

## LAND AND OTHER LEGISLATION AMENDMENT BILL (NO. 2) 2023

**Submission No:** 2  
**Submitted by:** Local Government Association of Queensland  
**Publication:**  
**Attachments:** No attachment  
**Submitter Comments:**



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16 January 2024

Committee Secretary  
Transport and Resources Committee  
Parliament House  
George Street  
Brisbane Qld 4000

Email: [trc@parliament.qld.gov.au](mailto:trc@parliament.qld.gov.au)

Dear Committee Secretary,

**RE: LGAQ Submission – Land and Other Legislation Amendment Bill (No. 2) 2023**

The LGAQ welcomes the opportunity to provide feedback to Transport and Resources Committee (the Committee) on the *Land and Other Legislation Amendment Bil (No. 2) 2023* (the Bill), that was introduced by the Hon. Scott Stewart, Minister for Resources on 15 November 2023.

The stated policy objectives of the Bill are “*to improve regulatory efficiency and ensure the administration of state land and the place naming framework remain contemporary and responsive to community needs.*”

The changes proposed by the Bill are of considerable interest to local government, recognising the key role Queensland councils play as trustees of state land, the involvement and interest of local government in place naming and identification through signage etc. and the significant financial impacts that can be placed on councils in instances of significant non-payment of local government rates and charges by resource authority holders.

Overall, there are some very positive changes contained within in the Bill, that align with the calls of Queensland councils over many years, including most recently through resolutions passed at the 2023 LGAQ Annual Conference. In addition, some opportunities for further reforms have been identified in feedback from Queensland councils that should be considered as part of the current consultation process and future reforms focussed on ensuring continuous regulatory improvement.

The LGAQ looks forward to continuing to work with the Department of Resources and Queensland councils to address these matters, inform the development of subordinate legislation, policies and guidance material to support effective implementation of the proposed amendments as well as providing for opportunities to identify and progress additional regulatory improvements.

In total, the LGAQ has made 13 recommendations in relation to the Bill.

Please do not hesitate to contact either Crystal Baker, Manager – Strategic Policy via: [REDACTED] or Kim Driver, Manager – Governance and Advisory Services via: [REDACTED] should you wish to discuss any aspect of this submission.

Yours sincerely



Alison Smith  
Chief Executive Officer



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# Land and Other Legislation Amendment Bill (No.2) 2023

Submission to the Transport and Resources  
Committee

January 2024

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## About the Local Government Association of Queensland (LGAQ)

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association established solely to serve councils and their needs. The LGAQ has been advising, supporting, and representing local councils since 1896, enabling them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and providing them with the means to achieve community, professional and political excellence.

## Partners-in-Government Agreement

The LGAQ on behalf of all 77 Queensland local governments is a signatory to a three-year Partners-in-Government Agreement with the State of Queensland.

The Agreement details the key principles underlying the relationship between the state and local governments and establishes the foundation for effective negotiation and engagement between both levels of government. In addition, the Agreement acknowledges that local government is the closest level of government to the community, affecting the lives of everyday Queenslanders and acknowledging local government as a genuine partner in the Australian government system.

The intent of the Agreement was to continue the tradition of working in genuine partnership to improve the quality of life for all Queenslanders to enjoy. By identifying the roles and responsibilities of each party, it provides a solid foundation for effective negotiation and engagement between both levels of government.

The LGAQ is committed to working with the State Government and will continue to be a passionate advocate for councils, to serve our joint jurisdiction for the people of Queensland.

## Rural and Remote Councils Compact

The Rural and Remote Councils Compact<sup>1</sup> signed on 25 June 2021, complements the existing Partnership in Partners-in-Government agreement in place between the LGAQ and the Queensland Government to provide a platform to ensure issues of priority for these communities are properly considered by the Government when developing policies, programs, and legislation.

The Rural and Remote Councils Compact, pledges to amplify the voice of and improve outcomes for the state's 45 rural and remote councils and their local communities by enhancing engagement between both levels of government.

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<sup>1</sup> Rural and Remote Councils Compact – available online [here](#).

# Land and Other Legislation Amendment Bill (No. 2) 2023

## 1.0 Executive Summary

The LGAQ welcomes the opportunity to provide feedback to the Transport and Resources Committee (the Committee) on the *Land and Other Legislation Amendment Bill (No. 2) 2023* (the Bill), that was introduced by the Hon. Scott Stewart, Minister for Resources on 15 November 2023.

Specifically, the Bill proposes amendments to:

- the *Land Act 1994* (Land Act) and *Land Regulation 2020* to reduce administrative complexity and remove regulatory duplication. The Bill will reduce regulatory requirements to enable timely allocation of tenure. Additionally, the Bill amends the Land Act to proactively support the delivery of strategic government projects and ensure the appropriate tenure for land; and clarify policy intent and support contemporary decision making.
- the *Land Title Act 1994* (Land Title Act) to reduce administrative burden and risk to the State by reducing the creation of unapproved unallocated State land.
- the *Place Names Act 1994* (Place Names Act) to provide clarification and broaden place naming considerations to reflect important contemporary issues. The Bill will reduce the regulatory burden associated with the naming of a place; and will make the decision-making process more inclusive, flexible, objective and transparent.
- the *Recreation Areas Management Act 2006* (RAM Act) to enable the renaming by regulation of a recreation area declared under the RAM Act in response to circumstances such as an official change in place name. For example, the recent change in the official name of Fraser Island to K'gari.
- the *Petroleum Act 1923*, *Petroleum and Gas (Production and Safety) Act 2004*, *Geothermal Energy Act 2010*, and the *Greenhouse Gas Storage Act 2009* (referred to as the Resource Acts) to mandate the payment of applicable local government rates and charges as a condition of a resource authority. The amendments will also allow the Department of Resources to take prescribed non-compliance action against a resource authority holder in the event their rates and charges are unpaid, including using their security to repay unpaid rates and charges, and allowing the Minister to take non-payment of rates and charges into consideration when processing a renewal application.
- other legislation to make minor administrative and consequential changes.

The changes proposed by the Bill are of considerable interest to local government, recognising the key role Queensland councils play as trustees of State land, the involvement and interest of local government in place naming and identification through signage etc. and the significant financial impacts that can be placed on councils in instances of significant non-payment of local government rates and charges by resource authority holders.

Overall, the Bill represents an important step forward in modernising the State Government's legislative framework across a number of critical priorities for Queensland councils.

Local government is continuously looking for improvements in efficiency, cost and time savings and reduced administrative complexity in its own operations and welcomes efforts by the State Government that will assist councils deliver necessary services and infrastructure to their communities.

Many of the proposed amendments contained in the Bill positively advance the calls of Queensland councils expressed through previous LGAQ Annual Conference resolutions, including streamlining of existing processes for local government trustees under the Land Act (including for the transfer of State Government reserves), as well as mandating the payment of applicable local government rates and charges as a condition of an existing and future resource authority.

In addition, some opportunities for further reforms have also been identified in feedback from Queensland councils that should be considered as part of the current consultation process and future reforms focussed on ensuring continuous regulatory improvement.

The LGAQ appreciates the time invested by the Department of Resources to date in engaging with the LGAQ and Queensland councils on the proposed reforms, including through the Place Names Working Group established in late 2023 and partnering with the LGAQ to deliver a webinar for councils in January 2024 on the proposed Land Act and Land Title Act amendments.

Considering the breadth, diversity and complexity of the changes proposed, the LGAQ sees further, ongoing and detailed consultation and engagement with the LGAQ and Queensland councils as essential. This should include establishment of a Local Government Advisory Panel or similar as recommended in this submission, to inform the development of subordinate legislation, policies and guidance material, support effective implementation of the proposed amendments as well as providing for opportunities to identify and progress additional regulatory improvements.

## 1.1 Recommendations

In total, the LGAQ has made 13 recommendations in relation to the *Land and Other Legislation Amendment Bill (No.2) 2023*, summarised below:

- **Recommendation 1:** The LGAQ recommends that proposed amendments contained in the Bill, to streamline existing processes for local government trustees under the *Land Act 1994* (including for the transfer of State Government reserves), are progressed.
- **Recommendation 2:** The LGAQ recommends the State Government, through the Department of Resources, establish a Local Government Advisory Panel (consisting of the LGAQ and experienced council representatives, including land management specialist officers) to ensure detailed engagement and consultation with councils, in the development and implementation of subordinate legislation, funding, policies and instruments to support the proposed *Land Act* amendments.
- **Recommendation 3:** The LGAQ recommends the State Government, through the Department of Resources, develops and delivers an education training package tailored for councils to effectively communicate and raise awareness of the impacts and application of the *Land Act* amendments.
- **Recommendation 4:** The LGAQ recommends the State Government commit to ongoing and continual improvement of the state land legislative framework, in consultation with

the LGAQ and Queensland councils through a Local Government Advisory Panel or similar, that enables the identification of further opportunities for reform.

- **Recommendation 5:** The LGAQ recommends that the State Government, through the Department of Resources:
  - engage with the LGAQ and Queensland councils on the Department's current prioritisation system for *Land Act* dealings, with a view to identifying improvements that can be made.
  - be adequately resourced to support fast-tracking the assessment of applications submitted by local government under the *Land Act*, including those under section 26A (Disposal of redundant reservation) or section 166 (Application to convert lease) of the Land Act involving the provision of community infrastructure.
- **Recommendation 6:** The LGAQ recommends the State Government support greater flexibility in the current Bill, for example the provision of performance outcomes, to allow for the conversion of stock route reserves that no longer support a high demand for travelling stock, to other uses that provide for a wider community purpose, where requested by a council.
- **Recommendation 7:** The LGAQ recommends the State Government commence a process to work with the LGAQ and First Nations councils to review the impacts of DOGIT arrangements and consider reforms to DOGIT arrangements as well as other land tenure matters in remote and discrete First Nations communities.
- **Recommendation 8:** The LGAQ recommends the State Government, through the Department of Resources, continue to convene the Place Names Working Group, with representation from the LGAQ and Queensland councils, to progress and introduce a robust and clear policy and guidance framework to support the proposed amendments to the *Place Names Act*.
- **Recommendation 9:** The LGAQ recommends the State Government update its *Place Names Policy* (last updated in July 2021) to ensure it:
  - remains contemporary and clarifies the State's position on the renaming of official place names to Aboriginal or Torres Strait Islander Place Names,
  - includes a requirement for consultation with affected local governments on any proposed place name changes, including those where the chief executive has dispensed with publication of a place name proposal, and
  - provides procedural direction or guidance regarding the implementation of changed place names.
- **Recommendation 10:** The LGAQ recommends the State Government provides funding to assist local governments to implement place name changes as and when these are made.
- **Recommendation 11:** The LGAQ recommends the State Government provide funding to councils to offset any cost impacts on local government resulting from renaming of a recreation area, consistent with recommendation 10 above.
- **Recommendation 12:** The LGAQ recommends the State Government proceeds with amendments to the Resource Acts as outlined in the Bill, that will make the payment of applicable local government rates and charges a mandatory condition of an existing and future resource authority.



- **Recommendation 13:** The LGAQ recommends the State Government directly engages in discussions with relevant mining companies on behalf of affected councils to resolve local authority rate arrears promptly and ensure fair financial responsibility, at no cost to councils, consistent with the calls of local government at the 2023 LGAQ Annual Conference.

Please do not hesitate to contact Crystal Baker, Manager – Strategic Policy via: [REDACTED] or Kim Driver, Manager – Governance and Advisory Services via: [REDACTED] should you wish to discuss any aspect of this submission.

## 2.0 Introduction

Recognising the importance of matters addressed in the Bill to local government, the LGAQ is pleased to provide this submission to assist the Committee's examination of the *Land and Other Legislation Amendment Bill (No. 2) 2023*.

Overall, there are some very positive changes contained within in the Bill, that align with the calls of Queensland councils over many years, including most recently through resolutions passed at the 2023 LGAQ Annual Conference, as outlined in section 2.2 below.

In preparing this submission, the LGAQ has considered each of the proposed amendments contained in the Bill with regard to the LGAQ Policy Statement, previous LGAQ Annual Conference resolutions and the feedback of Queensland councils through current and previous consultation processes.

Detailed comments regarding the proposed amendments and recommendations regarding additional specific consideration and further reform opportunities are provided in section 3.0 of this submission.

### 2.1 LGAQ Policy Statement

The LGAQ Policy Statement<sup>2</sup> is a definitive statement of the collective voice of local government in Queensland. The key policy positions of local government that are relevant in the context of the *Land and Other Legislation Amendment Bill (No.2) 2023*, are as follows:

#### 3.1 Taxation and Revenue

##### 3.1.1 Valuation and Rating

- *3.1.1.1 There should be no interference with the autonomy of local governments in the setting of rates and charges.*

#### 6.3 Land Tenure

##### 6.3.1 Native Title:

- *6.3.1.1 Local government recognises, acknowledges and supports the principles, processes and procedures contained within Federal and State Native Title legislation.*
- *6.3.1.2 Local government supports collaboration between the State Government, National Native Title Tribunal, Native Title representative bodies, councils and Traditional Owners to achieve consent for native title determinations. If consensus cannot be realised, local government acknowledges the need to resolve native title determinations through court processes.*
- *6.3.1.3 Local government acknowledges that there are relative levels of impact on native title on rural and urban communities. Local government supports the State Government identifying and developing administrative and legislative solutions to ensure the specific needs of rural and urban communities are met.*

### 2.2 Relevant LGAQ Annual Conference Resolutions

The LGAQ is committed to member-driven advocacy and working with members to build stronger local government and more resilient local communities. At the 2023 LGAQ Annual Conference, Queensland councils passed four resolutions directly relevant to the scope of the reforms proposed under the Bill. These resolutions are included over the page.

<sup>2</sup> LGAQ Policy Statement (2023) – available online [here](#).

### **Resolution 36 (2023) - Streamlining existing processes for local government trustees under the Land Act 1994 including for the transfer of State Government reserves**

*The LGAQ calls on the State Government to review and amend the Land Act 1994 and other related legislation, in consultation with councils, to provide greater flexibility for local governments trustees and streamline existing processes, including the transfer process for State Government reserves to local authorities where requested, to allow for a more cost-effective transition to freehold and/or broader use.*

### **Resolution 58 (2023) - Changing official place names to Aboriginal or Torres Strait Islander Place names**

*The LGAQ calls on the State Government to:*

- *clarify its policy position regarding the renaming of official or approved place names to Aboriginal or Torres Strait Islander place names;*
- *provide guidance as to the effecting place name changes; and*
- *provide funding to local governments to effect and market place name changes.*

### **Resolution 69 (2023) – Introduction of urgency criteria for the State to assess freeholding applications**

*The LGAQ calls on the State Government to introduce criteria for urgency within the Land Act 1994 (Qld) specific to local government which applies in the assessment of applications submitted by local government for the provision of community infrastructure to acquire a redundant reservation under section 26A of the Land Act 1994 (Qld) or to convert a lease to freehold under section 166 of the Land Act 1994 (Qld).*

### **Resolution 116 (2023) – Payment of rates by mining companies**

*The LGAQ calls on the State Government to take immediate action to address the issue of unpaid rates on mining leases within local government areas by:*

- *Amending legislation to establish the mandatory payment of rates to local authorities as an obligation for all mining lease holders.*
- *Directly engaging in discussions with relevant mining companies on behalf of affected councils to resolve local authority rate arrears promptly and ensure fair financial responsibility, at no cost to councils.*

## 3.0 Feedback on the Land and Other Legislation Amendment Bill (No. 2) 2023

The LGAQ notes from the Explanatory Notes to the Bill that the stated policy objectives of the Bill are “to improve regulatory efficiency and ensure the administration of state land and the place naming framework remain contemporary and responsive to community needs.” The Explanatory Notes further provide that the Bill provides a range of streamlining amendments that clarify policy intent and reduce administrative complexity.

Overall, the proposed changes in the Bill appear to represent positive improvements to the legislative framework governing State land in Queensland. Comments and recommendations are provided below in relation to each of the Acts proposed to be amended by the Bill.

### 3.1 Proposed amendments to the *Land Act 1994*

As stated in the Explanatory Notes to the Bill, the *Land Act 1994* is the primary legislation for allocating and creating interests in State land (non-freehold land), and for the management of that land, which remains under the control of the State Government and can be made available through various forms of leasehold tenure or for community uses as roads or trust land.

The proposed amendments to the *Land Act* as contained in the Bill are of considerable interest to local government, recognising that Queensland councils are a key stakeholder in the administration of state land, having statutory, trusteeship, financial, management and liability responsibilities for a significant proportion of state land, through operational reserves and deeds of grant in trust (DOGITs) under the *Land Act 1994*.

The LGAQ is aware of numerous instances where councils have had long delays and greater costs in delivering essential infrastructure, or responding to community needs through unnecessary regulatory restrictions on sensible and practical land dealings.

In fact, at the 2023 LGAQ Annual Conference, the following two resolutions were passed by Queensland councils, seeking amendments to the *Land Act* to provide greater flexibility in current processes in order to support improved local community outcomes and allow applications to be fast-tracked where essential service delivery is contemplated. These include:

- **Resolution #36: Streamlining existing processes for local government trustees under the Land Act 1994 including for the transfer of State Government reserves.**

*The LGAQ calls on the State Government to review and amend the Land Act 1994 and other related legislation, in consultation with councils, to provide greater flexibility for local governments trustees and streamline existing processes, including the transfer process for State Government reserves to local authorities where requested, to allow for a more cost-effective transition to freehold and/or broader use.*

- **Resolution #69: Introduction of urgency criteria for the State to assess freeholding applications.**

*The LGAQ calls on the State Government to introduce criteria for urgency within the Land Act 1994 (Qld) specific to local government which applies in the assessment of applications submitted by local government for the provision of community infrastructure to acquire a redundant reservation under section 26A of the Land Act 1994 (Qld) or to convert a lease to freehold under section 166 of the Land Act 1994 (Qld).*

In considering the Bill, the LGAQ has identified the majority of the proposed amendments align with and support the calls of Queensland councils for red tape reduction including greater



flexibility and streamlining of existing processes for local government trustees under the *Land Act* and in relation to the transfer of reserves to local authorities, where requested and at a reasonable cost (as sought by resolution #36 outlined above).

Ultimately, this should result in improved timeliness, efficiency, and savings for both the State and local governments as well as giving councils, who wished to do so, access to available land parcels for wider community purposes.

In particular, the LGAQ supports the increased flexibility and efficiency that will come with proposed amendments to the *Land Act* that will:

- remove restrictions that currently prevent local government trustees of operational reserves from accessing a pathway to freehold conversion of the land.
- remove restrictions preventing the freeholding of only a part of an operational reserve.
- enable a pathway to freehold conversion for non-Indigenous deeds of grant in trust.
- extend mechanisms for trustees to approve additional uses of trust land to streamline administrative processes with a self-assessable framework being established to support effective decision-making.
- replace the existing list of specific community purposes under the *Land Act*, schedule 1 with six general categories of community purposes.
- remove the requirement for the chief executive to assess the most appropriate 'use of land' before allocating land under the *Land Act* (focus on land tenure only).
- enable the Minister to dedicate a reserve for a purpose other than a community purpose, having regard to the community need and public interest.
- amend the definition of 'public interest' to clarify that public interest matters also include economic considerations.
- enable the Minister to proactively offer to recommend to the Governor in Council that a trustee of an operational reserve be offered a deed of grant in trust.

**Recommendation 1:** The LGAQ recommends that proposed amendments contained in the Bill, to streamline existing processes for local government trustees under the *Land Act 1994* (including for the transfer of State Government reserves), are progressed.

Due to the breadth and complexity of the *Land Act* changes proposed in the Bill, and to enable further opportunities for reform and improvement of the legislative framework to be identified and progressed, the LGAQ also makes the following recommendations:

**Recommendation 2:** The LGAQ recommends the State Government, through the Department of Resources, establish a Local Government Advisory Panel (consisting of the LGAQ and experienced council representatives, including land management specialist officers) to ensure detailed engagement and consultation with councils, in the development and implementation of subordinate legislation, funding, policies and instruments to support the proposed *Land Act* amendments.

**Recommendation 3:** The LGAQ recommends the State Government, through the Department of Resources develops and delivers an education training package tailored for councils to effectively communicate and raise awareness of the impacts and application of the *Land Act* amendments.

**Recommendation 4:** The LGAQ recommends the State Government commit to ongoing and continual improvement of the state land legislative framework, in consultation with the LGAQ and Queensland councils through a Local Government Advisory Panel or similar, that enables the identification of further opportunities for reform.

### 3.1.1 Additional considerations

Notwithstanding the overall benefits of the proposed *Land Act* changes outlined above, some concerns and gaps have also been identified that require further consideration. These include:

- the need to introduce 'urgency criteria' and process changes that would support fast-tracking the assessment of local government applications for the provision of community infrastructure, including under section 26A and 166 of the *Land Act* as sought by resolution #69 passed at the LGAQ 2023 Annual Conference.
- the proposed exception relating to reserves for travelling stock requirements, that will mean existing reserves that support the stock route network do not transition to wider purpose, despite changes to broaden schedule 1 of the *Land Act* and noting that some minor and unused stock routes are potentially no longer viable.
- the need for further engagement with the LGAQ and Queensland councils on opportunities to improve the legislative and policy framework relating to Aboriginal and Torres Strait Islander DOGIT land.

#### Urgency criteria for the State to assess freeholding applications

On occasion, local governments have a need to construct essential infrastructure on state land, subject to perpetual and term leases, as well as reserves under the *Land Act*. In these circumstances, the local government either needs to make an application for redundant reserve land to be converted to freehold (section 26A) or to convert the lease to freehold (section 166).

In feedback to the LGAQ, the timeframe for such applications to be processed can be on average two years, including six months for an officer to be allocated to commence the process, 12 months to make an offer and additional time to complete native title processes – this is problematic when it impacts upon essential service delivery such as water treatment plants and resource recovery facilities.

The LGAQ understands the *Land Act* does not prioritise dealings under the Act but highlights the need for process improvements to support the fast-tracking of applications under the *Land Act*, particularly when involving the construction of essential community infrastructure.

The establishment of a Local Government Advisory Panel as sought by recommendation 2 above would assist in progressing improvements. In addition, the LGAQ makes the following recommendation:

**Recommendation 5:** The LGAQ recommends that the State Government, through the Department of Resources:

- engage with the LGAQ and Queensland councils on the Department's current prioritisation system for *Land Act* dealings, with a view to identifying improvements that can be made.
- be adequately resourced to support fast-tracking the assessment of applications submitted by local government under the *Land Act*, including those under section 26A (Disposal of redundant reservation) or section 166 (Application to convert lease) of the *Land Act* involving the provision of community infrastructure.

#### Stock routes

Specifically in relation to stock routes, it is understood that despite the replacement and broadening of community purpose categories under schedule 1 of the *Land Act*, existing reserves that support the stock route network are not proposed to transition to a wider community purpose category.



The blanket exclusion proposed relating to reserves for travelling stock requirements, does not consider transitioning use and demand aspects of the stock route network in more densely populated areas that perhaps historically had greater demand for travelling stock. As such, this limits the ability for councils as trustees of state land to be flexible and more responsive to local community needs in these areas.

Whilst primary stock routes are typically well used by travelling stock, minor and unused routes are seldom used by travelling stock and provide greater opportunities for other community use functions. In feedback provided to the LGAQ in preparing this submission, Goondiwindi Regional Council provided the below case study illustrating the need for greater flexibility in the repurposing of existing reserves for travelling stock to a higher community benefit/purpose.

**Recommendation 6:** The LGAQ recommends the State Government support greater flexibility in the current Bill, for example the provision of performance outcomes, to allow for the conversion of stock route reserves that no longer support a high demand for travelling stock, to other uses that provide for a wider community purpose, where requested by a council.

### Case Study: Goondiwindi Regional Council – Stock routes

More than half of the 229 reserves in the Goondiwindi Regional Council area remain stock route related. Whilst according to the legislation, stock can apply to travel on any road, Goondiwindi Regional Council has many reserves for stock purposes that no longer sit on any classification of the stock route network. Often this is because the reserves sit adjacent to highways that have become so busy that they are unsafe to travel stock on.

Figure 1 below, illustrates three stock route reserves adjacent to the east of Goondiwindi (green) that are no longer used for that purpose as the stock route was diverted to bypass town with the new alignment displayed in green.



Figure 1: Existing stock route reserves and new stock route alignment (east of Goondiwindi)

A similar situation occurs to the west of Goondiwindi with a lot of stock route reserve no longer on the stock route alignment – see Figure 2 over page.





Figure 2: Existing stock route reserve and new stock route alignment (west of Goondiwindi)

This land adjacent to the township will have many other potential community uses that are complicated by the need to refer to the stock route unit who appear to have a position of no reduction in the network despite the impracticality of stock travel in some cases.

### Aboriginal and Torres Strait Islander DOGIT land

The LGAQ understands the scope of the Bill does not extend to amendments related to Aboriginal and Torres Strait Islander DOGIT land. However, a range of issues regarding land tenure arrangements in remote and discrete First Nations communities have previously been raised by member councils to the LGAQ, including through engagement with First Nations councils through the Indigenous Leaders Forum.

Many First Nations councils are also required to act as caretakers of DOGIT lands, requiring separate meetings and processes and dual roles for Councillors.

In April 2023, the LGAQ provided a supplementary submission<sup>3</sup> to the Joint Select Committee on Northern Australia's Inquiry into Workforce Development in Northern Australia, providing further detail about many of these land tenure issues related Aboriginal and Torres Strait Islander DOGIT land and the impact of DOGIT arrangements for local communities and local government processes.

The LGAQ would appreciate the opportunity to engage further with the State Government in relation to opportunities for regulatory and policy improvements to address the impacts of DOGIT arrangements for remote and discrete First Nations communities, and a review of processes and timeliness of actions by the State Government in expediting the process of transferring DOGIT land.

**Recommendation 7:** The LGAQ recommends the State Government commence a process to work with the LGAQ and First Nations councils to review the impacts of DOGIT arrangements and consider reforms to DOGIT arrangements as well as other land tenure matters in remote and discrete First Nations communities.

<sup>3</sup> LGAQ Supplementary Submission to the Joint Select Committee on Northern Australia, April 2023 – available online [here](#).



### 3.2 Proposed amendments to the *Land Title Act 1994*

The proposed amendments contained in the Bill relating to the *Land Title Act 1994* seek to:

- removing provisions that allows the creation of unallocated State land (USL) without consent.
- removing requirements for an approved form to provide consistency and clarity for common practice.

The LGAQ understands through consultation with the Department of Resources, that the proposed amendments will not make USL a local government responsibility. Local governments will continue to retain the autonomy, when assessing and deciding a development application, to determine whether any part of freehold land is required for the benefit of the community and how best to achieve that outcome (noting that may be by freehold in trust held by the local government).

As such, no significant issues have been identified in relation to the proposed Land Title Act amendments at this stage, but the LGAQ continues to seek the opportunity for councils to continue to engage with the State Government on state land and land tenure matters, through for example a Local Government Advisory as noted in Recommendations 2, 3 and 4 above.

### 3.3 Proposed amendments to the *Place Names Act 1994*

Local government is a significant stakeholder in place naming and identification. In addition, councils across the State have a long history of management of issues arising from changes in place names, and contributing to consultation around what is an appropriate name for a place.

The Explanatory Notes to the Bill outline the objectives of the proposed amendments to the Place Names Act as follows:

- refining the place naming issues to be considered when developing and deciding a place name proposal to suit current needs.
- providing clarity around what a place is; that changes to locality boundary are included in place naming; for entries in and amendments to the Gazetteer of place names; and the scope of the offence provision for using an unapproved name in trade and commerce.
- refining the issues to be considered when developing or deciding a place name proposal.
- enabling place names approved under previous Acts which no longer fall within the current definition of 'place' to be discontinued and removed from the Gazetteer for places.
- enabling the chief executive to develop and publish public consultation proposals and updating the chief executive's delegations.
- modernising the submission timeframes and methodology to increase efficiency, provide flexibility and ensure that the place naming process is inclusive.
- reducing the regulatory burden of undertaking inconsequential or duplicative consultation processes.
- enabling the prompt removal of place names that are offensive or harmful to a community or part of a community, supporting the proactive implementation of outcomes from other government initiatives and policies such as Path to Treaty.
- providing continuity and legal certainty that changing or discontinuing a place name does not affect any person's rights and obligations under other legislation or legal documents where a previous name is referenced.

- for a place name that is to be changed or discontinued, enabling communities and businesses to transition to a new place name by continuing the existing name as an approved name in addition to the new name over a period of up to five years, with the possibility of one extension of up to five years (e.g., if an abrupt name change would be difficult because of significant impacts on businesses or the community).
- enabling ministerial delegation under the Act to remove the reliance on the delegation provisions of the Land Act.

Overall, the proposed amendments contained in the Bill appears to provide greater clarity and responsiveness of the legal framework with regard to place naming and changing of official place names.

The LGAQ supports the broadened list of issues considered relevant to place naming decisions to include the socio-economic effects of giving a name to a place or changing or discontinuing an approved name of a place. The likely costs to the community, particularly local councils, resulting from a change to an approved name of a place should be a high order consideration given the flow on financial costs can be far reaching depending on the place in question and its usage by communities and visitors.

In relation to public consultation on a proposed name change, it is noted that a minimum consultation period of two months for a place naming proposal is currently required but will be reduced to a minimum consultation period of one month through amendments to section 9 of the *Place Names Act*. The Explanatory Notes to the Bill state this change will bring Queensland in line with other Australian jurisdictions and does not preclude a longer consultation period from being stated.

Clause 116 of the Bill replaces section 10 of the *Place Names Act*, to enable the chief executive to dispense with the publication of a place name proposal, making the place naming process more efficient by removing the need for inconsequential or duplicative consultation. While we understand the intent behind this proposed change, we would expect that local councils be consulted on all such proposals prior to the Minister's consideration.

In addition, the LGAQ understands there will be a 'transition period' of up to 5 years, with the possibility of one extension of up to 5 years, whereby the existing place name proposed to be changed or discontinued can continue to be used by communities and businesses, as an approved name in addition to the new name.

In relation to changing official place names to Aboriginal or Torres Strait Islander Place names, Queensland councils passed resolution #58 at the 2023 LGAQ Annual Conference calling for the State Government to:

- clarify its policy position regarding the renaming of official or approved place names to Aboriginal or Torres Strait Islander place names;
- provide guidance as to the effecting place name changes; and
- provide funding to local governments to effect and market place name changes.

As background to this resolution, the submitting council identified the Australian New Zealand Land Information Council (ANZLIC) on Surveying and Mapping (ICSM) have developed national policy principles for the use and recording of Aboriginal and Torres Strait Islander Place Names. The policy principles identify a number of objectives with the main objective being to ensure that Aboriginal and Torres Strait Islander place names are recognised by all Australia as being part of Australian heritage and need to be preserved.



The State Government, through the Department of Resources, has a *Place Names Policy* which provides a framework for decision making but this was last updated in July 2021 and does not extend to incorporating the State's position with regard to the renaming of official place names to Aboriginal or Torres Strait Islander Place names.

In addition, there is no formal guidance for local governments and businesses as to how to implement place name changes on the ground level, such as changing signage and promotional material and the expected timeframes for the implementation of these changes. Additionally, there can be significant cost impacts on councils and ratepayers, associated with implementing name changes for both local government and local businesses.

#### **Case Study: Fraser Island to K'gari**

*On 7 June 2023, the Department of Resources determined to change the name of the geographical feature and the locality, Fraser Island to K'gari. As K'gari is a popular tourist destination, there is significant signage throughout the local government area which refers to Fraser Island – these signs will need to be changed to reflect the name change at considerable cost. There is limited guidance as to which tier of government is responsible for the change to signs, the timeframes in which the signs must be changed, and how the costs of changing the signs will be borne. Additionally, as K'gari is an international tourist destination, there is significant marketing and promotional material that will need to be updated.*

The LGAQ is aware the Department of Resources established a *Place Names Working Group* in mid-2023 and including representatives from the LGAQ and four Queensland councils. The LGAQ supports the continuation of this working group and emphasises the importance of ongoing consultation with Queensland councils regarding these proposed amendments.

It is an important policy provision that the financial implications and other impacts on local government are taken into account, and the identification and availability of an ongoing revenue source is considered.

**Recommendation 8:** The LGAQ recommends the State Government, through the Department of Resources, continue to convene the Place Names Working Group, with representation from the LGAQ and Queensland councils, to progress and introduce a robust and clear policy and guidance framework to support the proposed amendments to the *Place Names Act*.

**Recommendation 9:** The LGAQ recommends the State Government update its *Place Names Policy* (last updated in July 2021) to ensure it:

- remains contemporary and clarifies the State's position on the renaming of official place names to Aboriginal or Torres Strait Islander Place Names,
- includes a requirement for consultation with affected local governments on any proposed place name changes, including those where the chief executive has dispensed with publication of a place name proposal, and
- provides procedural direction or guidance regarding the implementation of changed place names.

**Recommendation 10:** The LGAQ recommends the State Government provides funding to assist local governments to implement place name changes as and when these are made.

### 3.4 Proposed amendments to the *Recreation Management Act 2006*

The proposed amendments to introduce a new section 8A under the *Recreation Management Act 2006*, will allow for the name of a recreation area declared under the RAM Act, to be changed by regulation. The LGAQ sees this proposal as an adjunct to the proposed *Place Names Act* amendments outlined in section 3.3 above, noting it will provide greater responsiveness for the renaming of recreation areas for example, in response to any official change in place names.

However, it should be noted that there may be cost implications for councils resulting from the renaming of recreation areas by regulation. This may include costs to councils to replace signage as well as local marketing material and updates.

**Recommendation 11:** The LGAQ recommends the State Government provide funding to councils to offset any cost impacts on local government resulting from renaming of a recreation area, consistent with recommendation 10 above.

### 3.5 Proposed amendments to the *Resources Acts*

At the 2023 LGAQ Annual Conference, Queensland councils passed a resolution calling for the State Government to take immediate action to address the issue of unpaid rates on mining leases within local government areas by:

- Amending legislation to establish the mandatory payment of rates to local authorities as an obligation for all mining lease holders.
- Directly engaging in discussions with relevant mining companies on behalf of affected councils to resolve local authority rate arrears promptly and ensure fair financial responsibility, at no cost to councils.

The LGAQ understands the payment of local government rates and charges is currently a mandatory condition under the *Mineral Resources Act 1989*, however this is not currently a requirement of other Resource Acts.

As such, the LGAQ welcomes the proposed amendments contained in the Bill to enable more consistent compliance action and regulation across the Resource Acts by mandating the payment of applicable local government rates and charges, including unpaid interest, as a condition of holding a resource authority under the following Acts:

- *Geothermal Energy Act 2010*
- *Greenhouse Gas Storage Act 2009*
- *Petroleum Act 1923*
- *Petroleum and Gas (Production and Safety) Act 2004*.

As noted in the Explanatory Notes to the Bill, “instances of significant non-payment of rates and charges by resource authority holders would not be able to be addressed if the provisions requiring payment of rates and charges were only applied prospectively”. As such, the proposed retrospective application of these provisions is also supported.

Consistent with the calls of Queensland councils, there is a need for councils to be supported by the State Government in ensuring the compliance with these new provisions (as well as the existing provisions under the *Mineral Resources Act 1989*) relating to the payment of outstanding rates and charges.

The proposed amendments to each Resource Act that allow the Minister to use the resource authorities’ security payments to remedy unpaid local government rates and charges, will assist in this regard. The LGAQ and Queensland councils seek to work closely with the State Government to ensure effective implementation of these changes.



**Recommendation 12:** The LGAQ recommends the State Government proceeds with amendments to the Resource Acts as outlined in the Bill, that will make the payment of applicable local government rates and charges a mandatory condition of an existing and future resource authority.

**Recommendation 13:** The LGAQ recommends the State Government directly engages with relevant mining companies on behalf of affected councils to resolve local authority rate arrears promptly and ensure fair financial responsibility, at no cost to councils, consistent with the calls of local government at the 2023 LGAQ Annual Conference.

## Conclusion

Overall, the LGAQ welcomes the introduction of the Bill. The Bill represents an important step forward in modernising the State Governments' legislative framework and includes a range of amendments that look to progress a number of critical priorities for Queensland councils.

Notwithstanding the overall benefits of the proposed *Land Act* changes, some concerns and gaps have also been identified that require further consideration. These include:

- the need to introduce 'urgency criteria' and process changes that would support fast-tracking the assessment of local government applications for the provision of community infrastructure, including under section 26A and 166 of the *Land Act* as sought by resolution #69 passed at the LGAQ 2023 Annual Conference.
- the proposed exception relating to reserves for travelling stock requirements, that will mean existing reserves that support the stock route network do not transition to wider purpose, despite changes to broaden schedule 1 of the *Land Act* and noting that some minor and unused stock routes are potentially no longer viable.
- the need for further engagement with the LGAQ and Queensland councils on opportunities to improve the legislative and policy framework relating to Aboriginal and Torres Strait Islander DOGIT land.

The LGAQ looks forward to continuing to work with the Department of Resources and Queensland councils to address these matters, inform the development of subordinate legislation, policies and guidance material to support effective implementation of the proposed amendments as well as providing for opportunities to identify and progress additional regulatory improvements.

Due to the complexity, diversity and breadth of the proposed reforms contained in the Bill, the LGAQ would like to see a formal Local Government Advisory Panel (or similar) established by the Department of Resources, and with representation from the LGAQ and Queensland councils, as recommended in this submission.