Yours sincerely

*David Gottke*  
David Gottke  
Assistant Director Secretariat

*20/8/13. on B/U.  
Paul Smith from Sibelco rang in response to this letter; he said there is nothing more that he is aware of to declare but will look into the matter.  
David Gottke  
ADS. EB of 233.*

### North Stradbroke Island: Tenure, Native Title Determination and Wetlands DRAFT - for conceptual model planning purposes

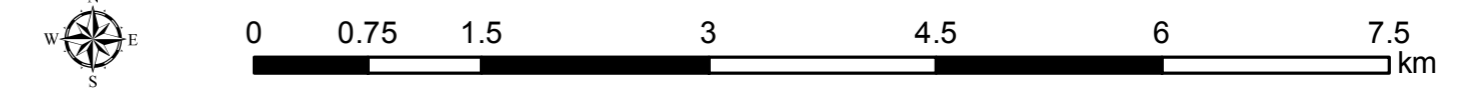


Datum: GDA 1994  
Projection: Albers Equal Area Conic  
Main map scale: 1:50,000 at paper size A1

Data sources:  
National Native Title Tribunal  
Queensland Digital Cadastral Database  
Queensland Government wetlands mapping

Production: Peter Richardson, Dept. Science IT,  
Innovation and the Arts, 6 Feb 2013

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**LEGEND**

**Native Title class**

- Native Title Exclusive
- Native Title Non-Exclusive

**Wetland Class**

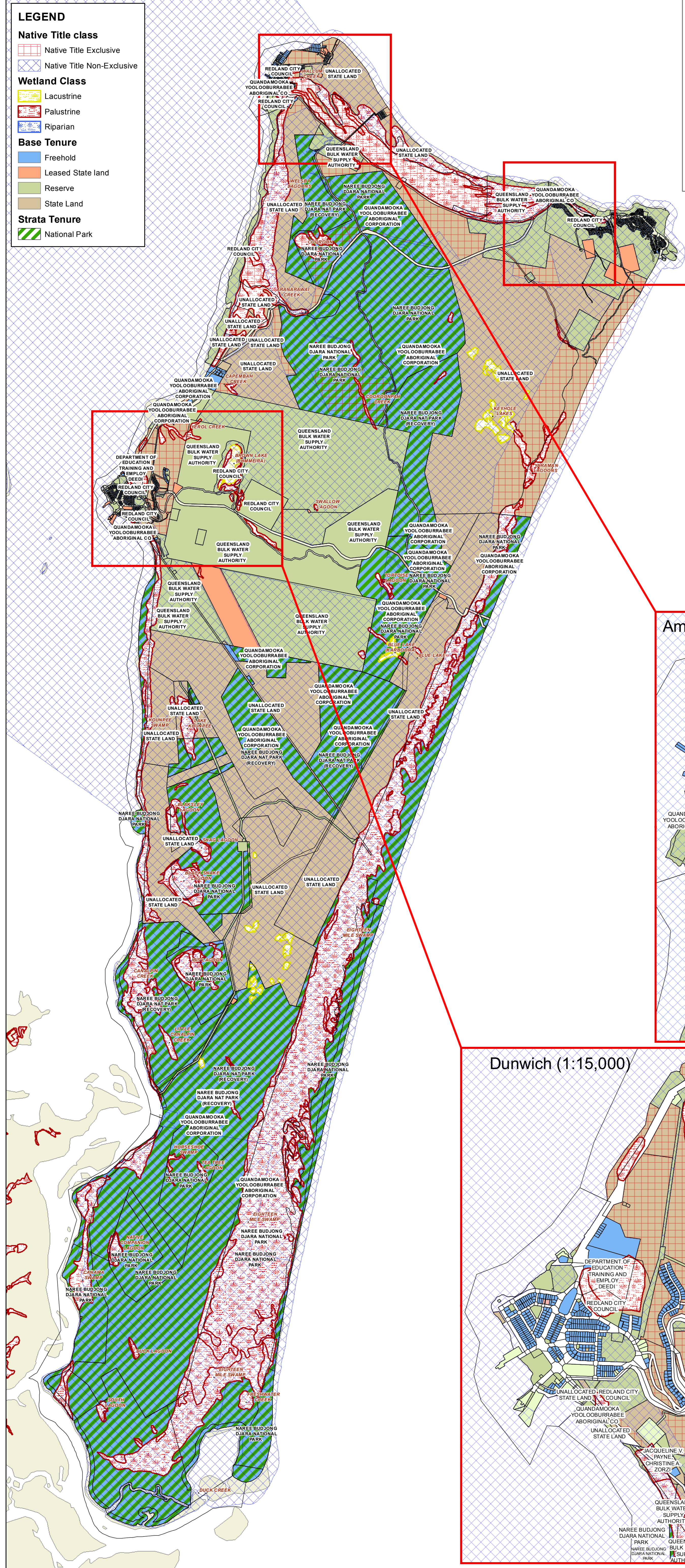
- Lacustrine
- Palustrine
- Riparian

**Base Tenure**

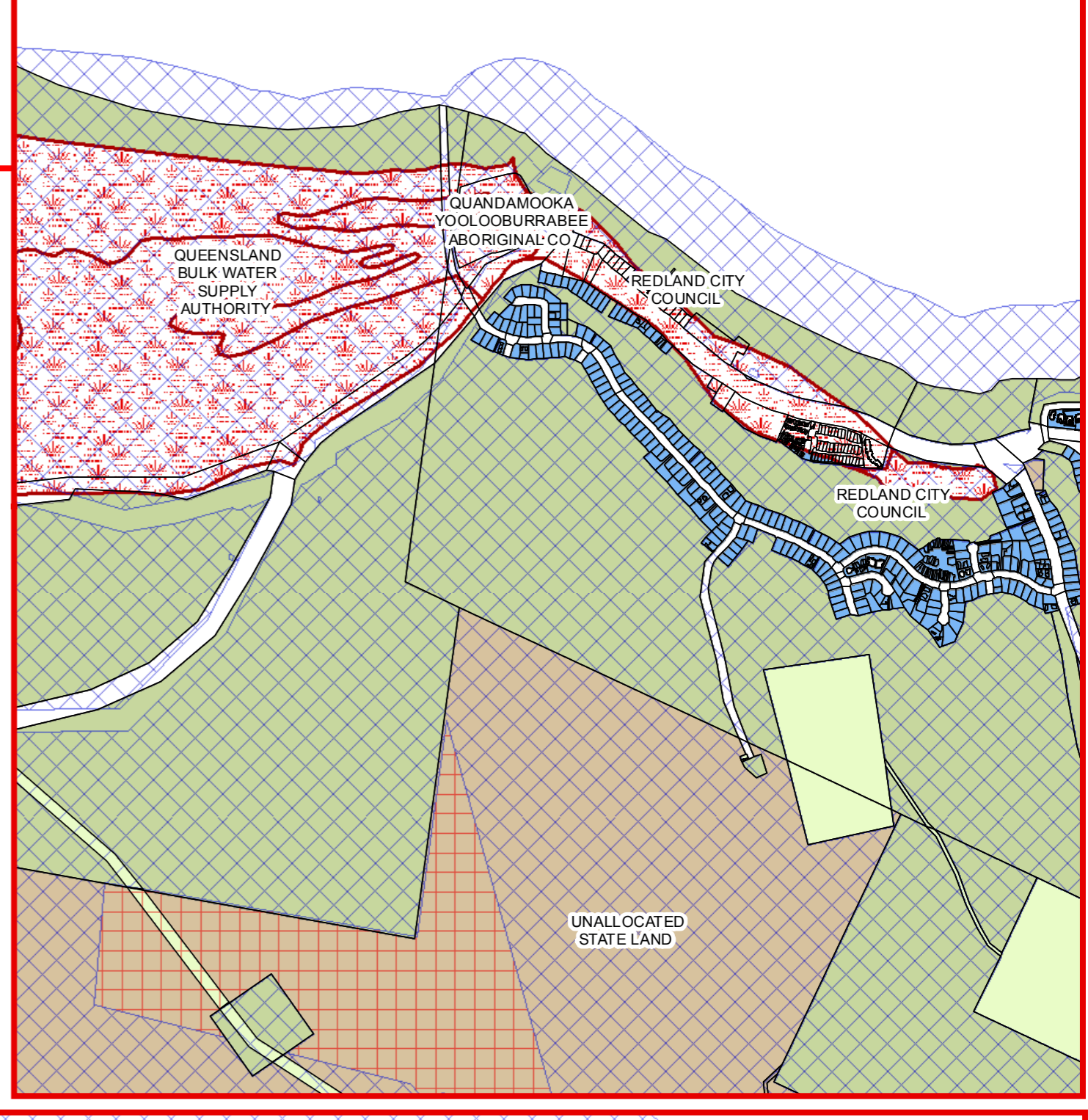
- Freehold
- Leased State land
- Reserve
- State Land

**Strata Tenure**

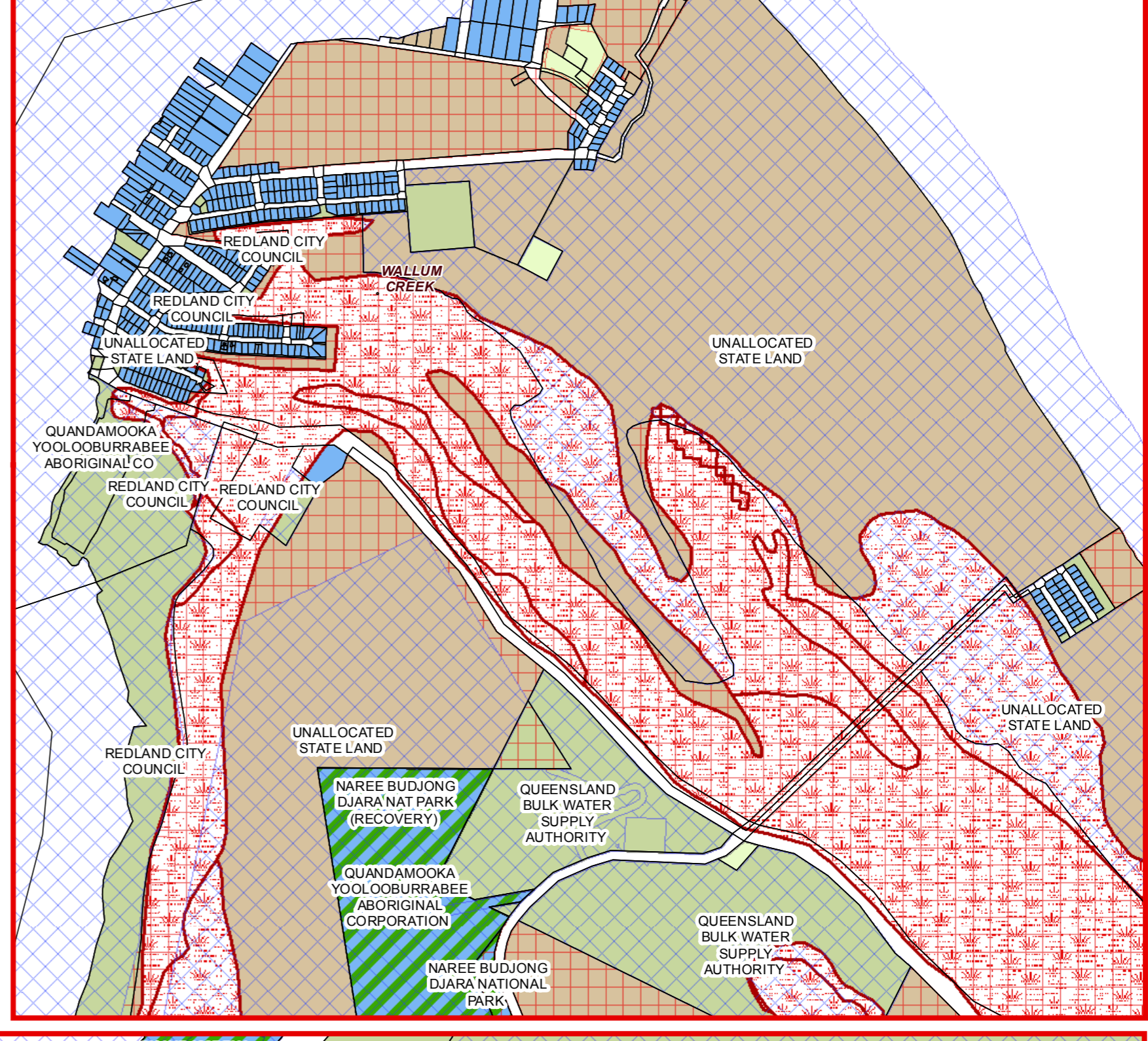
- National Park



#### Point Lookout (1:15,000)



#### Amity (1:15,000)



#### Dunwich (1:15,000)

