



TRANSPORT AND RESOURCES COMMITTEE

Members present:

Mr SR King MP—Chair

Mr JP Kelly MP

Mr JR Martin MP

Mr LL Millar MP

Staff present:

Ms D Jeffrey—Committee Secretary

Mr Z Dadic—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE ECONOMIC AND REGULATORY FRAMEWORKS OF QUEENSLAND ISLAND RESORTS

TRANSCRIPT OF PROCEEDINGS

MONDAY, 20 JUNE 2022

Brisbane

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The committee met at 9.50 am.

CHAIR: Good morning. I declare open this public hearing for the committee's inquiry into the economic and regulatory frameworks for Queensland island resorts. My name is Shane King, member for Kurwongbah and chair of the committee. I would like to start by respectfully acknowledging the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share. With me here today are Lachlan Millar MP, member for Gregory and deputy chair; Joe Kelly MP, member for Greenslopes, who is replacing the member for Mundingburra for today's proceedings; and James Martin MP, member for Stretton. We have apologies from Trevor Watts MP, member for Toowoomba North; and Pat Weir MP, member for Condamine, who have had to duck away.

On 21 February 2022 the Transport and Resources Committee resolved to conduct an inquiry into the economic and regulatory frameworks for Queensland island resorts. This public hearing is the first of a series of public hearings the committee will hold. Further dates and venues will be advised as they become available.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. As parliamentary proceedings, under the standing orders any person may be excluded from the hearing at the discretion of the chair or by order of the committee. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of instructions for witnesses so we will take those as having been read. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask everyone present to please turn mobile phones off or to silent mode. I also ask that any responses to questions taken on notice today are provided to the committee by 4 pm on Tuesday, 28 June 2022.

CAMBOURN, Mr Neil, Executive Director, Queensland Parks and Wildlife Service, Department of Environment and Science.

HINRICHSEN, Mr Lyall, Executive Director, Lands Policy and Support, Department of Resources

McALISTER, Mr Jeffrey, Deputy Director-General, Tourism Infrastructure and Investment, Department of Tourism, Innovation and Sport

CHAIR: Welcome. Would you like to make a short opening statement before we move to questions from the committee?

Mr McAlister: Thank you, Chair, and good morning, members. I was just going to briefly outline our department's responsibility in terms of the Great Barrier Reef islands. The focus of the Department of Tourism, Innovation and Sport is around tourism policy. Some of that goes to the sustainability questions and opportunities around the Great Barrier Reef island resorts, tourism investment attraction, how we actually get more capital in to redevelop resorts, other infrastructure, access—whether it is marine infrastructure or if it is aviation infrastructure—general industry development—workforce has been a big focus recently—innovation and, of course, there are major events that happen across the Great Barrier Reef. Our department does not have regulatory responsibility, but we do engage with partners, particularly industry as well as NGO partners across government, on opportunities to grow Great Barrier Reef tourism and on matters that affect stakeholders.

Mr Hinrichsen: I would like to tender an apology on behalf of my colleague Tanya Bartlett, who unfortunately has come down sick overnight so is not able to join us today. She did kindly provide her notes. Tanya's area of expertise and responsibility relates to our regional operational functions, so there is probably some detail that Tanya would have been across that I may not be able to help with. I will do my best, relying on Tanya's notes. Otherwise there may be some aspects that I will need to take on notice.

The Department of Resources' primary responsibilities related to the committee's remit are in relation to administration of the Land Act and the leasehold tenures that are issued under the Land Act, so both allocating those tenures and administering them in terms of compliance with those conditions of lease. Also our department is responsible for native title policy and for determining native title claims that are made under the Native Title Act.

Mr Cambourn: Our responsibilities are managing the protected area and forest estates in Queensland. A number of these resorts are either on islands that may be sitting on national park tenure or adjacent to national park tenure. Most of those lease arrangements are administered under the Land Act, but we operate in a good neighbour capacity with those resort holders.

Mr MILLAR: Thank you for coming along. This question is to Lyall in relation to understanding how the department and headlease holders work together and react together. We have seen from some of these submissions about previous complaints to various levels of government. A common thread of these claims is that no-one has taken responsibility to help residents with concerns about behaviours of successive headlease holders. How would your department respond to this issue?

Mr Hinrichsen: Our department administers these leases much as it does the tens of thousands of leases that apply to land across Queensland. They are issued for a whole variety of purposes. Some of the tourism island leases, I think it is fair to say, are more actively managed by our department than others, based on various matters that have been raised by holders of subleases. There are all up 29 regulated islands within Queensland. They are islands that are recognised under the Land Regulation as being predominantly for tourism purposes. Some of those are, I guess, household names well known to just about every Queenslander—places like Hamilton Island, Hayman Island, Daydream Island and Fraser Island. Some of those tenures, as my colleague from Department of Environment and Science pointed out, are entirely national park and there are then Land Act tenures over part of the national park. Others are simply Land Act leases, where it is state land for which a lease has been issued.

Many of those resort islands do have these subleasing arrangements and I think, to take the member for Gregory's comment, that is probably where some of the conflict arises. Certainly from the submissions that were made, Keswick Island is one where there is significant and quite often historical tension, if you go back many years, between headlease holders, as they have been, and the sublessees. Keswick Island is pretty unique when it comes to the conditions of the lease in that most of the leases are entirely for tourism purposes. The two most notable exceptions to that are Hamilton and Keswick. I think it is fair to say that Hamilton Island, with its extensive developments—I am sure the member for Gregory has spent some time there—operates under a headlease/sublease arrangement. From our department's perspective, we hear very little in the way of angst and tension between the sublessee and the head lessee. The lease is a very smoothly run operation from our perspective, whereas Keswick is probably at the other end of the spectrum—an island that has not had the same level of economic development that supports those sublease arrangements and hence historically our department has had a lot more involvement in administering the conditions of the lease.

Our approach to regulation is always to work with the lessee—the head lessee—in delivering on their obligations as opposed to taking compliance action, recognising that these are entirely commercial operations and the nature of the agreement between the head lessee and the sublessee is very much a commercial agreement, same as would exist in a sublessee arrangement under other leasehold tenure—so it can apply to rural land, for example. It can also have sublease arrangements, again commercial arrangements, in relation to freehold land. These arrangements, while they are supporting some very significant infrastructure, are pretty straightforward commercial arrangements between the sublessee and the head lessee. The primary focus of the legislation that we administer in regulating subleases is to ensure the sublease is issued and used for a purpose that is compatible with the headlease. That is a long answer. I hope that answers at least part of your question.

Mr MILLAR: Sort of. I will go straight to Keswick Island. It has been an issue. It is a current affair. Everybody has been talking about it. Could you explain to me what the headlease process is: obviously finding the headlease, what due diligence was done, are they the right fit, how it was advertised, how many people were able to have an opportunity to be the head lessee?

Mr Hinrichsen: Is that in relation to the recent transfer?

Mr MILLAR: Yes.

Mr Hinrichsen: I guess the normal arrangement associated with the transfer of a lease is through a commercial real estate transaction. I am sure the member for Gregory would be familiar with arrangements if a pastoral lease was to be transferred. The transaction happens just like any other property transfer. For the high-profile commercial and industrial leases, many of which are tourism leases, there are requirements of the Land Act where the minister is able to seek a financial and managerial capability assessment. These are referred to as significant development leases. There are provisions in the act that define pretty broadly what constitutes a significant development lease. As part of those transactions—it might be a commercial arrangement by which the buyer and the seller connect—prior to that transfer the minister needs to be satisfied that the would-be purchaser meets the requirements for both their financial capacity to take on what is a significant undertaking, obviously—some of these major resorts are multimillion dollar operations with responsibilities for many sublessees—and their managerial capability to then administer their requirements under the lease.

Our department does not utilise a process of inviting parties to become the sublessee. It is assessing the application that might come as a result of, if you like, a commercial treaty between the seller and the purchaser. But prior to the proposed purchaser becoming the owner of the lease—the lessee—they need to satisfy the minister that they meet those financial and managerial capability requirements.

CHAIR: I have a question about development and the processes involved and the Great Barrier Reef Marine Park Authority. We have heard in head lessee submissions about assessment time frames and that the Great Barrier Reef Marine Park Authority has to tick off on these before anything can go ahead. I wonder if you can expand on that and help us understand that process, knowing it is a federal body and not a state body.

Mr Cambourn: If there are developments proposed for the marine areas, not so much the island areas, they are regulated by the department—our colleagues. In the marine areas similarly, there can be leases over the actual seabed and things in the harbours and for moorings and things like that as well. In terms of the regulation with the Great Barrier Reef Marine Park Authority, there is an interaction where we have state marine park around some of the islands and then it interacts with the federal marine park authority jurisdiction. We work very closely with the Commonwealth government and we administer those processes in a single transaction. On the state side, we have people sitting in the GBRMPA office who can sign off on those jurisdictional matters that might cross either state or Great Barrier Reef areas and we have provisions in place for complementary zoning et cetera for those particular areas. Most of that is based on legislation across both Commonwealth and state. The Commonwealth approval processes are quite stringent and a little different to the states in the way that they operate. Again, we work in partnership with them, but we are not actually in a position to influence their processes generally.

Mr MARTIN: Following on from the chair's question in relation to conflicting requirements, we read in one of the submissions from Oasis that there is a requirement under their lease for two boat ramps—one for private use and one for public use—however, the Great Barrier Reef Marine Park Authority has a requirement for just one boat ramp. Is the department involved in mitigating those conflicts? Could you expand on that?

Mr Cambourn: I am not familiar with that particular instance. I can look into that a little further, but generally those sorts of situations will occur where there might need to be some clearing of coral reefs or bommies to access a boat ramp. That might be the issue at play there. Again, we have that cross-jurisdiction between the state and the Commonwealth. Once it gets into Commonwealth waters, that is the Commonwealth's responsibility. That is generally the circumstance where they will consider the impacts on the reef areas from whatever is required to install that boat ramp. The boat ramp will generally be on a natural resources tenure in most cases. For example, national parks only go to high-water, so the boat ramp obviously has to go between high and low. That is something that I am not familiar with, but I am happy to look into that one further if that is required.

CHAIR: Are you happy with the answer?

Mr MARTIN: I am happy with the answer.

Mr MILLAR: Going back to the Keswick Island issue, the Keswick Island Progress Association has provided the committee with examples of alleged environmental breaches by the current headlease 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. Can the

department advise of any actions that have been taken to investigate those claims of environmental damage? Has the department done anything to remediate the alleged damage? Have any penalties been issued to the headlease holder with regard to these issues?

Mr Hinrichsen: Just like on any other tenure, matters of environmental degradation come within the remit of the Environmental Protection Act. I am not able to make any comment as to whether there have been regulatory actions. I do not know if my colleague is able to comment on that aspect, noting it is outside his direct responsibility as well.

Mr Cambourn: Not that I am aware of.

CHAIR: We might go back to the question from the member for Stretton for some further clarification. In terms of the perceived conflict between the federal body saying only one jetty and the leaseholder saying two, could we get some more information on how that conflict could be resolved?

Mr Hinrichsen: Yes, we can certainly look in terms of the lease conditions. I guess passage of time can be an issue. The leases were issued in around 1996. As I am sure the members can all appreciate, environmental regulation has certainly evolved a lot over the course of the last 26 years. As my colleague from DES points out, it can be about the way in which works are undertaken. Our lease defines an area of land, if you like, for a particular purpose, say, a marina. Those marina leases are then tied to the island leases. It can be then a matter of how that particular boat ramp or facility is built. I guess there can be instances where there can be pushback because of the configuration which is proposed or capacity or some aspect of the development that, as Neil pointed out, might be going to impact on a coral bommie or some other facility that has significant value as opposed to a different configuration which might not have those implications. I guess it might just come down to the actual detail of what is proposed where.

CHAIR: It was a simplistic view we were taking when we discussed it. There is one for private and one for public, and then this other body says you are only allowed to have one. Who gets it? But when you point out that it is surrounded by coral and it might result in the destruction of that, leaving that is far more important than putting in another boat ramp. If there is any further information, we would appreciate it being provided. If there is not, that is acceptable.

Mr McAlister: I was just going to add that I think that question might raise a couple of areas where proponents consistently raise concerns with us around marine infrastructure for Great Barrier Reef island resort redevelopment. One is around, I think as my colleague Lyall was saying, in terms of where you have historic infrastructure—a jetty perhaps—like for like and how that is considered by GBRMPA. Something that might have been built in the sixties that is dilapidated and needs to be rebuilt obviously 60 years later might look quite different.

The other thing this issue highlights is the public versus the private benefit. A new resort owner may want to enhance access to their resort redevelopment, but we think there is merit in considering the public benefits that enhanced marine infrastructure brings. That could be for the public to access national parks. As Neil said before, a lot of these islands are national parks as well so people can go and recreate in the conservation estate. The other one is safe haven, which we do not always think is considered, in terms of adverse weather. There might be a safe haven element to a new jetty or marine infrastructure.

CHAIR: Member for Gregory, do you have anything further?

Mr MILLAR: I do have more questions, but I do not want to take up everyone's time.

CHAIR: That is fine.

Mr MILLAR: I thought the member for Greenslopes might have a question.

CHAIR: No, he is fine.

Mr MILLAR: Thank you, Mr Chair. You are always kind in giving us plenty of opportunity to ask questions. Lyall, you mentioned that the minister, through a report, makes the recommendation of who the head lessee should be.

Mr Hinrichsen: It is approval of, if you like, ministerial consent, for a transfer.

Mr MILLAR: Is that a public document? Is it available?

Mr Hinrichsen: It is certainly an available document. There may be aspects that are considered to be commercial-in-confidence, but otherwise there is, in every case I can think of, an independent assessment that is undertaken by a third party of those financial and managerial capabilities. That report is then considered by the minister in making the decision to either approve or not approve. I note that there are aspects and submissions that talk about foreign nationals being considered as part of that process. In transferring the lease, of course, foreign investment is a matter that is regulated by the Commonwealth government, so it is not an aspect the minister can put their

mind to in approving a consent to transfer. It comes down to financial capability: are they going to have the resources to manage that asset appropriately; and do they have the skills to do so, even if they do have the money? Usually skills can come with money, of course—you can employ the right people—but they are both aspects that need to be satisfied before the minister would give consent.

Mr MILLAR: Going back to my earlier question about what is allegedly being done about Keswick Island, you were unable to answer that. I respect that, but this committee is trying to work out how islands are being managed—how leases are being managed. We need the ability to see what is working and what is not working. Given that you cannot divulge that information, for the committee's sake how do we know if it is being done properly?

Mr Hinrichsen: Perhaps I did not make the point as clearly as I should have. Environmental regulation, which is a function of the Department of Environment and Science, happens across all tenures—freehold, leasehold et cetera. Then, within leasehold land, our department is responsible for regulation of the conditions. If it were a matter to do with some environmental harm that was caused, my colleagues in the Department of Environment and Science would be best placed to answer that. That is a large department. That is not the area that my colleague Neil works in.

When it comes to conditions of leases, our department does undertake periodic audits of those, some of which are purely random in terms of selection of leases that are subject to the audit process. Others are identified as a result of complaints that are made. I have no doubt that if my colleague Tanya were here she would be able to provide a lot more detail as to the current audit program. I know that there is an ongoing, active program looking at compliance with lease conditions across all leases but particularly the island tenures that we administer.

CHAIR: I was in Darwin last week. The whole port up there is leased by foreign interests. The Great Barrier Reef Marine Park Authority would obviously have a large say in any environmental issues that had occurred or would occur. They would be an overriding body, I imagine, looking after the whole Great Barrier Reef. Would that be fair to say?

Mr Cambourn: Generally yes, but there are still state jurisdictional issues, as I mentioned.

CHAIR: You work together.

Mr Cambourn: We do. In fact, we are in a partnership that will have served 43 years in July this year. That was originally struck as the Emerald agreement back in 1979, I think it was. That partnership is quite strong. As I say, it is 43 years in the making. I have been associated with it for about 18 years now. The relationship between our federal counterparts and the states is excellent and probably one of the best models. When I leave the meeting I can go and make inquiries about that particular matter. I know that my state colleagues would have had some input to that and/or would have seen those applications go through as well.

CHAIR: You can take that on notice then.

Mr MARTIN: I have a question in relation to land banking. A number of the submissions mention land banking. Is the department aware of any instances of land banking? How do you go about responding to claims that a leaseholder might be doing so?

Mr Hinrichsen: There is a condition of all leases, particularly tourism leases, that they are actively utilised for the purpose. Obviously that is always then subject to the financial and other factors that are affecting the use of that particular facility. Our department works very closely with the lessees, particularly those that are undergoing genuine hardship or finding it challenging to comply with particular conditions at a point in time. There is no better example than recent times, and my colleague from DTIS might expand on some of the economic challenges that have faced this sector in recent times.

Ultimately, there is a requirement to be utilising, albeit that can be adjusted for shorter term circumstances. It comes to a point where lessees may be required to divest their interests and find a suitable party to take over the lease. In some cases it may be that it is surrendered, or there are other instances where the state has purchased some of those tenures. There are some good recent examples where the land has been reincorporated into the national park estate.

CHAIR: I have a question about the viability of resorts due to the cyclones and natural disasters that happen. Do you have any comments on that? When we look at it and say, 'This has happened. It is tragic,' do we then set a new standard that it has to be built to because of that? Is there any planning for contingencies? These resorts are pretty much out in the open when the cyclones come down the coast. I imagine it is a pretty common thing with any coastal towns such as Cairns, Townsville and places that are constantly hit.

Mr McAlister: You would need to engage with the owners of the resorts in terms of their own contingency planning for cyclones and other major natural disasters. You are right: natural disasters are a key issue in terms of the viability of island resorts that have seen a number of them close and then rebuild and reopen over the years.

The construction and operating costs of island resorts are significantly higher—some say three times higher—than tourism resorts on the mainland. That goes to operating expenses. Workforce expenses are higher. Utilities are higher. Then there is waste treatment and removal and insurance particularly that I am sure you will hear a lot about.

Outside the natural disaster challenge for island resorts, seasonal visitation is another significant factor compared to other offerings on the mainland. Then increasingly in recent decades we have seen very intense competition for our island resorts from overseas resorts in the South Pacific and South-East Asia.

CHAIR: We may not have the expertise here today, but I was going more towards building codes. Because of the nature of the weather, is there a higher cyclone rating—say, X rather than Y—because of where you are? If that costs more, that makes them less viable. You have pretty well answered my question.

Mr MILLAR: The committee received a submission—submission 29—in relation to Double Island near Cairns. The submitter states—

The Island is clearly not being operated to the terms of the lease and the breaches are serious and are against the public interest.

The submitter provided copies of the correspondence to the department from May 2020. Is the department aware of any issues in relation to Double Island and is the department able to provide an update in relation to the issues identified by the stakeholder?

Mr Hinrichsen: Consulting notes that my colleague left me—maybe without getting into the detail of the compliance activities the department is currently undertaking—yes, we are aware. We are certainly undertaking some action in relation to that particular lease.

Mr MARTIN: Lyall, you mentioned when a leaseholder might surrender their lease or the lease might be acquired. Could you outline what costs to the state are involved when that happens? What is the bill that the state has to pick up? I assume there are clean-up costs and things like that.

Mr Hinrichsen: That is a really good question. With any lease for whatever purpose—it is particularly relevant to some of the tourism leases that have fallen into a pretty ordinary state—if a lessee is to surrender then there is an obligation to ensure that if anything is left behind it is in a fit and proper state. In some cases that might involve demolition and remediation of the site through to some repairs to leave the building in an operable state that could the potentially be passed on to a future incoming tenure holder.

In that case the provisions of the Land Act currently require that the state, if it does reassign that tenure to an incoming lessee, compensate the previous lessee for the infrastructure that is left behind. Otherwise, if we are talking about a rundown site—you could probably think of some examples of that—there is a requirement to remediate the site as a precondition of the government accepting a surrender of that tenure.

There can be issues where a property is disclaimed under federal corporations law. If you like, where there is a solvency issue the Corporations Act allows potentially the liquidator to disclaim assets, in which case there is no recourse of the state to deal with those liability issues. As a consequence, our preference is that, rather than waiting until a site gets into a really bad state, there is ongoing maintenance of the infrastructure. Indeed, it is an obligation of all leaseholders to ensure that their infrastructure at any given time is in an appropriate state for the purpose.

CHAIR: There are no further questions. You have taken a few questions on notice. If we could get responses back by Tuesday, 28 June, that would be appreciated. There was one about the conflict between the jetties where we require one and the lease requires two.

Mr Cambourn: Sorry, Chair, that was at Keswick Island as well?

CHAIR: Keswick Island—Oasis, yes. Thank you all for your participation in today's hearing. You will be provided with a copy of the transcript of proceedings when it is available and a copy will be published on the committee's webpage. We intend to go and have a look and hear from a lot more submitters. We will probably have a whole lot of questions at the end. If the department could come back and see us again, that would really be appreciated.

Mr Hinrichsen: Absolutely.

Proceedings suspended from 10.28 am to 10.40 am.

MAXWELL, Mr Ray, Private capacity

CHAIR: Welcome. Thank you for providing a submission to this inquiry and for your attendance here today. If you would like to make a short opening statement before we go to questions, that would be appreciated.

Mr Maxwell: I have prepared a written copy and I seek leave to table that. It has attachments with some details in it which are there for the record, if that is of interest to the committee.

CHAIR: Is that the one we have already have from you?

Mr Maxwell: No.

CHAIR: We will have a look.

Mr Maxwell: First of all, I thank you for the invitation—it was a terrific surprise to me and much appreciated. With just three minutes available I will address only my direct interest, which is not an offshore island but the onshore state development Great Sandy Straits.

CHAIR: You have longer than three minutes if you want.

Mr Maxwell: I have cut it down to three minutes; I started off with an hour!

CHAIR: We do not have that long! If you need to flesh things out, please feel free. It is your time.

Mr Maxwell: I think I have this pretty right. It is an onshore development, the Great Sandy Straits Marina Resort in Hervey Bay, known as Sandy Straits for short. It is on state leasehold land. The property has similar legacy issues to the failed resort developments. The principal difference as I see it is that the Sandy Straits is yet to be abandoned, but inevitably it will be given the land tenure. This was a land tenure that was restructured three times over its 10-year development period—from a 30-year harbour lease to a 75-year harbour lease and then, halfway through the development, to a perpetual lease under the Land Act with nearly half the subleases sold. The perpetual lease really only added to the many issues that already existed at the property and, despite these three reconstructions, the property remains an administration nightmare with significant design and construction and legal failures. With the notes I have tabled there are five attachments, which list and comment on some of the more egregious issues affecting Sandy Straits.

The failure of governance surrounding these many issues is astounding. For well over 15 years we have sought an equitable structure for all stakeholders to have the land converted to freehold and the residential property strata titled. After all our time lost and efforts over the years, in March 2020 we reached an informal agreement with the head lessee that leads to a resolution that we consider is in the interest of all stakeholders, these being the state, the head lessee and the 300-odd sublessees. However, the head lessee has left the resolution to us—because there is a long history to that—and our problem is that we are led by a few lay volunteers without any authority or resources.

The underlying problem is that we know the department takes the view that all issues behind the headlease have been contracted away and so are not their problem, nor that of government. The investment interest, which is something like, say, \$120 million of the 300-odd sublessee entities, has been abandoned to its fate. This will mean the ultimate abandonment of the subleases. I ask: is this a deliberate state policy intention? What is actually required is political direction from government to require the department to bring all parties together to set up a freehold structure in terms of our 2020 agreement with the head lessee. The basic matters of that are one of the attachments, attachment 4.

Estimates we have done along the way provide for management of a conversion process, so the project management costs of the department can be borne by the sublessees as part of the freeholding costs. My hope in making this submission is that the committee will understand the issues involved and arrange for appropriate commitment by the department. This is the only hope for the long-term future of Sandy Straits. So I ask does the committee see the failed onshore development resorts as part of its considerations? Does it see the need to resolve, in particular, the situation of Sandy Straits? Does the committee have the facility to cause the department to be directed to undertake the actions proposed in my submission and does the committee expect to do so?

CHAIR: We thank you for your submission. This carries just as much weight as your verbal submission so we appreciate you putting all your thoughts there. We will hear from all submitters on this inquiry and your evidence carries equal weight with everything else. We will write a report making recommendations to the ministers and the government departments involved. That is the process. You have come to the right place with your concerns because someone is listening. Our intention is to write a report that highlights all the issues.

We are meant to be asking questions, but I say that for your comfort and to show that you have put a reasonable amount of time into this. This is not just for yourself but for a lot of people. That is why this inquiry is going—so we can find out. None of us wants to lose any of our islands or have them abandoned and just sitting there. They should be utilised. As you know, we had the tourist department in here before and they are very interested. Going to questions, I will head to my left and the member for Gregory.

Mr MILLAR: Thanks, Ray, for coming in and certainly for that opening statement. The first section of your submission details your proposal for the private lease ownership of island resorts to be abandoned and for the state to undertake direct development and redevelopment of the island infrastructure. Would you like to elaborate on that suggestion?

Mr Maxwell: This is only the observation of a layperson from observing things. I feel that the risks attached to these developments very often are much greater than what the proponents who take them on, the entrepreneurial types and so on, had thought. As those risks become realised they are numerous, and I think there was mention of that before. As is well known in the industry, the difficulty of running those islands is horrendous. Eventually, those risks are realised and people make their decisions to abandon their interest. Laid on top of that can be the cyclone risk.

I think one of the things—my background is civil engineering; you can see this in our property—is that, when projects are handed out to these people to develop, they are driven by this need to ensure profitability and they take risks and lower standards of construction and design and function, and they themselves lead to ongoing and further problems into the future. If you take our place, which is I think a classic example, the seawall that surrounds the property has been designed and rebuilt twice, the second time by the developer, but they ignored the presence of the adjacent buildings. The boardwalk structures were built and designed to such a low standard that they only lasted 15 years. This is public infrastructure that the investors have paid for in funding the development but, ultimately, it is the asset of the state.

This is not applicable to all situations, but I would think there are a number of situations where these islands, that are international gems, basically, should be treated as such and developed to a high standard where the state actually carries the risks by undertaking the development itself and then contracting out its ownership operations. That can be done in all sorts of ways. I mentioned in my paper that I observed some of that in a little bit of travel I did around the US, where the national park facilities are state owned. I do not know the details but I imagine that a lot of the facilities are contracted out, like the operation of the accommodation facilities and so on.

CHAIR: You mentioned in your opening statement how it was originally a 75-year lease and then became perpetual. Was there any reason for that? I did not pick up on that. I am not asking for your opinion, but do you know?

Mr Maxwell: The reason was that, right from prior to commitment to the project, I think the developer, from the point of view of the development, wanted to see freehold infrastructure because that is marketable real estate. In fact, the project was awarded on the basis of a 30-year harbour lease. I think the department's interest at that point was that it was a one-owner facility on a 30-year lease. That is not real estate in the normal sense. They issued an ultimatum to the minister that they would not commit to the project unless they got the maximum under the harbour lease at the time, which was a 75-year lease. The problem with that—and I am a classic example of it—is that when I came along and looked at buying there was a difficulty marketing or selling out the property with 75-year leases. I was a person who looked at it, as others did, and said, 'Well, a 75-year lease is not something that I would be interested in.' Ten years had already gone by. I look at it as a family thing so I am 30 years and the kids are 30 years. What happens at the end of that?

What I did not appreciate until we did FOI discovery is that there was actually a letter from the department to the developer saying they would not give a guarantee to renew the 75-year lease. In fact, the developer built two pages into the sublease that sets out that the prospect that it may be converted to freehold. The real estate agents typically said, 'Yes, it's going to be converted to freehold,' but the fine print does not say it is going to be; it says it may be. I think the developer was seeking to get the property converted to freehold and the department, for whatever reasons, decided on a perpetual lease instead.

I suspect one of the reasons was—and I can remember seeing the internal email in the FOI record—that the people who are running the harbour said, 'What's going to happen to our budget when we lose the land rent?' The problem there, I think, is that once it sells out they have to go and find some other way of upgrading their budget to run the harbour, without regard to the interests of the 300 sublessees who have invested in the property and their expectations, really. If you talk to some of the older people there, they all thought it was going to be converted to freehold.

The fundamental problem, as we discovered—and I did the work on it—was that our land rent kept going up and up. I sat down and did the numbers and found that, over the 15 years that the property had been occupied, the land rent had gone up at a compound interest rate of 25 per cent per annum. We drew all of this to the attention of the department but, as I said in my notes, the department has the headlease and hides behind that contract. It needed to be sorted out. The problem with a perpetual lease and the way it is structured under the Land Act is that the property is valued at freehold prices—waterfront quality property—and there is no way that anyone will be able to afford to pay the land rent in the residential units beyond about 30, 40 or 50 years. The escalating land value will simply outpace the value of living in the property.

Mr MILLAR: Ray, does the land rent amount that you pay go to the government or to the developer?

Mr Maxwell: It goes to the government. I should correct that in the sense that the land rent is paid by the head lessee and then those costs are recovered off each of the sublessees.

CHAIR: So you all pay to that head lessee, who then pays to government?

Mr Maxwell: He gets the bill and we get the bill distributed through our annual levies.

CHAIR: And that is the full amount?

Mr Maxwell: The full amount; that is right. Again, I point to the sorts of problems that occur in structuring these things. Because they are unique, there are so many mistakes made in the structuring. The way they have done it is: there are three precincts on the site and our responsibility for the land rent adds up to, depending which era you talk about, between 80 and 85 per cent. There is 15 per cent underfunded, which is a source of dispute on the property.

CHAIR: I am trying to get my head around it. You all pay to the head lessee, who then pays someone. There is a lot of money involved, which is meant to then come back and improve the quality of your seawall and everything else. Obviously it is becoming unfeasible to stay there with the way it is going up in price.

Mr Maxwell: It will eventually. It is tied to the freehold land value. If you take somewhere like the Gold Coast, the land down there 30 or 40 years ago was so much and you look at the escalated value, or the Sunshine Coast. I had a brief look at those numbers and they were well over 10 or 15 per annum compounded for 25 years. Hervey Bay has a future like that. We were experiencing that over the period 1993 to 2008 and then the global financial crisis came along and killed property values in those regional areas, particularly on the waterfront of Hervey Bay, so we have had a dip but that will occur. The long-term future is, no doubt, if the freehold land values keep growing—and I have done the work and one of those attachments shows—there is a point 50, 60 or 75 years ahead where, in today's dollars, the land rent will be \$100,000 per unit. By then no-one will be occupying the site.

CHAIR: We have a lot to go through here with your attachment as well.

Mr MILLAR: On pages 4 and 5 of your submission you propose that the government should step in and take over the Great Sandy Straits Marina Resort development and reconfigure the land tenure to freehold. How do you propose that that will happen?

Mr Maxwell: That is really one of the main questions. The mechanism I do not know, but I would imagine that the department would cause the head lessee and the sublessees to come together and produce what I would call a memorandum of understanding. We have actually reached that point almost with the head lessee. For it to go another step it needs the department to come in and join that MOU so there is a structure there for it to proceed. The way I see that proceeding, it has to have a project manager and I think that should be the department. From our point of view, we do not want to see the head lessee as the project manager because our experience over the past 20 years is that they proceed in their own interests and not in the interests of the sublessees. I can give chapter and verse examples of the problems that have been experienced over 20 years.

At least after all the pain that has gone on, and it is still going on, the head lessee recognises that there is a structure—and one of the attachments I have sets that out—for them to release the headlease. The mechanism we have in mind is that it is released to a company that represents all of the sublessees and that company then holds the headlease long enough for it to be converted to freehold.

CHAIR: You went through that in your opening statement as well. It is at the bottom of the page there, asking the department. As there are no further questions, I thank you very much for your time and particularly for the work you have put into this addition to your submission. No questions were

taken on notice. Thank you once again for your participation. You will be provided with a copy of the transcript of the proceedings when it is available and a copy will also be published on the committee's webpage.

Mr Maxwell: I would be more than prepared to provide any other information or support that is of interest to the committee at any time.

CHAIR: Thank you. I declare this public hearing closed.

The committee adjourned at 11.00 am.