

Transport and Resources Committee

Inquiry into the Economic and Regulatory Frameworks for Queensland's Island Resorts

Public Hearing – Monday, 20 June 2022

Department of Environment and Science – Responses to Questions taken on Notice

1. **What role if any does the Department of Environment and Science have in mitigating conflicts between State and Commonwealth leases and authorities and each entity's approval processes? Relates to perceived conflicting State and Federal lease and permission requirements – referenced to Submission No. 35 from Oasis Forest Limited regarding Keswick Island.**

The Submission contends that there were conflicting conditions between State and Commonwealth approvals, and there should be more discussions about alignment of State and Commonwealth assessment processes.

The Department of Environment and Science (the department) works under a joint marine parks assessment program with the Commonwealth Government through the Great Barrier Reef Marine Park Authority (GBRMPA) in recognition of the complex interface of Commonwealth and State Marine Park waters and island protected areas. This partnership approach to managing the reef is set out under the Great Barrier Reef Intergovernmental Agreement 2015 (the Agreement). The Agreement establishes arrangements between the Commonwealth and State Governments, clearly articulating objectives, respective functions, and accountabilities.

While both Governments aim to have complementarity of zoning and permit provisioning for the marine protected areas in accord with the Agreement, the assessment of developments is driven by jurisdictional legislative and policy requirements in how each Government must approach their jurisdictional considerations and decisions. GBRMPA is responsible for ensuring that proposed activities satisfy the relevant statutory and regulatory requirements under the Commonwealth *Great Barrier Reef Marine Park Act 1975*, and the State is responsible for ensuring the provisions of the *Queensland Marine Parks Act 2004* are satisfied.

In respect of decisions made by GBRMPA under Commonwealth statutes, the State enjoys a positive collaborative working relationship with GBRMPA officials. However, Commonwealth officers are required to adhere to federal legislative considerations to inform decisions regarding potential impacts on the values of the Commonwealth waters of the Great Barrier Reef Marine Park World Heritage Area. If conflicts are identified between Commonwealth and State, every effort is made to resolve them cooperatively in a way that is consistent with the objects of the relevant legislation and principles of the Agreement.

In the case of any inconsistency in decisions made, section 109 of the Australian Constitution provides that: when a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

2. **The Oasis Forest Limited Submission suggests that there were frustrations in the Great Barrier Reef Marine Park Authority's (GBRMPA) permit assessment timeframe and that GBRMPA officers initially indicated that one ramp per island was sufficient.**

Specifically, the submission refers to apparent State conditions under the Oasis lease agreement that require construction of a Boat Ramp and Jetty for private use on the island, to be separate to that of a Barge Ramp for all other uses and that this conflicts with GBRMPA's position.

The Department of Environment and Science (the department) is not aware of the advice referred in the submission made by Oasis Forest Limited that there should be only one ramp per island. In reviewing the State lease over Keswick Island, the department has not been able to identify a requirement under the relevant lease conditions that require construction of a Boat Ramp and Jetty for private use on the island, to be separate to that of a Barge Ramp for all other uses.

Extract from Term Lease 230024

C343 (1) ...Within a period of 6 years construct a jetty and public boat ramp for free use by the public...

It is the department's understanding that GBRMPA does not have a requirement for only one boat ramp. The process for a joint marine parks permit is applicant driven. In December 2021, GBRMPA issued an updated permit to Oasis Forest Limited. This permit authorises one jetty, one passenger transfer pontoon, one barge ramp, and one boat ramp.

The permit does have an additional requirement to remove an unapproved and unlawfully constructed boat ramp, but to date, there has been no application for a second boat ramp received by GBRMPA.

3. The Keswick Island Progress Association has provided the Committee with examples of alleged environmental breaches by the current head lease holder, Oasis Forest. The Progress Association advise that their concerns were brought to the attention of responsible State Government agencies and the Mackay Regional Council:

a) can the department advise of any actions that have been taken to investigate those claims of environmental damage?

Officers of the Department of Environment and Science (the department) attended Keswick Island on multiple occasions in 2020 to respond to concerns about works conducted by the head lease holder at the time, China Bloom (Hong Kong) Pty Ltd and its agent Greaton Keswick Pty Ltd (Greaton Keswick).

The department finalised its investigation into alleged works conducted by the head lease holder on the beach at Basil Bay and did not observe any evidence of damage to turtle nests or permanent impact to habitat during inspections.

b) has the department done anything to remediate the alleged damages?

The department required Greaton Keswick to install measures to temporarily improve erosion and sediment control at Jetty Road. In January 2021, the head lessee advised the department that temporary works to stabilise Jetty Road had been completed, including the application of polymer soil binder. The temporary works at Jetty Road has resulted in the head lessee complying with its general environmental duty, and there are no outstanding actions required by the department on this matter. The ongoing issues in relation to approvals for the long-term remediation of Jetty Road and the construction of the temporary boat ramp fall within the jurisdiction of the Mackay Regional Council and the Department of Resources.

c) have any penalties been issued to the head lease holder in regards to the issues?

The department can confirm that it has not issued any penalties to the head lease holder.