

The Research Director

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

3 August 2012.

Dear Sir,

Re: Queensland Government Land Tenure Review

Stanbroke is concerned with the current limitations on Corporations to hold Perpetual Leases and to Freehold Leases and the Limitations on the area of Perpetual Leases that can be held by one person and the limitations on Leases permitted to be converted to freehold.

Stanbroke believes that security of tenure is a critically important issue to rural landholders and investors. The current restriction, under the Land Act, whereby, the predominant type of perpetual lease tenure is a Grazing Holding Perpetual Lease (GPHL) which is not able to be held by a company and the restriction on Living Area Aggregation with respect to the area of Perpetual leases (introduced in 1927) are anti-competitive because they affect competition directly and indirectly and thereby limit the amount in investment and development in regional Queensland.

Limiting corporations from buying perpetual leases or upgrading existing Term Leases to Perpetual Leases ultimately limits the likelihood of innovative development and investment and consequently limits production levels.

This situation disadvantages current perpetual leaseholders who may wish to sell, or to sell to retire by restricting the availability of purchasers for their leases. This advantages some forms of business over other forms of business. The issue was identified in 2004 by the National Competition Council Legislative Review which specifically found that:

1. Prohibiting corporations from holding Perpetual Leases for grazing or agricultural purposes; and
 2. Limiting the number of living units that non-freehold landholders may aggregate;
- are anticompetitive. However, no remedial action has been taken by the Queensland Government.

The Queensland Government's continuing ownership of Queensland's land, the restriction on the size of leases and its use of term leases are an anomaly in today's world. The Government has sufficient alternative mechanisms with which to control the sustainable use of land without these current restrictions in the Land Act.

Founded in 1964, Stanbroke Pastoral Company Pty Ltd (Stanbroke) has a long tradition of leadership and innovation in the pastoral industry in Australia. This has continued and has been expanded, since 2004, under the ownership of the Menegazzo family which has three generations of agricultural experience and innovation

Queensland leasehold history has past instances of pastoral property resumptions and subdivisions for development, political and environmental reasons. Stanbroke envisage free holding leases at some appropriate time in the future and would prefer to be able to consider future investment decision making without the uncertainty of lease renewal and potentially variable Government policy.

We believe allowing perpetual leases to be held by companies would ultimately improve:

- a) the economic development of regional Queensland, including employment and investment growth;
- b) the competitiveness of Australian businesses;
- c) the efficient allocation of resources; and
- d) would be in the interests of consumers generally.

Alternatively, the current situation may continue to encourage contrary behaviour where, for example, some corporate investors may engage individuals to purchase and freehold leases prior to acquisition by the company.

The legislation was introduced at a time when company structures were rarely used in rural activities. This had as much to do with the disadvantages of Federal and State taxation policy for companies compared to individuals, partnerships and trusts, as anything.

Advantages of companies over other business structures:

- Limitation of Liability. Separate legal status provides limited liability, thereby safeguarding the other personal assets of shareholders against claims of creditors and against lawsuits.
- Corporate Taxation. The dividend franking system now avoids double taxation of individuals.
- Tax Losses. Tax losses of a corporation may be carried forward to subsequent tax years.
- Valuation. It is usually easier to value a corporation for borrowing or sale purpose.
- Credit rating. A corporation has its own credit rating and credit history independent of its owners.
- Raising funds through sale of shares. A corporation can more readily raise capital from investors.
- Transfer of ownership. Ownership in a corporation is readily transferable to others, either in whole or in part.
- Continuity. A corporation is capable of continuing indefinitely. Its existence is not necessarily affected by the death of shareholders, directors, or officers.

Other Considerations.

Some individuals have expressed a preference for retaining the current legislation either because they fear foreign ownership of Queensland land or because they think it will make leasehold property unaffordable for small family businesses.

Policy on foreign ownership of Australia is the province of the Federal Government not the Queensland Government.

Historically, there is little or no difference between the market price for freehold property compared to leasehold property, in Queensland. However, as mentioned above it may well be the difference between a retiring leaseholder obtaining fair value for their holding.

We appreciate the opportunity to comment on this matter.

Yours Sincerely,
Stanbroke Pastoral Company Pty Ltd

A handwritten signature in black ink, reading "Tony McCormack". The signature is written in a cursive style with a large, stylized "T" and "M".

Tony McCormack