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The Research Director  
State Development, Infrastructure and Industry Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

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Dear Sir/Madam

**Re –State Development, Infrastructure and Industry Committee *Inquiry into the future and continued relevance of Government land tenure across Queensland***

The Liberal National Party Queensland (LNP) responds to the Parliamentary State Development, Infrastructure and Industry Committee’s invitation for submissions to the “*Inquiry into the future and continued relevance of Government land tenure across Queensland.*”

We respond to the terms of reference issues which refer to LNP’s policy focus inasmuch it relates to the agricultural/pastoral sector.

- “Ensuring our pastoral and tourism industries are viable into the future;
- The balanced protection of Queensland's ecological values;
- Ongoing and sustainable resource development; and
- The needs and aspirations of traditional owners.”

The LNP has formed a view on issues relating to the terms of reference as they relate to the agricultural/pastoral sector and our submission is attached.

We would be pleased to provide further comment on any matters in our submission that may require clarification.

Yours sincerely



Bruce McIver  
President

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## Summary

The Liberal National Party (LNP) responds to the Parliamentary State Development, Housing and Local Government Committee's "*Inquiry into the future and continued relevance of Government land tenure across Queensland.*"

The foundation of the LNP's submission is the LNP's democratic principles which include:

- (viii) *looking primarily to the encouragement of individual initiative and private enterprise as the dynamic force of progress.*"<sup>1</sup>

Our responses reflect considerations of the LNP inasmuch they pertain to agricultural/pastoral leasehold land tenure and are confined to issues that have direct relevance to this sector.

This inquiry provides the opportunity to challenge the philosophy:

- (1) The Crown as the landlord of the majority of agricultural and pastoral land that has been the cornerstone of land legislation since settlement in 1859<sup>2</sup>; and
- (2) "Closer settlement" underpinned by the application of living areas which were first introduced in the Land Act 1927.<sup>3</sup> (See 1.5 and 2)

To achieve the objectives of the LNP's *Agricultural Strategy: A 2040 vision for Queensland*, there must be a substantial refocusing of the Queensland Government's agricultural/pastoral leasehold land tenure policy and the management and administration policies and systems so that there can be:

- (1) Consistency of title (where appropriate observing Commonwealth and Queensland Native Title Acts) for the agricultural / pastoral sector;
- (2) Investment security on which to base long term economic and sustainable productivity;
- (3) Flexibility that allows diversification to meet environmental circumstances or changing local, national and global food demands;
- (4) Economic, social and sustainable development of the current leasehold land;
- (5) Efficient Government management and administration systems that minimise regulatory requirements and reduce lessee compliance and associated costs that impact on productivity and competitiveness;
- (6) Fair and reasonable return to the State for establishing consistency of title;
- (7) Recognition of new property rights to ensure that the interests of investors are adequately protected whilst ensuring land is managed sustainably for productivity purposes.

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<sup>1</sup> Liberal National Party, Constitution, Democratic Principles, p.9 at [www.lnp.org.au/images/stories/documents/LNP\\_Constitution.pdf](http://www.lnp.org.au/images/stories/documents/LNP_Constitution.pdf)

<sup>2</sup> See Appendix 1.

<sup>3</sup> Ibid.

- (8) Participation in new interests in land such as those arising out of trade in carbon sequestration rights;
- (9) Compliance where required with the obligations under the Commonwealth and State Native Title Acts - the *Native Title Act 1993 (Cwlth)* and the *Native Title (Queensland) Act 1993* and the aspirations of the traditional owners. (See 3.2)

The LNP's ultimate policy objective is for leasehold tenure to be replaced with freehold title through a managed-step-through process taking into consideration:

- Commonwealth and State and Native Title Acts;
- Vegetation Management Act 1999;
- Commercial timber currently owned by the State;
- Balanced protection of areas of high ecological value;
- The viability of the agricultural and pastoral leases into the future;
- Ongoing and sustainable resource development;
- The needs and aspirations of traditional owners;

as freehold title represents the most economically efficient form of ownership of agricultural land. (See 4.2)

**The policy objective for Pastoral Holdings and Term Leases** is that these leasehold tenures should be subjected to a managed-step-through-process to enable freehold title to be granted. The managed-step-through-process may provide for all Term Leases and Pastoral Holdings subject to Commonwealth and State Native Title Acts or Indigenous Land Use Agreements be capable of being transferred to a freehold title with the caveat that native title is not extinguished and the Commonwealth and State Native Acts and ILUA's remain undisturbed. Such a caveat should clearly state the obligations and rights of each of the parties with an interest in the land. (See 4.3)

**The policy objective for Perpetual Leases and Grazing Homestead Perpetual Leases** is for this leasehold tenure to be subjected to a managed-step-through-process to enable freehold title to be granted; (Grazing Homestead Perpetual Leases can convert to Freehold as Native Title is extinguished under a GHPL.) (See 4.4)

Referring to the **Needs and Aspirations of Traditional Owners**, it is the LNP's policy position that freehold title is the most economically efficient of ownership of agricultural land. For this reason, we have the view that freehold title also represents the most efficient form of ownership of the various types of land held by members of the indigenous community. (See 4.5)

Consistent with the LNP's *Agricultural Strategy: A 2040 vision for Queensland* and its emphasis on productivity, it is the view of the LNP that the **current rental system** should be reviewed based on the principle that rentals/instalments should remain moderate (e.g. 1.0% of UCV) and be linked to productivity which may include trade in carbon sequestration rights. (See 4.6)

The LNP is of the view that the previous "**closer settlement**" philosophy which remains embedded in the construct of current leasehold tenures is outdated. The future construct of agricultural pastoral tenures should be based on productivity. Over the past twenty years or more the policies of "closer settlement" underpinned by "living areas" have been slowly abandoned as

both corporate and family businesses, of necessity, have moved away from the closer settlement concept due to the declining terms of trade and the impact of globalisation. (See 4.7)

## **Liberal National Party Queensland**

### **Submission**

#### **Parliamentary State Department, Infrastructure and Industry Committee's "Inquiry into the future and continued relevance of Government land tenure across Queensland"**

### **1. Introduction**

- 1.1 The Liberal National Party(LNP) responds to the Parliamentary State Development, Housing and Local Government Committee's *"Inquiry into the future and continued relevance of Government land tenure across Queensland."* We respond to the terms of reference inasmuch as they refer to the agricultural/pastoral sector;
- *"Ensuring our pastoral and tourism industries are viable into the future;*
  - *The balanced protection of Queensland's ecological values;*
  - *Ongoing and sustainable resource development; and*
  - *The needs and aspirations of traditional owners."*
- 1.2 The foundation of the LNP's submission is the LNP's democratic principles which include:  
(viii) *looking primarily to the encouragement of individual initiative and private enterprise as the dynamic force of progress."*<sup>4</sup>
- 1.3 These responses reflect the considerations of the LNP as they pertain to agricultural/pastoral leasehold land tenure and are confined to issues that have direct relevance to this sector.
- 1.4 In making this submission, the LNP observes that W. Payne in his 1959 report on *Progressive Land Settlement in Queensland* stated that: "Land has been the subject of more legislation than anything else in Queensland's history"<sup>5</sup> and that statement of some 50 years ago is as relevant then as it is today.
- 1.5 This Inquiry provides the opportunity to challenge the philosophy:
- (1) The Crown as the landlord of the majority of agricultural and pastoral land that has been the cornerstone of land legislation since settlement in 1859<sup>6</sup>; and
  - (2) "Closer settlement" underpinned by the application of living areas which were first introduced in the *Land Act 1927*.<sup>7</sup>

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<sup>4</sup> Liberal National Party, Constitution, Democratic Principles, p.9 at [www.lnp.org.au/images/stories/documents/LNP\\_Constitution.pdf](http://www.lnp.org.au/images/stories/documents/LNP_Constitution.pdf)

<sup>5</sup> Payne, W.: *Progressive Land Settlement in Queensland*, Queensland Government Part 1, 1959, p. 14.

<sup>6</sup> See Appendix 1.

<sup>7</sup> Ibid.

- 1.6 It is the view of the LNP that it is time to recognise that modern Queensland needs to implement land laws to reflect 21<sup>st</sup> century economic, financial and social circumstances, rather than cling to the vestiges of 19<sup>th</sup> and 20<sup>th</sup> century philosophy.

## **2. Queensland's Land Tenure – Historical Context<sup>8</sup>**

The LNP submits that any review of Queensland land laws requires an understanding of the historical context. Attached (See Appendix 1) is a brief outline of the legislative and regulatory history of the State's land laws.

### **2.1 The Colonial Era.**

When Queensland separated from NSW in 1859 the imperative was to settle and develop the grazing and farm lands. The Administration set about allocating the “empty land”. Tenant farmers were encouraged to establish themselves on small scale selections as tenants of the Crown. Squatters were permitted to graze the outback under short term pastoral leases, subject to resumption.

### **2.2. Post World War I and “Closer Settlement”**

#### **2.2.1 Soldier Settlers**

Queensland, together with the Commonwealth, set aside or resumed large areas of land for the settlement of returned servicemen.

#### **2.2.2. Prickly Pear Act 1923**

This Act was designed to “halt” the spread of prickly pear on prime grazing land. The State Government of the day provided incentives for settlers to take-up prickly pear infested leases, on the condition that the lessee cleared the required amount of prickly pear each year. For most this was a heartbreakingly impossible task and the pear was not subdued until the introduction of natural enemy, cactoblastis.

#### **2.2.3 Land Act 1927**

This Act introduced the “**living areas**” concept to continue the push for closer settlement. A living area defined the land area for grazing sufficient stock for a selector to have a reasonable income. The “living area” determined the size of blocks available for ballot. The “living area” has been carried forward in the numerous land act amendments to the present day.

### **2.3 Post World War II**

The Colonial view of the Crown as Landlord and lessee as tenant farmer continued without challenge.

#### **2.3.1 The Payne Report and Land Act 1962**

This Act renewed the push for closer settlement and initiated a wave of land resumptions and land ballots. Payne believed that the future of the State depended

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<sup>8</sup> For full summary see Appendix 1.

on the “division of land in economically sound areas amongst its people so that it may be worked prudently and intensively and developed to the utmost; used for the greatest production of which it is capable”<sup>9</sup>

The 1962 Land Act confirmed the responsibilities of the Minister to administer and manage crown land and in doing so continued the colonial philosophy of the Crown as landlord and the person who worked the land as a tenant of the Crown<sup>10</sup>.

Any reasonable reading of the 1962 Living Area conditions, makes it clear that the Crown determined that a man’s aspirations were to be very humble and confined to “an income adequate ensure a living for himself, his wife and infant children”.<sup>11</sup>

### **2.3.2 Brigalow Lands Agreement Act 1962 & Brigalow Scheme 1962 -1975**

The Payne Report identified the “immense potentiality of brigalow country” and advised that it offered “the best scope for development of any large tract of country in Queensland”<sup>12</sup> In recognising the successful development of the brigalow country, sight should not be lost of the immense hardship faced by many of the settler families.

Attention is drawn to the State’s reversal of regulation for the brigalow country. In the 1960s lessees were required to “develop” brigalow (i.e. remove brigalow trees to plant improved pasture) and now the Vegetation Act prohibits the removal of brigalow, as it is classified as endangered.

### **2.3.3 1980s Amendments**

The Government during the 1980s, recognised lessees need for tenure security in a rapidly changing world and moved to simplify the freeholding of perpetual lease selections and to secure the future of pastoral leaseholders by extending the term of most leases by 20 years.

## **2.4 Current Legislative Measures**

### **2.4.1 The Wolfe Report<sup>13</sup> and Land Act 1994**

Goss Labor Government appointed a panel to examine the administration of Crown lands. The Report made far reaching recommendations regarding tenure and rent but **did not challenge the colonial philosophy of Crown as Landlord**. The concept of “living area” remained in place.

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<sup>9</sup>Payne, W. op.cit.

<sup>10</sup> See Appendix 1

<sup>11</sup> Ibidl

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.



The Report also noted that the cost of administering Crown Lands was not covered by the revenue generated.

The 1994 Land Act was the Government's response to the Wolfe Report and The Native Title Act 1993. Indigenous Land Use Agreements (ILUAs) came into existence with this Act.

#### **2.4.2 The Delbessie Agreement 2007<sup>14</sup>**

This agreement (also known as the State Rural Land strategy) evolved from the 1994 Land Act and specified requirements to enable lessees to extend term leases. The impact of this Agreement is almost exclusively in the remote and isolated parts of the State, engaged in low impact grazing sheep and cattle. It has placed an onerous burden on term leaseholders and forced them to provide detailed monitoring and documentation of their land management.

Significantly, it is estimated that by 2012, in excess of 1000 leases would be 80% or more through their existing term and leaseholders would be eligible to apply for renewal under Delbessie guidelines. The impact of Delbessie requirements is not a future consideration – it is NOW for lessees facing the final years of existing leases.

### **3. LNP's Agricultural Strategy: A 2040 vision for Queensland**

3.1 The LNP's *Agricultural Strategy: A 2040 vision for Queensland* sets the direction for a productive, efficient, innovative and sustainable agricultural/pastoral industry. Its objectives are:

- Improved job, career and investment opportunities in the agricultural sector for both graduate professionals and vocational entry.
- Increased support from Government through development of a long-term plan and a stand-alone department.
- More focus on ensuring ongoing competitiveness and building export opportunities.
- A better balance between mining, urban development and agriculture through clearly defined rules for protecting strategic cropping land.
- Increasing the stock of high production cropping land and other productivity improvement through science and technology.
- A strong future for agriculture with increased production to double food production by 2040.

3.2 To achieve these objectives, there must be a substantial refocusing of the Queensland Government's agricultural/pastoral leasehold land tenure policy and the management and administration policies and systems so that there can be:

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<sup>14</sup> Ibid.

- (1) Consistency of title (where appropriate observing Commonwealth and Queensland Native Title Acts) for the agricultural / pastoral sector;
- (2) Investment security on which to base long term economic and sustainable productivity;
- (3) Flexibility that allows diversification to meet environmental circumstances or changing local, national and global food demands;
- (4) Economic, social and sustainable development of the current leasehold land;
- (5) Efficient government management and administration systems that minimise regulatory requirements and reduce lessee compliance and associated costs that impact on productivity and competitiveness;
- (6) Fair and reasonable return to the State for establishing consistency of title;
- (7) Recognition of new property rights to ensure that the interests of investors are adequately protected whilst ensuring land is managed sustainably for productivity purposes.
- (8) Participation in new interests in land such as those arising out of trade in carbon sequestration rights;
- (9) Compliance where required with the obligations under the Commonwealth and State Native Title Acts - the *Native Title Act 1993 (Cwlth)* and the *Native Title (Queensland) Act 1993* and the aspirations of the traditional owners.

## **4. Policy Proposals**

### **4.1 Context**

- 4.1.1 The LNP is of the view that the adoption of a form of tenure appropriate to modern economic circumstances should not disadvantage the State in any way, or create a windfall gain to existing landholders.
- 4.1.1 There are a number of ways in which this might be achieved, but it is of paramount importance that whichever is adopted, the process is totally transparent so there is no suggestion that the government's custodianship of public assets has been anything other than prudent.
- 4.1.2 The most sensible model would involve capitalisation of the existing revenue streams flowing to the State from individual leases, and their conversion to a charge on the land in its freehold form. Benefits to the State would include the savings associated with any rationalisation of Departmental administrations, since land ownership would be registered within the freehold title system and monies owing simply being a matter of commercial collection.

### **4.2 LNP's Policy Objective**

- 4.2.1 The LNP's ultimate policy objective consistent with our democratic principles (See 1.2) is for leasehold tenure to be replaced with freehold title through a managed-step-through process taking into consideration:
  - Commonwealth and State and Native Title Acts;
  - Vegetation Management Act 1999;
  - Commercial timber currently owned by the State;

- Balanced protection of areas of high ecological value;
- The viability of the agricultural and pastoral leases into the future;
- Ongoing and sustainable resource development;
- The needs and aspirations of traditional owners;

as freehold title represents the most economically efficient form of ownership of agricultural land.

### 4.3 Pastoral Holdings and Term Leases:

- 4.3.1 It should be noted that Pastoral Holdings and Term Leases comprise some 50 per cent of the State<sup>15</sup> or some 75% of all leasehold tenure.<sup>16</sup>
- 4.3.2 The policy objective for this leasehold tenure is that it should be subjected to a managed-step-through-process to enable freehold title granted.
  - 4.3.2.1 We are cognisant under the *Land Act 1994*, Pastoral Holdings and Term Leases cannot directly convert to freehold. Pastoral Holdings and Term Lease (for pastoral leases) can convert to Perpetual Lease if Native Title is addressed through an Indigenous Land Use Agreement (ILUA) (usually extinguishing Native Title). Applications to convert may occur within the last 20% of the term.
  - 4.3.2.2 The managed-step-through-process may provide for all Term Leases and Pastoral Holdings subject to Commonwealth and State Native Title Acts or ILUAs to be capable of being transferred to a freehold title with the caveat that native title is not extinguished and the Commonwealth and State Native Acts and ILUAs remain undisturbed.
  - 4.3.2.3 Such a caveat should clearly state the obligations and rights of each of the parties with an interest in the land.
- 4.3.3 The managed-step-through-process should enable the Government to unbundle the policies that may impede or introduce additional policy measures to progress the achievement of freehold title being granted for pastoral and term leases.
- 4.3.4 The managed-step-through-process should provide for the implementation of legislation and policy changes that aim to simplify and rationalise existing lease renewal and lease upgrade processes and include:
  - 4.3.4.1 Subject to a transparent desktop assessment, there should be no Land Condition inspection and Land Management Agreements (LMAs) for the majority of leases and cancellation of existing LMAs (with lessee approval);

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<sup>15</sup> Pastoral Holdings number 1,283, covering 77,014,236 hectares and 44.5% of the State; Term Leases number 5,116, covering 10,799,252 hectares and 6.24% of the State. (Queensland Government Land tenure statistical information)

<sup>16</sup> Total Leases including Freeholding Leases number 24,561, covering 115,247,774 hectares and 66.69% of the State. State land tenures under the Land Act 1994 number 64,001 covering 118,420,876 hectares or 68% of the State.

- 4.3.4.2 Certainty for lessees approaching the end of their current term by providing for an automatic 10 or 20 year extension free of the LMAs who opt for the managed-step-through process towards obtaining freehold title;
  - 4.3.4.3 Compliance savings incurred from the reduction in the monitoring of land condition inspections and the obligations under the LMA to be redirected to reduce leaseholder costs such as surveys and fees;
  - 4.3.4.4 Lessees should be given the opportunity to either to continue to pay the rental for the duration of the lease or to undertake the managed-step-through process to freeholding making lease payments as instalments that pay out the purchase price of the land. The instalments should attract a rate of interest prescribed in the regulations.
  - 4.3.4.5 Where Native Title or an ILUA exists, the caveat should detail the rights/obligations of each of the parties.
- 4.3.5 It should be noted that current legislation allows term lease holders to apply for an extension of their term when they are at least 80% through their current term. It is estimated that over 1,000 leases (or 65% of term leases) would meet this criteria in 2012. This in itself creates policy urgency for leaseholders approaching the end of their existing term as certainty is fundamental to their continued operations.
- 4.3.5.1 This cohort of leaseholders should be enabled to access the managed-step-through-process which may lead in the longer term to the granting of freehold title subject to the native title caveat.

#### **4.4 Perpetual Leases and Grazing Homestead Perpetual Leases (GHPL):**

- 4.4.1 It should be noted that this leasehold tenure represents some 12 per cent of the State.<sup>17</sup>
- 4.4.2 The policy objective for this leasehold tenure is that it should be subjected to a managed-step-through-process to enable freehold title granted. (Grazing Homestead Perpetual Leases can convert to Freehold as Native Title is extinguished under a GHPL.)
- 4.4.3 The managed-step-through-process should provide for the implementation of legislation and policy changes that enables the freeholding of existing GHPLs and may include:
  - 4.4.3.1 Blanket conversion to freehold as similar to the 1981 legislation pertaining perpetual lease selection<sup>18</sup> taking into consideration current legislative requirements pertaining to forestry areas and national parks;

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<sup>17</sup> Grazing Homestead Perpetual Lease number 2,694, covering 20,175,970 hectares or about 12% of the State. (Queensland Government Land tenure statistical information)

<sup>18</sup> The perpetual lease selection was originally granted as a lease in perpetuity for intensive farming (e.g. small lots for wheat growing, small crops). It was used to promote the soldier settlement and closer settlement schemes. In 1981, legislation placed this lease type on what was termed a final rental period. The period was determined using a formula based on the percentage of the unimproved value of the lease being paid as rent at that time. The annual

4.4.3.2 Instalments/term based on set percentage of Unimproved Capital Value (UCV);

4.4.3.3 It is recognised that some GHPLs may not be fully surveyed which may necessitate a review of the Titles Office survey standards.

#### **4.5 Needs and Aspirations of Traditional Owners:**

4.5.1 It is the LNP's policy position that freehold title is the most economically efficient of ownership of agricultural land. For this reason, we have the view that freehold title also represents the most efficient form of ownership of the various types of land held by members of the indigenous community.

4.5.2 The LNP views as desirable that the conversion of the various types of land held by indigenous individuals and communities to freehold title should be facilitated through a managed-step-through process. Having regard to the historical circumstances giving rise to native title and other forms of indigenous title, there should be no cost to the current titleholders associated with the conversion to freehold.

#### **4.6 Rentals:**

4.6.1 Consistent with the LNP's *Agricultural Strategy: A 2040 vision for Queensland* and its emphasis on productivity, it is the view of the LNP that a review of the current rental system should be undertaken.

4.6.2 Such a review should be based on the principle that rentals/instalments should remain moderate (e.g. 1.0% of UCV) and be linked to productivity which may include trade in carbon sequestration rights.

#### **4.7 "Closer Settlement" – "Living Areas":**

4.7.1 Over the past twenty years or more, the policies of "closer settlement" underpinned by "living areas" have been slowly abandoned as both corporate and family businesses, of necessity, have moved away from the closer settlement concept due to the declining terms of trade and the impact of globalisation. These issues are leading to an aggregation of holdings as producers expand businesses and embrace technology such as helicopter mustering, remote monitoring of watering points to counter shrinking margins.

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rental for the lease was one-fortieth or one-sixtieth of the unimproved value current as at 31 December 1980. Therefore, 40-years terms were given for lessees paying 2.5 per cent and 60-year terms for lessees paying 1.5 per cent. At the end of the term or when all rent for the rental period has been paid, the lessee could elect to obtain freehold title or to maintain the lease with payment of a 'peppercorn' rent if the government demanded. An amendment to the legislation in 1991 included a covenant in the lease to allow for the issue of freehold title once the lessee had paid the full rental value of the lease and had complied with any conditions attached to the lease. (See A Guide to Land Tenure under the *Land Act 1994*, Queensland Government publication, p.7)

- 4.7.2 The “closer settlement” and “living areas” policies remains embedded in the construct of agricultural/pastoral leasehold tenure across the state. Consistent with the LNP’s *Agricultural Strategy: A 2040 vision for Queensland*, the LNP is of the view that that these policies are now outdated and the future construct of agricultural/pastoral tenures should be based on productivity.

## **Appendix 1**

### **Queensland’s Land Tenure – The Historical Context**



The Historical  
Context.pdf

### **Map 1. Distribution of leases types across the State.**



qld-leasehold-land-m  
ap.pdf