STATE DEVELOPMENT, INFRASTRUCTURE AND INDUSTRY SUBCOMMITTEE

Members present:

Mr DF Gibson MP (Chair)
Mr MJ Hart MP
Ms KN Millard MP (Deputy Chair)

Staff present:

Ms E Pasley (Research Director)
Ms M Telford (Principal Research Officer)
Ms M Westcott (Principal Research Officer)

PUBLIC HEARING—INQUIRY INTO THE LAND AND OTHER LEGISLATION AMENDMENT BILL 2014

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 10 APRIL 2014

Brisbane

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Subcommittee met at 9.29 am

CHAIR: Good morning. I declare open the public hearing for the committee's inquiry into the Land and Other Legislation Amendment Bill 2014. I thank everyone for their attendance today. This hearing is being conducted by an authorised subcommittee of the State Development, Infrastructure and Industry Committee. I am David Gibson, the member for Gympie and chair of the committee. The other subcommittee members here with me today are Ms Kerry Millard, the member for Sandgate and deputy chair, and Mr Michael Hart, the member for Burleigh. The hearing today forms part of the committee's examination of the Land and Other Legislation Amendment Bill. The Parliament of Queensland Act 2001 requires the committee to examine the bill to consider the policy to be given effect by the bill and the application of fundamental legislative principles. This hearing is being broadcast live via the Parliamentary Service's website and transcribed by Hansard. The hearing will conclude at 12.45 pm. Before we commence, I ask that all mobile devices be switched off or put on silent mode. This hearing is a formal committee proceeding. The guide to appearing as a witness before a committee has been provided to those appearing today. The committee will also observe schedules 3 and 8 of the standing orders.

FINGER, Ms Michelle, Landholder (via teleconference)

CHAIR: I welcome Michelle Finger via teleconference. Michelle, would you like to make an opening statement for the benefit of the committee?

Ms Finger: Yes. I just wanted to thank the committee for looking into it. Our main concerns are over forestry leases, because that is most of our country. There is some positive talk regarding forestry leases, but we just wanted to make sure because our main concern is that change is needed to go far enough for the land to have equity in order to allow us to manage it properly because the banks currently do not acknowledge our property at all as having any banking equity value which means you cannot invest in looking after the land because any of that investment money you spend is just turned around and lost. It is also very hard to fund projects which could look after the lease, so equity was our main issue.

CHAIR: Michelle, if you would not mind expanding on this for the committee. Is the equity just simply the bank recognising your involvement in it, or do you see it in some other concept?

Ms Finger: We have talked to the bank about it and the lease conditions specific to forestry leases are not secure enough. It states in our lease that they could resume it in as little as six months, so at any time throughout the lease with as little as six months notice. So with conditions like that, the bank does not have enough security to allow you to borrow against it.

CHAIR: What time frame have you sort of thought about or have you received advice from the banks as to what would give them some certainty and some confidence?

Ms Finger: Yes. I have tried to get that information, but I have not been able to. I have asked our bank manager to give me a letter saying what minimum would they need, but unfortunately they have not got back to me.

CHAIR: Do you have any thoughts yourself as to what the minimum terms should be?

Ms Finger: I guess you have to look at the banking loan. At the moment our current loan based on mainly just our cattle numbers and other assets—nothing to do with this parcel of land—is 15-year interest only. Just based on that, I guess 15 years to match the length of the loan.

CHAIR: So something that coincided with the term of the loan. Obviously the challenge for the state government is in the leases they are providing some form of termination clause. Are the other elements of the clause any concern to you at all?

Ms Finger: Yes. If they do resume the lease they can also actually make the landholder pay to remove any improvements that you have put on the lease, so any dams or fencing or whatever. So apart from not being encouraged to manage and improve your land because it is not improving the value of it, you could lose any of that investment. There is also the risk that they could turn around and actually charge you for pulling it all out again. In terms of fencing and putting more

water infrastructure to spread your grazing pressure, those sorts of things are really important for actually improving sustainability of the land and looking after it properly. The way the lease is at the moment there is just absolutely not even no incentive but there is no ability to look after the land in a way that is environmentally responsible and sustainable. The current lease is just set up to use and abuse and move on, and that is not the way we want to run our land.

CHAIR: Excellent. Thank you for that. I will now hand over to other committee members.

Mr HART: Michelle, what are the conditions that the government can terminate the lease with that six months notice? There must be a whole list of reasons why they could do that in the lease.

Ms Finger: No, it does not say. On our lease document, which I have emailed to the committee, it just says that at any time the lease may resume with as little as six months notice, which is exactly what Labor governments were trying to do to us. You may be aware that they had decided to make all of the forestry leases into national parks.

CHAIR: We are aware of that previous government policy, yes.

Ms Finger: Yes, and we were not even aware of that and apparently the government had no intention of even letting us know because then we would have no chance to object to it. It was only via AgForce that we found out that our property had been earmarked for conversion into national park and they were not even going to tell us until the six months condition time came up. So any investment that we put into that land was just going to be lost.

Ms MILLARD: Michelle, you talk about future security throughout changing governments.

Ms Finger: Yes.

Ms MILLARD: Obviously that is a big issue for you. Can you just talk to us a little bit more about that and what it means from your perspective as opposed to us sitting here in Brisbane from our perspective?

Ms Finger: Yes. I guess this goes into the freeholding issue as well or any time when landholders are expected to put funds investing into their land. Through work like fencing or watering points or investing into freeholding, the landholders have to have enough security to make sure that they are going to be able to see the benefits of their investment, because if they just invest all of this money into their land and then the election comes and the next government comes along they can just change all of these conditions. From our viewpoint, they could just take the property off us. There are so many tenure blind land management issues like the Vegetation Management Act and others that it does not matter whether it is freehold or not; they can still control how you run your property and potentially take away any of that investment that you have made into it. Investment into your land is really big on sustainability. If you do not have security into the future and throughout different governments, then your only incentive is just to get in there and use and abuse the land short term as much as you can to get out of it what you can because you do not know if you are going to have it into the future.

Ms MILLARD: What would you like to see? Say if you had complete control and Michelle Finger was writing the legislation, what would you like to see?

Ms Finger: I am a bit of an environmentalist myself. I hate to see anybody abusing their land, so I would like to see legislation where any landholders who are not doing the right thing by their land—and that has to come from people who are on the ground and experienced land extension officers I suppose and not so much run from the office as to be individual according to different areas—are held accountable and the people who are trying their best to do the right thing by their land given more security. So rather than just on a monetary value or a leased value, I would like to see lease renewals and security based upon how good your management of the land is.

Ms MILLARD: Okay, so use that as a measurement.

Ms Finger: Yes, use that as the measuring stick—how sustainable your practices are and whether you are looking after the land for the future. If you are, yes, you get to continue and if you are not you have to change your practices or be moved on.

Ms MILLARD: Thank you.

CHAIR: Michelle, I just want to pick up on that. In your submission you say that you support the proposed move to convert forestry leases into land in fee simple. Do you feel that this would provide that security to the landholders so that they would be, as you were just saying then, willing to invest and make long-term decisions that have environmental benefits as well as commercial benefits for them in their farming operations?

Ms Finger: Yes, definitely. That is why we thought it was a good idea. Like we said, it still has to be secure across different governments because the next government could come along and just change it back again. It is a bit tricky in that we are all supporting freehold and recognising that that would probably increase the value of our place, which would be good, but then we would not expect to have that value increase given to us for free. However, especially with the droughts and whatever, the whole cattle industry is struggling at the moment and it would be difficult to know how to afford to convert to freehold. So that would be the other reason that I could see why people would not take it up, and that is because they actually did not believe it would give them the security that it is supposed to into the future and maybe they just could not afford to convert as well. That would be the other catch.

CHAIR: Michelle, you just said then that people would not take it up because they might not feel that it would give security into the future. Is there a concern in the community that you are a part of that freehold is in some way compromised?

Ms Finger: Definitely, yes.

CHAIR: Would you care to expand on that a little bit for the committee?

Ms Finger: Because of the way new governments can come along and change your tenure types and change laws fairly easily, it seems to be, and because it is the number of tenure blind land management legislation such as environmental stuff like the vegetation management and those sorts of things. So they are the two big hiccups that I could see for people. It is whether it is actually going to mean something to be freehold as opposed to leasehold and whether they can actually afford it, because I do not think there is a whole lot of spare money floating around the cattle industry at the moment.

CHAIR: No, and I fully understand the second point. If you had to define freehold for the committee, in your own words what would be freehold to you? What would that term mean?

Ms Finger: As I said, I do not think people should have open slather to do whatever they like with their land. I do not think that is in anybody's interests because some people probably do not do the right thing and probably do abuse it a little bit. But I guess it is just security that if you are doing the right thing you are not going to have it taken off you.

CHAIR: I just want to tease this out, because I think you are on a really good point here. I am just trying to get my head around it. I understand when you talk about the tenure-blind legislative issues and I am very aware of the concerns that landholders have had around things like wild rivers and vegetation management. Obviously, if you are going to have some impact on an ensuring that environmental outcomes or standards are achieved, that will infringe on people's total freedom to operate as being the purist form of freehold. Is it simply a matter of degree as to how far it goes and we have gone too far in your opinion? Should freehold mean something else? I am just trying to nail it down, because I think you are on a really good issue here.

Ms Finger: Yes. I guess it is how far it goes. I suppose, as long as whatever someone is proposing to do with their land is sustainable I guess is the key. When they are assessing whether it is something that should be allowed or not, that is the question. Is it going to ruin the land for the future or is it going to be sustainable?

CHAIR: Let me ask you the $64,000 question. Who defines what is sustainable? In your view, should it be the landholder? Should it be the government or a public servant? The challenge with sustainability—that concept—is that it means different things to different people.

Ms Finger: Definitely. I think we need a lot more research, a lot more science and a lot more respect and cooperation between local landholder—generational experience on their own land—and government, scientific input. I think it has to come from both sides. I do not think that one department knows all the answers. It is a tricky question.

CHAIR: I think you have touched on a good point. Mr Hart would like to ask you a question.

Mr HART: Michelle, I just want to go back to what the chair was getting to before about freehold. Can you explain to us in your words what advantage you see in having freehold tenure to your land and what you think the advantages should, in fact, be if they are different?

Ms Finger: The advantages would allow us to be able to invest in our land and run it. There are so many projects that we could see would benefit both ourselves financially but also the long-term running of the property but we just cannot justify spending the money on the land because at any point in six months time we could just lose all of that infrastructure and all of that money. It is also hard, even though there are things that you can see that you want to do to run your

land better, at the moment we have to have the capital available to be able to do it, which is very difficult. We cannot borrow any money on our land. So it takes away the point to doing it and it takes away the ability to be able to do it. If our lease was more secure, then there would be a lot more incentive to try to run it better.

CHAIR: All right. Thank you for that. As you were speaking there Michelle—it is always a challenge via tele hook-up—there were a lot of nodding heads on the committee. So thank you for that. Can I touch on a different point within your submission, if that is okay?

Ms Finger: Yes.

CHAIR: You talk about the calculation of the land rents and the validity of using purchase price as a benchmark. You have given us some points there, but in your own words could you explain to us why you feel that this not is the appropriate benchmark for calculating these land rents?

Ms Finger: Why I feel purchase price is not appropriate?

CHAIR: Yes.

Ms Finger: I think the purchase price is not appropriate. I know it is traditional and change is hard, but I do not think that the purchase price is appropriate. At the moment I am at a forage pasture budgeting course. One of the big things that is standing up here saying is that there is a limit. You can improve your pasture and whatever but there is going to be a limit one day as to how many animals you can run on your property before it becomes unsustainable and starts degrading your land. So straightaway there may be some room for improvement now, but in the future your ability to increase your income is capped, because you have to work within the natural system. Yet the human population is exploding and they are not making any more land, so obviously I think land values—the purchase prices of properties—are going to continue to rise. If the land rents continue to rise with that, that will be more and more disproportionate with the income that is able to be sought from that land. So to me it just does not make any sense to be tied to that. Also, seasonally with droughts and markets, the purchase price of land will over a long period of time continue to go up and up but seasonally it can fluctuate greatly, which makes the calculation of rent very difficult.

Ms MILLARD: And those frustrations, Michelle, are generally over short periods of time?

Ms Finger: Yes, I would think so—over five years or something.

Ms MILLARD: Yes, thank you.

CHAIR: Michelle, if we were to look at alternatives to the purchase price, one of the points that you make is that an increase in the property's purchase price does not necessarily reflect the increased ability to generate profit from the same land. Do you feel that landholders would be prepared to provide information about what profits they are making if that were to be used as a basis to determine what the land rents should be calculated on?

Ms Finger: I am not sure. Perhaps that information is available already through the taxation system, because you are only taxed on what profits you are making. Perhaps land rent could be somehow tied to how much tax you are paying or perhaps it has to begin from a standard benchmark—maybe what it is at the moment and just increased with CPI or something like that. I am not quite sure how it should be calculated, but I do not think that purchase price is appropriate.

CHAIR: So it would be fair to say that you are very clearly not happy with purchase price but you do not have a fixed view as to what the alternative methodology should be.

Ms Finger: Yes, yes.

CHAIR: Excellent.

Ms Finger: Sorry, that is probably not very helpful.

CHAIR: No, trust me, you are being very helpful—a lot more helpful than others who appear before us, that is for sure. Are there any other points?

Mr HART: Michelle, just remind the committee, did you buy this lease at the start or was this a lease that commenced when you showed interest in the land?

Ms Finger: It was purchased by my husband's father in partnership with his brother. They had a freehold block and what is now our place was purchased over 40 years ago originally just as a bit of extra grass to add on to their other enterprises. Then the partner died very young of cancer and the family partnership split up and our side of the family was left with the forestry lease—and, no, I would never buy another forestry lease.

Mr HART: Do you think that the sale price of that lease varies every time the government shifts the goalposts as such?

Ms Finger: Definitely. We had some good examples of how simply the lease conditions affects the value of our place. This is probably 15 years ago or something—there is a little section of our lease that the paper boundary varies in practice to the physical boundary. I am not quite sure if it is 30 acres or something but it is on the other side of a major road to us that is not fenced into our property. It is just a part of next door's. We tried to do a deal with next door so that they could buy that section off us, basically, and realign the paper boundary with the real ground boundary. It did not happen, because the price per hectare of the surrounding area was just so much more than what they were willing to pay for the forestry, because it is a forestry lease. Sorry, I probably cannot talk about this all that well, but I could send you the information; I still have it at home. It was exactly the same country six metres beside it, but the value to them was decreased by two-thirds or something just because a forestry lease is not worth anything. Also, when my husband's father passed away our place was put up for auction. The place next door has a very similar carrying capacity, very similar land type. They were selling quite well and with our entire place, which can run about 800 head, we passed it in, because it only made about $500,000, which is nothing. You cannot buy a house for $500,000.

CHAIR: Michelle, that is reflected both in formal valuations as well as what is occurring in those open property transactions, or auctions?

Ms Finger: Yes, it is, which is probably the only benefit of it being a forestry lease—that our land rents are probably comparatively cheap to places next door, because the valuation of it is so much less. Our next door neighbours sold for about $6 million, which was fairly extreme. When that happened they tried to increase our valuation accordingly and we had to do quite a bit of fighting to argue against that, because their place was a freehold and our place was a forestry lease. They had a go at ignoring it and increasing our official valuation, but we argued to get it back down.

CHAIR: When you say 'they', do you mean the council or do you mean the state government Valuer-General.

Ms Finger: Whoever is responsible for the land rents. So Valuer-General, I am presuming.

CHAIR: Thank you for that. Is there anything else that you would like to raise with us, Michelle?

Ms Finger: No, I think that is pretty much covered it.

CHAIR: All right. On behalf of the committee, I thank you quite genuinely not only for your submission but also for your time today. You probably do not appreciate but from our perspective we get to hear from peak bodies often but it is a real delight to hear from people who are literally on the farm, on the ground, experiencing this. The insight and the views that you are able to provide us are incredibly valuable and quite different from what we hear from state bodies—not that they do not represent their members but they have slightly different views. We are always very appreciative of individuals who take the time to present to committees. So thank you very much for today.

Ms Finger: Thank you. I really want to thank the committee for looking into it, because for the last 40 years the frustration that this family has had—having plans of what they would love to do with this place but just being unable to manage it properly—purely because of the paperwork attached to the place; the frustration of that is quite insane. So I really want to thank the committee for taking the time to look into it.

CHAIR: We appreciate it. Thank you very much, Michelle. We appreciate your time today.

Ms Finger: Thank you all.

GSCHWIND, Mr Daniel, Chief Executive, Queensland Tourism Industry

CHAIR: Would you like to make an opening statement?

Mr Gschwind: I will make a very brief opening statement. I heard the tail end of the presentation of the previous witness and it is good to hear the passion with which an individual operator, and landholder in this case, supports these amendments. We are a peak body and we support the amendments on the basis of the feedback that we have received from our members. We are particularly pleased to see that the implementation of the previous recommendations will see greater security introduced, greater certainty not only to rural properties that may have opportunities to also expand into ecotourism opportunities but also of course, with the inclusion of some of the current offshore island leases that would benefit from a streamlining facilitation of the administration that will reduce some of the paperwork that was mentioned before. It will make it more likely that we can achieve the broader objectives that this government has of expanding tourism through the DestinationQ initiatives. It will also expand tourism through the eco-tourism plan, which we are also obviously engaged in and supportive of. We believe that these amendments will certainly assist that process.

CHAIR: Just to pick up on what you said then, for the benefit of the committee, how big and untapped is ecotourism? What are the opportunities that we could be seeing within the state of Queensland as a result of the proposed amendments in this bill if it was to pass?

Mr Gschwind: On the basis of what we understand from the demand from our market and the research that is being undertaken on a regular basis, we know that one of the key attractions that Queensland, and for that matter Australia but particularly Queensland, has is our natural attributes. Great bits of nature, whether that is out on the reef, whether that is rainforests, the temperate forests, the inland, the great outback that we have a good share of in Queensland, those are the things that visitors come to see. The fact that they stay in an hotel bed and consume meals and retail, that is almost incidental. They are attracted because of our great nature. We make no secret of the fact that we want to build on that. We want to make sure that we can leverage that competitive advantage. By giving businesses the opportunity to work sustainably and operate sustainably within those environments and make those accessible to visitors, that is the way we can increase economic prosperity, employment and community growth right throughout Queensland. It is a very decentralised industry, it has many small operators, many small businesses, and it delivers a direct benefit to the community. That is sometimes a bit overlooked when we talk about growth, economic growth. We are an industry that can also bring the community along on this journey. It is not benefit that is transferred to some corporate headquarter in Australia or even offshore, it is benefit that stays with the community. The amenities that we create, whether that is accommodation, attractions, visitor infrastructure generally, are also accessible to the locals. Engaging with landholders, whether they be rural or leaseholds on islands, and making it easier for them to build a business, a sustainable and viable business, by reducing the administrative burden, by creating greater flexibility in the way they can use their land, is one important strategy to advance those objectives.

CHAIR: It may be a question that you would like to take on notice, but do you have an idea of a dollar value as to what the ecotourism market potential could be for Queensland?

Mr Gschwind: My guess would be as good as anyone's I suppose, but we note that two days ago it was announced that tourism contributed $23 billion to the economy of Queensland in visitor expenditure. We know also that, as I hinted at earlier, a lot of visitors, whether domestic or international, include a nature experience in their visit, or is their motivation for the visit. I think three quarters of visitors to Queensland say nature plays some part—an important part—in their decision to come here. I could speculatively say that more than half of this expenditure is at least driven by the attraction of nature. It is a growth market. We know that China is one of our important growth markets. Perhaps contrary to popular belief Chinese visitors also value environmental experiences extremely highly because it is something that in many cases in their places of origin they cannot experience so readily so they look for something pure, they look for an experience that takes them perhaps to wide open space in our outback, onto a farm or, who knows, out in the rainforest. If we can provide facilities where they can either stay or which give them access to our great attributes then we will all be winners out of it.

Ms MILLARD: You mention that red tape is burdensome. Are you able to give some examples of red tape hindrance that you would like to see removed or rolled back?

Mr Gschwind: Many rural landholders in the agricultural sector seek to diversify. They go through stages where they are very keen to perhaps explore eco or general tourism opportunities, perhaps having some cabins or making part of their land accessible to visitors. In some cases that

has been very difficult to achieve because of the terms of their lease. Those terms have been improved, I have to say, over the last few years but they still face restrictions in going down that path because they obviously have a lease that is provided for agricultural purposes. But if they had more flexibility in using their land or some part of their land also for purposes of tourism, for instance, they would have greater opportunities to diversify their business. On a small scale we have seen some very innovative examples of how that can work without compromising the agricultural output or any environmental aspect, but by actually supporting them staying on the land and maintaining the agricultural interest as well, similarly on islands and offshore islands which are often very difficult to make stack up as a business because the costs are phenomenally high. We have seen some significant investment on some of our islands and the prospect of more investment, but those investors who come here with millions of dollars—or hundreds of millions of dollars prospectively—they want to know that the tenure arrangements, whether that is a lease or perhaps freehold in the future, give them sufficient security to actually invest those funds. That is often the trigger point. It is something that they obviously look at very carefully and if they fear there is uncertainty then they will hold back.

Mr HART: With that in mind, do you think that this legislation has gone far enough with giving those sorts of companies the confidence to invest in Queensland?

Mr Gschwind: I think it is a really important step in the right direction. Can we push it further? Perhaps. We are happy to go with what it is at the moment. We know we need to take the community along on these things as well. It is a journey that we are on together. We do not want to in a sense frighten anybody and have them think the government is doing things that is perhaps pushing the boundary too far. I think the experience with this will instruct us or inform us on how we could further amend this. I think that is what legislation is ultimately for. You adjust it to the circumstances as times emerge. I think there are certainly further ways that we could improve it in the future.

CHAIR: From time to time through media reports we hear stories about tourism product offerings that are becoming old. They were put in perhaps in the eighties and now they are tired and the investors or developers have not brought them up to spec and there is a large cost with that. Has part of that challenge been that lack of certainty: if we are going to spend hundreds of millions of dollars upgrading a resort or addressing something we need to have that certainty. Is that part of the reason why in some places—and not all—we have this old tourism product that is looking a bit tired, is looking a bit eighties?

Mr Gschwind: I think it is definitely a contributing factor. It is an issue that we are looking at very closely from an industry point of view as well. What you describe is very true. We absolutely admit to that. Any regulatory improvements that make it more attractive for an investor to reinvest. It is indeed one of our weak points. We have a lot of small-scale investors or property owners who are reluctant to reinvest. We are trying every angle to improve this through depreciation rates federally in the taxation system and also through these amendments here before us, which will all contribute to make it more attractive, give more certainty, more security and a bit of confidence, I think, from investors that the government is actually on their side and is not trying to make their prosperity more difficult, that it is actually responsive and reacting to the concerns. That in itself I think sends a message that would support further investment.

Mr HART: Has that been a problem in the past, do you think?

Mr Gschwind: Definitely. There have been times when the investment community felt probably like they had to do battle, throughout history perhaps, occasionally federally, occasionally at state level. I think it is very important that the government does not necessarily acquiesce to everything that the industry puts up, but certainly that the government shows genuine commitment to achieve common objectives. I am pleased to say, and I am not hesitant to say, that with the Destination Q framework that the government has put up, which is a genuine partnership with the industry, we have created a bit of a broader shared vision that gives the industry a bit more confidence that we are going in a common direction.

CHAIR: How does the industry from a regulatory framework compare in Queensland to other states, particularly in the ecotourism sector? Will this bill bring us on par with other states in Australia and territories or will it put us ahead of where they are currently at?

Mr Gschwind: We have fallen behind in the last two decades, there is no doubt about that. We have seen other jurisdictions leapfrog us, if you like. We have seen Tasmania, Western Australia and Victoria take significant steps in promoting ecotourism experiences and taking people out into nature without compromising those attributes or those assets. We have seen with the

ecotourism plan, which contains numerous aspects of ecotourism development, and with this, significant steps to improve this. I certainly hope we will leapfrog them again. The proof is always in the pudding, but certainly the elements that we are putting in place here with the ecotourism plan, with the opportunities for limited and restricted development in national parks which are subject to other legislation and this, I think we are lining up the proverbial ducks to actually achieve an outcome that will be good for us.

CHAIR: You have given us a wealth of information. Thank you for that. Is there anything you feel you would like to bring to the committee's attention that we have not questioned you on?

Mr Gschwind: I again say thank you for the opportunity. I think we have to tackle all those small and large legislative issues to eventually create a good overall story. I think we are on the path to that. We are committed to this process. We do not think it is all black and white. It is all about balance for us too. I want to make very clear we are an industry that very much relies on the sustainability of our natural environment. We are very conservative in that sense and we will remain so. For us it is about balance and we think that goes in that direction and that is why we support it.

Ms MILLARD: You mentioned that lease conditions can hinder opportunities with regard to diversity into tourism. Do you feel there are other hindrances other than that specific one?

Mr Gschwind: In relation to this bill?

Ms MILLARD: Yes. Are there any areas of tourism perhaps we are not covering as well as you would like to see?

Mr Gschwind: There is probably some further work that could be done on the islands. The idea of freeholding them was dismissed because it was considered to be too controversial, maybe a bridge too far at this point. The idea that suddenly an island could be owned entirely by a private investor for commercial purposes was considered a bit too far. I think there is probably more work that can be undertaken to make island investment more viable and more likely. We do have many islands in Queensland. That is not to suggest that every single one of them should be commercially converted into a tourism resort, certainly not, but the existing ones and possibly some new ones we could tackle more effectively to make that an attractive proposition for an investor.

CHAIR: There being no further questions I close this session and thank you for your attendance here today. The committee will take a short break.

Proceedings suspended from 10.13 am to 10.42 am

BOYLAND, Mr Desmond, Policies and Campaigns Manager, Wildlife Preservation Society of Queensland

CHAIR: I now welcome the representative from the Wildlife Preservation Society of Queensland. For the record I ask that you please state your name and the position in which you are appearing before the committee today.

Mr Boyland: Thank you for the opportunity to appear before the committee. I am Des Boyland, the Policies and Campaigns Manager for the Wildlife Preservation Society of Queensland, also known as Wildlife Queensland. Wildlife Queensland is one of the longest established and most respected wildlife focused conservation groups in Queensland. Wildlife Queensland is apolitical and will work with the government of the day given such opportunities. Our mission is to be the leading non-government organisation advocating protection and conservation of Queensland's need of terrestrial and marine plants, animals and landscapes by educating and engaging communities, influencing decision making, advancing solutions and connecting people with wildlife. With over 5,000 supporters spread across numerous branches throughout Queensland, Wildlife Queensland has a strong voice for our wildlife and its habitat.

The bill under review addresses a broad range of issues including land reform, rectifying errors of taking water and water licensing, broadening aspects of high-density development, amending the Native Title Act, clarifying the public and environmental purposes for which land may be acquired, and matters relating to the petroleum and gas industry. While Wildlife Queensland has an interest in many of these, there are other organisations far more qualified to provide comment on aspects. In particular, Wildlife Queensland has no right to speak on behalf of Aboriginal and Torres Strait Islander peoples but strongly support that their interests and aspirations are adequately addressed. Wildlife Queensland will focus on concerns with land tenure reforms, Water Act related issues and an apparent lack of consultation with the broader community on these issues.

With land tenure reforms, the introduction of rolling leases is a major concern. Based on extensive work experience in Western Queensland and our membership views, the old saying, 'Live like you die tomorrow but farm as though you will live forever,' is practised by many but not by all. The introduction of rolling leases, combined with the apparent conditions, is a retrograde step for the environment and its biodiversity. The Newman government has introduced some positive land management practices, such as an enlightened approach to the harvesting of mulga, but this bill has the capacity to set land management in Queensland backwards. Not only do we see the introduction of rolling leases; but there is increased flexibility for lease amalgamations, the removal of restrictions that limit the number and type of rural leases that can be owned by individuals or corporations, expediting the conversion to freehold, and substantial changes to the way lease records and state land purchased prices will be calculated.

Unfortunately, it is an established scientific fact that the biodiversity is in decline and essential ecological processes are under pressure. Obviously current strategies are not working and there is a need for protection to be enhanced, not weakened. If this situation of biodiversity decline was not the case, then Wildlife Queensland's position to the proposed changes may be different.

The stated purpose of the reforms is to enhance investment opportunity and security of tenure for the state's leasehold estate. Wildlife Queensland takes a view that in fact the outcome of such a bill, if enacted, will be to reduce the state's ability to control the future of an estimated 60 per cent of the terrestrial area of Queensland and at the same time increase the property rights of many existing leaseholders without any assessment, review or profit to the broader community.

The introduction of rolling leases and related changes provide an extension process to replace the existing procedures. Our reading of the bill indicates that the minister for the Land Act must grant an extension that has been applied for. The application for renewal may be made at any time in the last 20 years and the renewal is for the term of the original lease. Granted there appears to be a few limitations on when an application can be made and additional consent is required in a few defined circumstances, the minister has no discretion but to extend the lease.

What is disturbing is that rural leaseholders will no longer be required to enter into a land management agreement to continue to hold a lease over state lands. Best practice for land management requires land management plans to be in place. The changes proposed also mean that there will no longer be an opportunity for the state to consider whether the purpose of the lease is still the best use of the land. Is this in the best interest of Queenslanders? Apart from the concerns raised, how do you ensure the long-term condition of the state's agricultural and pastoral lands? This potential privatisation of the state has been developed with little to no public consultation on the likely outcome of these changes.

Another major concern for Wildlife Queensland is the fact that this bill is used to rectify legal deficiencies with regard to decisions made under the Water Act. The fact that mandatory statutory criteria was not followed should not be taken lightly, and surely this is contrary to best practice and would be in conflict with the intent of the Water Act. In the explanatory notes, reference is made to confirming the validity of particular water licensing decisions and fixing minor drafting errors relating to the taking of water. Wildlife Queensland poses the question: is this problem so immense that the applications cannot be re-examined and dealt with in accordance with existing legislation, rather than with retrospective legislation changing the law so that decisions are validated? Wildlife Queensland would also be interested to learn if an inquiry has been or will be held to determine how these errors occurred and, more importantly, what steps will be taken to ensure such failures do not occur in the future? Transparency and accountability are the cornerstone of good government.

Wildlife Queensland is not opposed to legislative change that reduces red tape and duplication. In fact, Wildlife Queensland encourages a review of legislation as circumstances and situations change. Such reviews must be subject to broad consultation with the community and provide opportunities for interested parties to air their views. It is suggested that this did not occur on this occasion. Furthermore, Wildlife Queensland is opposed to legislation that weakens environmental protection in the name of enhancing investment opportunities and security of tenure for the state's leasehold estate.

While Wildlife Queensland desires many changes to this bill, the one change that would significantly benefit the environment is the retention of land management agreements on rural leasehold land. Thank you.

CHAIR: Thank you very much. We appreciate your opening statement. I would like to pick up on your concern with regard to rolling leases. It is not directly linked but earlier today—and I appreciate you may not be aware—we were talking to a landholder and they were making comment with regard to forestry leases. So it is not exactly the same but the point could perhaps apply here. The individual that we were speaking to made the point that she considers herself an environmentalist and she wants to look after the land, but the lack of certainty is affecting her ability to negotiate with banks in order to get finance to undertake practices on the land—for example, to establish better watering points for the stock so that particular areas are not being pressured. She was putting forward the view to the committee that increased certainty, having a longer tenure, would enable her to be a better steward of the land because, instead of, as she described, just taking what you can get, she would have a much longer horizon to view the management of the land—I do not doubt that in her case she would be a good custodian of the land regardless—and be able to source funds to do that. Do you see the rolling leases as having that potential benefit or do you have other concerns?

Mr Boyland: I do not know whether you are well aware of the former Delbessie Agreement, which has been set aside by this government, which again I think is a retrograde step. Tenure does not bother me provided there are safeguards in place. There is no question that best practice says that farmers, graziers, foresters—it does not matter what they are—should have management plans in place. Quite frankly, if there were management plans in place that met certain criteria, I could not care less if the leases were 100 years. That is the problem.

As I said, I have worked extensively in Western Queensland and I have learnt a hell of a lot out there from practical people on the land. The majority I would say try to do the right thing. I was on the Delbessie assessment committee and I was very concerned with some of the assessments on the mulga lands. Unfortunately, the previous government, contrary to my better advice which they ignored, had a management strategy for a lot of the mulga that was not beneficial for biodiversity or for production. I can see that there needs to be surety, but the government also has to have in place an opportunity to say whether or not that land is still being used in the best interests of the state.

CHAIR: That brings us to the next point that you made that I want to touch on, and that is your concern that in your view in this bill the minister is almost obliged to grant an extension to the lease. What would you prefer to see in this bill? Is it as simple as 'the minister is not obliged to'?

Mr Boyland: Yes. He is certainly not obliged to and should give consideration to it. If I had my way, which obviously I do not—

CHAIR: We are keen to hear it.

Mr Boyland:—there would be land management plans for all properties in Queensland whether they are freehold or not. The simple fact is that our biodiversity is going down the gurgler. It does not matter if 20 per cent of Queensland was in national parks; that is not going to save it. We

have to work with the broader community to do that. I do not think a lot of people really understand that if they start losing biodiversity at a great rate you start to come into the situation where the air they like to breathe and the water they like to drink and all of that sort of thing comes off the end of the processes. There are so many implications as it is at present.

Mr HART: Mr Boyland, I would like to take up one of the points that you talked about, and that is your concern about the lack of consultation.

Mr Boyland: Yes.

Mr HART: You have read the committee's report into the future and continued relevance of government land tenure across Queensland, I assume.

Mr Boyland: Yes. We even made submissions to that.

Mr HART: You put a submission in.

Mr Boyland: Yes.

Mr HART: Are you aware we had 108 submissions to that particular inquiry?

Mr Boyland: Yes.

Mr HART: And we travelled widely and spoke to a lot of people. Can you expand on what your issue is with consultation?

Mr Boyland: The fact is that this bill is particularly rushed. I know that this bill arose out of that inquiry. But a lot of people who have read this bill have major concerns about the implications. What we wanted was more time for people to actually discuss the issues. I am aware that some Aboriginal organisations have made submissions but I know others have failed to do so. I know other organisations have actually sought an extension for their submissions and that extension was not granted. It is this rush. I appreciate you are facing an election next March or something like that. But that is what we are talking about—the broader consultation on this particular bill.

Mr HART: The committee consulted for six months on its original inquiry. You do not think that was long enough?

Mr Boyland: Obviously I believe there should have been longer consultation for this piece of legislation.

Mr HART: Did you read the committee's report and all of the submissions that came in?

Mr Boyland: Not all of them but many of them.

CHAIR: No sin there, Des. We struggled to read all of them.

Ms MILLARD: Earlier we spoke to another group and they were talking about the fact that lease conditions can sometimes hinder opportunities—for instance, rural properties may want to go into tourism and have some cabins et cetera.

Mr Boyland: That is not a problem from my perspective, particularly if it was built into a management plan for the property. Most of the successful people out there already have management plans in place, and a land management agreement to abide by their land management plan is simply all that is required. Also, in fairness, some people change land. They go from the Mitchell Grass Downs where it is pretty difficult to do any damage even if you really try over to mulga lands which is far more sensitive. Mulga lands are, in fact, the most unstable land system in Queensland. They have been producing quality fibre and food for over 160 years through good practices and stuff like that. I differed strongly with some of the government assessments of some people's properties because they really did not understand some of the land types. They went on to a land type and looked at it in horror and shock, and I went on to it and said, 'That is the best condition I have ever seen this land type in Western Queensland,' because of 20-odd years experience in working out there. So there are differences, but the one positive about the Delbessie thing was that land management agreements in some cases were helping educate people who particularly moved on to new types of land and handling and certain stuff like that.

CHAIR: Des, you just mentioned what I think is a really valid point that those who are really successful have land management plans in place. It is good for business, it is good for farming and it is good for the environment. It is an understanding of how those all merge together. Is there a place where land management plans are seen perhaps in more of a business context, so rather than being a regulatory requirement they are voluntary but it is one in which people can see the benefit from undertaking those practices?

Mr Boyland: The good people do that and the rogues—and there are rogues; there are rogues in every industry. Even the conservation movement has a couple.

CHAIR: I will default to your experience in that matter.

Mr Boyland: There has to be a bit of a stick so that people are obliged to provide those things.

CHAIR: You do not think the financial benefits are enough? When it comes—to use your phrase—to the rogues, that is not going to be enough to—

Mr Boyland: I will let you into a little secret: the broad community does not trust government.

Mr HART: That is no secret.

CHAIR: I will just get the *Courier-Mail* to stop the press.

Mr Boyland: The biggest thing was when national parks changed their name to environmental protection area, because that allowed us access to so many areas where previously people wouldn't because they would come to you and say, 'You are from the EPA? Oh, that is all right. You can come in here. If you were from national parks we wouldn't let you on because I have these rare creatures down in the south-west corner and if you see them you will want to grab our land for national parks.' Education is a key factor. A lot of people do not appreciate they are doing the wrong thing.

The other big challenge I had is that there is a lot of money being invested in the Great Barrier Reef and trying to save that from potential disaster, and a lot of it is based on land management. If there is no requirement for land management plans, what tools is the government going to use to assess whether the improvements are happening or are not happening? Rectifying the problems—

CHAIR: You are touching on a really good point. But is part of the challenge that land management plans are part of the process and not necessarily the outcome? Governments of all persuasions and of various levels can sometimes get people bogged down in process, 'We have to produce a plan,' but do not look at the outcome. Are we getting a better outcome for the reef, for our waterways, for our biodiversity? Should the focus be more on measuring the outcomes and whether they are improving, declining or remaining stable and then having more flexibility as to how you achieve that?

Mr Boyland: It is a known fact what causes run-off and that sort of thing. Granted there is some natural run-off and there has been for many years, but there are activities by certain people in catchments such as overstocking certain areas or even stocking certain areas that causes a higher increase in sediment load into the streams and back on to the reef. The trouble is waiting for the outcomes—the time frame; the time lapse. You could be doing something active. If you are looking at a property and you see this person is doing the wrong thing and he is not controlling the run-off you can take immediate action to say, 'Listen, this is in accordance with your land management agreement. You have to step up the game,' Rather than wait four or five years before you can see the total outcome at the end of it.

CHAIR: Okay.

Mr Boyland: That is the problem.

CHAIR: That is a good point.

Mr HART: Des, we heard from a lot of leaseholders during our consultation last year. One of their major issues was about the length of their tenure and the condition that the tenures imposed on them. Moving forward, they would be more inclined to take care of their land even better than they do now if their tenure was secured more. Do you have any comments on that? We heard from a few people that, given that their tenure was exposed, they would move in and farm pretty heavily that land not knowing that they have a future there.

Mr Boyland: As I said, I have no qualms in having 99-year lease terms provided there is land management plans in place that can be assessed not every year but every five years or every 10 years by government to ensure they are managing the land for the betterment.

Mr HART: There is a general view that the conditions under the Delbessie leases were far too strenuous. Do you agree with that? Did they go too far in some instances?

Mr Boyland: I do not believe so. In fact, there is a major deficiency in the assessment of the impact on fauna. They have fallen into the old trap of using vegetation as a surrogate for assessing biodiversity fauna—the standard of the fauna. I will let you into a little secret: build it and they will

come does not necessarily work in nature. You can rehabilitate an area but it does not necessarily mean that the actual fauna that used to inhabit that area and make the system work will automatically come back. There are a lot of challenges there. With the mulga land, when they had permits for mulga harvesting I advocated that those permits should be a minimum of 10 years, because if you go to a bank with anything under 10 years they do not even consider it worthwhile considering.

CHAIR: That is a point that the committee has heard evidence on. There needs to be certainty from a finances point of view. That term plays a large part in it, whether they will get finance for activities or not.

Mr Boyland: I know that a lot of these committee hearings, in recent times anyhow, there is minimal change to the bills. As I said, if there is one change it is the retention of the right for a land management agreement or even if we cannot get to that the capacity for the minister to request one should that minister—

CHAIR: Can we tease that concept out, because I think you are raising something that is of interest there? On what grounds would you see the minister making that request? If they were not obligatory on all but if there was evidence—

Mr Boyland: If there was established environmental harm.

CHAIR: Okay.

Mr Boyland: There is environmental harm anywhere.

CHAIR: I was going to say: can you define that?

Mr Boyland: Significant environmental harm.

Mr HART: Who would you see assessing that?

Mr Boyland: I have faith in government officers, to be perfectly honest—experienced government officers—and the landholder should have a right of appeal; natural justice.

CHAIR: Is that a big enough stick? If the minister had the power to direct that should there be significant environmental harm—and understanding the psyche of many on the land who have the view, 'Don't tell me what to do; I am doing the right thing.'—if that stick were there but not being applied that may be enough to improve their practices right here and now—

Mr Boyland: Well, it is certainly a better situation than our reading of the current bill would be.

CHAIR: We will tease that out with the department. They are appearing before us as the last witnesses, as is standard practice, and I promise you that we will tease that out with the department.

Mr Boyland: I think that is at least some step or some brake on the mechanism.

Mr HART: If the government wants to look at that, does that fix most of the issues that your society has with this legislation?

Mr Boyland: Well, it is a step in the right direction. We will never be pleased. I would be misleading you if I suggested that.

Mr HART: That is a shame.

Mr Boyland: I used to work in government for many, many years and I lined up with the Wildlife Preservation Society to correct some of the mistakes that I was forced to implement during my working career.

Ms MILLARD: I have a question with regard to calculating land rents because some individuals have expressed concern about the use of the purchase price as a benchmark. Do you have any thoughts or concerns on that? You have a fairly broad background so it would be good to hear your concerns.

Mr Boyland: First of all, I am not an economist but the way I would go about assessing fair price is a determination of the likely outcome or potential profit from owning that sort of land. A certain percentage of that working that way, because there is some land that is far superior to others. I would rather have 1,000 hectares of Mitchell Grass Downs country than 100,000 hectares of mulga country, for example. I believe there should be an estimation of the actual outcome or potential outcome from that, given a bit of flexibility taking into consideration the innovative proposals that people have and determine a percentage of that. I know that unimproved values of land and that sort of thing are calculated on average sales, but often they do not bear anything to the actual potential earnings from that holding.

CHAIR: Are there any further questions? We are almost out of time. Des, is there anything you would like to say in wrapping up, or is there anything you feel the committee has not questioned you about that you would like to bring to our attention?

Mr Boyland: No, I think I have covered everything. If by chance we cannot get the land management plans in place, at least the minister having the right to demand one, should circumstances approve, would be a step in the right direction.

CHAIR: Thank you very much for that. I really appreciate it. I think the highlight of the parliamentary committee system is that these opportunities are presented, and it certainly influences us in our thinking and then also in the report and recommendations we make to government. I appreciate your time and your organisation's time for making a submission today so I thank you for that.

Mr Boyland: Thank you.

BURNS, Mr Shannon, Policy Officer, Cape York Land Council

JUDE, Ms Jennifer, Senior Legal Officer, North Queensland Land Council

CHAIR: Good morning. My name is David Gibson and I am chair of the State Development, Infrastructure and Industry Committee which is conducting these hearings. I have with me the deputy chair, Ms Kerry Millard, and the member for Burleigh, Michael Hart. We appreciate your time in appearing via teleconference today and we thank you for that. We know you have got some weather issues up your way that may be distracting you in other areas, so thank you for making the time. Do you have a joint opening statement, or would you like to make two separate ones? We are happy to accommodate you in either capacity.

Ms Jude: We will make two separate ones. Shannon will go first.

Mr Burns: Good morning, committee, and thank you for your time and for the opportunity to speak to you this morning. In opening, we would say that, generally speaking, we support the objectives of what the bill is seeking to do in terms of providing greater security and opportunities for people on the land to make more use of land and get greater diversification and economic development occurring. We do have a fairly significant criticism of the process that has been implemented to develop the bill, particularly in relation to the impacts upon the rights and interests of Aboriginal people.

We think there was a very short period of time provided to comment on the bill. We only had effectively about one week to review and comment on the bill, and that really reflects more generally that there has been very limited consultation with native title groups and other organisations that represent the interests of Aboriginal people. Because of that, we think the bill actually suffers significantly in that it has not properly considered and understood the impacts upon native title. We think that is actually going to reduce some of the opportunity to achieve the bill's objectives, because the ability to increase security of tenure for agricultural interests et cetera cannot be properly done until native title impacts have been addressed. Some of the provisions in the bill which will provide for the greater security cannot actually be implemented until native title has been addressed. Before this bill goes forward, we think there needs to be greater consideration of the native title question more generally. That is the general thing I would say as my opening statement.

CHAIR: Thank you, Shannon. Jennifer, would you like to make an opening statement?

Ms Jude: Largely, I endorse the comments that Shannon has made. We consider that before the bill goes further there should be consultation with both native title holders and representative bodies so that a proper view of the native title implications can be gained. We think the bill might give pastoralists the impression that it is going to be easy to convert to the rolling term leases, but we argue that that will affect native title and native title being a communal interest the incentives are going to have to be fairly good to secure surrender of native title. I do not think that is clear in the bill, and I am not even certain the government has taken that into account. Generally, I think if it can be achieved and native title can be addressed satisfactorily, the bill does give opportunities to close the gap.

CHAIR: Thank you for that. I do not know if you are aware but the committee held a previous inquiry into land tenure issues and that was a fairly extensive inquiry. I believe the Cape York Land Council did make a submission on that and then this bill is in response to some of the recommendations that we made. It was quite an extensive report and it addressed a range of areas, and the government have come back in phase 1 and phase 2. The government have indicated to us that this bill as phase 1 is addressing some of the areas. I believe phase 2 is where they are focusing their efforts with regards to a smoother approach to native title negotiation. It has certainly been recognised. It was a major section in our report in the original land tenure inquiry. In fact, the committee sought some independent legal advice because it is such a complex area. I just wanted to flag that for your benefit because I was not sure if you were aware of that.

Ms Jude: Yes. We have both read report No. 25, which is the report you are referring to which has been tabled. I think we can both make some comments about that and I will hand over to Shannon.

Mr Burns: One comment is that we did recognise that part where we said phase 2 was to occur in parallel with development of a smoother approach to native title and negotiations and addressing native title more generally. Phase 2 also included the amendments to the Land Act and other land legislation. We are seeing that this bill actually does amend the Land Act so it actually is entering into phase 2, but the other part of phase 2 to address native title has not—

CHAIR: Obviously, our focus in this hearing is on the bill that is before us, so would it be fair to say that your concerns link back to the rolling leases? Obviously, the native title negotiation arrangements have stayed the same, but the perception could be that a shift to a rolling lease would be done so by landholders without having a full appreciation of the need to still conduct native title negotiations.

Ms Jude: Yes, I think that is correct. We argue that the extension of a term lease to a rolling term lease of quite long duration would be a future act and native title would have to be addressed, but I do not think any of the farmers—and I must admit I have not read their submissions but I believe Shannon has—have alluded to that. I think they may be under a misapprehension that it is going to be a pretty straightforward thing to get these rolling term leases, but if native title has to be addressed it may not be quite as straightforward as they may be thinking at the moment.

Mr Burns: Both in terms of process, in that they may not actually appreciate that native title does need to be addressed, and then, secondly, once they actually do get into that process and they understand that, before native title consent is likely to be given for these things, native title holders are going to want some compensation or other form of incentive to agree to these impacts upon their native title. So I think in some ways the bill creates a bit of an illusion that pastoralists can just follow the provisions of the amended Land Act and they will be able to increase their security of tenure, whereas that whole side of things which requires dealing with the Commonwealth legislation for native title does not seem to have been highlighted sufficiently to give pastoralists and other parties the understanding that there is still that requirement to address.

CHAIR: Is it your view that that should be highlighted within the legislation? Or is that simply something the government should do external to the legislation but part of a public education campaign if the bill does pass?

Mr Burns: Perhaps both.

Ms Jude: I think some public education would be a very good idea. I think the Land Act itself—not the amendments so much but the Land Act itself—does indicate that the Commonwealth's Native Title Act does have to be complied with. Shannon has outlined what the farmers' submissions have said, and none of them have alluded to the fact that native title is going to have to be addressed. I just do not think it has registered with them.

Mr Burns: As you probably understand, native title still exists across very large areas of the state, particularly the northern parts—Cape York and North Queensland generally. In Cape York, for example, we think that native title still exists for well over 90 per cent of the land. There are no perpetual leases on Cape York; they are all term leases. So everywhere in Cape York and throughout much of North Queensland as well, there is going to be the need for pastoralists, if they want to go through this lease upgrade, to have to address the native title issues. We think it is part and parcel of the process and just needs to be integrated more seamlessly into the process. Rather than just saying the state has set up its legislation to provide for these more secure tenures, we need to integrate that more compatibly with the Commonwealth legislation to address native title. I think we need to have a closer alignment between those two pieces of legislation and explanation in the bill as to how native title is going to be addressed.

CHAIR: I might pass questions over to the other committee members now.

Mr HART: Jennifer, is your legal view then that the legislation allowing for a rolling lease would automatically trigger a future event and hence the need for an ILUA? Is that what you are saying?

Ms Jude: No, probably not an ILUA. I think changing the term of a term lease would trigger subdivision I of the Native Title Act. What would be required would be notice, the right to comment and maybe the right of objection if it is a non-exclusive grazing lease or a non-exclusive agricultural lease. That triggers subdivision M of the Native Title Act and giving the right of objection. I do not think changing to a rolling term would require an ILUA. You could go down the ILUA path, but the state would not necessarily have to do that. In relation to the change to a perpetual lease or a freehold, I believe you would have to go down the ILUA path.

The Native Title Act, which most people are aware, gives a number of different ways of addressing native title. The subdivisions are very useful if they apply. Even if they do apply, it is still possible in most cases to proceed by way of ILUA. Certainly if the subdivisions apply that is not as difficult a process. That probably brings us into the fact that we are unaware if the state still wants to go ahead and develop the generic Indigenous land use agreement that was talked about in report No. 25.

CHAIR: Fair point.

Mr Burns: Can I add a bit to that to elaborate on a point that Jennifer made? In terms of the rolling term lease, we think we need to look at that more carefully as to whether it does or does not require an ILUA. There are a couple of other items such as this proposal to be able to go directly from a pastoral term lease directly to freehold. That would certainly trigger native title and require an ILUA to get that to occur. Also the idea of if you want to consolidate a term lease with an adjoining perpetual lease—and that area under the term lease then becomes part of the perpetual lease—that conversion of the area currently under term lease to perpetual would also trigger native title and require an ILUA as well. There are certainly some proposals in the act that would definitely require resolution by an ILUA.

Ms MILLARD: With regard to the issue of compensation, how could you see the bill addressing this?

Mr Burns: I guess it needs to at least be clear on whether the compensation would be provided by the state or it would be the proponent who would have responsibility to do that. Reading between the lines, it seems like the state is expecting the proponent to have to come up with the compensation to enable these agreements to be made. I think that is one thing, just to be clear, to be up-front about who the responsibility would sit with. Then we would have to look at what forms of compensation would be acceptable to people. Money is obviously one thing but we would like to see a whole lot of other non-monetary things on the table as well such as employment or opportunities for Aboriginal people to use land for different economic purposes. Perhaps creating interest in land for Aboriginal people as well could be another way in which compensation could be provided. These are the sorts of things that we would really need to sit down with the state and go through in more detail. I guess it is the sort of thing that might be contemplated being negotiated as part of the phase 2 type stuff. We would certainly like to discuss that with the state in more detail.

Ms MILLARD: So phase 2, along the lines of what you were talking about before which was in accordance also with the native title impacts?

Mr Burns: That is right, depending upon the scale of the impact and the extent of the impact. As I say, money is the obvious compensation, but there is a range of other forms of compensation or incentives for people to agree to the upgrades. We think some of those forms of compensation should be looking to essentially create employment or opportunities for Aboriginal people to participate in the economy as well.

CHAIR: For the benefit of the committee would you care to expand on what those other types of compensation could be that could have an economic spin-off for the local Indigenous community?

Ms Jude: I have had a long history of working with the lands department in New South Wales. I can see that freehold land would be very attractive. It certainly was to the Aboriginal people in New South Wales. So that could be another form of compensation. What would be very well regarded would be capacity building and employment, but money also would be significant. The report No. 25, which was tabled, did talk about incentives, but it was not clear whether those incentives would provide money. We are just concerned that if the responsibility for compensation is passed on to the proponent, who in most cases would be a pastoralist or in some cases could be individual Aboriginal people—for instance, if a person at Yarrabah or on Palm Island wished to convert the communal interest to freehold because they have had land granted under the Aboriginal Land Act and they had to pay the compensation, we are just wondering how groups like that could really come up with money. Pastoralists are often affected by drought, flood or downturns in the economy. We are really wondering. That is an issue that would have to be explored before stage 2 comes about.

CHAIR: Shannon, your views?

Mr Burns: I generally agree with that. Just off the top of my head, the types of compensation are obviously money or it could be employment. Let us say some pastoralists wanted to upgrade their tenure to freehold or a perpetual lease and, through that, get a range of other options for land use. Rather than just grazing they could then start perhaps a horticulture or tourism venture. Then perhaps the traditional owners would agree to that occurring if there was a commitment that they would be employed in some of those new ventures. Another possibility could be that Aboriginal people receive tenure to another piece of land. So rather than monetary payment, they receive payment in the form of title to land. There may be some state land or perhaps part of the area which is being upgraded could be excised from the existing pastoral lease and given to Aboriginal people as a freehold interest for them.

CHAIR: Can I pick up on that? Jennifer, I would like your opinion on this because that runs a bit contrary to your submission in which you say you are completely opposed to the conversion of unallocated state land to freehold. If that was being done as a compensation type arrangement, would that change your opposition to that step?

Ms Jude: I think it may do to some extent. The North Queensland Land Council opposes the conversion of unallocated state land to freehold granted to a third party because, as explained in the submission, that is the only land where exclusive native title can be found to exist. We have had quite a lot of determinations in the North Queensland Land Council area. I think they are ahead of any other land council. In each determination there is so little unallocated state land which means so little area where exclusive native title can be found to exist. If it was converted to freehold and Aboriginal people or native title holders were the owners of some of it, I think that might be a very different proposition.

CHAIR: Thank you for that, Jennifer.

Mr HART: Does that lead into the discussion about template ILUAs? What are your thoughts on moving towards that sort of document?

Ms Jude: We were both wondering if the state would continue with that. I think a template would have to be developed because with some of the proposals like conversion to freehold I think you would have to do it by way of ILUA. We already have a pastoral ILUA template that has been developed. In most of the native title determinations we are using that pastoral template to enter into ILUAs with pastoralists. There are many pastoralists who have entered into that ILUA and native title is able to be exercised over their term leases. The development of a template ILUA is a good idea in my view as long as some representation from the representative bodies is on the working party that develops the template. I think that would be a very good idea.

CHAIR: Thanks for that. Shannon, are you of a similar opinion?

Mr Burns: Yes. A template ILUA gives you the opportunity to do a fairly standard approach regardless of the land, the title holder or the native title party. It gives you the opportunity to have a fair degree of consistency between all those parties, outcomes and agreements that are struck. We think that that is generally a good thing. We would certainly be interested in working with the state further to help develop a template approach to things.

CHAIR: Thank you.

Ms MILLARD: I would like to switch over to the subject of water. Perhaps you can just explain further as to why you oppose the amendments relating to water licensing.

Ms Jude: I have not particularly considered the water licensing in my submission. I would probably have to take that question on notice to be able to answer it effectively.

Ms MILLARD: That came from page 5, part B, which was also talking about reducing red tape. You mentioned that the department failed to take into account mandatory decision-making criteria.

CHAIR: Are we at the North Queensland Land Council, or are we—

Mr Burns: It is the Cape York one.

Ms Jude: Cape York, yes.

CHAIR: I am in the wrong submission. Perhaps, Shannon, you would like to touch base on it?

Mr Burns: From my understanding the bill identified that there have been perhaps some invalid decisions that have been made in the past. But the bill is now seeking to validate those invalid decisions. We are saying you simply cannot just validate them again without addressing native title. If those decisions were made invalidly previously and they had an impact upon native title—or perhaps they did not have an impact because the decision was made invalidly, but now you are going to make the proper decision. If that is going to trigger native title, then you have to address native title rather than just validating the previous decisions without addressing native title.

Ms Jude: Now I understand the question a bit more. An invalid act—if there was an invalid act—cannot affect native title because it cannot be affected by an invalid act. But if you are going to now validate, that means that it does change the effect on native title because a valid act can affect native title. That was the issue that the North Queensland Land Council was bringing up: the intent to validate acts that may have been invalid through legislation will, in fact, change the impact on native title. That was the point that we were objecting to.

CHAIR: I think you make a good point, and we will raise that with the department. We have them appearing before us as the final witnesses today, so I thank you for raising that. We are almost out of time. Jennifer and Shannon, is there anything you would like to bring to the committee's attention just in final wrapping up remarks?

Mr Burns: Really just to reiterate that we would like to engage more significantly with the state on this bill before it proceeds and that we think that the committee should accept that there may not have been sort of due consideration made of some of the native title impacts, and before the committee is making recommendations to parliament about whether this bill should proceed or not, we would like to see you just confirm to yourselves and to us that native title has been properly considered and that all the impacts of this bill are made quite clear to parliament before the bill proceeds.

Ms Jude: I would just endorse what Shannon has said there, and I thank the committee very much for providing the North Queensland Land Council the opportunity to appear today.

CHAIR: You are quite welcome. You make some very valid points. The committee had considered travelling up to Cairns to hold some public hearings, and if I am reading your sentiments correctly, you are of the view that if the committee was to do that, that would be of benefit, particularly to tease out this native title issue a bit more.

Ms Jude: Absolutely.

Mr Burns: Most definitely.

CHAIR: I will give you this commitment now. We are running on a tight time frame, but we will certainly be looking at an opportunity to travel up to Cairns and work with you. If perhaps you were able to deal with other interested stakeholders in the area who may wish to come along to a half-day public hearing there, we may be able to draw from a very broad range of views on this issue. We will follow up with you on that. Thank you very much for your time. We appreciate that.

HEWITT, Ms Lauren, General Manager Policy, AgForce Queensland

CHAIR: I would now like to welcome the representative from AgForce Queensland. Would you like to make an opening statement to the committee?

Ms Hewitt: Thank you to the committee. It has been a long haul since I think we first met about a year and a half ago, so it is great to be on a bit more of the journey and be a bit further down that path.

I would like to thank the committee for the opportunity to make the submission today and this introductory opening speech. As we note in our submission, AgForce is generally supportive of LOLA, the Land and Other Legislation Amendment Bill, and particularly the rolling leases that are created under clause 46 of that bill. We previously made application to this committee and the government as well about the Delbessie process and some of the issues that our landholders had felt or encountered within that process. We made a number of recommendations for the future of that lease renewals program going forward.

Upon reflection, and looking at the number of items that we raised, nearly 80 per cent of them have been completed through this rolling lease structure and resolved very well. Things like: shortening and simplifying the LMA or the lease renewal process; reducing the time frames; removing the current future conservation area provision that was in there—so that's the ability for parks and other state government departments to take away or have a right in lease renewals for lessees; desktop biodiversity assessments; and removing the 80 per cent rule for tenure upgrade applications. So those things are now resolved. I guess we did make a number of submissions in there about what we thought about the issues going forward in implementing this rolling lease structure.

There has been a range of submissions also made by previous applicants or people you have heard from this morning. There is a lot of confusion about the complexity of this lease framework going forward. This is the third lease renewal framework to be put in place in seven years. Obviously there are complications and misunderstandings, I think, on whether native title applies and what the term will be rolled over for; what the minister will have to consider as part of that; and who is going to be involved in that. What we have in our submission is we really think it would be great for the department to get out there, run a bit of a program, educate people and make sure there is proper awareness of how this is working to ensure that people have clarity going forward, because I think to date there is still a lot of confusion. They have had three sets of renewal frameworks—very complicated ones—in a small space of time.

I guess there are also some questions that we have raised as part of that rolling lease structure. The minister particularly can choose to allow renewals that are outside of that 20-year time period. We think 20 years is fantastic. It is certainly an improvement on the old rule, where you had to be in the last 20 per cent of the lease to renew, but we see that a lot of our pastoralists will want to seek this additional security going forward. People who may have 22, 25 or 26 years to go will want to avail themselves of this fantastic opportunity to renew their lease. What we would like to see is the opportunity for all lessees, regardless of where they are in terms of their term, to make application for a rolling lease extension under this provision.

In terms of the tenure conversion process, I think that is one of the large omissions in this framework. Last time we spoke I think we were very clear about the fact that we wanted to get to a point in time where we were not at the behest of a government—whatever government it is of the day—to implement rents and/or conditions which we as an industry could not comply with or could not afford. We really see that the only way to get that area of safety for our lessees is through conversion. So conversion either to freehold or something akin to freehold, where we are not required to pay rent that can be set and changed on any given day.

While the LOLA bill introduces a range of administrative steps to make that tenure conversion less onerous and simpler, what we are missing is the pathway for term leases to go to freehold. So that is very important, because that is about 50 per cent of Queensland, in fact, so it is the vast majority of our lessees, their in-term leases. We know currently under the framework we are required to pay quite a hefty fee, so essentially the full unimproved value of the property, so you purchase it again; survey standards, native title. So what we have not seen is a pathway for that, and we certainly have not seen anything communicated in the public domain about what the time frame and the process for developing a lot of that is.

So what I would really recommend—and I know that you made recommendations in your last report about the need to get to this area. We really are keen for this to happen, so LOLA we see today as the first step of that, but we also want to have a conversation about where is the next

step? When is that? Who is going to be a party to it? Let's have a discussion about that. That is a critical time for our lessees. While our lessees are very supportive of the rolling lease structure, they want to see the end game, and that is tenure conversion opportunities for them.

I guess one of the other main points that we raised in our submission that remains a little bit of a concern is the removal of all the rent and the tenure conversion price-setting mechanisms into a regulation. Generally we are opposed to the placement of significant areas of legislation into secondary legislation because of the limited consultation process that is associated with that regulation, because we do not necessarily get to see it. They are significant provisions. So right now our lessees are paying around 15 to 16 per cent of their net income to leasehold rental payments, and it is a significant impost on business. Every day I have lessees ring who cannot pay their rental fees, and they know that they are facing another three 20 per cent increases under the legislation—so three consecutive 20 per cent year-on-year increases. They have had seven so far.

This continues to be a significant industry concern. They cannot afford to pay any more, and they are at breaking point now for drought, but also for lease rent. So I guess when we see the placement of these provisions into a regulation which we have had no ability to see—because the regulation has not been released for comment yet—it creates a certain risk. While we are very hopeful that Minister Cripps—and we have had a range of discussions with him—will implement something favourable to industry, it is a very hard position for us to be put in, not knowing what that position will be and knowing that it is likely to be released, and possibly even implemented, as soon as 1 July this year. So we are very hopeful that a good decision is made.

Last year we participated on the minister's round table for rural rent, so that was a whole process that Minister Cripps oversaw. It was chaired by an independent chairman and included people from right across industry. There were a whole heap of recommendations made. We put forward I think 11 separate recommendations for an alternative rental regime, but to date we have received no response about how they have been considered; whether they are suitable; and ultimately which one will be implemented. As I said, we are very hopeful. We know we cannot afford to pay any more, so we are hopeful that the minister will implement one of those 11 methodologies or an alternative one that is affordable, but it is very difficult for to us make that comment. So what we have suggested is that the bill, like Minister Seeney's Regional Planning Interests Bill—which similarly a lot of that detail was placed in regulation. So we requested there that we get to see that regulation, and it is out for 60 or 90 days of community consultation, I cannot remember. But we requested that there was a consultation process associated with that, and likewise we think that that would be a suitable thing for this, given that it is such an industry concern.

We can make all the fantastic changes we want with tenure conversion and rolling lease structures, all those sorts of fantastic things, but at the end of the day if our people cannot afford to pay the rent on these properties, it is null and void. They are the three critical issues that I wanted to address today.

CHAIR: Thank you very much. Can I start off by noting that you were in the room when we had Des Boyland from the Wildlife Preservation Society. He was talking about the land management plans, and I think you heard the discussion as we were teasing something out. The suggestion that he put forward was that a provision be included in the bill where the minister could direct that a land management plan be required for a landholder who had a significant environmental breach. I would be keen to hear your views as to whether you think that would be an appropriate mechanism, or whether just a voluntary code is something that would work well.

Ms Hewitt: Des and I stepped outside after the fact to have a bit of a chat about this. In fact, we are not too far apart on some things. Delbessie took 10 years to negotiate, so it was the Wildlife Preservation Society of Queensland, where Des is from, ourselves, and a range of the TO groups that sat on that. It was an interesting process. We signed up to it in the end because it was the best deal that we could honestly get. But I disagree with Des inasmuch as I think the land management agreements are not the only way to get good land management outcomes on the land. I think that there were some really fantastic outcomes of the land management agreement process and of Delbessie. First and foremost, I think it started a discussion from some landholders to some pretty incredible people in government that were able to discuss and give expertise and education about what was happening on the individual components.

There was a great little team that was actually put together to run Delbessie, and it was probably the only time in the last 30 years that government actually engaged proactively with these lessees about what was happening out there. While they are on government owned land, most people had never been visited by the government in 30 to 40 years. So they did get practical skills and they did have a practical conversation. Our issue with that is that it was all driven from a

compliance perspective. So our lessees came to it with a position of fear. 'Will I say the right thing?' 'Will I?' 'Won't I?' 'If I have done the wrong thing, I will be penalised under the framework.' That did not always engender great outcomes, and in the end you got a very regimented contract which was over 100 pages that you were required to do. I do not think that that is necessarily the best and only way to get good land management outcomes. Certainly I want the conversation, but as an industry I agree with Des that a lot of our better operators already have land management plans in place, and I guess industry has taken a very pro-active step. AgForce over the last four years has partnered with the Fitzroy Basin Association—that is an NRM group up in Central Queensland—and QDAF, the department of ag, and more recently, DHP, the environment department, to roll out an industry-driven voluntary best management practice. I just got the stats on that during the break to just give you an idea of what that is.

There are five modules that are compromised of the BMP. One of those is soil health and another is grazing land management which are very NRM focused things. But the BMP is not just about land components; it is also about a lot of the other compliance things that landholders are required to comply with as part of their operations as pastoral industries. There is a people and business module, making sure that they are covered off on their workplace health and safety components; taxation; good employment law; animal production and animal health and welfare. So it is comprised of five modules and to date we have had 670 people enrolled. So far we are only rolling it out in the reef catchments. Some 130 of those people have completed all five modules, but by far the leading modules for people to complete are soil and animal health and welfare.

In terms of hectares, in the Burdekin that is 859,000 hectares and in the Fitzroy 441,000 that are under best management frameworks at the moment. I really think that that is where you get a bigger bang for your buck. Industry gets to have a say. They have written their own riding instructions. It is an independently audited system, so government can come in and can see the data, as can we, and people actually choose to come along to that framework. There are lots of other pieces of legislation such as the Vegetation Management Act, the Water Act and a whole suite of regulation that exists that we can pull people up for when they are not doing the right thing. I do not think that the best outcome is to not renew their lease or take their lease off them when they are doing the wrong thing. There are a whole heap of mechanisms we can issue notices for, compliance notices, penalise and those sorts of things. There is definitely some merit in the LMA in the way that the framework has been set up there and it was a fantastic conversation in a lot of instances that occurred.

Mr HART: Lauren, is there ongoing assessment of all this or KPIs that people need to reach?

Ms Hewitt: Yes, you benchmark against where you are in industry and then how you are going in your region. The stats that were just sent to me show that about 20 per cent or more than 20 per cent of the landholders in each of those categories have recognised that they need to improve on one or more of those modules and sought extra education and training as part of that. So it is really about recognising where you are as an industry or a landholder, what your gaps are and where you need to go.

Mr HART: Or do some sort of course.

Ms Hewitt: Yes.

Mr HART: Is there a cost involved in that?

Ms Hewitt: Currently we are being funded by DEHP and QDAFF to roll that out. We are certainly seeking that we want to roll that out further in the reef catchments but also outside of those areas, because we want to get it across Queensland. We think it has significant benefit for all of our landholders.

Mr HART: Is there a percentage of people so far who have done it, or do you know what that figure might be?

Ms Hewitt: I would struggle to say what the percentage is because the number of producers in Queensland is difficult to ascertain, but we have had 670 through so far just in those two catchments where we are focused.

Ms MILLARD: When did you start the modules?

Ms Hewitt: I think about three years ago we started to roll those out in combination with the three partners, so it is very much a joint project that is implemented.

Ms MILLARD: Was that because you could see a hole or a lacking in understanding or just to increase awareness as well?

Ms Hewitt: I think what we saw previously was that government was able and willing to regulate where they saw gaps. Whether the gaps were the same as what industry saw was another conversation, but it was an opportunity and a decision that we made to get in front of our own industry to set our own standards so that they were not set by someone, be it government or a green group, that did not understand what we were doing; to have an auditable, rigorous system; and to actually build in some improvements in there. That was just a proactive step by industry taken at the time. The ERMP legislation that was rolled out under the previous government in the Burdekin-Fitzroy areas created significant angst. All landholders were required to submit what became just silly questions that meant nothing like how many kilos of fertiliser did you put down this. That does not mean anything in the scheme of whether they are a good or a bad farmer. What we needed is the industry to work out what their own targets were about what was acceptable and not, put that in a detailed context, be able to update that and for that to be able to be used for a proactive purpose as well when we do get scare campaigns about industry run-off into the reef or whatever. At least we can have an informed conversation such as, 'This is how many people we've got under best management practice. This is actually what we did.'

CHAIR: You mentioned the 20 per cent that realised in certain modules they needed to improve and when I presented the view earlier that the previous process was more process driven than outcome the point was made that we do not know outcomes for four to five years. But it sounds like in this process that individuals are identifying levels at least of their performance. Is this getting the answers a lot quicker, this best practice management program?

Ms Hewitt: We certainly believe it is. Unfortunately, it is the case sometimes that we just do not know what the ramifications of our decisions are until years later. What Des was talking about in the mulga lands is essentially decisions that were made in the 1960s and seventies that we are seeing today and it is 50 years on, but definitely we see the BMP process as a great link going forward.

CHAIR: And that has the flexibility? As you have indicated, it is currently in the reef catchment areas, but you believe that type of model could roll out across the state into other areas quite easily?

Ms Hewitt: We have huge amounts of interest from people outside. We received funding to roll it out in the two reef catchments, but I think 62 landholders outside of those areas have indicated a desire to be involved, particular interests in the cape, Burnett-Mary catchments and those sorts of guys. Just from a resourcing perspective we are focusing in those areas so far.

Mr HART: Lauren, you were here during the land council discussion a little while ago. Does AgForce have a view if native title is triggered by the advent of rolling leases?

Ms Hewitt: My reading of this legislation—and I stress that we have not sought legal confirmation of that—is that it does not trigger a future act and we were not aware of the understanding that we were required to get consent from the TOs for a rolling lease. We see a rolling lease as merely an extension of the existing term lease for the same framework that that term lease was originally granted for. So if you guys could clarify that, I would certainly seek your guidance.

Mr HART: I would have thought that a rolling lease as being available to your members at any time during the 30 years, does that not make it a perpetual lease?

Ms Hewitt: No. Our reading of the legislation is that the rolling lease will be tacked on to the end of the existing term, so the existing term will be allowed to run but the rolling lease component will only commence at the end of that expiration.

CHAIR: So it would be a renewal of the lease, not a new lease that has been taken.

Ms Hewitt: Yes, that is right.

Mr HART: So basically a 30-year lease becomes a 60-year lease and staying a 60-year lease?

Ms Hewitt: They have guarantee for 60 years. It would not be a 60-year lease. It would be, say, a 28 if you have 28 years remaining, but at the end of that you know that you will get a 30.

Mr HART: Would that trigger a future act in your view?

Ms Hewitt: My understanding is a future act is triggered only when there is a new lease created and this is a renewal.

CHAIR: It is a question we will put to the department. The committee looked at the whole native title issue very extensively in its previous report and we may seek further advice independently on that.

Ms Hewitt: That would be a concern for us if that is the case.

Mr HART: Absolutely. I can see that.

CHAIR: Understood. I want to touch on the forestry consent agreements. You heard what our very first witness, Michelle Finger, was touching on and she was certainly supportive in her submission, but it comes back to this certainty about being able to go to banks to seek finance et cetera. Her concern seemed to be more about the termination clause that would be contained within there in that it can occur at any time with no more than six months notice. Termination clauses are fairly standard in a range of government leases, but I would be keen to hear AgForce's view on the concerns that she raised and whether there would be better ways to address that.

Ms Hewitt: I think by and large our pastoral lessees are very happy with the framework. They know that if their land is to be acquired they will get compensation. The forestry guys and guys like you spoke to this morning—Michelle—have been absolutely bashed around by what their termination rights are and different governments' desire at times to resume or set purposes for that land. We certainly see it as a fantastic move that they are involved in the rolling lease structure because we think that will give them a hell of a lot more security than they have ever had, so guys like Michelle are in heaven at the moment. It is a fantastic move by the government to include those guys. I see that the termination aspects will be resolved if we pull them over into the rolling lease areas. I guess we did raise some concerns about leases that are granted under the Forestry Act. Obviously the forestry minister or the agriculture minister will have the ability to decide whether they do indeed become rolling leases and we sought feedback from the department formally but through this committee process about what the minister will be considering as part of that, because we would ultimately love for the majority of those leases to go over as rolling leases and give some security to people like Michelle.

CHAIR: You made mention about clear and reasonable conditions. What would you see those clear and reasonable conditions being?

Ms Hewitt: We have quite a lot of guys that have—and Michelle's entire operation is based on forestry—run them in conjunction with freehold or other leasehold property. They have held them for many years. Over that period of time they may have been able to cultivate, but definitely a lot of them were cleared back in the day. There are very clear conditions about how they can and cannot treat regrowth and other vegetation and clear conditions about whether the guys managing them will actually invest in any infrastructure there that make it okay or efficient or cost effective to retain as a pastoral lease. So we have sought to have discussions with a number of departments about relooking at the conditions they set on these forestry leases and making sure that we can actually strike a better balance to make sure that we retain people on them, because these people pay rents and rates. We want to keep them there. Forestry like that because it actually provides a land manager on there generally, but a lot of times it is becoming unprofitable for people to keep them on there and pay those rents and rates when they do not have enough grass to sustain a viable cattle industry on it. So it is a real balancing act.

Ms MILLARD: With regard to the purchase price, can you give AgForce's thoughts about how that could be worked?

Ms Hewitt: We have put a range of options to the department in considering what the purchase price for either a term or perpetual lease is now. It is based on unimproved value. We do not believe that that is the only or easiest or the fairest way to determine that. That would involve buying a property twice. They pay freehold value for them now. When we looked at it in terms of what other jurisdictions around the world and even this country had done, we saw that they implemented a range of things. In New South Wales, for instance, in their continued lands area in their eastern leases there was a court case which involved a resumption of a perpetual lease and they had to consider what was the state's interest in this lease. That court held that the state had given it away 200 years ago, never been on the property since and had no interest. The lessee had gone in there and as a term and condition of their lease actually improved the lease—put up all of the fencing, created the infrastructure and created the business that now sits upon that. They therefore held that the state's interest was two per cent of unimproved value and they allowed their subsequent freeholding regime to apply at two per cent of unimproved value. In South Australia, which was a subsequent tenure conversion regime or freeholding, they allowed their lessees to convert at 20 times what the rent payable in that particular year was.

We sat down and we had a long, hard look at those and certainly we put those to the department. There were lots of giggles there, but by and large the state does not hold the full freehold value. They certainly set the leases up, but they let them go a long time ago. When we thought about what was a fair and reasonable conversion price, we do not want to do Treasury out of any money. They know that last year they got $32 million come in off rural leases, so why not set up a regime whereby the state gets the accrued value of all of those rental payments over a period of time, be it 50 or 100 years. In accounting terminology, if we bring that forward it is a net present value or the sum of an annuity over a period of time. We put forward a net present value solution to the department about being a fair and reasonable way to calculate the conversion price because then no-one really loses out.

Mr HART: At page 3 of your submission you talk about the forest consent agreements. You raised a concern there about the definition of 'forest products'. Can you just expand on that for the benefit of the committee?

Ms Hewitt: Forest consent agreement under our reading will hold under the definition of 'forest products' over to the state government for that period of the lease. So under the definition if you go to forest products it basically includes all vegetable growth and material of vegetable origin whether dead or living and whether standing or fallen, including timber. Inherently that could include the grass which the lessee basically needs for a cattle grazing operation or any manner of things. That is interpreted on the particular day, so we know that probably what is commercial today to forestry may not be in 10 or 20 years time.

So what we sought is that we lock in what particular resources they are so that at a point in time someone who may have signed up for a particular lease knows that the state retains the mulga, or the sandalwood, or the cypress aspects of that but not the grass—basic concepts like that. It has been there forever and a day and normally it does not present an issue, except it popped up as an issue during the vegetation management reforms last year when lessees found out that they were required to get forestry consent before they implemented a lot of the vegetation management framework on land because, inherently, the state can decide on any given day which of those standing timber resources they wanted. So that can fluctuate on any given day.

CHAIR: So you are really seeking that clarity in that space. Any further questions? Are there any closing remarks that you would like to make?

Ms Hewitt: I do not think so, no. Thank you.

CHAIR: Lauren, thank you very much for your time today and for AgForce's involvement in this whole process. We recognise that the bill that we are looking at today had its genesis well over 18 months ago and you have been there on that whole journey and we thank you for that.

Ms Hewitt: Thank you and we are looking forward to a conclusion and the end of it all. So good luck.

BURTON, Mr Peter, Director, Land and Asset Policy, Department of Natural Resources and Mines

DITCHFIELD, Ms Bernadette, Executive Director, Land and Mines Policy, Department of Natural Resources and Mines

GORDON, Mr Bill, Manager, Sales and Marketing, Forest Products in the Department of Agriculture, Fisheries and Forestry

HINRICHSEN, Mr Lyall, Executive Director, Water Policy, Department of Natural Resources and Mines

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

SHEPPARD, Mr Stephen, Principal Policy Officer, Land and Asset Policy, Department of Natural Resources and Mines.

TOU, Ms Julie, Principal Policy Adviser, Aboriginal and Torres Strait Islander Land Services, Department of Natural Resources and Mines

CHAIR: Rather than going to an opening statement, because we have heard some wonderful presentations today, I would like to go straight into questioning and then give you five minutes at the end to address anything that we have not picked up on, if that is all right you. We have heard a great range of things today and I am sure my colleagues and I will probably bounce around in a range of different areas. I would not mind starting with the issue of native title as it applies to the rolling leases. We have heard from both the North Queensland Land Council and the Cape York Land Council as well. They expressed concerns with regard to the rolling leases triggering a future act. Has the department sought any legal advice on this? If so, what did that legal advice indicate?

Ms Jensen: I am happy to speak to that question. Can I make a few opening remarks as the lead-in about native title to answer that question?

CHAIR: If it is putting it in context, by all means, yes.

Ms Jensen: Would that be acceptable? I may also be reading from some written notes, if that is acceptable?

CHAIR: That is fine.

Ms Jensen: In terms of the state's position, we are in agreement with the submissions that you have heard this morning that native title is to be addressed as part of the land tenure reforms. Native title must be addressed in accordance with the Commonwealth Native Title Act for the doing of each and every land and resource dealings. So it is a matter for the state to comply and the state will comply with the requirements of the Native Title Act.

With respect to the bill itself not then referring to native title provisions or how native title will be addressed or those issues of compensation that may have been raised, it is not necessary for the bill to include those provisions, because all of those matters are dealt with in accordance with the requirements of the Commonwealth Native Title Act. So the bill being silent on native title in that respect is not in any way to not address native title and not in any way to override the Commonwealth Native Title Act.

With respect to the specific question regarding the rolling leases, where native title has not been wholly extinguished over land, any land dealings that are done under the land tenure reforms proposed in the bill will need to continue to address native title in accordance with the Commonwealth Native Title Act.

With respect to the rolling term leases, the department's position is that a rolling term lease will need to comply with those future act requirements of the Native Title Act. The way in which the state can comply with the future act provisions of the Native Title Act is to comply with the particular section of the act, which is section 24IC of the Commonwealth Native Title Act. In complying with then meeting those requirements, there is no further provision. That does not trigger any further processes in terms of a right to object or procedural rights. So in complying with section 24IC of the Native Title Act, there are no procedural rights, but compensation is payable if there is any effect on native title continuing to exist.

With respect to compensation, again, you need to look to the Commonwealth Native Title Act as to how then compensation is made payable and the processes for that. So that is the department's position.

CHAIR: So a rolling lease would not be seen as a renewal; it would be a future act and, therefore, would trigger consideration under that particular area of the Native Title Act that we talked about?

Ms Jensen: That is the department's position—in terms of complying with the Native Title Act would be complying with section 24IC. But with respect to the rolling lease provisions it is a rolling extension of the term and, with respect to that, that will meet the requirements of section 24IC.

CHAIR: Okay. So it is considered a future act but it meets the requirements of that particular section and, therefore, does not trigger the need for an ILUA or other components?

Ms Jensen: That is correct.

CHAIR: I think I have this.

Mr HART: But it may trigger some sort of compensation act?

Ms Jensen: An action that affects native title is a future act for the purposes of the Commonwealth Native Title Act and compensation is payable if a future act affects native title.

CHAIR: And to be clear with what the provisions are within this bill with regard to rolling leases and other changes, compensation would not be payable by the state; it would be payable by the individual or corporation that were to exercise that change?

Ms Jensen: In terms of the compensation liability, if compensation was negotiated and settled by a proponent or an individual, that matter is then dealt with as between those two respective parties. But I think I can say generally that it would be that the state carries a compensation liability for those future acts that are granting rights and interests.

CHAIR: Okay.

Ms Jensen: That is in a very general way.

CHAIR: So where the state grants the rolling lease, the state may have an element of compensation to make payable with regard to native title?

Mr Burton: The rolling lease framework has been deliberately crafted in this bill so that any effect on native title is more than minimised. We are confident that we are not in any new way impinging on native title rights by, firstly, having an extension and not a re-grant of some new tenure and, secondly, containing the term of the extension to that term that was originally granted of the tenure. So that is all about minimising risk. Is that a reasonable way to put that?

CHAIR: In being confident, you sought legal advice, I take it, from crown law or independently in this matter?

Ms Jensen: I think I can state for the committee's benefit that that is the department's position with respect to—

CHAIR: I understand that it is the department's position; what I am asking is did the department seek additional legal advice to come to that position?

Mr Burton: Not being a lawyer, I think we can say—

CHAIR: I am not trying to trick you.

Mr Burton: There are important matters around privilege to deal with, but it would be fair to say that we seek advice on native title on a range of matters and the matters in the bill and the department's position is informed by that advice.

CHAIR: Wonderful. I understand.

Ms MILLARD: Still on the subject of native title, the issue of the water licensing agreements came up as well. Could you talk to us a little bit about that?

Ms Jensen: So that is with respect to the validation provisions for the water licences? Again, I will just refer to my notes, if that is acceptable. Where there are amendments in the bill that are dealing or that are characterised as future acts, they must meet the requirements of the Native Title Act. For example, the validation amendments regarding the water licences under the Water Act 2000, that validation exercise would be seen to be a future act. Therefore, there is a need to address that in terms of compliance with the Native Title Act. The department's position would be that those legislative amendments validating the water licences is in compliance with section

24HA(1) of the Native Title Act as it is an amendment of legislation relating to the management or regulation of water. In accordance with section 24HA(1), under that section there are no procedural rights, but compensation is payable for any effect on native title.

Mr HART: In any of these two things that we have just been discussing, is there some finality that can be reached with regard to compensation? If there is no ILUA involved as such, is there some other way that finality can be reached or is this something that will hang over the heads of the government or the leaseholders forever and a day?

Ms Jensen: There are processes, again in terms of the requirements and provisions of the Commonwealth Native Title Act, in terms of determining compensation. A compensation claim can be filed in the Federal Court and that could be filed by a native title holder in terms of making a claim for compensation. That does involve a first step in terms of there being a determination that native title does exist and that there has been an act that has affected native title. So that is a process that can be provided for under the Commonwealth Native Title Act. Alternatively, agreement can be reached between parties to settle any compensation liability.

Mr HART: So once an agreement has been reached with a party about this particular lease, is it still open to anybody else to come and bring that action again?

Ms Tou: I will answer that. That agreement would need to be in the form of an Indigenous land use agreement that has been registered by the National Native Title Tribunal. So those agreements can deal with compensation for the effect of future acts. So once that is in that agreement it is final.

Mr HART: So a rolling lease triggers an ILUA? Is that what you are saying?

Ms Tou: No, not in that event. If that was the way in which compensation was dealt with for the particular future act that was being dealt with, if for some reason someone chose not to go through the 24IC process, not to use that subdivision of the Commonwealth Native Title Act to proceed with that future act and for some reason the lessee preferred to do it by way of agreement. The state will generally choose to use the future act provisions under the Commonwealth Native Title Act to progress dealings. If an Indigenous Land Use Agreement was chosen for some reason then compensation would need to be dealt with in that agreement at the same time for the consent of the extension.

CHAIR: We heard evidence from a range of groups this morning in relation to invalid water licences and concerns about legislating to make them valid rather than reviewing each individual invalid water licence. Would you care to expand for the benefit of the committee as to why you have taken this approach within the bill?

Mr Hinrichsen: As I think I might have mentioned in the presentation to the committee last week, or the week before, there are 23,000 water licences across Queensland. The review that was undertaken suggests that there were systematic deficiencies in decision making processes that would potentially affect many, many licences, if not all, in terms of their validation. Looking at the uses of those licences, and again we are talking the length and breadth of Queensland, the government took the view that it was best to provide certainty through this legislative amendment rather than have lingering doubt over the validity of those licences. Obviously that was a decision that the government did not take lightly. Where there are specific issues to do with groups of licences in particular areas there are processes, and there are processes underway, to look at the substance of the deficiencies in decision making processes, but generally the deficiencies were very much administrative in nature. If you look at the provisions in section 132 of the bill, there are all types of administrative decisions dealing with water licences, from granting licences in the first instance through to transferring, through to reinstating, amending, amalgamating, subdividing, that the deficiencies in the administrative process were identified in. The time to work through 23,000 licences would have been extensive. It obviously opens up potential for legal action against potentially even the holders of those licences. It is a measure that provides certainty. If an individual has some particular concern with the licence that they hold in terms of the processes or there is an aggrieved party, they have always had mechanisms of legal review. Administratively the department would be more than happy to hear from anyone who feels they are aggrieved by this process, but the underlying objective of the government was to provide certainty for those people out there today making use of their existing water entitlements.

CHAIR: That provision of the bill is expected to address systemic problems. If I understand what you are saying correctly, there is a risk, but it is considered small, that it may be validating water licences that are not linked to systemic decision making problems in the granting of them. But in the scale of things it would be a very small risk.

Mr Hinrichsen: It is a very broad validation decision that validates all existing licences effectively.

CHAIR: But people still retain an opportunity for an administrative appeal to come to the government to review something.

Mr Hinrichsen: If there are appeals afoot already they still retain that right. There is a sunset on that time frame of six months. That is longer than the normal statutory periods that are provided both in terms of appeal to the Land Court or under the Judicial Review Act. As I mentioned I think at the last hearing, courts often do provide leave to make submissions beyond those statutory periods.

CHAIR: Any other questions?

Mr HART: There is some angst that lease payments have been moved into regulation and taken out of legislation. How is the regulation planning on that going and when do you see the regulation being available for people to have a look at?

Mr Burton: The provisions regarding the methodologies for rent and also for purchase price, which I think is mentioned in some of the submissions, are to be moved to regulation. They will not be in primary legislation so they are not dealt with in the bill. I believe the minister made it clear in his introductory speech that he intended to make information about the regulation available once government had settled its position on that prior to debate.

CHAIR: We had heard in hearings today that the view was the regulations would be in force by 1 July. Are you aware of that time frame?

Mr Burton: That would be desirable for us because of the billing cycle for the rents being on the financial year.

CHAIR: That may be a question that we should put to the minister.

Mr HART: There was also a feeling that there has been three sets of framework for tenure over the last seven years and there needs to be an education process moving forward with some of our leaseholders so they have a clear idea of exactly where they stand. Can you tell us whether there is any education process being put in place?

Ms Ditchfield: We are working through the implementation of the bill as we speak now. Engaging with our landholders will be a primary concern for us. We want to ensure that they fully understand their rights and continuing obligations. Education is in the forefront of our minds.

CHAIR: Can I take it one step further? It is in the forefront of your minds, but it will be actively rolled out? Should the bill pass in its current form and become the act it would be actively engaged?

Ms Ditchfield: That is right. We anticipate writing to each individual landholder to explain their rights and obligations throughout this process.

Mr HART: In relation to the rolling leases, AgForce suggested that possibly rather than there being 20 years to go before you could apply for the rollover lease, that that lease might be extended or rolled over any time in that 30-year period. Was that considered and is there a reason why the government will not do that?

Mr Burton: The bill provides for, as you say, a person to apply in the final 20 years of what is typically leases of a 30-year term. Outside that 20 years it specifically provides for the minister to consider special circumstances. The bill does not restrict or specify what those circumstances may be. We have considered that that would include the common reasons that people want to have a longer term and that would be refinancing or sale of the property.

Ms MILLARD: With regard to the purchase price and the calculating of it, some submitters have mentioned that land rents will continue to rise even though generally speaking capacity on the land gets to a limit. What are your thoughts on that?

Mr Burton: That would probably run to policy. The minister did have a rental round table which considered these matters and is informing the government's considerations is probably the best I can offer to answer the question.

CHAIR: Let me ask the question in a way that you can answer it. Did you consider other options in calculating the rental arrangements?

Mr Burton: Always.

CHAIR: Can I touch on the forestry side of things. A point was made with regard to the definition of forestry products by AgForce just recently and it was they support the forestry consent agreements but their concern relates to the definition which is broad enough that it could include,

according to them, grass because it is all vegetable growth and material of vegetable origin, whether living or dead, whether standing or falling, including timber. They are worried that that definition may have some unintended consequences. Would the department care to comment on that?

Mr Gordon: If you continue with that definition you will see there are existing exceptions in there for stock routes and for forest entitlement areas. Approval has been sought to make a further amendment to include forest consent areas so that there is that exemption provided for those areas as well which will address the AgForce issue.

CHAIR: Talk us through how that will do that so I can understand that a bit better.

Mr Gordon: In the bottom part of that definition it talks about grasses, introduced or native, and crops where used by the lessee or the owner are exempt from the definition.

CHAIR: Where they have brought something in?

Mr Gordon: Or they are grazing them.

CHAIR: Or they are grazing them, that would be exempt?

Mr Gordon: That is right.

CHAIR: That changes within this bill or that is a proposed change in another piece of legislation?

Mr Gordon: Approval has been sought to see whether we can put it in this bill.

CHAIR: Clearly it would be of benefit to all if at the time this bill, assuming it passes, becomes an act that that definition is in it.

Mr Gordon: Yes.

CHAIR: I think you will find a recommendation on that then. The other issue with regard to forestry, we heard from a person this morning who raised a concern with regard to the termination provisions. I need to clarify that these new forestry consent agreements will address that concern. Her issue was that in seeking certainty, with the current termination provisions banks are reluctant to provide finance because it is only a six-month notice. Would the new arrangements provide greater certainty, do you believe, for landholders?

Mr Burton: There may be a misunderstanding between the application of the forest agreements and the processes around leases on state forest. That is what I thought when I read the submission.

CHAIR: We are talking about the submission from Michelle Finger.

Mr Burton: I think so, yes.

CHAIR: Do you believe that in her submission she may be confusing the two issues?

Mr Burton: I would make the point that there is a difference between leases that are not on state forest and may be subject to the new forestry consent agreement and dealings on grazing leases that are actually on state forest as a primary tenure. On state forest the state unequivocally has control of the trees. The consent agreement is about providing for ownership of those trees when the land is freeholded. That is in the main going to apply to leases that are not on state forest because leases on state forest can only be freeholded should the state forest tenure be revoked. So there is another process and that process is not dealt with in this bill.

Mr Gordon: There is already an existing process to deal with revocations of State forests for whatever purpose. There was no need to incorporate it into the bill.

CHAIR: In her submission is she blurring the two issues? Is that the concern: she is drawing across grazing within state forests into the provisions that are contained within this bill?

Mr Burton: That is a possibility.

CHAIR: We may seek further clarification from the submitter on that and we may then present that to you as a department to respond to.

Ms MILLARD: Some submitters have expressed concern with the lack of criteria for some of the provisions and it has been suggested that there be a consultation period about that. Has the department thought about that at all?

Mr Burton: That would be with regard to special circumstances considerations for rolling leases, for instance?

Ms MILLARD: Extensions, payments, that sort of thing.

Mr Burton: I can only speak to what the bill contains and the bill leaves it as a broad discretion of the minister so it does not limit what he can consider.

Ms MILLARD: That would really be to the minister's discretion?

Mr Burton: Yes.

Mr HART: The Wildlife Preservation Society said this morning to us that they really did not have an issue with extending leases and they would not care if they were 100-year leases if there was some sort of land management plan involved in the process. AgForce tell us that they have implemented a best management practice. A lot of their people are moving into that. Has the department considered some sort of best management practice part of the lease that could be just kept a rough eye on before leases are rolled over?

Ms Ditchfield: I would like to say that the bill does still include land management agreements. They are still part of this bill. It will be used as a tool. It will be just one of our tools. I am not sure about the other part of the question. Peter, if you have a comment to make.

Mr Burton: I did hear part of Mr Boyland's address to the committee and I would draw the committee's attention to the current Land Act section 176UA. It does provide the minister with the power to require a land management agreement if the minister—I am paraphrasing—is satisfied that the lease suffers from land degradation.

CHAIR: So the proposal that Mr Boyland put forward is currently legislated.

Mr Burton: It is currently in the Land Act. What the amendments do is take the land management agreement process simply out of the lease renewal process, but it is still there as a power the minister has to ensure that the duty of care is met.

Mr HART: What is the level of that land management agreement? Is it like the conditions that are contained in Delbessie?

Mr Burton: It is referring to the same instrument. It is the process and the timing that would change with these amendments. So it is still a land management agreement that has the same characteristics as the current. I will just make sure I am not fibbing to you. Is that a fair summary?

Mr Sheppard: That is a fair summary.

Mr Burton: So these are the same style of land management agreements that are currently used in a rural leasehold land strategy, the Delbessie Agreement. That process that has been in place where we empowered that renewal has been unhooked from the renewal process to facilitate more timely processing as part of this extension process.

Mr HART: So, if someone has a land management agreement now because they were on a Delbessie lease, it does not get looked at again in the rollover but the minister could seek for it to be checked if need be. Is that what you are saying?

Mr Burton: There are transitional arrangements in the bill as well for dealing with applications we have on hand under the current legislation. There are also some new provisions around what the minister can do with land management agreements that are in place because of historical renewal. So they will remain in place because they are decisions that have been made. Should a leaseholder want to withdraw from that arrangement, the minister can consider that exiting out of the land management agreement.

Mr HART: What happens with new leases? Do they require a land management agreement in place to enter into a new lease?

Mr Burton: No. There is no requirement for a land management agreement as part of the new rolling lease extension process. That is deliberate to remove the administrative burden from that lease renewal process, bearing in mind that that occurs typically only once every 30 years. A lot can happen in the previous 30 years when it is not subject to a land management agreement. The focus for land management agreements now is more responsive to known land degradation.

Mr HART: Excuse my ignorance, I am coming from the city, or the beach anyway. So someone who is taking out a brand-new lease who has never had a lease before can enter into a rolling lease in the future and they do not need any form of land management agreement.

Mr Burton: Not as part of the extension process.

Mr HART: Not as part of the original lease?

Mr Sheppard: In regard to where we are going to offer land for sale as a lease, what we do as part of the future use/development type consideration is that, if we thought that the land needed to be protected by a land management agreement, the lease would be offered subject to an agreement being made. But we would only have such an agreement where we thought there was a

duty of care that needed to be done or the land needed to be fixed up in some way. It is going to be a tool of compliance or to perfect the land. It is not going to be a requirement that anybody who gets a lease has to have one. It is actually going to be a tool of administration.

Mr HART: Thank you.

CHAIR: We are over time, but I am keen to pick up on one thing and perhaps my committee members may have a final question each. During the course of today we have heard some criticism with regard to the lack of consultation specifically on this bill. Obviously the committee is very aware of the work it has done previously with its report No. 25 and the recommendations that it has made. But, for the benefit of the committee, could you explain to us what consultation has occurred specifically on this bill and if you could perhaps enlighten us, recognising the remarks that were made in the previous briefing with regard to phase 2, what consultation is envisaged to be undertaken for the next phase?

Ms Ditchfield: Throughout this process we have relied heavily on the parliamentary inquiry process which started back in 2012, as you recall. We have had targeted consultation on parts of the bill. We did release a government response to the parliamentary inquiry that did actually show the government's position on each of these recommendations. So we did feel that the government's position has been made clear for some time. We are not proposing any further consultation, although we will be writing to each landholder once the bill has been enacted. With our phase 2 reforms, which will deal with the wider land reforms, we are anticipating there will be a public discussion paper process which will be subject to government consideration before it can be released midyear and it will be open for a longer period of time for people to make submissions through that process.

CHAIR: I must admit my eyebrows were raised slightly with the comment in the explanatory notes where it made reference to 'Media coverage of the government's reform agenda indicates support for the land tenure reforms.' Could you perhaps expand on that a little bit more, because media coverage could be a six o'clock story on the news on Friday night. What exactly did you mean by that statement in the explanatory notes?

Ms Ditchfield: Sure. The government's intent was announced at a media opportunity last year. That included the Premier, Deputy Premier and our minister. I understand there was ongoing discussion as in media articles throughout the *Queensland Country Life* and other media. So I think it is broader than a one-off media statement. We responded to a variety of letters to the editor and that type of thing that occurred back in August 2013.

CHAIR: Are there any further questions? Our time has well and truly expired. Thank you. The committee looks forward to your responses to the submissions that have been made. We appreciate your appearance here today. We may have further public hearings and there may be a need to have a further discussion with you before we finalise our report, but we will certainly let you know.

Ms Ditchfield: Thank you.

CHAIR: I thank everyone for their attendance at today's hearing. Again, as always, the subcommittee has gathered valuable information that will assist the committee in its inquiry into the Land and Other Legislation Amendment Bill 2014. I declare the hearing closed.

Subcommittee adjourned at 12.52 pm