

**Committee Secretary,  
Transport and Resources Committee**

Parliament House  
George Street  
Brisbane Qld 4000

Dear Sir/Madam,

22 March 2022

Re: **Submission**

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

I wish to set out comment on two aspects related to the above Inquiry:

1. A general proposal that may be appropriate to some or all of the failed island developments.
2. A request that the circumstances of at least one 'on-shore' resort development be considered by the committee as set out herein.

**1. Failed Island Developments Generally**

My suggestion is somewhat out of left field, but may be worthy of consideration.

I am sure the Committee appreciates these islands, owned by the people of Queensland, have (or should have) the potential to generate substantial business and work opportunities not only within the resorts, but more widely across adjacent regional areas and broadly serve the State's economy and beyond.

I suggest private lease ownership should be abandoned and the State undertake direct development and redevelopment of the island infrastructures utilizing appropriate management services and support services contracted to run, manage and service each resort. This might sound too adventurous for government, but private enterprise development has clearly led to repeated dismal failures.

I suggest there are at least a couple of basic problems:

- i) Corporate control (ownership) is based on forecast business models (probably competitively tendered, or, priced) with an initial estimated internal rate of investment return and a pay-back period, both of which involve substantial risks. Once the pay-pack period is reached and risks are realised or not, the probability of failure becomes increasingly a potential outcome. The 'glamour idea' of 'owning' an island resort perhaps leads to underestimation and taking excessive optimistic risks. Pricing the long-term risks into ongoing cost structures once 'pay-back' is reached could very well fade leading to failure as experience shows.
- ii) I am sure anyone involved in ownership and management of the Queensland-island resorts well understands the difficulties over time of maintaining and servicing an island resort facility. Costs of skilled staffing, staff turnover, costly support services, environmental demands, etc. and controlling and forecasting costs becomes impossible as the abandoned resorts demonstrate. Then layered on-top are the cyclone risks.

I suggest the State should look upon these resorts as 'core generators' of income and employment within the wider economy of their region and that the State should actually own and maintain the whole of the resort infrastructure. The State can develop the necessary skills and the resorts can be centres for skill development of people who can also move on to engage in other parts of the Queensland economy and wider afield. That is, a structure to include people training.

Much of the management, maintenance and servicing can be contracted out with the State holding ultimate authority and fundamentally carrying the ownership risk of each development. One option could include a separate contracted oversight/audit management group to minimise the risk of bureaucratic control failures.

While no doubt, extra and excessive costs and issues will arise in common with the experience of the past privatised system, the resources of the State will be able to maintain at least subsidised operations as needs arise over the long-term leading to the continuing support of the surrounding and wider services and business activities of the regions, Queensland and beyond. Such arrangements will also give the State direct control over environmental and industrial management.

I suspect there are various examples of State ownership of tourist facilities around the world that have only continued because of State ownership. For example, having visited some USA national parks, I noted accommodation facilities and infrastructure are Government owned and maintained. No doubt many aspects are contracted out, also no doubt, they have histories of financial issues and failures from time to time that have had to be overcome, but they survive as prime destinations under State sponsorship and represent support of local tourist economies and across the wider economy.

So, my suggestion is for the State to develop directly and own outright and operate the island resorts as centres for generating wider economic activities to the benefit of all concerned long-term. – that is, they be adopted as State-owned core generators.

If the committee is concerned about the issue of political and bureaucratic control as ‘owners’ (often attacked by private enterprise as “inefficient” - ‘government’ always being inefficient?) then maybe go half and half and let the privatised system revitalise some locations for comparison with public owned facilities at others and see what happens. The last several decades of privatisation at least has been an abject failure due to the risks involved, including the risks attached to entrepreneurial developers able to (or, have to) walk away when adversity arises.

## 2. Failed ‘On-Shore’ ‘Resort’ Development

I made a big mistake by ‘buying a unit’ in the so-called “Great Sandy Straits Marina Resort” (GSSMR). The fact is I own a 999-year residential sub-lease (one of 183 units) within the “Residential Precinct” component of the GSSMR development, when in fact, I own nothing but a poorly contracted right-to-occupy. The GSSMR residential sub-leases (on State land) can be demonstrably shown to be a fraud played out on the general public and the actual real estate industry by the State and the developer. I have in the past described the defined “Residential Precinct” as a “State Sponsored Property Scam”.

In fact, I view the GSSMR development as a pinnacle of neo-liberal economic ideology and intent in that the proletariat are fooled by the system of agents, lawyers, developers and bureaucracies into putting up the capital (off-plan sales) for units (sub-leases) to fund the entire development with the sub-lessees then contracted to rent back the same property without any authority over their ‘investment’ under an egregious and dysfunctional lease and sub-lease structure, so poorly drafted that shattered departing foreign ‘owners’ have stated to me, “one might expect this in a third world country, but not in Australia”!

In the past it has been put to us by a past Minister (briefed by DNRM&E) “didn’t we know what we what we buying”. As if the whole mess was our fault when in fact, the reality is the bureaucracy didn’t know what it was doing by facilitating the GSSMR development failure and along the way protecting the interests of the developer without regard to the public interest. The only difference between the derelict island resorts and GSSMR, is GSSMR is still standing for now but remains exposed to abandonment and I wonder if this intentional State strategy?

I have signed-off on numerous submissions to DNRM&E, Ministers and others on this development and won’t bore the reader with details here. Please feel free to make contact if there is an interest to understand the issues as they may relate to the committee’s work.

It may be useful for the committee to get across the details of the land tenure and the significant development issues of this property – which are many; some complex, some

aspects unbelievable. Getting this understanding from our degraded 'owner's committee' might assist avoiding in the future the fundamental failures we now suffer.

However, I note the following five (5) matters:

### **1. Land Tenure:**

The State needs to determine if the land tenure for these developments is best structured as freehold or leasehold. I can appreciate the islands should remain in possession of the State. However, at least onshore developments such as GSSMR should have been determined to be freehold from the beginning given the buyers of a sub-lease were in effect funding the entire development – see the policy adopted for the Mackay harbour residential developments where upon completion of buildings each residential site was converted from leasehold land to freehold property under the BCCM Act.

If resort developments must be leasehold then the public involvement as sub-lessees should only be involved as periodic tenants. They could include holding long-term sub-leases of no more than say 20 years without a capital contribution. If a capital contribution is involved, with leases of say 10 or 20 years for example, the lease is then observably (and must be advised as) a depreciating asset, with no guarantee of renewal. In the case of residential occupancy, paying a capital price for such leases becomes a luxury occupancy as it has to be written-off over the lease term.

I note here a that statement of non-guarantee of renewal of the State 75-year lease was advised to the GSSMR developer when the residential sub-leases were first established, enclosing the 183 75-year residential sub-leases, but this was not advised to the buyers of the sub-lessees even though funding the development. The 75-year term is a mis-construed uncertain concept for residential real estate. Are they meant to be commercial use leases, a luxury residential purchase expiring at year 75, or residential real estate?

For businesses, writing-off the purchase value of a lease is basic business practice, but becomes an issue for residential situations. The adoption of 75-year term residential sub-leases at GSSMR, then later, the improper adoption and conversion to 999-year sub-leases gave the impression to the real estate market that these leases were meant to be or were "as good as freehold" (at least implied by the State and conveniently used verbally by selling agents), when in fact, the GSSMR sub-leases can be seen as a fraud – a fraud ignored by the developer and the conveyancing lawyers involved. The payment of the equivalent to freehold values for a residential sub-lease that has essentially no prospect of occupancy lasting more than about 50 (or less) years to maybe 75 years, given the State land rent methodology.

### **2. State Land Rent**

There are various issues concerning the application of land rent to the GSSMR property. Of particular concern is that the land transferred from administration under the then Harbours Act to the Land Act without reference to the sub-lessees. Unknown to sub-lessees, a concessional land rent of 2% pa of the land value was granted to the developer being 2% over the 10-year development period, which doubled to 4% upon completion of the development. This situation was unknown to the 300 sub-lessees who progressively took up their occupancy from about 1993 to 2003. Then later, with the land having been transferred to control of the Land Act, the land rent was increased to 6% pa of the "freehold value" under terms of the Land Act.

The increasing land rent meant that sub-lessees incurred a land rent growth from about 1993 to about 2007 of 26.1% pa compounded (pre GFC).

Whilst the above situation was significant and damaging, it identified that the sub-leases (75-year or 999-year) have no prospect of occupancy somewhere beyond 50 years +/- depending upon the growth rate of freehold coastal waterfront land in Hervey Bay.

Reference to the long-term growth of prime waterfront land along the Gold Coast and Sunshine Coast indicated long term growth rates well in excess of 10% and 15% pa. There is no prospect that the 3 level walk-up units of GSSMR will justify annual land rents that will reach \$100,000 pa (today's dollars) in a not-too-distant future – effects of sea level rise excluded.

A basic issue is that the State land rent should not be linked to freehold land value as determined under the Land Act. Given the land is occupied by about 300 sub-lessees, it could be seen that the land has no freehold value as it cannot be accessed (in theory) for 999 years. Land rent should be determined by some other more rational formula such as linked to CPI from original value.

### **3. Project Management Skills:**

The GSSMR development exposed a significant lack of Project Management Skills and a significant level of negligence and incompetence involved at Departmental levels. As one senior Departmental marine engineer told me when I sought to raise a significant basic design failure “look mate, we are down to two people here to cover the whole state, if the developer's engineer certifies the work, that's it, I have to accept it and I can do no more”. This comment pointed to the ‘gutting’ of the public service and their inability to undertake necessary oversight.

Another area of property management that should be considered by the Committee is that as resort “Owners”, long term management contracts should be usually avoided, such as the 75-year GSSMR management and caretaking contracts and 25-year “management-rights” under the BCCM Act and their various terms and conditions constructed to serve the contractors and not the community and ‘Owner’ being served.

### **4. Legal Failure:**

In my view one basic failure of the GSSMR development was the role of the legal profession permitting such a land concept to be sold into the Queensland real estate market in the first place as if it was ordinary real estate. Not one ‘unit sale’ should have got past the conveyancing professionals, or, the professional valuers involved. Our committee's FIO record includes a report by Westpac bank that advised the residential sub-leases had no security value, yet later they and others proceeded to issue mortgage funding.

One could say, it was more a failure of political oversight of how the responsible bureaucracies came to produce the outcome achieved given their 120 years of land management experience. GSSMR is certainly an indictment of the decision makers involved causing widespread damage to numerous families who bought-in with optimism and eventually sold out disillusioned.

In the case of the 183-unit GSSMR Residential Precinct, the poorly constructed sub-lease attempts to transfer the risks of incompetent development and negligent design to the sub-lessees. Halfway through the 10-year development program, a 999-year residential sub-lease was observably illegally introduced which has no prospects of lasting longer than the original 75-year lease, but gave the developer and selling agents the opportunity to sell out the property ‘as-good- as-freehold’ and thereby completing the funding the State's resort development program by on-going off-the-plan ‘unit’ sales.

The appalling loss of focus of bureaucratic oversight and the level of negligence and incompetence involved leading to substantial design and construction failures is breathtaking, such as building locations, floor levels and exposure to storm events and a boardwalk facility condemned after about 15 years use.

Given the above, it is my view the State should step-in and take over the GSSMR development and reconfigure the land tenure to freehold. There already exists a rational

basis for agreement with the State's Lessee and resolution of the major issues (reached March 2020), but the situation requires the involvement of the State to take control of the situation and have agreed arrangements implemented.

Both the State's lessees and the sub-lessees would be more than grateful given the informal agreement that exists, but for numerous reasons cannot progress to a resolution. The situation just needs direction from the State to take over execution under a senior authorised person – a State authorised and skilled project manager.

I take the opportunity here to request of your committee that action be taken for directions to be given from Government to DNRME such that the State's Lessee and the sub-lessee representative bodies are brought together under management of a competent person to resolve a freehold structure conversion, given that all entities involved already accept and agree this has to happen and a structure for this has been preliminarily established. It just needs direction from Government (the Minister – the Committee) to resolve and I would greatly appreciate it if the Committee would instigate this process.

### **5. Fraser Island Ferry Failure (Example - Island Access Transport Failure)**

About 2010 the water ferry service between the Hervey Bay Urangan Harbour to Fraser Island (from GSSMR to Kingfisher Resort) was abandoned and is a good example of the loss of focus of the public interest and regional business benefits when combined with the risk reward difficulties of private enterprise when dealing with Queensland's island resorts.

Even though the now existing access arrangements appear operational and workable, the outcome hides a permanent failure and damage for all affected. I have to call the solution adopted at the very least, unfortunate, emblematic of the failed strategic thinking of the failed coastal resorts generally – just that the failure is not visible in this case as the derelict buildings of the island resorts.

#### **Brief History & Outcome:**

For many years the 'owners' of the Kingfisher Resort operated a ferry service from Urangan Harbour directly across Sandy Straits to their resort. The service created a substantial amount of business and pedestrian activity around the commercial area at Urangan Harbour, including the commercial areas within the GSSMR development.

Because of the convenience of the route, many people, including many locals took advantage of the service and Kingfisher facilitated services and activities for 'day-visitors'. All worked well, residents who lived on the island could make convenient trips to Hervey Bay for needed services and many locals made day trips to Kingfisher. But all came to an end when Kingfisher could not justify replacing the ultimately condemned ferry.

Keeping the ferry registered became increasingly difficult, with rumours of annual certifications being 'stretched', to the point the ferry had to be replaced.

At this stage the ferry service should have been seen as a public service and, for example, the Council could have been funded by the State to contribute say the equivalent funding of a local passenger bus, or, the State could have recognised the ferry service as part of a 'core generator' serving Fraser Island such as proposed above and funded a new ferry service, in full. No doubt the local Council did not have the resources to act.

Instead, Kingfisher took the least financially painful solution and moved their transport service for guests and residents from Urangan to their barge facility at River Heads – about 15k out of town. Pedestrian travellers now have to find their way out to River Heads and take a barge to grind their way out to the Kingfisher resort. The attraction of harbour departure, a ferry trip and public convenience is gone.

This option has led to numerous other compromises at River Heads dealing with parking, access and the miserable location for the general public to tranship by barge to Fraser Island



– not much of a presentation for visiting a world heritage destination by people from all over Australia and the world. Meanwhile, the Urangan harbour area has since largely struggled with empty shops and a loss of vitality which was, until removal of the ferry service, on a growth path.

Public money has now been spent on upgrading the supporting infrastructure of River heads beholden to the Kingfisher compromised outcome. Unfortunately, private enterprise has done what it had to do and do the least for the least cost, capital has been invested and it's unlikely to reverse the effects on the wider community which are immaterial to corporate ownership.

The Urangan ferry is just an example of an opportunity lost due to the absence of government control over planning – more, the absence of government governance.

### Summary

I consider central to the issues of the failed State island resort developments and onshore developments like GSSMR is a loss of focus over what is the appropriate land tenure and development ownership of risks attached and how to ensure appropriate design and construction standards for long term viability. The experience of the GSSMR development is relevant to both. Being onshore and given its legacy status, GSSMR should be restructured as freehold under the BCCM Act and I seek the Committee's direction for this outcome.

As 'core generators' of wider economic activities the island resort developments should be under State ownership with attendant long term ownership risks carried by the State.

As noted above there are numerous lived experiences of GSSMR sub-lessees which may be of use to the Committee's considerations which the Committee may wish to explore. I, and I am sure others are available to contribute where appropriate.

Ray Maxwell

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22 March 2022



Ariel view Great Sandy Straits Marina Resort, Urangan Harbour, Hervey Bay.

Comprises:

- 183 Residential Precinct – 3 level walk-ups, bay and harbour waterfront (foreground).
- Mantra Accommodation – 2 x 7 level buildings, 101 units, 7 shops (to rear of view).
- Terminal Precinct – 10 shops – building between above properties – also serves marina.
- Adjacent Marina – 60 berths.