AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE

Members present:

Mr IP Rickuss MP (Chair)
Mr JN Costigan MP
Mr SV Cox MP
Mr S Knuth MP
Ms MA Maddern MP
Mr MJ Trout MP

Staff present:

Mr R Hansen (Research Director)
Mr M Gorringe (Principal Research Officer)

PUBLIC BRIEFING—LAND, WATER AND OTHER LEGISLATION AMENDMENT BILL 2013

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 20 MARCH 2013

Brisbane

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Committee met at 10.15 am

BARTHOLOMEW, Ms Lana, Director, Strategic Water Policy, Department of Natural Resources and Mines

BOWEN, Mr Brett, Acting Deputy Valuer General, Department of Natural Resources and Mines

CARSE, Mr Ken, Principal Policy Officer, Aboriginal and Torres Strait Islander Services, Department of Natural Resources and Mines

FOREMAN, Mr Mark, Team Leader, Flood Plain Management, Department of Natural Resources and Mines

JENSEN, Ms Judith, Executive Director, Aboriginal and Torres Strait Islander Land Services Branch, Department of Natural Resources and Mines

MARRINON, Ms Michelle, Team Leader, Water and Sewerage Policy, Department of Energy and Water Supply

MATHESON, Mr Stephen, Chief Inspector, Petroleum and Gas Safety Inspectorate, Department of Natural Resources and Mines

McPHERSON, Ms Kate, Senior Policy Officer, Strategic Water Policy, Department of Natural Resources and Mines

MEADOWCROFT, Mr Rex, Director, Legislative Support, Department of Natural Resources and Mines

MICOCK, Ms Belinda, Principal Policy Officer, Land and Mines Policy, Department of Natural Resources and Mines

MORGAN, Ms Margaret, Manager, Property Services, Government Land Acquisitions, Department of Natural Resources and Mines

PETERS, Ms Kate, Director, Water and Sewerage Reform, Department of Energy and Water Supply

PICCINI, Mr Joe, Principal Adviser, Valuations Policy, Department of Natural Resources and Mines

RALPH, Mr Dave, Petroleum Registrar, Department of Natural Resources and Mines

SKINNER, Mr John, Deputy Director-General, Policy and Program, Department of Natural Resources and Mines

STATHAM, Mr Richard, Principal Surveyor, Titles Registry, Department of Natural Resources and Mines

SYMONDS, Mr Buzz, Director, Cape York Tenure Resolution Branch, Department of Aboriginal and Torres Islander and Multicultural Affairs

CHAIR: Welcome, ladies and gentlemen. It being 10.15 I declare this meeting of the Agriculture, Resources and Environment Committee open. I would like to acknowledge the traditional owners of the land on which this meeting is taking place. I am Ian Rickuss, member for Lockyer and chairman of the committee. The other members of the committee are Jason Costigan, Sam Cox, Shane Knuth, Anne Maddern and Michael Trout.

Please note these proceedings are being broadcast live via the parliamentary website. The purpose of this meeting is to assist the committee in the examination of our Land, Water and Other Legislation Amendment Bill 2013. The bill was introduced by the Minister for Natural Resources and Mines, the Hon. Andrew Cripps, and subsequently referred to the committee on 5 March 2013 with a reporting deadline of 23 April 2013. We hope that the briefing today will give everyone a better understanding of the provisions of the bill.

The briefing today will be led by Mr John Skinner, Deputy Director-General of the Department of Natural Resources and Mines. Others will cover specific parts of the bill. I remind honourable members that these officers have given their time to be here today to provide factual information. They are not here to give opinions about the merits or otherwise of the policy behind the bill or alternative approaches. Any questions about the policy of the government that the bill seeks to implement should be directed in the first instance to the responsible minister, Hon. Andrew Cripps, the Minister for Natural Resources and Mines, not these officers.

Before we start can I have all phones switched off or on silent. I remind everyone that these proceedings are being transcribed. Please state your name before you speak. John, would you like to make a start?

Mr Skinner: Thank you, Mr Chairman. The amendments today to the Land, Water and Other Legislation Amendment Bill amend 18 acts and one regulation. Because of the size of the Bill there are a number of departmental people here today. With the concurrence of the committee I would like to do just a 15-minute introduction of the main changes that we are talking about today and then we will take questions in relation to the proposals. There are a number of policy objectives contained in the bill and given its size I will focus on the two main themes and the most significant amendments under each theme. There are also a number of amendments contained in the bill that are minor and of a technical nature and are premised on reducing red tape or streamlining process which I will mention briefly. That said, the amendments contained in the bill fall into two major themes: progressing the recommendations of the Queensland Floods Commission Inquiry recommendations regarding levees and reducing red tape and regulation.

In early 2011 the Queensland government established the Queensland Floods Commission of Inquiry which was given wide-ranging powers of investigation into the 2010-11 floods. The commission of inquiry delivered its final report on 16 March 2012. On 7 June 2012 the government committed to implement all 123 recommendations which related directly to the state. Five recommendations related to levees. During their investigation into levees the commission found systemic questions of inconsistency in the approach to the control of the development of levees and disputes about who should impose that control. The commission concluded that the patchwork of state and council approvals, and in some areas a complete absence of regulation, is not conducive to consistent decision making. The potential impact of levees on flooding means that these issues should be resolved. In essence, the committee of inquiry recommended that levees should be regulated using the most appropriate means under the Sustainable Planning Act 2009 and that the regime be developed in consultation with local government.

This bill is the first step in delivering on that commitment. The bill amends the Water Act 2000 to provide a definition of levee. Under that definition a levee is an artificial embankment or wall which excludes, controls or regulates the movement of overland flow water. The principles that underpin the definition of a levee include that the structure is built outside the bed and banks of a watercourse—structures within a watercourse will already require approval under the Water Act 2000 and the Sustainable Planning Act 2009; the structure is used for short-term water loading, for example, floodwater—it is not built for the purpose of storing water for the long-term, for example, a dam, such structures are already regulated under the Water Supply (Safety and Reliability) Act 2008; the structure diverts or prevents the flow of floodwater. The definition of a levee includes works that are associated with the building of a levee. The definition of a levee excludes certain agricultural activities such as laser levelling and contouring and irrigation infrastructure that is not associated with the construction or operation of a levee; fill for the purpose of gardening, landscaping or beautification which is less than a prescribed volume; works/structures used to defend against coastal hazards, for example sea walls and groins; structures that are regulated

under another act or regulation, for example and including emergency management levees which are already provided for in the provisions of the Sustainable Planning Act 2009 that deal with emergency situations; structures constructed on an approval plan under the Soil Conservation Act 1986—the act already contains appropriate rules around construction undertaken in accordance with that act; structures that are built where the primary design is not for flood mitigation but where flood mitigation considerations are included in the design. For example, transport infrastructure as defined by the Transport Infrastructure Act 1994 or some mining infrastructure. There is already legislative oversight or guidance of designs for these types of infrastructure through, for example, the Sustainable Planning Act 2009, state planning policies or an environmental impact statement.

The amendments will apply to construction of new levees and modification of existing levees. The amendments will also provide additional criteria for assessing levees that are made assessable development under the Sustainable Planning Act 2009. The amendments will provide a power to state a code against which applications for levees may be assessed and other matters for the control and management of levees. A code will also be developed to assess levees. In addition, levees will be made assessable development under the Sustainable Planning Act 2009 and additional criteria to assess these levees will be developed.

It is important to mention that the proposed framework contained in the bill was developed based upon balancing the need to regulate levees against the potential regulatory burden that may be placed upon the applicant, the state and local governments. The amendments contained in the bill are the starting point for consultation with the community. The department will be seeking public feedback on the implementation of the new levee regulatory framework through a regulatory impact statement. This will provide an opportunity for public consultation which can be taken into consideration during the development of the associated codes. The legislative framework for levees will commence operation on 1 January 2014.

I will now turn to the other theme of the bill which is to reduce red tape and regulation. There are many red-tape reductions and the bill removes various requirements such as the need for irrigators to prepare land and water management plans, declared catchment areas from the Water Act 2000, the requirement for a resource activity tenure holder to obtain a water licence to interfere with the flow of water in a watercourse when undertaking necessary watercourse diversions on their tenure and the requirement for the petroleum tenure holder to obtain a water licence for the supply of associated water to other users. The bill also allows for certain low-risk activities to be undertaken without a water entitlement and a less onerous process for a petroleum tenure holder to comply with when the petroleum tenure holder wants to convert a petroleum well to a water supply bore.

Further, it is expected there will be significant savings to the government, business and community through changes such as streamlining a number of transfer related issues on Aboriginal and Torres Strait Islander lands, for example, simplifying the opening and closing of roads which will shorten the time frames for transferring the land, and also providing a short-term extension of a lease for periods of up to two years rather than one year.

I will now provide further information on some of the other more noteworthy measures contained in the bill for the committee. The Acquisition of Land Act 1967 is being amended to shorten the acquisition process in situations where the parties do not object to the resumption of land or an easement. Currently a constructing authority that reaches an agreement for the resumption of land or an easement is required to make an application to the minister for the land to be taken.

The Governor in Council is then required to issue the gazette resumption notice. Alternatively, where no objections are lodged the decision to acquire the land or easement must be made by the minister. The Governor in Council is then required to issue the gazette resumption notice. Under the amendment, when an agreement is reached with all parties it will not be necessary for the constructing authority to make an application to the minister for the land to be taken. Instead, the constructing authority can arrange for the issue of a gazette notice taking the land or easement. Alternatively where no objections are lodged, the decision to acquire the land or easement will be made by the minister administering the act or the minister's delegate. The constructing authority can then arrange for the issue of a gazette resumption notice taking the land or easement. These amendments will ensure that dispossessed owners receive compensation much sooner than at present. The amount of time saved may vary between constructing authorities, but the time saved may be up to 15 weeks. Constructing authorities will have shorter lead times and access to land earlier without disadvantaging landowners.

The amendments will also achieve administrative savings for government through the simplification of the acquisition process. The amendments will fully protect the rights of dispossessed landholders with Governor in Council approval to the taking of land or an easement still required in cases where any party objects to the proposed resumption. No changes to the process involving dealing with objections will be made, thereby ensuring that the rights of landholders and other affected landholders are not diminished.

In addition, the expedited process will not apply to a multiparcel purpose such as a transmission corridor where there may be objections on some of the takes but not on others. This is because if you split the takes into the different categories—those that agree, not objected, and those that objected—then there is a risk of pre-empting the minister's and the Governor in Council's decision for those that objected.

The bill will repeal the future conservation area provisions of the Land Act 1994. There are two main reasons for repealing the future conservation area provisions: firstly, to streamline the rural leasehold land lease renewal process under the State Rural Leasehold Land Strategy; and, secondly, to increase security of tenure by providing certainty for landholders. Since the future conservation area provisions commenced on 1 January 2008 they have never been used. Removal of the provisions supporting the concept of a future conservation area removes uncertainty for lessees from the lease renewal process, with the state no longer routinely identifying future national parks as part of the renewal process. It will also deliver significant time and administrative savings across government, with biodiversity assessments no longer required as part of the lease renewal process. Ultimately, it will reduce the time taken to make a decision on an application to renew a lease. In future, should a rural leasehold property or part of the property be identified by the state, represented by the Department of Environment and Heritage Protection, as a priority for adding to the conservation state, the Department of Environment and Heritage Protection will stand in the marketplace to negotiate the purchase of high-conservation value properties independently of the lease renewal process.

The bill also increases the land threshold for the preparation of a land management agreement from 100 hectares or more to 1,000 hectares or more. The State Rural Leasehold Land Strategy and supporting provisions under the Land Act 1994 currently require a land management agreement to be negotiated for all new and renewed leases over rural leasehold land where the area is 100 hectares or more and the term is for 20 years or more. A land management agreement is a negotiated agreement between the leaseholder and the minister which guides the sustainable management of the lease land for the term of the lease and any extensions.

Agreements are negotiated for all new and renewed term leases and new perpetual leases over rural leasehold land covered by the State Rural Leasehold Land Strategy. Land management agreements, amongst other things, identify and describe the nature and physical characteristics of the lease land as well as record the condition of the lease land at a point in time. They contain agreed measures that will improve or maintain lease land in good condition and importantly identify any land degradation issues and establish the management outcomes for any identified issues and the agreed measures to address them.

Under the amendments, a land management agreement will remain mandatory for any lease over rural leasehold land where the term is for 20 years or more and the area covers 1,000 hectares or more. For smaller rural leases with a term of 20 years or more, the covering 100 hectares or more but less than 1,000 hectares land management agreements will no longer be required. There are around 236 such leases. However, if the holder of one of these 236 leases chooses to, they can voluntarily enter into a land management agreement to qualify for a longer lease or a lease extension as per current arrangements. If the holder of a small rural lease already has a land management agreement in place, the lessee may apply to cancel the agreement without affecting the term of the lease. Also, as an alternative to remedial action or forfeiture of the lease, a land management agreement may be required for any term or perpetual lease for rural leasehold land with known land degradation issues or where there is a risk of land degradation occurring or if the lessee is not fulfilling their duty of care for the land.

The bill amends the Land Title Act 1994 to provide a framework for the recording and registration of statutory easements over small terrace type housing lots, containing buildings with shared common walls. Current housing trends have led to lot sizes that are drastically smaller than traditional lot sizes. This has resulted in architectural solutions to living spaces by the event of a

dwelling where there are shared common walls with adjoining dwellings—in other words, terrace type housing. Lots that lead to this terrace style housing are created following standard lot processes and do not invoke community title schemes under the Body Corporate and Community Management Act 1997. Standard lots require multiple two-party easements for support, party walls, services and minor encroachments which are surveyed and registered on the title. This leads to significant time and costs, with the preparation and lodgement of surveys and easement instruments over individual lots and additional conveyancing costs for prospective purchasers in obtaining copies and legal advice on additional easement instruments.

An alternative approach for the development industry is to create small lot subdivisions where lot sizes are much smaller than traditional lot sizes, typically 70- to 250-metres square. These lots are being created as stand-alone lot subdivisions rather than community title schemes, and therefore the existing statutory easement provisions do not apply. The bill implements a proposal advanced by the development industry that for these terrace style developments there should be a legislative framework in place that enables the creation of a range of statutory easements as opposed to the current method of creating easements. The easements relate to the easements for support, shelter, projections, maintenance of a building close to a boundary and some specific services.

I will now turn to the issue of petroleum wells. The bill will simplify the process for converting certain unused petroleum wells into the water supply or water observation bores for use by farmers and graziers. Currently a petroleum well cannot be directly transferred from a petroleum tender holder to a landholder on whose land the well is drilled. Only a well which has been first converted to a water supply bore or water observation bore may be transferred to a landholder during the term of the petroleum tenure. This is because of concerns about safety, health and protection of the environment, in particular, where there is a potential for petroleum wells to produce hydrocarbons. Currently, petroleum wells can only be converted to water supply or water observation bores by a licensed water bore driller. This requirement imposes additional time, cost and practical constraints. In addition, it does not recognise the competencies that a petroleum well driller has and, in fact, in some circumstances converting a petroleum well to a water observation bore or water supply bore may be beyond the competencies or capacity of the equipment of a licensed water bore driller.

The amendments to the bill will enable the conversion of petroleum wells to water supply or water observation bores by petroleum tenure holders and then the transfer of these directly to the landholder. This will only apply to a petroleum well if the commencement of the drilling of the well or the decommissioning of the well occurred on or after 1 January 2012. This is because certain petroleum wells drilled or decommissioned from that date had to comply with the code of practice for constructing and abandoning coal seam gas wells in Queensland. That code was initiated because of community concerns that the standard of construction and decommissioning of certain wells was not adequate.

The petroleum wells constructed or abandoned in compliance with the code of practice for constructing and abandoning coal seam gas wells in Queensland addressed the community concerns about maintaining long-term well integrity, containment of gaseous petroleum and the protection of groundwater resources. A code of practice addressing safety, health and groundwater protection issues for the conversion of petroleum wells to water supply and water observation bores will be developed by the Department of Natural Resources and Mines.

Further, the bill also amends the Water Act 2000 to extend the stated period of all water licences until 30 June 2111. The extension will apply to new and existing licences to take or interfere with water. The exception is where a new water licence is granted through a water resource plan, resource operations plan or wild river declaration, which may state a different date of expiry.

Currently, a water licence is issued for a period of 10 years with a water licence for stock or domestic use generally granted for a period of 20 years. This current renewal process imposes an unnecessary burden on industry. Renewals were originally devised as a means to review the management and sustainability of the water resource, but water resource plans and resource operations plans are now the ultimate point of truth in terms of clearly defining entitlements to water.

Water resource plans and resource operations plans are based on the premise of full utilisation of existing entitlements including water licences. This amendment will reduce costs for clients associated with fee renewals, remove the regulatory burden associated with applying for renewals, deliver increased security for licence holders and will enable the department to reduce administrative costs associated with the processing of renewals.

The bill also amends the Water Act 2000 to remove the need for a riverine protection permit to destroy vegetation in a watercourse, lake or spring. Currently, a person undertaking vegetation clearing in a watercourse, lake or spring is required to consider the requirements of two different frameworks. The destruction of vegetation in a watercourse, lake or spring generally requires a riverine protection permit under the Water Act 2000 or compliance with the guideline provided by the chief executive of the Water Act 2000. The clearing of vegetation is also regulated under the Vegetation Management Act 1999 and may require a development permit under the Sustainable Planning Act 2009. This amendment will simplify the approval process for landholders, removing the overlap and removing confusion by ensuring that vegetation management issues are dealt with under one regulatory framework—the Vegetation Management Act 1999 and the Sustainable Planning Act 2009.

The provisions of the Water Act 2000 will continue to ensure that bank stability is maintained and that the physical integrity of a watercourse, lake or spring is protected as the requirement to obtain a riverine protection permit to excavate or place fill in the watercourse, lake or spring will be retained. Fill includes vegetative material below the surface, dead or alive, such as root mass, which plays an important role in maintaining bank stability. In effect, a person will not be required to obtain a riverine protection permit to destroy vegetation above the surface in a watercourse, lake or spring. However, if vegetative material below the service is to be excavated, a riverine protection permit will be required to excavate fill.

The amendments contained in the bill will also amend the Water Act 2000 to allow the minister greater flexibility to manage the expiry of water resource plans by exempting them from the automatic expiry provisions of the Statutory Instruments Act 1992. Under the Water Act 2000, planning for the allocation and sustainable management of water requires preparing water resource plans which state the objectives and strategies for the allocation and management of water in a plan area. Currently, water resource plans are subject to section 54 of the Statutory Instruments Act 1992, which provides that subordinate legislation expires after the 10th anniversary of the day of its making. This means that water resource plans need to be reviewed and replaced prior to their expiry.

With numerous water resource plans due for expiry over the coming years, the automatic expiry provisions restrict the department in prioritising the work program and resources for water resource planning. Often a water resource plan may have undergone substantial amendment towards the end of its 10-year life, meaning that it is not an effective use of the state's resources to review it and replace it prior to its expiry. The amendments will ensure that water resource planning needs can be prioritised with resources being devoted where the need is greatest. The minister's decision to postpone the expiry of water resource plans for up to 10 years will be based on public submissions on the proposal to postpone the enquiry, any periodic reports prepared about the plan and whether the plan's objectives and strategies remain appropriate. To postpone the expiry of a plan, the minister must reasonably believe that the postponement will not adversely affect a water entitlement holder or the natural ecosystems in the plan area.

In addition, consultation with government and non-government stakeholders occurred on a number of the proposed policy amendments as well as on the draft bill. Although the draft bill itself was not widely disseminated for consultation, there were no major deviations from the policy used for consultation with stakeholders. As I mentioned earlier, the bill contains a number of amendments to 18 acts. So I have only highlighted some of the main amendments and we are happy to take questions from committee members.

CHAIR: Thanks very much, John. That was a very thorough briefing. I might start with a couple of questions that I have just written down here. The start of your introduction was about the flood commission report and the levees and they are going to go into the Sustainable Planning Act. I notice that it is not going to come into place until 1 January 2014. So that gives us nine months of implementation of the plan and negotiations with local government. Have you talked to the Local Government Association or anything about putting levees back into Sustainable Planning Act? They used to be regulated as you said, prior to the 1980s.

Mr Skinner: Yes, we have. I will ask Rex Meadowcroft to outline that in more detail.

Mr Meadowcroft: Yes. In fact, the LGAQ were members of a working party along with a number of state departments during the development of the bill. So they have been fully consulted and they are well aware of what is proposed.

CHAIR: Just as a follow-up question in relation to that, I realise that the Brisbane, the Ipswich and the Townsville councils probably have the staff there. What are the LGAQ's thoughts about some of the smaller councils—the Somersets, the Lockyers, the Goondiwindis? Will they be able to manage this sort of issue?

Mr Meadowcroft: I should probably point out that this bill does not lock in who will be the assessment manager. That will be part of the consultation when the regulatory impact statement goes out for consultation in the second half of the year. So there is no definitive decision yet as to whether councils will take this role. The LGAQ has expressed some concern about whether they have the necessary resources and expertise should they be made the assessment manager.

CHAIR: All right. Thank you very much.

Mrs MADDERN: Under the Land Title Act and the statutory easements over small terrace-type housing, I note there is a comment here in some of the notes that we have been provided with that these easements will be able to be registered using a much simplified document and without the need for the easements to be surveyed. I am sorry, I am a little bit lost. I do not understand how you are going to be able to put in an easement without surveying it.

Mr Skinner: I will ask Richard Statham to give some more details on that for you.

Mr Statham: Yes, it is a significant shift from what we would traditionally think of with an easement. Typically, it is to be surveyed on the ground and then a document registered. The nature of these, particularly statutory easements, is that the extent of the easement is limited to where the physical structure is, therefore eliminating the need to survey where the easements are on the ground.

Mrs MADDERN: Just as a second question to that, how then do we deal with the possible issue of encroachments?

Mr Statham: The nature of one of the statutory easements is to accommodate minor encroachments, that is, gutters and window sills and eaves and so forth. So the easement is limited in size and shape to where that encroachment is. Obviously, further from that, if someone then adds something on to that particular building that was not there when the easement was registered—that is something larger than what was the easement was intended to cover at the start—that would be not covered by the statutory easement provisions.

CHAIR: Just as a supplementary to that question, a lot of the town houses that are in place now, do they have any regulations surrounding them? I know you were talking about smaller blocks, but I remember there used to be the standard workers cottage block that used to be a 16-perch block which, for my money, is 250 square metres. So we have had those smaller blocks in place for a very long time.

Mr Statham: Yes, we certainly have. If anything, the development industry has advanced to the stage now where it is creating even smaller blocks and, more importantly, the nature of the buildings built on those smaller blocks are typically all terrace type houses. They are joined. They share common walls. Earlier developments—as you said earlier, smaller lots—typically did not have houses built on them that shared common walls. If they did, however, they would have had to have gone through the complex process of actually surveying those easements and registering individual easement documents for each one of those easements.

CHAIR: So we are reducing red tape in this process, not increasing it; is that right?

Mr Statham: Very much so. The nature of the easement that is prepared is that, first of all, it does not need to be surveyed on the ground. Secondly, the document that is registered will be a much, much more simplified document—in essence, a one-page document that will refer back to specific provisions in the legislation which outline the rights and responsibilities of the parties subject to that easement.

CHAIR: Thank you.

Mrs MADDERN: If I could just go one step further? So those documents that are going to be registered, that would be after the building is constructed, because some of these areas are surveyed and then buildings are constructed. So those easements would have to be registered after the construction of the buildings.

Mr Statham: Yes, that is the nature of these particular easements—that they are limited to where the physical structures actually are. So the physical structures have to be present before the easement could be registered.

CHAIR: I have just one more supplementary question to that one. Will QCAT be involved? Easements give me grief no matter where they are in my electorate. They are not the easiest to deal with. Will QCAT or someone like that be involved in the dispute resolution for this sort of thing?

Mr Statham: No, QCAT has not been identified as a vehicle for resolution for these particular easements. The normal resolution process through a referral to a higher court would be used in these instances.

Mr COX: I have a simple question in relation to the Aboriginal Land Act and the Torres Strait Islander Land Act. It is trying to streamline more than reduce red tape in this case. Has there been a big problem in the past in regard to, say, opening and closing roads and transferring that back? Is that a big issue or is it something that we think is going to come about more through the recent act that we just put through the parliament?

Mr Carse: I do not know if you would define it as a big problem, but it occurs every time we look at transferring land. Recently, Mer Island up in the Torres Strait was transferred. You will find a number of roads and I think the committee will know from the previous work we did on the landholding bill, surveying is a problem in these areas. So some roads are physical roads, but not dedicated roads and vice versa. We have to clean all of that up prior to transfer. That means that roads have to be opened and closed, but under the Aboriginal Land Act and the Torres Strait Islander Land Act, there is a definition of what deed of grant in trust land is—it has its own definition, the same as reserve—and it includes other land and excludes it. So for these purposes—closed roads and open roads—we are trying to clean that up. At the moment we would have to do separate regulations to make them transferable or not transferable. So there is work on the government department to do, but it just slows the process down. So every time we do a transfer, we will have to regulate a road open. We will have to do a second regulation to make it not transferable—change its status—and vice versa if it is closed.

Mr COX: Just in regard to foreign ownership, the amendment is necessary because foreign ownership land registers are intended to record only interests that give long-term exclusive possession of land. The interest being excluded is a secondary interest. Has there been a lot of that in the past that has been recorded—that is a secondary interest—and it is just becoming a burden within the system so we are just trying to simplify it? Is that pretty much what we are doing now and getting back to what it is meant to be and that is actual ownership, not just interest? Would that be right?

Mr Skinner: I will ask Richard Statham to outline that further for you.

Mr Statham: Yes, that is correct. It is there just to purely identify that the foreign ownership of land register relates to land that is subject to exclusive possession, therefore, excluding those secondary interests

Mr KNUTH: I am a member representing a rural electorate and vegetation management plays a big part. You were talking about removing the regulatory burden of legislation that overlaps and amending the Vegetation Management Act. What examples can we look at here in regard to simplifying this process? Give us an example. Are you going to get rid of the property maps of assessable registration? Do you mean that? What is an example?

Mr Skinner: I will ask Rex Meadowcroft to comment further on that.

Mr Meadowcroft: The example is simply the need to make separate applications under two separate acts. So a farmer who is clearing vegetation will know that only the Vegetation Management Act is involved and can confidently go simply under that act. At the moment, it could involve two applications—one under the Vegetation Management Act and one under the Water Act.

CHAIR: All right. Thank you.

Mr KNUTH: Just to add to that, just with this property map of assessable vegetation, does that still stay under these new changes?

Mr Meadowcroft: Yes. These amendments are really only to the Water Act. These do not affect anything under the Vegetation Management Act. They are simply removing the clearing of vegetation from a requirement for a riverine protection permit under the Water Act. So there is no amendment involved to the Vegetation Management Act.

Mr KNUTH: Thank you.

CHAIR: I notice that there is some mention about petroleum bores. How often have petroleum bores made application to be converted into water bores? I know there are a number of them around the place, but do they actually convert over? Is it common usage?

Mr Skinner: I think it is fair to say that there has started to be some increased interest.

Mr Ralph: Recently, because of the growth in the CSG industry and the exploration of full coal seam gas for the CSG-LNG industry, it is becoming more and more prevalent that landholders would like any petroleum well—or coal seam gas well at least—that has not had any commercial quantities of the coal seam gas produced from it to be converted. It has increased particularly in the last, I suppose, two years. I know in the last four or five months we may have had about eight applications for something like that, but I can see it increasing, particularly with these amendments, simply because it is a simplified process whereas before the petroleum tender holder had to convert the well under the supervision of a licensed water board driller or the licensed water board driller had to convert the well. That is not necessary now, so there will be more inclination for the conversion of these wells if they are not likely to be used for the production of CSG.

Mr TROUT: My question is on the future conservation areas. In the Far North there have been quite a few land grabs over the years of any leases terminated. am I getting this clear, that if there are no conservation values in that land the government does not have to require taking that land back? Secondly, if the government decides there is a priority of conservation, what is this priority and how would that be measured?

Ms Micock: Identification of land for the future conservation areas is a role for the Department of Environment and Heritage, not our department. We work closely with them. But as far as the lease renewal process is concerned, the identification of future conservation land is completely separate from the lease renewal process, so those decisions will be for the Department of Environment and Heritage Protection.

Mr Skinner: I think what we are saying is that the Department of Environment and Heritage Protection will make the assessment and then they will stand in the marketplace in relation to purchasing that property if they wish to buy it.

CHAIR: I see a date of 30 June 2111. You and I will not be around to see that, I would not imagine. Undoubtedly, though, during that time the ownership of land will more than likely change, unless it is in trust or something like that. Will those water licences still be updated with the new ownerships and all those sorts of processes? Will the government's records be good enough to review all that stuff in 2111?

Mr Meadowcroft: Yes, the department will still maintain records and is confident that they will be up to date in 2111. When land sales and so on occur, records are updated. I think also when water resource plan processing and so on is going on there is an opportunity to revise those records.

CHAIR: So in theory, as much as it looks like it is 100 years away, they will probably be looked at quite a few times in that 100 years? Is that virtually what you are saying?

Mr Meadowcroft: They could well be looked at as part of the normal water resource planning process, yes.

Mrs MADDERN: Could I just have a bit more of an explanation on the creation of non-tidal boundary watercourses in a plan of subdivision? I am not quite clear what we are trying to achieve.

Mr Statham: The purpose of this particular amendment is to provide a legislative head of power to actually open a new creek, similar to the way, on a plan of subdivision, we create a new road by identifying it on the plan of survey and the plan gets lodged and registered and then under the registration process it becomes a new road. We do not have any vehicle at the moment to do that for a creek or a watercourse. That is a non-tidal creek or watercourse.

We have identified a number of situations where a landholder's land has a creek flowing through it that is not excluded from their property and the landholder wants to develop that particular parcel of land and councils invariably impose a range of conditions relating to the creek or watercourse and there is no ability to actually create a new creek or watercourse. That is the purpose of this amendment.

Mrs MADDERN: What about the ownership of that creek or watercourse? I mean, if you survey a road the road then becomes either a council road or a state government road. So if you survey a watercourse, where does the ownership of that watercourse then sit?

Mr Statham: The ownership of the watercourse will then sit with the state.

CHAIR: So freehold watercourses at the moment would be the same. I have an example at home where Tenthill Creek has cut a new path right through the middle of a paddock, so it becomes a freehold title creek.

Mr Statham: This particular amendment could be used in that situation, but it was particularly put in place to contemplate opening up that new creek where, even though it was flowing there, it had never legally existed as a creek.

CHAIR: Could I just ask something about the Acquisition of Land Act 1967? The Acquisition of Land Act has served us pretty well since 1967 or whenever it was written. It is a pretty tight act. I have tried to help people get around it a few times and it is pretty well written. Is this change necessary? Will it stop people having a change of mind somewhere along in the process, where they could have appealed a bit later on?

Ms Morgan: It is not intended to change or influence the current objection process. There is not now a current capacity to change your mind in the future, once the Governor in Council has made a decision, and there will not be any change to that current process.

CHAIR: So it is just virtually a reduction in a bit of a process, that will shorten it up by 10 to 15 weeks?

Ms Morgan: That is what is hoped, yes. That is correct, for the simple, straightforward matters.

Mr COX: From a red-tape reduction or cost-saving perspective, it is more within the department, I guess, rather than the people involved. Would that be right?

Ms Morgan: It is intended that, because there will not be such a time in getting Governor in Council approval, a construction authority, such as a local government, will be able to have access to the land much sooner. It will be of benefit to constructing authorities like local governments or Powerlink.

CHAIR: I have a question on levees, which have become a bit of an issue in my area. I realise that it is in the formative stages, but has any thought been given to—a lot of the rural properties in my area might own a kilometre of creek bank near riparian land frontage. Infrastructure might exist on 200 metres of that riparian land frontage. Has any thought been given to whether there will be a difference where you are trying to protect infrastructure? Would that be written into the act? Are we thinking about how we manage riparian land? I am a bit of a believer that it is fair enough to build a bit of a levee around your house or your sheds but leave your other 800 metres of the kilometre frontage you have so they can still act as flood plains. Has any thought been given to that by the department?

Mr Meadowcroft: That is being considered as part of the next phase, which will be the subject of the regulatory impact statement. The amendments in the act do allow for the existence of potentially different categories of levees which may be assessed more or less vigorously. So obviously large levees around towns, where there is significant infrastructure or human life at risk, may well be assessed quite stringently compared with small levees near riverbanks as you are suggesting. So nothing definitive has been set yet, but that will be subject to the regulatory impact statement.

CHAIR: I have seen a lot of gardening that actually acts as a levee that is quite effective around houses and that sort of thing.

Mr TROUT: When you have to protect a town, what will be the rights of the government if a landowner says, 'No, I do not want that levee on my property,' but it is of state, town or local government significance? How would you handle the situation under the new amendments?

Mr Meadowcroft: Well, the amendments that are being proposed are really just about the development and the quality of the development, so they do not impact upon people objecting to the construction, other than through the Sustainable Planning Act provisions.

Mrs MADDERN: Mr Statham, in relation to the non-tidal watercourse boundary, what provision is made for the fact that watercourses often change their course?

Mr Statham: Those provisions already exist in the Surveying and Mapping Infrastructure Act, which enables and recognises the well-established principle that a natural boundary—a watercourse boundary—can move over time. It can accrete and erode as long as it accretes and erodes gradually and imperceptibly and in a natural manner. So those provisions still exist and will exist. The application of this amendment does not impact upon those existing provisions. In fact, the amendment to the Land Title Act recognises and points to those particular provisions in the Surveying and Mapping Infrastructure Act for the definition of what that watercourse actually is.

Mrs MADDERN: My second question relates to terrace housing. I presume, then, there will be some kind of a mechanism to give out to surveyors as to how this whole process is actually going to work in the registering of those plans?

Mr Statham: Yes, very much. This particular amendment was advanced by the development industry. As part of developing the policy position we took a fairly targeted consultation at which we approached the surveying profession, the surveying business association and other appropriate stakeholders—UDIA, Property Council of Australia, Master Builders et cetera. So the surveying profession is well aware of what has been proposed and has given support to that particular proposal. But as with any implementation of a legislative change there will be the normal range of information sessions to the profession to guide them, inform them and instruct them how to deal with these particular easements.

Mrs MADDERN: So there will be some kind of regulation underneath all of this?

Mr Statham: No, it is not expected there will be a regulation. There are two particular government documents that guide surveyors in how they carry out their business with respect to registering survey plans and preparing survey plans. One of those is the cadastral survey requirements; the other is the registrar's directions for preparation of plans. And within those two documents there will be detailed guidance and instruction as to how to manage these new easements.

Mr COSTIGAN: When we talk about levees I naturally go back to my childhood, with the work of the river improvement trusts, particularly in North Queensland and my own community of Mackay the Pioneer River Improvement Trust with flood mitigation. For the member for Barron River the Johnstone River comes to mind. I am thinking about those high-rainfall areas of North Queensland. Could I just get someone to walk us through some of the benefits of the amendments to the River Improvement Trust Act 1940, particularly in relation to the scope that will be there to bring in perhaps a broader mix of people to value-add to our river improvement trusts?

Mr Meadowcroft: I should point out that these are amendments which essentially have been requested by the River Improvement Trust itself to make its operation more effective. Essentially, it makes membership more flexible. So rather than a rigid requirement for a set number of local government as opposed to community members, that has now been made more flexible to encourage the type of input that you are suggesting. It also makes processes around appointment, payments and so on more streamlined. They can be done more quickly by, for example, going through the minister rather than going through the Governor in Council. The program of works can now be approved by the chief executive as opposed to, as is currently the case, the minister, although the minister is still informed. There is a number of streamlining processes there to make the RITs function more effectively.

CHAIR: Is the River Improvement Trust Act 1940 still the current act?

Mr Skinner: Yes, that is correct.

CHAIR: The River Improvement Trust seems to have lessened over the last 30 years I would say.

Mr Meadowcroft: I think they have come back to the fore since the flooding of 2011 and more recent floods. Since then they have come back and proved their effectiveness.

CHAIR: I have a question for John on the Land Valuation Act 2010. Particularly when the rates notices turn up, there is always some debate about how good and effective the Land Valuation Act is. Will this actually improve clarity around people's valuations, particularly in rural areas where quite often the value put on a rateable block appears to be taken from 20 miles away and on a block that is very different. They are the arguments that come to my office. Would someone like to comment on that?

Mr Skinner: I invite Joe Piccini to answer that.

Mr Piccini: I think you are talking about the amendments to market survey reports to widen the use of sales that have occurred in other jurisdictions. Realistically, we are talking about very specialised markets, for example major shopping centres that really are a national market. Currently, the valuers are not even allowed to look at sales that have occurred outside the local government area to include in the market survey report to inform the Valuer-General about what probable impact there would be if there was an annual valuation made. Another example is large western grazing properties. For example, there could be a sale in northern New South Wales or far western New South Wales that is more appropriate by country type, for example, that the valuers could utilise if there are not sales available in that particular local government area.

It is a very technical amendment that is simply allowing valuers to apply their professional judgement to determine what sales to use in a market survey report. There is not really—there is nothing here that is necessarily clarifying valuations. We provide a lot of information with the valuations at issue. For your information, coincidently the annual valuations are actually issuing today. We provide brochures and some relevant related sales information on the web that inform people about what sales have been used to determine levels of value in major residential localities and selected rural locations.

Mr COX: I just have a final question. With regard to the powers to determine land trust membership—and this might be for Ken again—I presume this refers to the bill that this committee has previously looked at. While it might speed up processes, is this also about making sure that communities—looking at what happens inside them now in terms of changes—maintain the authority or power to have that say without outside intervention unless, as it says here, it is really needed? That way it would ensure that any natural justice is maintained for any of the members. Is that about making sure that they continue to have the sale?

Mr Carse: I would agree with what you said there. To clarify, under the Aboriginal Land Act and Torres Strait Islander Land Act, we no longer transfer to land trusts; that goes to CATSIA bodies, so prescribed bodies corporate. That seems to be the way to move forward for those communities. However, there are just over 70 existing land trusts and land can still be granted to them.

When the act was created they were not actually given the power to appoint or remove members themselves. They could take on those powers, but they would have to adopt rules and I do not think land trusts were aware of that. What has tended to happen as we have identified is that they do not look at these rules until they actually need them and then it is very problematic to adopt them at that time. Also, they may adopt different rules between different land trusts, and the transparency and fairness of the rules that one land trust may adopt may be different to another. So we have said, 'You should be able to manage the trusts yourselves. You have been given the land and the right to manage the land. You should be able to manage your own membership.' We have put in place a process for them to do it. There is immediate suspension, but it has a range of backups to provide natural justice, removal and appointment. There will be the same rules for all of them, they cannot adjust them and it has that transparency. So they can manage. We have had requests for this power. This has come as a response from land trusts. They want to be able to do it. Some see it as a bit offensive to get the minister to do it for them—'We want to be able to do it.' We have still retained those powers for the minister; in certain circumstances it may be needed. It is about them having the control and having a fair and just process to do that.

CHAIR: I do not think there are any other questions from the committee. This will be an interesting process. Like you say, it will take almost 12 months to be implemented. We will work through the process. I am sure there will be a fair bit of community interest. Some of the interest groups will also be more than interested in making submissions to this report. Thank you very much for your time today. It was great to hear from you.

Committee adjourned at 11.21 am