



# ***STATE DEVELOPMENT, NATURAL RESOURCES AND AGRICULTURAL INDUSTRY DEVELOPMENT COMMITTEE***

**Members present:**

Mr CG Whiting MP (Chair)  
Mr DJ Batt MP  
Mr JE Madden MP  
Mr BA Mickelberg MP  
Ms JC Pugh MP  
Mr PT Weir MP

**Staff present:**

Dr J Dewar (Committee Secretary)

## **PUBLIC HEARING—INQUIRY INTO THE LAND, EXPLOSIVES AND OTHER LEGISLATION AMENDMENT BILL**

### **TRANSCRIPT OF PROCEEDINGS**

**FRIDAY, 13 APRIL 2018**

**Cairns**

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### **The committee met at 9.03 am.**

**CHAIR:** Good morning. I declare open the inquiry into the Land, Explosives and Other Legislation Amendment Bill. I acknowledge the traditional owners of the land on which we meet today. My name is Chris Whiting. I am the chair of the committee. Other committee members are Pat Weir, the member for Condamine; David Batt, the member for Bundaberg; Jim Madden, the member for Ipswich West; Brent Mickelberg, the member for Buderim; and Ms Jess Pugh, the member for Mount Ommaney. The proceedings today are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. Witnesses should be guided by schedules 3 and 8 of the standing orders and note that it is your responsibility to give factual and technical information or background to government legislation and administration. These proceedings today are being recorded and transcribed by Hansard.

### **DUFFEY, Mr Philip, Executive Officer, Olkola Aboriginal Corporation**

### **ROSS, Mr Michael, Chairperson, Olkola Aboriginal Corporation**

**CHAIR:** I welcome representatives from the Olkola Aboriginal Corporation. I invite you to make an opening statement for the committee and then we will proceed to questions.

**Mr Ross:** Mr Chair and members, I would like to give you an overview of where the Olkola people are from. In 2014 we got all this land handed back, and I have the map here. We got that land handed back to the Olkola Aboriginal Corporation on behalf of the Olkola people. Since 2014 we have been doing a lot of work on our land—a lot of work, a lot of mapping, a lot of cultural mapping. We have rangers out there. It takes a lot of time to cover around about 800,000 hectares of land and really look at all that area. While we worked in that area we have many cultural sites on our area.

There are two areas that are in question now. Areas on the east side of the boundary were areas of our golden-shouldered parrot habitat. We call the golden-shouldered parrot alwal. That is one of our totems from there. They call it the golden-shouldered parrot, but we call it alwal. We have areas where the golden-shouldered parrot was created and its habitat sits in that area. What is so special about the alwal is that it makes its nest in mounds and ant hills—not all ant hills though but one special one. I call it witch hat, but Phil may be able to name it.

**Mr Duffey:** Yes, conical termite mounds.

**Mr Ross:** Yes. That is the only ant hill it can drill in and make its nest in. We have been doing surveys on the alwal from the first handover in 2010 on Alwal National Park all through its habitat there and we are learning a lot about them. In our own cultural way we know how he was created. We had to bring together the scientific side of it and our cultural values. That is why the little bird is so important. The habitat works in that earth. It lives only on a couple of special seeds. One of its main foods is cockatoo grass and it lives on that. When we start to get short of cockatoo grass it starts to move. It is on the endangered species list from way back. We probably have about maybe 1,500 to 2,000 birds that we know are in that area. The next area that the bird lived is further down on Staaten River. There is a line from the Olkola country into Koko Bera's country. It is our songline with the bird.

While we have been doing all those surveys on birds and mapping every year since we got the land handed back we have been out there putting cameras on there. In saying that, we also have a problem with mining in terms of putting exploration permits on there. We want to keep that area for the golden-shouldered parrot, the alwal, because it was the place it was created and it is its only habitat. It used to be further up north in the cape, but they are not up there anymore. They disappeared. They were further right up north and they moved out. We have them around in their place, as we call it, where they were created to come back to home. Disturbances in that area will move those birds. They will disappear.

If they do not get their right food during the wet season we will have to do storm burns. We do two lots of burns on it. We have to do an early burn, and we start about May and into June. That is the early burn. When the storms come, we have to do storm burns for it because the cockatoo grass

comes up. If they do not have enough food in the wet season and if we have had too much rain, the little birds do not come out of the tree and they die because they starve. Disturbance noise around there does not fit in. Exploration mining permits and noise do not fit in with the habitat on that area. The ant hills are all in there.

We are still doing a lot of work with it. A lot of the boys are still working on there. We have about 30 cameras on them and very shortly the boys will start to go back out there looking to find new nests. They will start nesting, so we put cameras on there so we get the whole cycle of their nesting, their eggs, the chicks and when the chicks come out and fly. We are trying to have a record of the whole thing. We have documents and records of the whole cycle of the parrot. We have a fair few predators of the birds, but they are all natural predators. We have wild cats, which are not natural. We also have human predators with movement putting in roads making noise.

That is pretty well a special project for us to start looking at. About a month ago we started a recovery plan for the alwal and that includes all neighbours and pastoral leases around us here and also includes the Staaten River, a different tribe from the Chillagoe and Wakaman area and the Koko Bera mob so we can monitor our side and see what is happening there and also see what is happening down in the Staaten River area because those birds might come back and might migrate together. We have a recovery team that looks at the alwal, the golden-shouldered parrot, in that area. Any disturbance means that the birds will not live. Have you seen a photo of one of those, Mr Chair?

**CHAIR:** No.

**Mr Ross:** I will show you a brief photo of it.

**CHAIR:** We can table that, if you like. There being no objection, it is so tabled.

**Mr Ross:** We do other projects on our land that has been handed back. We are on country all through the dry season right up until the wet season comes. We have families living on out-stations down the bottom. There are three areas where the families live through the wet season. We work with the national park. We have joint management of the national park area. We have rangers. We also do carbon abatement. We do burning in that area. We do the golden-shouldered parrot project with Bush Heritage as a partner. Bush Heritage came in with us around 2010 when we got alwal handed back. We are partners with Bush Heritage. They have been a great partner in doing programs on the golden-shouldered parrot.

We also have a pastoral property north of the five Olkola properties that were handed over. We got the Glen Garland block handed back in around 1993 as a pastoral lease. We do a bit of cattle work up there in that pastoral area. We do feral animal clean-up work with the national park crew. We do weed control. There is a lot of work happening on country on so much area. In doing all of that, our office, especially Phil, is working overtime with all of these exploration permits—they just come in and in. It puts a strain on our corporation to have one of our staff always looking at exploration permits and looking at mining issues. It takes a fair bit of my time supporting Phil on that.

The top area is the golden-shouldered parrot habitat area. There are also a lot of other cultural values in that top area. The bottom area—the lower country on the western side of our property—is savannah country. That savannah country runs into the western coast of the Gulf of Carpentaria area. That is all flood plains and wetlands. It joins with Kowanyama. As you know, Kowanyama means land of many waters. We are the headwaters of that. That is in the Crosby area. That is another area where an exploration permit came in. It just cannot happen there. It is all wetlands in there.

Where the exploration permit is on the north side, there is an area of spring mounds. We have a cluster of spring mounds. In our culture that is our dreaming of the kangaroo rat, as we call alkura. It is a dreaming of our kangaroo rat and how he was created. There are spring mounds all over Australia but they are made of mud. The spring mounds here are made of rocks. They are a little hill about that high, and they have water on top of them. They are starting to have mud issues. The mud comes out and I do not know when but the stone comes out. It builds all the little hills. You would see all these little white hills with rocks. They are the spring mounds.

**CHAIR:** I am mindful of time and we want to ask you a few questions. Before we do, Mr Duffey, do you want to add to what Mr Ross has said?

**Mr Duffey:** Like Mike was saying, the lands we are talking about here were handed back to the Olkola people through an ILUA in 2014. Even before that time, Olkola people had been doing a plan for country which is just about to be launched. There has been a long consultation process for all of the Olkola estate, consulting with all of the Olkola people about what they want to do on country and where they want to do it.

Since that time, Olkola people have been, like Mike said, undertaking the alwal recovery project. They have been doing tourism in the same area. They have one of the biggest registered carbon abatement projects in Australia—within Queensland at least. They have been doing a lot of other land management activities and running cattle, essentially making an economy for their people in the way that they want to do it in accordance with their plans. There are different parts of country where they want to do different things.

My job, and our CEO's job as well, is implementing that plan for Olkola people. Since that time, every year we have been employing up to about 30 Olkola people to do that. We have been quite successful in being able to get people back out on country, working on country and doing the projects that Olkola people want to do. Then in 2016 we had five exploration permits lodged at the same time—three of them over Olkola freehold land and two on other Olkola country which is not freehold land. What we are asking for at the moment is an amendment to the Cape York Peninsula Heritage Act to include those two lots of Aboriginal freehold land as land that is going to be protected from mining tenements under the Mineral Resources Act, similar to some other properties up in Cape York.

Like Mike said, there is an impact of having to deal with that. I am employed by the Olkola Aboriginal Corporation. They pay me with money that they make from their projects to manage the country and to do projects and getting people back out on country, but a lot of my time and resources are having to be spent in dealing with these applications and not creating positive projects that people want to be doing and getting people back out on country. The strain on resources for the corporation has been a bit heavy.

For the same reasons that the properties Shelburne and Bromley have been put up—their extensive natural and cultural resources and the fact that traditional owners have requested it—we are in the same circumstances here. The Olkola people have their plan for country. They know what they want to do and where they want to do it and they are implementing it. The fact that they are continually having to deal with the mining tenements has been a thorn in the side to moving forward with it. It has been stopping us progressing with that and doing as much as we could do.

We understand that mining has to happen and it does. There are tenements all around that freehold land that are still on Olkola country. I think we are talking about maybe 300,000 hectares here, but Olkola country extends to about one and a half million hectares, and there are several other mining activities that are happening around there. We understand that mining has to happen. This land was chosen to give back to the Olkola people for its outstanding natural and cultural values. The Olkola people have been trying to manage it in accordance with that and in accordance with how they want to manage the land. We see this as an avenue to facilitate the Olkola people to do that without having to continually deal with mining exploration permits.

**CHAIR:** Thank you. We appreciate that. On the land that you are talking about here, with tourism and carbon abatement there are some really good long-term economic development opportunities. This is where the economic development opportunities in this land really lie, with the carbon abatement and tourism. Is that correct?

**Mr Duffey:** Yes. In 2015 or 2016 Olkola partnered with Intrepid Travel and started doing cultural tours out on country. The carbon abatement project was registered in 2014 and it is significant income in years when we are successful in abating the carbon and stopping the wildfires coming through. That facilitates significant employment on Olkola country. Some mining exploration permits were lodged on there and they both went to the National Native Title Tribunal recently as to whether they would go through the expedited procedure or not. It was actually the first time in Queensland it has ever happened where they were successful. It did not stop the permits going through. It stopped the process of what was happening.

What was significant with that is that, with the carbon abatement project, it was noted in the decision that to have that as a secure income you have to have control over what is happening out on country. The idea of making money is by stopping late season fires coming through. The more unregulated use and access of country the higher the risk that in the late dry season people will accidentally light a fire. Without knowing where people are all the time, when Olkola has to send their rangers out there to fight the fires, it is very difficult to be able to run that project, in particular, with mining exploration because it is a third party coming in. They have to give certain notice but you do not know where they are all the time. It increases the risk of fires happening, yet it increases the danger to our rangers when they are doing their early season burning as well when there are third parties out there on country.

**Mr WEIR:** I am curious. You are looking for these other areas to be included. Is that with the aim of excluding any exploration or any mining full stop or is that to give a greater say if that should develop in the future? Could you explain what your aim is?

**Mr Duffey:** It is to include the properties to exclude future mining tenements being lodged on those blocks of land. Yes, it is to exclude future mining exploration and mining leases being lodged there.

**Mr WEIR:** Did you say you have five different tenements?

**Mr Duffey:** In 2016 there were five new exploration tenements lodged on Olkola country. Three of them were on freehold area, which we are talking about now. They were all subject to National Native Title Tribunal cases. There is other exploration that is happening on Olkola country at the moment but not on Olkola freehold land. We are talking about the freehold lots. There were three—pretty much covering the entirety of the Aboriginal freehold land.

**Mr MADDEN:** Thank you both for coming in today. I appreciate that you have travelled a long way to be here. The question I have relates to the previous bill, which is the same bill as this that was before the last parliament. It was not continued with because of the election. What consultation process did you go through with the parliamentary committee for that bill?

**Mr Duffey:** For that bill we were not part of the consultation process or know that it was going through at that time.

**Mr MADDEN:** You did not know it was going through?

**Mr Duffey:** I think we did but we were looking at other avenues at that stage to try to protect Olkola country.

**Mr MADDEN:** Are you satisfied that the provisions in this bill will give you the protections you are seeking?

**Mr Duffey:** We believe so.

**Mr BATT:** My question is also about consultation. If you had been consulted in the first place before this bill was put together, would you have asked for those two blocks of land to be added then or has it been since then that you have decided to do this?

**Mr Duffey:** No. We would have.

**Mr BATT:** You were not consulted or asked about what areas were going to be put in. It was just done on a map and now you have had to ask for these two areas to be added. Is that how it worked?

**Mr Duffey:** Last year, probably when the first bill was going through, we were heavily involved in the National Native Title Tribunal process and looking at other avenues to try to achieve the aim of preventing those permits going through and being able to continue with that work. Yes, it was put up as an option. I am also a lawyer working with Olkola. We would have been advised that, yes, that would be a good way to go forward at the time.

**Ms PUGH:** Thank you very much for coming in today. My question was about the five exploration permits that were submitted back in 2016. What is the status of those five applications?

**Mr Duffey:** We are talking about the exploration permits that were lodged? Four of them were subject to National Native Title Tribunal decisions in relation to the expedited procedure, which is under the Native Title Act. From those decisions, the tribunal decided that three of those would have to go through what is called the right to negotiate as opposed to expedited procedure. I believe—but it has not happened yet—they will now have to be readvertised under those provisions as opposed to the expedited procedure ones. Of the two others, one of them has been registered and their exploration is happening. The other one will soon be registered.

**Mr MICKELBERG:** Gentlemen, you spoke about your concerns with respect to mining—the ecological impact and the impact on country. I am keen to get your thoughts with respect to the economic benefit and building a sustainable future for the Olkola people. Do you see that that can be achieved through the existing projects that you are pursuing with the exclusion of mining on your country?

**Mr Ross:** Yes. Our economic pursuit for our young people and stuff is mining does not fit in within our 10-year plan. I know that there is mining everywhere in the world, but some places on our country are not for mining. That is what is what I am saying. I am an elder of our people. It does not fit in our area. It does not fit there.

In looking at our future generation for jobs and stuff, we can use our area. We are looking at a broader scale of tourism and taking people out and doing just natural tours. That has been going pretty well since we started with our tours and stuff. A lot of old people from down south come and just look at the natural values of our Olkola country, both our cultural value and also the landscape and stuff.

There is an economic future in trying to build up our cattle strategy and really bringing that together. There is a future for our young people there. There is a big future for our young people in looking after the landscape. It is there. We do water quality. We have five rivers coming out as the head of the Great Dividing Range. We are on the west and the east coast. Some water runs into the west coast. We do all of our water testing. The young people do the water testing. They are learning to check all rivers and lagoons so that our water is in a healthy way. So if we build more outstations and new homes out there, bringing families home, we have good water quality. We know that the water quality is good.

We can look at areas where we can create our own jobs and enterprises and do things out there. It is just sad to say that mining does not fit there. It does not fit with us. It could fit with other people, but it does not fit with us in our landscape.

**CHAIR:** Thank you, Mr Ross. I appreciate that. The time for this session has expired. Thank you very much and thank you, Mr Ross, for leading off with a powerful description of country, thank you.

**FRAZER, Mr Robert, Chuulangun Aboriginal Corporation**

**CHAIR:** Before we start, I would like to acknowledge that we have in the room the member for Mulgrave, the Speaker of the parliament, Mr Curtis Pitt. Thank you, Curtis, for coming along as well and being a part of this. Mr Frazer, would you like to make an opening statement and then we will follow with some questions?

**Mr Frazer:** Thank you. The people from the Chuulangun corporation are unable to be here today because of the flooding and road conditions on Cape York. They have asked me to represent them. They have also asked me to thank the committee for the extension of time that was provided to the corporation to make their submission.

Their submission raises concerns in relation to a number of provisions of the bill, and in particular amendments to the Aboriginal Land Act with respect to the option granting land to a registered native title body corporate outside of their determined native title area. The submission contends that there is a significant potential for those sections of the bill to adversely impact the interests of Aboriginal people in Cape York.

The corporation supports the protection that is provided in the bill of the cultural and natural values of the Shelburne and Bromley properties on Cape York Peninsula through the amendments that are proposed to the Cape York Peninsula Heritage Act, but recommends that consideration should be given to the extension of those provisions more broadly. I was present for the previous discussion and the Olkola people's submission is very much in line with that.

By way of background, the Chuulangun Aboriginal Corporation is based on a 197,500-hectare Indigenous protected area on the Wenlock and Pascoe rivers. That is situated within the larger Mangkuma Land Trust. This submission has the support of the members of that land trust as well. There are 425,000 hectares within that land trust area and it was handed back to the traditional custodians in 2001.

I think it is worth noting that, since its incorporation in 2003, the Chuulangun Aboriginal Corporation has been a very strong advocate for the right people speaking for country and it has made that clear in many submissions to parliament over that time.

**CHAIR:** Thank you, I appreciate that. Certainly, we appreciate what you have said about the provisions in the bill, specifically clause 8 and clause 303, which allows the minister to appoint a corporation that does not hold native title for that land as a grantee of that land. An alternative is to have more registered native title body corporations. If you had those in the Cape York Peninsula area, do you think that would increase the capacity of native title holders and communities to look after country?

**Mr Frazer:** My understanding is that, yes, it would.

**CHAIR:** Thank you. I appreciate that. I might come back to you on that.

**Mr WEIR:** You were talking about overlapping tenure. Could you expand on what you mean?

**Mr Frazer:** Land tenure on Cape York is very complex. You have overlaying native title and you have pastoral leases. You have CYPAL national parks that are jointly managed and it is quite complex. Only about one per cent of Cape York is freehold and a large proportion, and an increasing proportion, is becoming Aboriginal freehold under that tenure. That is strongly supported by Aboriginal people on Cape York. Yes, the tenure arrangements are complex.

**Mr WEIR:** How do we clarify that?

**Mr Frazer:** I think it goes beyond my ability to respond to that, I am sorry. It is unfortunate that people from the Chuulangun corporation could not be here. They would probably have quite a bit to say on that.

**Mr MADDEN:** I notice in your submission that you were concerned that there was not sufficient consultation with regard to the previous bill.

**Mr Frazer:** That is correct.

**Mr MADDEN:** In reading your report you suggest that the consultation prior to the preparation of the bill was mainly with the land council.

**Mr Frazer:** My understanding from their submission is that there was consultation primarily with a state government agency and two organisations, yes.

**Mr MADDEN:** Do you still hold that view for this new bill—that there was not sufficient consultation prior to the bill being tabled?

**Mr Frazer:** Yes. From memory, the ability to provide submissions under the first consultation was about 17 days and that was inadequate for organisations such as the Chuulangun Aboriginal Corporation and others to respond. This time there was 12 days. My understanding is it was not adequately communicated that there was an opportunity to provide submissions to the bill or to appear before this committee. Hence in the first instance there were no submissions from Aboriginal organisations from Cape York and, in this instance, we really appreciate the extension of time that was given for Chuulangun to put in the submission. They only heard by word of mouth that there was an opportunity to put in a submission.

**Mr MADDEN:** You are happy with the consultation with regard to the second bill?

**Mr Frazer:** I believe that there is much better consultation than the previous instance.

**Mr MADDEN:** Thanks very much and thanks again for coming in today. It is unfortunate that the floods have kept the representatives from Chuulangun from coming in.

**Mr MICKELBERG:** Mr Frazer, there is a comment in the submission that says, 'at the behest of particular privileged entities, to the detriment of Traditional Custodians.' What are these privileged entities?

**Mr Frazer:** I think it has to be recognised that a lot of these issues that are sought to be addressed by this bill create conflict and division within the people on Cape York. Relationships are not always good between organisations. I believe that that part of the submission refers to the land council and the Balkanu corporation. That is my understanding of the reference. That is in relation to the land tenure issues.

I am just trying to think through the submission. As I said, I did not write this. There is also a feeling that there was preferential treatment given to Bromley and Shelburne Bay. It was most appropriate, the action that has been taken, but consideration should be given to opportunities for other Aboriginal organisations and land trusts to actually put forward a proposal. In the submission, there is a suggestion or a recommendation that a mechanism is put into the Cape York Peninsular Heritage Act to allow that organisation to put forward parts of their country that they believe should be withheld from mining activity.

**Mr MICKELBERG:** We have heard a couple of times about the issue with respect to the Cape York Land Council. Does that come from the manner in which that relationship is managed or is it due to a difference of opinion as to what the appropriate course of action is to manage country and manage opportunity?

**Mr Frazer:** My understanding is that it is to do with who has the right to speak for country. That is a very complex issue and it comes from families, clan estates and tribunal groups, right through. That is where I believe that very unfortunate conflict exists.

**Ms PUGH:** Thank you very much for being here to represent the community today. I am really sorry to hear about the horrible weather. My question tails on from Brent's a little. I really want to understand your concerns around any perceived preferential treatment that you feel the land council might be getting, so that we can address that.

**Mr Frazer:** I do not actually believe I am in a position to fully explain or to comment on that. I have worked on Cape York on and off since the mid-eighties and for the last eight years full time. I see the conflicts that occur between organisations. Many of them are to do with who has the right to speak for country and make decisions about what happens on country.

**CHAIR:** I will follow up on a couple of questions that I asked before. Obviously, the purpose of these particular clauses, as explained in the explanatory notes and the questions on notice, is to ease the administrative burden on communities and bodies in this area, so that they do not need to create a new corporation for every bit of land that comes under their control. We have talked a bit about building the capacity and capability of communities by having more corporations, but the converse to that would be to ask, what would be the administrative impact of having more corporations that you need to staff and skill up to deal with the variety of land?

**Mr Frazer:** There would be an increase, but I think the approach that the submission takes is that it needs to be considered by the individual traditional custodians of country. This submission is not saying it should or should not have additional, but the question should be put to the people who it actually impacts. The decision should be made by the people, not by an external body.

**CHAIR:** Certainly I understand the importance of that, as well. If you need to create more bodies or particularly skill up existing bodies, what kind of resources are needed to help build that capacity?



**Mr Frazer:** From my experience on Cape York, it should not be a quick process. It needs to build the capacity of the people on Cape York. I think that really makes a difference to the acceptance and the ability to consult and communicate with people on Cape York. If it comes from another regional centre or from Brisbane, it is not as effective as if the actual time is taken and the resources are put in to build the capacity of the people to determine their own future and determine how things should happen in those areas.

**CHAIR:** There being no more questions, the session has ended. Thank you very much indeed, Mr Frazer. We have no questions on notice.

**Proceedings suspended from 9.50 am to 10.01 am.**

**EDWARDS, Mr Bert, Deputy Mayor, Pormpuraaw Aboriginal Shire Council (via teleconference)**

**NATERA, Mr Edward, PSM, Chief Executive Officer, Pormpuraaw Aboriginal Shire Council (via teleconference)**

**CHAIR:** The hearing will now resume. I welcome representatives from the Pormpuraaw Aboriginal Shire Council via teleconference. Thank you for agreeing to give your evidence over the phone.

**Mr Natera:** My Deputy Mayor, Bert Edwards, is running a bit late. The mayor was also to appear but he is not here. He is still travelling on the road.

**CHAIR:** Okay. That is fine; thank you. I invite you to make an opening statement to the committee about the bill and your submission and after that we will ask some questions.

**Mr Natera:** Our first submission started in 2010 and we just do not want to be talking for the sake of talking and appearing before the committee for the sake of appearing as witnesses and whatever. We just have too many issues, problems and projects on site at the coalface. In 2010 we sent about 80 pages of documentation and we repeated that again early this year. What we are concerned about is that the land here is just so fragile and we do have some areas of cultural significance. We just do not want to be wasting time submitting and appearing before the committee and having everything regurgitated again. At the coalface we have to try to close the gap and that is what we are trying to do, so we do not want to have attention being drawn to things we have already said eight years ago.

**CHAIR:** All right. Thank you. We will move now to questions. Obviously one thing we are here talking about is amendments to the Aboriginal Land Act about the grant of land going to a registered native title body corporate. Bearing in mind that we are in a hearing and it is being recorded for Hansard, did you want to explain a little bit more about your concerns?

**Mr Natera:** About the 1 claim?

**CHAIR:** This is about the amendments to the Aboriginal Land Act where we talked about the granting of land to registered native title body corporates.

**Mr Natera:** Yes, we are quite happy to do that because the body corporate is the leading entity to look after our land issues. We are quite happy to talk to the land council and whoever else that may form the stakeholders moving forward, but after talking with Martin we might have consensus moving forward.

**CHAIR:** Clearly that reflects the views of many communities around the area there. They would prefer a situation where traditional lands are being held by a corporate entity that directly relates to their community. Is that correct?

**Mr Natera:** Yes, and it is based in the community.

**Mr WEIR:** Edward, we have been hearing about some difficulties with other communities regarding mining explorations and mining leases. Are you experiencing any of that?

**Mr Natera:** The local population, no. Although they would like mining, they are very sensitive about the environmental impact. Mining will be for the betterment of everyone, but we are so close to the water's edge and we are just mindful of that. When you talk about the seabed collapsing and strong tidal surges that we have every time over the wet season, it does not make sense to mine in our areas which is obviously a DOGIT area.

**Mr WEIR:** So you have not been approached for any exploration activities around you as yet?

**Mr Natera:** We have throughout the years but we have always rejected those proposals for the mere fact that it will be short-term mining but long term the effects on the environment that we look after.

**Mr MADDEN:** Thanks very much for joining us today, Edward, by telephone link. I have read your submission and I noticed that you raised the concern that under this legislation there is the potential for a grant of land to be registered under the native title body corporate outside of a determination of the Federal Court with regard to native title. Do you know of any situation where this has happened or do you know of any situations where there is the potential for this to happen?

**Mr Natera:** Is there anyone from Olkola Aboriginal Corporation there such as Mike Ross?

**CHAIR:** Michael is here in the room, yes.

**Mr Natera:** Yes, I think we are in the same situation as Michael with regard to potential interest in the land areas.

**CHAIR:** We might have a bit of a talk later about that particular situation there, but I guess the answer to that one was yes.

**Mr BATT:** Following on from the member for Condamine regarding if there were any mining exploration leases already in your DOGIT area, did you say that there have been applications but they have all been knocked back, or you do have some there?

**Mr Natera:** No, all the applications have been knocked back. We have not heard from the department at all. It is one of those cases where the department is fearful of coming to sit down with us and have that robust, honest talk. The first thing we know about any exploration interest is when the actual companies make contact with us. It is just not tenable. I know we are remote, but surely someone from Natural Resources or DPI must make the move to inform us and it is just not happening.

**Mr BATT:** Edward, what would be the impact for the traditional owners up there if mining is permitted in your DOGIT area?

**Mr Natera:** It will just cause social unease when it comes to that exploration or the mining.

**Ms PUGH:** We have heard from some of the other Indigenous groups this morning about some of the great programs they are putting in place to drive their economic futures. I am really interested to hear what you see as the key economic drivers of your community in your specific area.

**Mr Natera:** Through the Far North tourism group we are trying to link in with tourism, especially with our croc farm and our cattle station, but that is still largely a work in progress. What we have to do is to make sure that the local population know that everyone has to do their little bit for the community and for Pormpuraaw. That is a real challenge, and Michael Ross will know what I am talking about. We are making inroads and we are getting people to be more committed in their daily lives and in doing that they would embrace tourism and that would help us with those closing the gap issues.

**Mr MICKELBERG:** Mr Natera, I understand that areas of the southern Pormpuraaw DOGIT are subject to the Cape York United Number 1 native title claim.

**Mr Natera:** Yes.

**Mr MICKELBERG:** I am keen to understand your views. You talk in the submission that native title and Aboriginal land should be managed, I guess, at the lowest level by the traditional owners on the ground. What is your view with respect to that particular claim and how does that affect your proposals and your management of country in that area?

**Mr Natera:** With regard to the 1 claim native title, we have had very limited discussions with the Cape York Land Council. We would still like to sit with them, but we organised a local group for the southern part of the DOGIT and, like everything else, we want to sit down and have the talk and have that robust, honest talk.

**Mr MICKELBERG:** So that conversation has not happened yet? Is that what you are telling me?

**Mr Natera:** The Cape York Land Council has had conversations with individuals who do not really represent the DOGIT of Pormpuraaw and we are trying to get the communication going.

**CHAIR:** We have talked about economic opportunities in your area as well and you talked about a cattle station. Is that on a pre-existing lease? Have you taken over another lease? Can you get us a bit of the history of what you are proposing there?

**Mr Natera:** Yes. The cattle station was formerly a departmental corrective institute. Although we have a separate lease within the surrounds, I think in the early eighties it was given back to our local NGO groups. It was called Ngokal Weendi Aboriginal Corporation and they run a cattle station.

That is very important with trying to get the youth back into a more disciplined lifestyle. That is largely a work in progress. We are working through with our local group and other local NGO groups to try to make that cattle station a bit more of a facility where the wayward young men and youth can go for some sort of discipline and training in their lifestyle moving forward. We do have a lease over the area, the Ngokal Weendi.

**CHAIR:** You have an existing cattle station and you are saying it has been active; is that right?

**Mr Natera:** It has been active. We do sell a fair bit of cattle throughout the year. The Ngokal Weendi board had financial issues since 2002, I think. They have traded out from that and paid all the money and we are just trying to rejig the whole structure.

**CHAIR:** Are there any more questions? Did you want to add anything, Edward, before we finish?

**Mr Natera:** Councillor Bert Edwards has just come in.

**CHAIR:** Just in time, thank you.

**Mr Edwards:** I am Bert Edwards, the deputy mayor with the Pormpuraaw Aboriginal Shire Council.

**CHAIR:** Thank you, Bert. We have just been hearing Edward talk about a variety of things in the submission and, obviously, we talked about the impact of mining on the land that you proposed for inclusion under the heritage act, as well as the amendments to the Aboriginal Land Act. We talked about land transferred to registered native title body corporates outside of the traditional owners. Do you want to add anything on those particular issues?

**Mr Edwards:** Is this about the mining?

**CHAIR:** There are a couple of things. Bear in mind that there are people present and we are being recorded by Hansard. We have been talking about the impact of mining and any potential advantages or disruptions from exploration leases and mining.

**Mr Edwards:** I reckon if you can get the elderly people and authorise the traditional owners of the land. The first thing, (inaudible) north as well—up north.

**CHAIR:** One of the things we are really talking about is obviously the granting or transferring of land to the native title body corporate. What has been your experience so far with the transfer of land to the body corporate?

**Mr Edwards:** We have the ILUA, the Indigenous land use agreement—

**CHAIR:** Bert, can you speak closer to the microphone, please?

**Mr Edwards:** Yes, the people are a bit worried about transferring the land. Also, they are asking, why are we—they own the land and keep on paying. If you are interested in the land, but they are still there. There are still a few ups and downs with the traditional owners and stuff like that, especially the (inaudible). The people who come in and work (inaudible) the ILUA.

**CHAIR:** You have an ILUA with the body corporate.

**Mr Edwards:** Within the township area here.

**CHAIR:** And that is held between yourselves and the Cape York Land Council?

**Mr Edwards:** Yes.

**CHAIR:** Can you describe what is in that ILUA?

**Mr Edwards:** It has been built up by TOs, like the chair and the board members. They call us the TOs, the traditional owners.

**Mr Natera:** Chris, I wanted to let you that know that the ILUA works pretty well within the township area. It is an agreement between the council and the local group. We pay a fee every year to the local group that owns the township area. The council does local government work. With any projects that have to be done, we sit down with the ILUA group and tell them a year before what the plan is in the local government area. That seems to be working pretty well. On the bigger one claim, like I said and like Bert explained, we still need to have that robust discussion with the people pushing the one claim issue. We need input from the local traditional owners in Pormpuraaw, not from outside vested interests. Is that right, Bert?

**Mr Edwards:** Yes.

**CHAIR:** As a follow up to that, one of the things that I have talked about is that the amendments to the bill going through are about trying to lessen the administrative impact on groups when you have land that is being transferred to you, so that you do not have to set up new bodies or new corporations. Apart from that, does that give you the ability to build the capacity or capability of communities when you have that need for more corporations and bodies? Do you think there will be a chance to build up the capacity and capability of people within the community?

**Mr Natera:** What we find is that with the NGOs that have been established, many do not have the governance and the administrative ability. Really, in Pormpuraaw's case, it is left to the Pormpuraaw council to up-skill and train those bodies. It is a real challenge, Chris, especially in the governance area.

**CHAIR:** Are more resources than training needed in that area?

**Mr Natera:** We had Allwood come in this week to do governance training with the various NGO groups and that helps, but it is going to be a long road.

**CHAIR:** I appreciate that. As there are no more questions, thank you, Bert and Edward, for appearing here today. We have no questions on notice.

**BURNS, Mr Shannon, Policy Officer, Cape York Land Council**

**CHIPPENDALE, Mr Johnson, Chair, Wuthathi Aboriginal Corporation RNTBC and Chair, Bromley Aboriginal Corporation RNTBC**

**MAJOR, Ms Tania, Deputy Chair, Board of Directors, Abm Elgoring Ambung Aboriginal Corporation RNTBC**

**CHAIR:** I now welcome Johnson Chippendale, Shannon Burns and Tania Major. Would you like to start with an opening statement?

**Mr Burns:** I will make a start. Thanks for the opportunity to present to the committee today. The land council is happy to say that we broadly support the bill. We do not have any major problems with what is proposed in the bill, so we are generally supportive and happy with what is proposed. We see that the bill provides an opportunity to reconcile and improve the connections between the Commonwealth's Native Title Act, which creates the RNTBCs that Tania and Johnson are representing today, and also the land trusts that are created under the Aboriginal Land Act under Queensland's legislation.

The bill provides the opportunity to have the one corporation holding both sets of rights and interests, the native title rights and interests that are created through the Native Title Act and the Aboriginal freehold rights and interests that are created through the Aboriginal Land Act. It does that in particular because, as I am sure you are aware, the Aboriginal Land Act currently restricts the transfer of land to Aboriginal freehold to an RNTBC to areas within the areas that are determined for native title.

The proposed amendment allows land outside of that determined area, which is still within the traditional country of the people on the RNTBC, for that land to be transferred to Aboriginal freehold and held and managed by the RNTBC in its capacity as a land trust. We see that that is a way of ensuring that we have the one corporation which holds both sets of rights and it just simplifies the corporate governance arrangements, but you still have the appropriate people, the traditional owners for that country, managing the title rights and interests and also managing the Aboriginal freehold rights and interests. That is why we support this proposal to allow the transfer of land outside of the determined area to a PBC. Both Abm and Wuthathi have some specific examples of land where they think that that would be appropriate to be transferred to their RNTBC.

The second point in the bill that we are supportive of is the setting of a sale price for social housing based on an agreed value or an agreed price. Previously, it was required that the sale price put on the house was based on the value of the property, which was sometimes determined upon the land value and the cost to build the building. Of course, those costs are quite high in remote Indigenous communities, so it can potentially end up in the setting of a sale price that is probably more than what the place is worth in a real market situation and also more expensive than what people can afford. Being able to set a sale price based on agreement means that the trustees who are owners of those houses can set a price that is realistic and that people can afford. We also support that option.

We also support a proposal to exclude mining from the Shelburne and Bromley areas. We see that this sets a precedent where that can also be extended to other areas of Aboriginal land where the traditional owners of those countries also wish to exclude mining from their country. Those three key points we are in support of. We do not propose any amendments or have any recommendations to request of the committee to take back to parliament. We are basically saying that it is all good and proceed with the changes.

**CHAIR:** Fabulous. Who would like to go next?

**Ms Major:** I want to say on behalf of Abm Elgoring Ambung that it is so fitting that we had our general meeting with our members on Tuesday. There is a contentious issue at the moment—namely, the Cape York united No. 1 claim—particularly in terms of how it affects areas that do not sit within our native title determination, being two pastoral leases which are quite huge, Sefton and Oriners. One of our directors asked, 'What are the possibilities of looking at the Aboriginal Land Act and how we can attain this land under that?' It is so fitting that this hearing is this week and that the community are all in support.

I do not want to delve into the united claim issue and the complexity there. This is not the forum for it. What I am saying is that, as a new director on the board and having a business background and being a manager director of a company, we focus highly on being independent, looking at capitalising on our native title rights, especially exclusive native title and non-exclusive. The two areas

are both pastoral leases. The majority of the area within Kowanyama is pastoral lease which has the potential of generating millions within the beef industry. We are looking outside of the typical tourism options. We do not want to limit our options, but reviewing the amendment and enabling us as an RNTBC to take over the land that is undetermined within our existing rights is welcomed.

**Mr Burns:** Just to clarify, those two areas, Sefton and Oriners, are outside of Abm's determined area.

**Ms Major:** They come under one claim.

**Mr Burns:** Yes, but they are the traditional country of the TOs of Abm.

**Ms Major:** They are and we share that with Olkola.

**CHAIR:** This is terminology that we are new to as well. Could you clarify what you mean by 'outside the determined area'?

**Mr Burns:** When the Kowanyama native title claim was determined, it identified that native title exists within the area, which is essentially the boundaries of the Kowanyama local government area. Those native title rights and interests are now held by Abm. Abm has also had much of the land in the local government area transferred to Abm freehold and they also hold those rights and interests. There are areas outside of the local government area on these two pastoral properties—

**Ms Major:** These two pastoral properties were bought by the Kowanyama Aboriginal shire when it was running under the deed of grant in trust back in the early nineties. The shire actually purchased them outright and they hold the lease. Right now, as traditional owners, nobody is generating income because they have programs on there. They have fire management. We are struggling to look at an economic base to generate good income in that sense. We have spoken to the traditional owners. Again, this is a discussion also with Olkola because we share the boundary with them. They are a corporation; they do not come under an RNTBC.

People in the community are opposing one claim because one claim essentially will become an RNTBC, a super RNTBC, and will take our traditional land under them. The community is saying, 'If we can attain this under this act, we welcome it because we are an existing body.' With new directors, we are developing a proper management structure. We are looking at governance. We are looking at capitalising native title. We are looking at different elements of revenue stream. We are also in the process of looking at how this is going to work. This essentially will help us not be involved in the super PBC but keep our own native affairs and our own traditional practices within our own boundary.

**Mr Chippendale:** I would like to talk to you about two parts of this proposed bill: the first is the proposed amendment to section 40 of the Aboriginal Land Act and the second is the proposed amendment to section 27A in the Cape York Peninsula Heritage Act. The amendment to section 40 of the Aboriginal Land Act is required by Wuthathi. This is what Wuthathi people say. We want that. The Wuthathi Aboriginal Corporation is the PBC holder of native title on behalf of the Wuthathi people. There was a native title determination over the property known as Shelburne Bay.

In April 2015, as you all know, there was a determination for the Wuthathi Aboriginal Corporation. The Wuthathi people are now negotiating to receive another area of land immediately north of Shelburne Bay. If you look at the map of Cape York, about 100 kilometres north of Lockhart you will see the Shelburne Bay area. From Shelburne Bay, north of the determined area, Captain Billy was not part of the determination. Now we are negotiating with the state to have that come under the Wuthathi Aboriginal Corporation. It is too much work to have two different corporations. Under the Aboriginal Land Act, we would like that northern section to be part of the main PBC with Shelburne.

**Mr Burns:** Native title claims do not always cover the exact area of the traditional owners. Some Wuthathi country was excluded from the Wuthathi native title determination area, but this traditional land north of that area is still within Wuthathi country. Johnson is saying that they would like that transferred to them as Aboriginal freehold. The Aboriginal Land Act currently prohibits that in its current form because you cannot have land transferred outside your determination area.

**Mr Chippendale:** There are three grey areas: the Captain Billy area and two mining leases in the determined area. They wanted us to come together with the Cape York Land Council to come under the one claim. We said, 'No. We are not supporting one claim at all.' With this amendment to the Aboriginal Land Act, if that can be transferred to our PBC, that would be great. That was one part. The Wuthathi people have requested that this section be amended to allow for the existing PBC to also receive a grant for this land at Captain Billy. This amendment will avoid Wuthathi people having to operate and administer a second entity. We do not want that sort of thing—have two separate entities to the main PBC. We would rather have one.

Like I said, I volunteer my time as a member of that entity. The proposed amendment to the Cape York Peninsula Heritage Act provides for a prohibition on mining in a specified protected area. That is also requested by Wuthathi. The Bromley Aboriginal Corporation is shared country. You have Wuthathi in the north. In the west you have Northern Kaanju. On the southern side you have Kuuku Ya'u. We share that area. A lot of us have said, 'No, we don't like mining on our country.' We do not even like logging—that is, cutting timbers or forestry. On the eastern side of Northern Kaanju, which is on the western side of Bromley PBC area, there is a little patch of exploration lease or mining lease that sits pretty much right in the corner. If that goes ahead, it is really going to affect the Bromley Aboriginal Corporation.

As you know, when we had the determination for both Wuthathi and Bromley, this area had not been pushed through before the determination took place. It is all outside of that determination. That is why I think that the Wuthathi corporation as well as the Bromley corporation—the people of Northern Kaanju, Kuuku Ya'u and Wuthathi—have said that we do not want all of this to come about. If mining happens, we will be bugged, so to speak. This is what the Wuthathi people have said. No, we do not want mining but we support the amendments in this bill.

**CHAIR:** One of the things we have been talking about is the amendment which deals with transferring land to the RNTBC outside of the determined area. Before that happens, there has to be a focus on consultation. I understand that the land must be transferable. No-one else has an interest in it. As I said, there has to be agreement. There has to be a Commonwealth determination as well from what I understand and a lot of investigation. To assuage any fears of it happening against their will, are there enough steps in that process to make sure that everyone is satisfied or agreed with the potential transfer of land?

**Ms Major:** I think there has to be. The steps that you have clearly articulated are, I think, the critical steps that we all need. On behalf of Kowanyama, we have a majority of native title on our land. We were one of the first. It is just those two pastoral areas and certain sections that come under one claim. The fear of one claim is that nobody knows how this machine is going to work. Because we have an RNTBC, everybody is saying, 'I don't want somebody sitting in Brisbane or Cairns making a decision on that particular country.' Now, under the proposed bill, why can't we bring that land back?

To answer your question, Kowanyama people have approached this together and they want to see the entire land belonging to the Koko Bera, Kokomenjen and Kunjen people back in their hands. Currently, as it stands, we really do not know where one claim is going to lead us, but we have generated revenue and we now can look at independent legal advice as to how we attain this under this act. We can do that, based on that professional legal advice, through that the process if it adheres to all that you have said about the consultation process. I am new to the board but I am not new to my traditional and cultural ties as a Kowanyama woman, as a Koko Bera woman. As a director on this board, we would definitely adhere to what is required to leading up to attaining this land under this particular section of the act.

**CHAIR:** If all of those steps are communicated fully to all groups there, do you believe that will help assuage fears and perhaps help build a better path towards creating the outcome that we want? If it is communicated, will all parties be more likely to accept it or go along with it?

**Ms Major:** The complexity particularly around this pastoral boundary that we are talking about is that we cross the line with Olkola, and Olkola does not have an RNTBC; they have a corporation. We sit within the RNTBC, the entity, where this could slide under. The complexity that you have just highlighted could come out during consultation with Olkola. However, this new amendment to the bill gives us an option to pursue it this way, to obtain that pastoral land, which is kept within the cultural boundaries and the cultural practices of Kowanyama people for Kowanyama people.

**CHAIR:** That seems to be what we are hearing today. A lot of people want to have their say about where the land goes.

**Ms Major:** That is right. As I said, I could go on about united claim, but this is not the forum for it. This just gives us the option to pursue our land outside our determination area to come under us because, currently, we cannot do that. People in the community are really confused. People in the community at a public meeting said two words for this particular giant claim—'Terra nullius.' I said, 'That's actually very brilliant,' because you fellows here have no say. Under this act, we can pursue independent legal advice at our discretion and weigh that up and go through.

Native title consultation is quite complex. I am not going to sit here and profess that I know everything about it. All I know is I was given a voice by the Kowanyama people to do what is best for the Kowanyama people. Right now, the changes in this amendment allow us to take back land that belongs to my ancestors and sit within the existing body that speaks on behalf of the whole Kowanyama people.



**CHAIR:** Thank you.

**Mr WEIR:** Tania said that some people are confused. I am confused.

**Ms Major:** It is complex.

**Mr WEIR:** There seems to be a lot of outstanding areas that were not included in the original native title determination. How did that come about? Where does that confusion lie?

**Ms Major:** It has taken us nearly 50 years to get native title. That sits within the courts. That question, quiet honestly, still sits within the courts because there are partials that are not determined and we do not know why. If you review a lot of the acts that have gone through, the state government held up a lot of things. In a way, people are going, 'Wow, they now want to talk to us. This is really exciting.' In a good way you are lucky you do not have angry blackfellas all lined up. We are here on board. You are right. I do not understand that. I am still young in this space. When we have come on board I have had people ask, 'How come that's not part of this? How come that's not part of that? We have determination over here. How come? How come? How come?' I am still asking those questions.

**Mr Burns:** That issue has arisen sometimes because the claims have followed property boundaries, or local government boundaries; they have not followed traditional boundaries. The Kowanyama determination was the property boundary of the DOGIT—at that time it was DOGIT—which formed the local government area. It is the same thing with Wuthathi. It followed property boundaries rather than traditional boundaries. Because it followed those property boundaries with modern descriptions of land, they did not follow the traditional boundaries. So certain areas were excluded.

**Mr MADDEN:** Yes, it is complicated. The question that I ask is a little bit simpler. Various presenters have talked about mining leases and the company Rio Tinto has been mentioned. Johnson, you mentioned that there was a mining lease on a small part of your land—

**Mr Chippendale:** There are two lots.

**Mr MADDEN:** What is the mineral that these mining companies are after? Is it bauxite? Is it sand? What is the mineral that they are going to all this trouble to get mining leases for?

**Ms Major:** We get a lot of exploration permits coming across our table. It could be sand, it could be bauxite—it could be whatever that comes across the table. We know for a fact that Cape York is in pristine condition because we do not want mining.

**Mr MADDEN:** Fair enough.

**Ms Major:** The sand mining that is happening on the other side of the Mitchell, we are having huge impacts on it right now. It is everything. You can say specifically bauxite with Rio Tinto in the Aurukun area, but down south where we are in Kowanyama on the west coast, we are lucky because we have fought it off and we do not want it. I cannot speak on behalf of other mobs.

**Mr Chippendale:** With Shelburne Bay and Bromley, they did a lot of exploration. We do not know what sort of minerals they were looking for.

**Mr MADDEN:** That is fair enough. Certainly, it sounds like bauxite and sandmining. That is at least two types of mining that we are talking about.

**Ms Major:** That is pretty common.

**Mr MADDEN:** Johnson mentioned that there was at least one mining lease on his property.

**Mr Chippendale:** No, there was a lease on land before the determination. That is one of the reasons it is not in the determined area. On the two properties, lots 3, 4 and 18 as well as 20 are at Shelburne Bay and lot 153 is on Bromley.

**Mr MADDEN:** You think that is sandmining?

**Mr Chippendale:** The one in Bromley, I do not know, but the one at Shelburne that probably is, yes, for sandmining.

**Mr MADDEN:** Thank you very much.

**Mr BATT:** You all seem pretty positive about the bill, which has been great. Some of the other people who have been here have had a few concerns. Is there anything in the bill that concerns you or is there anything that you would like to bring up while you have the opportunity this morning?

**Ms Major:** I think that will be addressed this afternoon.

**Mr BATT:** In this bill? Are there any issues about this bill?

**Ms Major:** No, we are all up for settling on an agreement of sale price for home ownership. I am one of the ones who wants to buy a home at Kowanyama for my mum. I welcome the changes as an RNTBC and I am confident that, under our current governance model, our financial model and our management model, my RNTBC is able to apply for this and take it under us.

**Mr Burns:** We do not have any major concerns, but I will follow up on one question that was asked earlier about the concerns that some people have raised and, if the consultation was done properly, would that have assuaged those concerns. We agree that that is what is necessary. The consultation needs to be good to confirm that the traditional owners of that country are comfortable with that land being held and managed by a particular RNTBC.

The Aboriginal Land Act is fairly nondescriptive at the moment about who the consultation should be with. That is potentially one improvement that could be made—to be a bit more explicit about the types of interests and corporations that should be consulted in the process. That is a possible addition that could be spelled out a bit more clearly—about how the consultation should be run and who it should be with.

**CHAIR:** That is a very good point.

**Ms PUGH:** Thank you all very much for coming to appear before the committee today. My question is similar to a question I asked some of our earlier witnesses today. It is great to hear that you are largely supportive of the changes, which is great to know. This question is to all of you. Are you able to elaborate on what the changes will mean in terms of your ability to self-determine economic outcomes and the way you are able to use your land to get better outcomes for your community?

**Ms Major:** Economic outcomes really depend on how we can use the land. Currently, the land that is undetermined within the Kowanyama area are pastoral leases. Also, the other revenue stream they are generating is carbon farming. Until we have an expert who can come in and give us an overview within the rights of how we utilise the land—what permits we need—I think the opportunities are endless. Right now, it is just sitting there floundering.

There are no economic opportunities right now. Somebody else is reaping that. We are saying that, to get that land back, we could then look at other aspects of generating some kind of economic opportunity for the people of Kowanyama. I think this opens this opportunity for us to bring it under us and then have somebody in with the expertise of looking at possibly birdwatching, low impact—these are just ideas I am throwing out because, clearly, we are going to have to go back out and review.

Right now, Olkola, is doing great work out there. You heard from them. I missed that, because I have only just got back from Kowanyama. I do not want to restrict ourselves. It has been a long time since Aboriginal people have had native title rights and for us to commercialise and use our commercial element within the native title rights on our land with freehold. In that sense, I think the opportunities are endless, but we have to be realistic to make sure that it ticks our cultural practices and make sure that the traditional owners of that area welcome it, want it and how it is going to benefit the community. That is how collectively my people have worked for a long time.

**Mr Chippendale:** For Wuthathi people as well as Bromley, for the past 200 years our ancestors have been taken away. Since 2015, there is an opportunity for the Wuthathi people to get on the country and develop or create jobs for our young people. Everyone is saying, 'We want a job. We want a job.' This is what our people are saying. Every time I go up to Lockhart and other communities, that is all our people ask, 'When are we getting back to country?' This is what they keep saying each time.

We have looked at tourism. As you know, Raine Island has the biggest green turtle rookery in the Southern Hemisphere. One of the things that the TOs are saying is, 'One day we will be taking over, managing Raine Island.' This is what we are planning to do—to get back on country and manage our land.

**Mr Burns:** I will add just a little bit to that. Being able to transfer Aboriginal freehold to an RNTBC gives them real tenure. Native title rights do not allow mainstream economic activity on the land but real tenure, Aboriginal freehold, does. Both of these guys hold native title rights and Aboriginal freehold rights. Olkola holds only Aboriginal freehold rights, yet they are doing great work on their country and creating economic activity because they have a real tenure that they can base that activity on. By being able to transfer more Aboriginal freehold land to an RNTBC, they have real tenure where real economic activity can occur. It definitely strengthens the economic base for that group.

**Ms Major:** And options.

**CHAIR:** I would like to mention that we have in the room today the former member for Mulgrave and former minister, Mr Warren Pitt. Thank you for being here as well.

**Mr BATT:** Mr Chippendale, you mentioned that your country has connection to multiple TOs and that you share that country. I am keen to understand how that works on the ground where you have overlapping claims or determinations—and I apologise if that is not something that happens where you have overlapping claims or determinations. Is that working anywhere now in the cape? Do we have multiple groups of TOs sharing country and working together to manage that country? If so, how is it managed?

**Mr Chippendale:** We are a pretty new corporation. I do not know how that idea came about to have three groups to form that one corporation. That was not our idea at all. We wanted to represent our land, just Wuthathi country. It was a pastoral lease back in the 1900s. The state found out that the guy who had been occupying that lease did not sign any document at all. The quickest way was for us to form this committee. That is when the land council got together and talked to each group if they agreed to form this corporation.

It is still in the early stages. We are still waiting on the state government for the joint management of the parks as well as work with the state on the ILUA and for the old area. Like I said, we are slowly planning to get back on country. With Batavia they are more or less on the ground whereas others are not. At Kuuku Ya'u they are based on country but in Wuthathi we are not on country yet. We are slowly getting things together to get back on country and planning as well.

**Mr MICKELBERG:** Mr Burns, it would be the Cape York Land Council that facilitates that consultation process and then the formulation of that separate body. Is that the way it has worked in the past?

**Mr Burns:** I do not quite follow the question.

**Mr MICKELBERG:** I think it is relatively simple when you are consulting with TOs that there is only one group of TOs that have a claim in relation to a particular piece of country. My question is in areas where there are overlapping claims or overlapping determinations.

**Mr Burns:** Yes. The principle with all the RNTBCs is that they are a corporation and they have a board and they do hold the rights and interests, but they are not the decision-makers about what happens on the country. They take their direction from the traditional owners so that the board, when it is making the decisions, identifies who are the traditional owners for that particular bit of country that is of interest and they take their direction from those traditional owners about whether they agree to what is proposed to happen or that sort of thing. The board does not make decisions about country on behalf of people; they take direction from the people about what the decision should be.

**Mr MICKELBERG:** When we talk about the pastoral leases that you were talking about earlier, Ms Major, they are currently owned by Kowanyama council. Is that correct?

**Ms Major:** Yes. The council bought it back in the early nineties on behalf of the entire Kowanyama people.

**Mr MICKELBERG:** There is overlapping interest, if you will, or claim from the various groups in Kowanyama and also the Olkola people?

**Ms Major:** The only claim it is under at the moment is the 1 claim mob, and that is the claim. It does not come within our determination area, so we hold no native title claim over that. What the traditional owners of that area said to us is that we need to talk to Olkola. This is a discussion outside of this—blackfella discussion—to talk to them because they do not have an RNTBC. We Kowanyama people, Olkola people and Kaanju people belong to that area. We do not want it to go under the 1 claim. With this amended bill, that can come under us.

In terms of Kowanyama people, I can go back nine generations of my clan in Kowanyama because we have anthropological data that goes back a long way. Sitting here now I can tell you on a board who owns this country, this country, this country and this country. For consultation purposes we just had our new changes to a future act regarding a road that we wanted to build. We knew exactly which family owned that bit of land and could tell us the burial sites within that area, so we went directly straight to them. The people for this area that is outside of our determination area do not want other people making decisions. They want it back within us, knowing that our consultation process is well practised and well rehearsed. It has been there for a very long time.

**Mr MICKELBERG:** The thrust of my question is this: the council owns these two pastoral leases. Accepting there is a tie to that country through the various groups that form that council, and hence you want to transfer that ownership into the one—

**Ms Major:** In Kowanyama the local government shire council own that. They bought that before and we want it back to Kowanyama.

**Mr MICKELBERG:** Understood. My question is this: I understand where you are coming from, but for the Olkola people if that is transferred from a native title perspective across into Kowanyama does that then extinguish their ability to make a similar claim?

**Ms Major:** That is a discussion for us to have.

**Mr MICKELBERG:** I guess that is my question.

**Ms Major:** That is a very good question.

**Mr MICKELBERG:** In this example your community will achieve what you want to achieve in that respect, but will the Olkola people be disadvantaged in that same process potentially?

**Ms Major:** That is for them to answer, and that is a very good question because one of the directors—one of the traditional owners—of that area did say that. We need a discussion because they cannot see any leeway under 1 claim fast to get it back, so they welcome this. This is another option for us to go to get that land back within our RNTBC. That is a very relevant question and it is something that needs to be considered and explored.

**CHAIR:** Last question.

**Mr MICKELBERG:** It is somewhat of a statement, but I would appreciate your thoughts on it. Obviously the intent of this bill is to remove bureaucratic impediment to make it easier to go through this process, but in some respects those bureaucratic processes are to protect the rights of various TOs. My concern is that in trying to make things easier we potentially reduce the rights and the ability of TOs to make a claim on country that they genuinely feel they have a right to make a claim on. That is more of a statement, but I would appreciate your thoughts on it as well.

**CHAIR:** Did anyone want to respond to that?

**Mr Burns:** Just quickly, let us take these two pastoral leases—Oriners and Sefton. If they were to be transferred, Olkola people and Kowanyama people would discuss which parts of those leases are more aligned with Olkola and which are with Kowanyama and it could be that the transfer is in two halves—that is, this half goes to Kowanyama and that half goes to Olkola. That is the sort of arrangement.

**Ms Major:** That is one option, yes.

**Mr MICKELBERG:** So it becomes a negotiation process?

**Ms Major:** Yes, and the people of Kowanyama did mention that and that is a discussion for us as blackfellas to look at our own boundary because we have a lot of documentation around that.

**Mr Chippendale:** I want to say something about Bromley corporation. If you look at Wuthathi, Northern Kaanju and Kuuku Ya'u, when there was a negotiation for Bromley there was not proper consultation back then. Everything was rush, rush, rush. Each time we have meetings with the land council and even their lawyer they always say to us, 'You'd better hurry up. If this government'—before the election—'don't get back in, you'll never see your land for the next 20-odd years or more.' A lot of these things have been rush, rush, rush and not where we have properly sat down and talked about them and had proper consultation. This is why we have these three clans together. That was not part of our idea.

Our idea was to grab our land and it was the same thing with Kuuku Ya'u and Northern Kaanju. Because it was under the state as a bird sanctuary—a lot of tourists go there to look at birds—and we said, 'We've got interests in that country. This is part of Wuthathi country,' they said, 'Okay. Which part?' We identified our area. When it came down to a decision, if Wuthathi people are not there it is going to be very hard to make a decision and sometimes it causes friction between the clans. That is something we have to try to work through to try to solve all of these problems.

**CHAIR:** We have heard today that security of tenure leads to greater economic opportunity and we have heard a bit about the pastoral leases. Ms Major, you have talked about the area being pristine but there has obviously been a whole series of pastoral leases that currently exist throughout the Cape York region. Is that correct?

**Ms Major:** Yes.

**CHAIR:** Have they generally been successful ones? They are operating pastoral leases?

**Ms Major:** Around the Kowanyama area there are quite a few quite successful pastoral leases which we have non-exclusive title on that we just go on. The majority of Kowanyama land is pastoral. It is suitable for pastoral leases.

One of the options right now involves the Kowanyama people and the Kowanyama Cattle Co. and the cultural practice and the environmental impact of cattle. They are in the process of deciding whether they want to pursue that or revegetate the land and look at other environmental funding to revegetate the land and other things. Even though it is good cattle country and it has predominantly been a pastoral area, it is entirely up to the traditional owners what they want. To get back to your question, it is actually really good and successful cattle country. They have been running there forever within my area. I do not know about the rest of the region.

**Mr Chippendale:** For Wuthathi there is a pastoral lease property in our country we have our eye on and it is running successfully. One of the things that we could think about will depend on the state I guess. If we could get this block of land that would be great. That is an opportunity for our people to manage that pastoral lease.

**CHAIR:** We talked earlier about increasing the capability and capacity of people in terms of governance and generally managing a lot of the bodies, so you have the corporations and you have your native title body corporate as well. By supporting and strengthening the variety of corporations and not the large one, is that going to build up the capability and capacity of people to manage their own businesses and their own communities as well? We are keen to find out the best way to build the capacity of people and the capability to increase economic opportunities and manage your communities more successfully. What is the best way to do that?

**Ms Major:** Give us more funding.

**CHAIR:** Do we need more corporations?

**Ms Major:** No, we do not need more bureaucratic red tape. Right now Kowanyama PBC is the main body that overlooks native title of the entire determinant Kowanyama area. We are struggling because we only get a small bucket of funding for our overhead costs, but we need to be able to have a surplus so that we can go and get independent legal advice from those who specialise in the commercial element of how we run businesses effectively on our freehold title. Right now we are struggling around building our internal capacity.

Before I became a director I applied through the Department of the Prime Minister and Cabinet to get funding to build our directors' capability in understanding cash flow, bank statements, profit and loss—that is, how do we feed this goose and then how do we get the golden eggs and then how do we divide the golden eggs, as an analogy? That right now is hindering a lot of our progress.

Not many people in our community understand exclusive title, non-exclusive title, freehold and what we can realistically do within that in generating more income. That is where my board have decided to take a step back on not executing every government funding or grant that is coming out there because they would be bogged down in the acquittal rather than actually doing the job. Rather, we want to fix our internal capability and what stops us right now is funding.

Right now financial management, infrastructure and governance are what my board is focusing on. When we get our financial books all clean, we can then go to the state or federal government and say, 'We have these processes in place. We're looking at this possible opportunity to do a feasibility study in this area.' The opportunities are endless, but the reality is the capability and whether we have support to build individual capability.

The people on the ground know what they want. It is just a matter of how do we develop processes and facilitate that in order to get it going. That is why I have given up my personal time in my own company to develop my home and work with my own people. As you said before, exclusive title on freehold is huge for Aboriginal people. There are more people wanting to own trucks. The aspiration is there. Whether they have the capability, the support and the education is a different story.

**Mr Burns:** Both of these corporations are holding two sets of rights and interests. They are wearing one hat as a native title holding corporation, which is created through the Native Title Act. The other hat is as a land trust holding actual freehold. They have those two corporate responsibilities under two separate pieces of legislation.

The Commonwealth government supports RNTBCs to administer and manage their native title rights through support for PBCs and also the creation of a land council—the Cape York Land Council in this case—to provide legal and other advice to the PBCs. The state government does not do the same in supporting the corporations in their land trust capacity. The state government provides very little support to RNTBCs in their land trust capacity at all. Land councils are not really resourced to do that job either.

We would like to help the PBCs much more in their land trust capacity to grant leases of Aboriginal freehold and various other economic activity on Aboriginal freehold land, but the land council is not resourced to provide that support and the PBCs are not directly resourced to manage their Aboriginal freehold rights either. Again, as I started out saying, we support this bill because it helps to pull the two acts closer together—the Native Title Act and Aboriginal Land Act—but the corporate governance support is lacking for the Aboriginal freehold side of things. That is where the greatest opportunity is. We see that as a big gap.

**CHAIR:** There being no further questions, thank you very much for your time. It has been quite an illuminating and fascinating discussion.

**CARSE, Mr Ken, Manager, Land Policy, Department of Natural Resources, Mines and Energy**

**MACLEOD, Mr Ross, Director, Cape York Peninsula Tenure Resolution Program, Department of Aboriginal and Torres Strait Islander Partnerships**

**CHAIR:** I now welcome Mr Ross Macleod and Mr Ken Carse, who have appeared before us before. We will go to a couple of questions in a moment. First, I invite you to make an opening statement to address any issues that you have heard today that you are able to clarify.

**Mr Carse:** The way the Aboriginal Land Act and the Torres Strait Islander Act works is that, apart from Indigenous DOGITs, any grant of land is based on an application. It is not the department saying that we want to transfer a particular parcel to a group; it is applicant driven. Then there is a process of consultation to work out what land, what other interests are involved in that land, what the issues are such as contaminated land et cetera or resource areas and then who should hold the land once it is granted. That is done through a consultation process.

Originally when the act was enacted in 1991 we provided under that act for land trusts to be formed to hold the land. In amendments I think in 2008 or 2010 we moved away from that and no more land trusts would be created. We went to CATSIA bodies, which are under the Commonwealth act—that is, the Corporations (Aboriginal and Torres Strait Islander) Act. There were a number of those being established. It was a well-understood process. We did not want to have multiple groups. We have land trusts under purely estate. We were having CATSIA bodies set up in Queensland anyway at that time. There was a lot more support and governance arrangements around those CATSIA bodies.

RNTBCs are actually CATSIA bodies which was the other advantage. They are just a special subset of CATSIA bodies. They are formed after native title. After determination, a CATSIA body called an RNTBC is established. As was said today, there are great advantages in the native title and the land rights being held together. The one group can make decisions. They do not have to go to another group and say, 'We would like to do this,' with potential issues there.

RNTBCs, registered native title body corporates, were set up under the Native Title Act, the Commonwealth act, following determination. Native title representative bodies—Cape York Land Council is one and the North Queensland Land Council is another—facilitate the native title claims under the act. They are appointed by the Commonwealth.

There is the Cape York Land Council, the North Queensland Land Council, the Carpentaria Land Council and the Queensland South Native Title Services. They are responsible for a geographic area and they support all native title claims in that area. They do not own the RNTBCs. They have no control over an RNTBC. Sometimes there are disputes or disagreements, just as there are between people in the RNTBCs, but they support that and that is what they are established for. Their funding goes to support native title claims. Once the RNTBC is formed, as Shannon said, they do not really have the resources or too much of a role in supporting those RNTBCs. They have no control over them. The RNTBC holds or manages the native title on behalf of the native title holders or people.

We talked about the amendments in this bill that are about granting land outside of the determination area. 'Outside' is probably a poor choice of word, as it implies that it is outside of their area. 'Not included in the claim' is probably better terminology because we could have an area that we are referring to as 'outside' that is right in the middle of the determination. The reason it is there is that native title may have been extinguished. It is not included in their determination but it is right in the middle. In that scenario under the current act they would have to form another corporation to hold that land even though it is right in the middle of their core country. You could have land on the boundary as well that either was extinguished or not included. I think a number of people speaking earlier mentioned that.

When we are resolving these native title claims, it is through the courts—the Federal Court—and we get certain time frames put on us that all parties, including the state, are bound by or try to meet. Part of meeting those time frames involves a bit of negotiation. Where there is a dispute over whether you have native title here or whether you have proved it, to meet the court time frame we might say, 'Let's just exclude that area for now and we will proceed with the rest to get a determination.' These areas are excluded for one reason or another. That is not to say that they are not within those people's land, but it is whether we can meet the requirements of the Native Title Act and the Federal Court in their time frames, so they get excluded.

In the end, as these people have said, their traditional country might be this large but the determination is only over a part of it. They will come back with a claim perhaps later on, but it depends on resourcing because the native title representative body might put their resources into another claim to drive that. This might sit here for a number of years before they come back; meanwhile there was a request to transfer the land or to grant the land under the Aboriginal Land Act. Do we require them to form another corporation?

There is a whole process to go through, and we raised this before in our responses. The minister needs to be satisfied. There is consultation already in the act. I think Shannon Burns talked about perhaps we could be more specific. The act generally talks about consulting with the people concerned. One issue with being more specific is that there is a risk that you leave somebody out. 'People particularly concerned' covers a broad range of Indigenous people who are concerned with that land.

We have processes: we would talk to the native title representative body. We would talk to the local government and ask who we should be talking to. We engage with our fellow agencies like DATSIP, who are heavily involved in the communities and ask who we should be talking to. Then there are general public meetings so people can come along. We try to get from the community who we should be talking to, who should be involved in this and who should hold the land.

There was a particular concern, I think, in one of the submissions about affecting existing land trusts. The amendment is aimed at granting land. This is unfortunate terminology in the act. We talk about transferred land. That is land granted under the act. The amendment is primarily aimed at granting new land, but we have catered for where there is existing land. Where there is an existing land trust, the state cannot transfer that land to an RNTBC.

The act provides that the trustee must apply for the land to be transferred. Where there is an existing land trust and they hold land, the only way that land could go to an RNTBC is if that land trust applied for that to occur. The state cannot come in and say, 'We want that to go there' and the RNTBC cannot ask for it. The act is quite specific that it is the trustee who applies.

Then we have those additional safeguards that the RNTBC must agree and then the minister must be satisfied that it is appropriate. So we go through all of that again—that it is appropriate for the RNTBC.

**CHAIR:** I am conscious that we are running out of time.

**Mr Carse:** I think that is all I wanted to say.

**CHAIR:** Ross, did you want to add anything before we go to questions?

**Mr Macleod:** I think it is really important to understand that native title is not a tenure; it is a bundle of rights and interests that is determined through the federal process. We are trying—and I think Shannon accurately said this—to bring the two regimes together more closely, because the holding of tenure provides the certainty that traditional owners can base their economic future on, which is quite separate to native title. We are trying to align those two more closely so that it is more streamlined.

**CHAIR:** In terms of native title, the Cape York Land Council is coordinating native title activities throughout the area, but they are not a holder of tenure, which is those CATSIA organisations and native title bodies corporate as well.

**Mr Macleod:** Correct.

**CHAIR:** So you add on the bodies corporate, those outstanding land trusts and also the councils. They are the holders. They have the tenure of the land?

**Mr Macleod:** Correct.

**CHAIR:** How many bodies are we talking about? This might be something that we can take on notice. How many of those landholding bodies are we dealing with in the region?

**Mr Carse:** There are probably about 170 land trusts, I think, from memory.

**CHAIR:** One hundred and seventy?

**Mr Carse:** Across the state.

**Mr Macleod:** Across the whole state, that is.

**CHAIR:** Okay. I am talking about in Cape York?

**Mr Carse:** In Cape York, I would have to take that on notice.

**CHAIR:** We will take on notice how many bodies corporate, land trusts and regional community councils hold land.



**Mr MADDEN:** And maybe a list of them.

**CHAIR:** Yes, and perhaps a list of them.

**Mr Carse:** Yes, that is no problem. I have just one comment. If the state were doing an act that would affect native title, like granting a lease or something on a reserve, we would be notifying the native title holders.

**CHAIR:** That is the tenure holders?

**Mr Carse:** Yes. It would be the RNTBC, not so much the Cape York Land Council. It is the RNTBC that has the say but, where there is no RNTBC, we would go through the Cape York Land Council or the North Queensland Land Council.

**CHAIR:** Obviously, you have heard about better consultation and better communication with all of those bodies. Is that something that the department can take on board?

**Mr Carse:** We can certainly take that on board. A lot of what is done is when we come into it. That is when the consultation and all the information is done. We worry about overload when there is no need for it. It adds confusion. I think Tania said, in answer to a lot of the steps that you as chair had outlined, 'Yes, that's what we would like to do.' That is when we are coming up to the activity. We could put out a fact sheet now, but I think in some ways it would just add confusion. It is good to have something on the website so people can seek it when they want to.

**CHAIR:** I think it would assuage any fears.

**Mr WEIR:** Cape York Land Council, our first submitters, and Olkola seem to have difficulties with handling the process. You talked about native title and their involvement there, but not in tenure. What is the role of the Cape York Land Council in this process that we are going through here?

**Mr Carse:** They are coming from supporting the RNTBCs. As Ross said, they strongly support the native title and the land together. They make submissions to the state regularly on this and seek that. They are also supporting the lodgement of the Cape York No. 1 claim. I understand that there are a number of people concerned about it. It might be just that that is a very sophisticated approach that they are using, which is quite different from the past. It is a very broad area. It is how the decisions are made behind it that is probably not so clear to everybody at the moment. I think the Cape York Land Council would probably admit that.

As Pormpuraaw council has said, 'We would like to have it here local and see the people.' I think the Cape York Land Council has always said that decisions would be made locally by the traditional people, but it just may not be so clear to everyone how that will happen. I think that claim is still some way off from progressing. The key will be what RNTBC or how many RNTBCs will be set up and how they will work. That is still to come out of that process.

We have not pre-empted that with the amendments we have made. We have just said that an RNTBC is an option for the people. It is the consultation with the people, as Tania said, that will determine whether they want an RNTBC to hold that land, or they want some other corporation.

**CHAIR:** Are there any other questions?

**Mr MICKELBERG:** Just for my own knowledge, can a determination be made that that country applies to multiple traditional owners—or is it only one group of traditional owners who will have a determination made over one piece of country?

**Mr Carse:** You can have overlapping claims, obviously, and you can have shared country. The determination will name the people who hold the native title and what rights. I am not too sure that we have had any shared determinations yet. They tend to be the complicated ones and we have all gone off to do the others to get them done quickly. Under traditional law, you can have shared country and they have shared decision-making. It may be, 'You have the right to decide this on that country and we have the right to decide this.' It is quite feasible.

**Mr MICKELBERG:** At the claims stage?

**Mr Carse:** Yes.

**Mr MICKELBERG:** In the example that we used earlier with the Kowanyama pastoral leases, presumably, there will be a claim over that country. This legislation proposes to enable them to be able to transfer that to one of the existing bodies corporate prior to that determination being made. Is that correct?

**Mr Carse:** That is correct.

**Mr MICKELBERG:** Even though there is potentially a competing claim over that same country—noting that they own the title to that as it stands now but, so too, might a grazier in a different sense.

**Mr Carse:** That is based on the people supporting that that RNTBC hold it. There are those safeguards that we have raised in the bill that there is either anthropological work or there is an ILUA that supports it—an ILUA with all the native title people. If you did an ILUA—an Indigenous land use agreement—over those two pastoral leases, you would either have to have two ILUAs or one ILUA that had the Oikola people and the Kowanyama people. I might be confusing the groups here. You would have to have both groups signing the ILUA to authorise it, otherwise it would not be supported.

**Mr MICKELBERG:** So the ILUA would have to be in place before you could transfer it?

**Mr Carse:** It is one of the options for the minister to be satisfied. It might be the case, where you have two groups, or overlapping groups, that the minister says, 'I'm not satisfied that all the native title holders for this area support it.' If you have an ILUA, clearly, the minister could be satisfied that all the native title holders have come to a decision, it has been publicly advertised, objections have been heard and the National Native Title Registrar has registered the ILUA.

**Mr MICKELBERG:** Does that vagueness with respect to the minister being 'satisfied'—and I realise it provides flexibility and you can apply it to different situations in different ways—also create the confusion and uncertainty that has been expressed through the submissions?

**Mr Carse:** I think whenever legislation has flexibility it can do that. If you are too specific, or too prescriptive, you run the problem with the act that you have left something out or the state is seen as telling them how to do it. The way it has been worked is that the minister is not driving this transfer. It is up to them to satisfy the minister that it is appropriate.

**Mr MADDEN:** Mr Carse, you referred to land trusts being able to change to RNTBCs. What would be the attraction for a land trust to switch to being an RNTBC? What is the advantage?

**Mr Carse:** It is the same tenure. It is the Aboriginal freehold. It is just that the owner of the tenure would change from a land trust to an RNTBC. They might already have an RNTBC. As Tania said, they are going through all of this work to build up their governance, their directorship—'Do we do that in this group while we already have this group or do we just combine the resources into one?'

**Mr MADDEN:** There is no difference.

**Mr Carse:** No.

**Mr MADDEN:** There is no difference in what they can do with the land and how it operates?

**Mr Carse:** No, it is all the same.

**Mr MADDEN:** It is just the ownership, or the control?

**Mr Macleod:** The landholding entity.

**Mr Carse:** In simple terms, I put it that native title gives you the ability to say no. Land tenure gives you the ability to say yes, but you are subject to native title. If you put them together, you have that full control.

**Mr MADDEN:** Thank you.

**Mr BATT:** I want to confirm. Under this bill, you do not have to be an RNTBC to be able to take that adjoining land? Oikola is not an RNTBC, but it can still apply to get the land next door to it?

**Mr Carse:** Correct.

**Mr BATT:** There seemed to be some here saying, 'We're in an RNTBC. We can do it.'

**Mr Carse:** It is an additional option for the people. Where there is a determination, they have a range of options. We just included that to be in the land next door where there is no determination.

**Mr BATT:** An Aboriginal corporation can also do that?

**Mr Carse:** Correct.

**Mr BATT:** An RNTBC does not have the right over an Aboriginal corporation?

**Mr Carse:** No. Correct.

**Mr BATT:** If there is one versus the other, it is up to the minister to work out who is going to have that land?

**Mr Carse:** Yes, essentially. That will be done through consultation rather than the minister picking—

**Mr MICKELBERG:** Can I ask a follow-up question?

**CHAIR:** Yes.

**Mr MICKELBERG:** Is that not what the native title process is for? To determine who has the right to that country? Are we not pre-empting that by having the minister make a determination that he is reasonably satisfied? I have no argument whatsoever with the fact that we are trying to remove a bureaucratic process and make things simpler and more efficient, but my concern is that we are effectively delegating responsibility to the minister to determine that he is reasonably satisfied that this country belongs to that group of people as opposed to another group of people.

**Mr Carse:** Even in granting the land the minister must be satisfied who he is going to grant to hold it—which other people are going to hold the land and speak for that land. That is already there in the act. The minister is not determining that these people will be the native title holders for that land; it is just simply that that is an existing corporation that represents the same people and those people have said, 'This corporation'—which, as I said, is just a CATSIA corporation but it also has another hat for where they hold the native title. They are really just the CATSIA corporation and the people have nominated that corporation to hold the land. Later on, if a different RNTBC were set up, the act provides that they can transfer the land if they wish.

**CHAIR:** Thank you very much, gentlemen. We have that one question on notice. It is due by 10 am, Wednesday 18 April—next week.

**Mr Carse:** That is fine.

**CHAIR:** Thank you for your attendance at today's hearing on the Land, Explosives and Other Legislation Amendment Bill 2018. I thank our Hansard reporters and our secretariat. A transcript of these proceedings will be available on the committee's parliamentary web page in due course. I declare the hearing closed.

**The committee adjourned at 11.43 am.**