STATE DEVELOPMENT, INFRASTRUCTURE AND INDUSTRY COMMITTEE

Members present:

Mr DF Gibson MP (Chair)
Mr MJ Hart MP
Mr SA Holswich MP
Mr R Katter MP
Ms KN Millard MP
Hon. TS Mulherin MP
Mr BC Young MP

Staff present:

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

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

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 2 APRIL 2014

Brisbane

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Committee met at 10.20 am

CHAIR: Good morning and thank you. I declare open the public briefing for the committee's inquiry into the Land and Other Legislation Amendment Bill 2014. I thank all of you for your attendance here today. I would like to introduce the members of the State Development, Infrastructure and Industry Committee. I am David Gibson, the member for Gympie and chairman of the committee. The Hon. Tim Mulherin, the member for Mackay, is the deputy chair. The other committee members are: Mr Michael Hart, the member for Burleigh; Mr Seath Holswich, the member for Pine Rivers; Mr Rob Katter, the member for Mount Isa; Ms Kerry Millard, the member for Sandgate; and Mr Bruce Young, the member for Keppel.

The briefing is being broadcast live via the Parliamentary Service's website. A transcript will be made by parliamentary reporters and published on the committee's website. The aim of the briefing today is for the committee to gather preliminary information in relation to the bill. For the benefit of Hansard, I would ask each of you to state your name and position by which you are appearing before the committee when you first speak and that everyone speaks clearly into the microphones. This briefing is a formal committee proceeding. As such, you should be guided by schedule 8 of the standing orders. A copy has hopefully been provided to all of you.

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, 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

RIEGLER, Ms Liz, Principal Policy Officer, Water Services Support, Department of Natural Resources and Mines

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

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

TIERNAN, Mr Dermot, Executive Director, Petroleum and Gas Change Project, Department of Natural Resources and Mines

CHAIR: I now welcome representatives from the Department of Natural Resources and Mines. Would you like to commence with an opening statement?

Ms Ditchfield: Good morning, Mr Chair. Thank you for inviting the Department of Natural Resources and Mines to provide a briefing to the committee on the Land and Other Legislation Amendment Bill 2014. We have a number of officers at the back who might step up to provide advice as required. I will provide a short briefing to the committee about the bill and then answer questions that you may have. The Land and Other Legislation Amendment Bill 2014 has a number of objectives. I will focus on the implementation of the first phase of state land tenure reforms, as this forms a significant part of the bill, and then briefly mention the other amendments.

Phase 1 is state land tenure reforms. The Land Act is one of the primary pieces of legislation that regulates how state land is allocated, managed and used. This bill implements significant reforms to the state land tenure system that were recommended in this committee's final report on the inquiry into the future and continued relevance of government land tenure across Queensland, tabled in the Queensland parliament on 23 August 2013.

The Queensland government accepted that reforms to the state land tenure system are well overdue and publicly committed to delivering reforms for rural and island tourism tenures by mid-2014. This bill delivers on this promise and forms the first step to a fundamental reform of the state's land tenure system. These reforms will improve tenure security for term leases used for agriculture, grazing and pastoral purposes and declared offshore island tourism issued under the Land Act 1994. The reforms will also reduce red tape and the regulatory burden on landholders, businesses and government.

Specific recommendations of the parliamentary inquiry being addressed through this bill are recommendations 8 and 24, investigation of rolling leases to increase tenure security and investment certainty for rural and tourism leases; recommendations 9 and 25, the review of trigger points for rural and tourism lease renewals; recommendation 14, incentives for the freeholding of pastoral leases; and recommendation 15, the review of the corporation and aggregation restrictions.

All other recommendations of the parliamentary inquiry that are the responsibility of the Department of Natural Resources and Mines, including issues with native title, community reserves, stock routes, incentives for renewable energy projects, tenure data and mapping and tenure issues for rail infrastructure projects, will be addressed in phase 2 of our state land tenure reforms. The government is expecting to consult on these reforms later this year, with implementation during 2015. The government is also taking the opportunity to begin to reduce red tape, cost of business and ensure that the regulation of state land is in line with the modern business environment.

The continued effect of these reforms will be to provide greater security of land tenure arrangements and simplify processes. This will increase Queensland's attraction for investments in the agriculture and tourism sectors, which will have flow-on benefits to the rest of the community, including more employment opportunities. I will now discuss the recommendations for phase 1—state land tenure reforms—which are included in this bill.

In relation to rolling term extension, the bill focuses on ways to promote greater security of tenure and investment certainty by amending the Land Act and consequentially the Forestry Act and the Nature Conservation Act to introduce a highly simplified lease renewal process with minimal requirements for the rollover of the term of the lease. Rolling term lease extensions will apply to regulated island tourism purpose leases as well as agricultural, grazing and pastoral purpose term lease that are not located on the Land Act reserves and are 100 hectares or more in size. However, the minister may declare certain term leases below 100 hectares as eligible for rolling term lease extensions. Eligible leases for rolling term leases will therefore also include: leases for agricultural, grazing and pastoral purposes issued under the Land Act, but that are a secondary interest in a state forest and timber reserve under the Forestry Act or a protected area under the Nature Conservation Act; and leases for a tourism purpose on a national park or regulated island.

The process for applying for and deciding on a rolling term lease extension is significantly simpler than the current renewal process. For example, the lessee will not be required to enter into land management agreements at the time of extension and the department does not need to consider the most appropriate use and tenure for the land. This will reduce the assessment time from years to a matter of weeks. A land management agreement will in general become a tool for compliance under the Land Act—for example, when land is vulnerable to or has been degraded. If a lease already has a land management agreement registered on title the agreement may be cancelled. The minister may cancel the agreement after receiving an application from the lessee or the land management agreement can be cancelled with the lessees agreement if the minister is satisfied the land management agreement is no longer required. Cancelling the land management agreement does not affect the term of the lease, but the lessee does lose the right to apply for a lease extension associated with the land management agreements under chapter 4 part 3 division 1B of the Land Act.

The length of the rolling term extension is equivalent to the term of the original lease grant. For example, if the lessee holds a lease where the original lease grant was for 30 years then the lease may be extended or rolled over for an additional 30 years, which will take effect at the current end of the lease. A lessee may apply to extend the term of the lease any time within the last 20 years prior to the expiry of the lease. But the extension will only take place from the date of the expiry of the old term.

Therefore, a lessee with a 30 year original term will may apply for extension after the first 10 years have passed. Once the extension is granted, the lessee will be entitled to the residual balance of the current lease—that is 20 years—plus an additional 30 years from the extension. This means the lessee will have 10 years security for the following 50 years. A lessee can also apply to renew the lease at an earlier time where the minister is satisfied that special circumstances exist. For instance, when preparing for refinancing or sale of the property. There is no restriction on the number of times the term of the lease can be rolled over

In relation to simplifying conversion to freehold title for pastoral purpose tenures, these reforms remove an outdated requirement for a pastoral purpose term lease to convert to perpetual lease tenure prior to be being able to convert to freehold title. This reforms the unnecessary regulatory burden on lessees and government. It also reduces conversion costs for term lessees seeking to freehold their lease.

In relation to amalgamating adjoining term and perpetual leases under certain circumstances, currently lessees who hold adjoining term leases and perpetual leases issued for the same purpose cannot amalgamate their leases into a single tenure. This approach can have the effect of hindering business growth. This bill will remove this hindrance and allow the lessee to consolidate multiple adjoining leases as long as the leases are held by the same lessee, have been issued for the same purpose and native title has been appropriately addressed.

In relation to removing restrictions on the eligibility criteria for holding pastoral leases, currently only an individual can hold a pastoral lease. This bill will remove the outdated restriction that has stopped corporations from holding a pastoral lease. This means that in future family companies and Indigenous land corporations will be able to hold a pastoral lease. This reform removes the restriction on individuals holding two or more pastoral holdings, where the holding would become more than two living areas known as the aggregation restrictions.

The benefit of removing these anticompetitive and outdated provisions will increase opportunities for local and foreign investment and for lessees to grow their business. It also widens the opportunities for lessees to sell their lease. This will provide socioeconomic benefits for our struggling rural lessees through more flexibility to acquire additional leases for the purposes of building up their rural businesses and modern ownership arrangements, capitalisation arrangements and succession planning.

In relation to the protection of state forest products interests on land being freehold, currently when land is being converted to freehold the state can use a forest entitlement area to reserve the state's ownership of forest products. The problem with forest entitlement areas is that the land within these areas is not converted to freehold, resulting in a Swiss cheese effect. Once the state no longer requires the forest entitlement area, the landholder is given the opportunity to purchase the land at the current market price, which maybe unattractive to the landholder at the time and leaving the state with an enduring link to the land it no longer requires.

The bill amends the Land Act and Forestry Act to introduce a simpler process to reserve the state's interest in forest products on state land being converted to freehold. This process will use a forest consent area and a forest consent agreement. The forest consent agreement will be registered on title as a profit a prendre. A profit a prendre is a registered interest on title that grants to a party other than the lessee certain products, resources or components on the land in an area of the lease defined by survey.

It is important for the state to occasionally retain its ownership of the forest products on parts of the land being converted to freehold land. State owned native forest areas on land, outside of state forests and timber reserves, such as state leasehold land, currently contribute about 20 per cent of the annual supply of native forest log timber supplied by the state to dependent sawmillers and other log timber processors.

In recognition of the economic contribution the timber industry makes to Queensland, particularly in rural and regional areas, the state has entered into long-term supply contracts with certain native forest based sawmilling companies. These supply commitments can only be delivered on by the state if it maintains certainty of access to the native forest areas from which the logged timber is to be supplied and harvested. The new process of forest consent areas and forest consent agreements will result in cleaner, more efficient and modern tenure being issued for the whole of the state area being converted to freehold, while ensuring access arrangements and interests in forest products are retained by the state and are binding on successors in title even if the underlying tenure is freeholded.

In relation to relocating operational matters and removing duplication for land rent and purchase price to regulation, the bill omits all land and purchase price provisions from the Land Act and inserts a regulation making power to allow these matters to be included in the Land Regulation 2009. This reform removes operational matters from primary legislation in an effort to modernise and streamline the act in line with contemporary, principle based drafting practices. Provisions relating to the forgiveness of deferred rents due to hardship will not be moved to regulation, but will instead be omitted in favour of using existing provisions under the Financial Accountability Act 2009 to write off forgiven deferred rents as a loss should such action be warranted by extreme and ongoing hardship.

In moving the land rent and purchase price provisions to the land regulation, the government is taking the opportunity to streamline and renew them. The government has already approved two changes to the land rent provisions which are the two per cent annual interest which will not apply to deferred rent payments for leases granted due to a hardship from 1 July 2014 and the removal of interest on deferred rent payments which provides further assistance to lessees experiencing hardship.

I turn to the proclamation under regulation of areas or class of tenures where landholders will be automatically eligible for land for hardship rental relief without the need for individual applications and evidence from lessees. For example, where an entire local government area has been drought declared, this will allow the government to quickly respond during hard times. Once the government has fully reviewed the land and purchase price provisions and considered additional streamlining measures, further information will be provided to the committee.

I now turn briefly to the other amendments in the bill. With regard to amendments to the acquisition of land for public environmental purposes, the Acquisition of Land Act 1967 will be amended to clarify the public and environmental purposes for which land may be acquired by the state or by constructing authority. In 2013 Brisbane City Council was successfully challenged in the Supreme Court about the council's exercise of power to resume land under the Acquisition of Land Act for environmental purposes. The court's analysis of some of the grounds which were argued calls into question the ability of the state or another constructing authority such as local government to acquire land for environmental purposes. The amendment will confer the power to resume land for the purpose of the management protection or control of the environmental values of area or places.

With regard to compulsory acquisition of non-native title rights and interests, the Acquisition of Land Act will also be amended to support amendments being made to the Native Title (Queensland) Act 1993. These amendments will provide another way in which to acquire a non-native title right or interest where such an option is not currently available under the particular compulsory acquisition act. However, the reach of the compulsory acquisition act is only extended under this amendment when native title is also being compulsorily acquired under that act. For example, if native title rights and interests are being acquired over a piece of unallocated state land under the Acquisition of Land Act, all non-native title rights or interests in that land may also be acquired at the same time using that act even though ordinarily the Acquisition of Land Act does not apply to unallocated state land. Consequently, this amendment provides another way to meet the requirements under the Commonwealth Native Title Act regarding compulsory acquisition of native title and its extinguishing effect. This amendment addresses a particular issue raised in the course of the Department of Natural Resources and Mines processing applications from local governments for the compulsory acquisition of native title in relation to offers to purchase unallocated state land.

With regard to the Land Title Act 1994, the bill amends the Land Title Act 1994 to enhance the usefulness of high-density development easements which were introduced last year to reduce red tape and provide cost savings in particular types of housing developments. Currently the streamlined method of creating easements in small lot developments for terrace type housing can only be used after housing has been built. This will be extended to allow creation of easements before construction if the relevant type of housing with shared or party walls is permitted under applicable planning laws.

Regarding amendments to the Water Act 2000, a number of amendments are proposed to the Water Act 2000 and subordinate legislation regarding taking or interfering with water. The most significant change proposes to provide a development approval exemption for certain groundwater works. The current regulatory framework often requires water users to hold both a water licence and a development permit to access subartesian water. For works that take groundwater such as a bore, the requirement to obtain separate development approval is in some cases an unnecessary burden that does not reflect the level of risk posed to the water resource. In addition, often the

development approval merely duplicates the requirements specified on the water entitlement. In order to remove this unnecessary burden to industry, community and government, it is proposed to exclude the assessment triggers for the works listed above from the water regulation and a number of water resource plans that regulate groundwater. This streamlining of regulatory approvals will provide for greater efficiencies and allow these works to be regulated solely under the Water Act. The removal of this unnecessary regulation will assist in reducing the regulatory burden and costs on water users while reducing the administrative burden on departmental officers.

The bill also proposes to amend section 24 of the Water Act. In September 2013 amendments were made to the Water Act to increase the number of activities that can take water without requiring an authority. The chief executive currently has the ability to apply restrictions on stock and domestic water users and water entitlement holders during periods of drought. The proposed amendment to section 24 will reflect the changes made in September enabling the chief executive to apply restrictions to a range of activities that can take water without requiring an authority.

Regarding changes to validate particular water licence decisions, the Water Act provides for water licensing in Queensland and requires the department to consider a number of factors when making water licensing decisions. A review of a sample of historical licensing decisions found that the department did not give due consideration to some of these factors in the decision-making process. This cast doubt on the legal validity of other water licensing decisions made under the Water Act. To address this concern and provide certainty for the thousands of water licence holders in Queensland, the bill makes critical amendments to the Water Act to validate particular water licence decisions. Importantly, the validation will only apply to any decisions that are the subject of review processes initiated within six months of the decision. This is designed to preserve existing rights of appeal.

Lastly, I turn to the amendments to resource legislation. The bill will also amend the Petroleum and Gas (Production and Safety) Act 2004, Petroleum Act 1923 and the Mineral Resources Act 1989 to do two things. The first relates to production commencement days on petroleum leases. The Petroleum and Gas (Production and Safety) Act requires leaseholders to commence production within two years after the lease takes effect unless a longer time frame is approved. Petroleum leaseholders can apply to extend this date if it is unable to meet the requirement. However, the application must be submitted no later than one year before the production is required to commence. For large projects with complex and uncertain infrastructure construction time frames, the leaseholder may not know if the production commencement date requirement can be met until closer to the time. The bill will provide a head of power for the regulation to prescribe a period that is less than one year. This will give petroleum leaseholders more time to apply.

The second amendment has been included to provide certainty to tenure holders regarding later work programs and later development plans under the Petroleum and Gas (Production and Safety) Act and for the Petroleum Act and decisions made regarding later development plans under the Mineral Resources Act. The department's periodic review of its processes raise questions about the way that legislation has been understood in making decisions about those work programs and development plans. This amendment removes any potential uncertainty about the legal validity of the programs and plans. That concludes my speech.

CHAIR: I do not think we get that much time in parliament.

Ms Ditchfield: It is a very complex, long bill.

CHAIR: It is and we do appreciate that, because in the time that it has been introduced we have been grappling to get our heads around things. I know that my committee members have a lot of questions. I want to touch on something that you said in your statement and you alluded to it in a couple of different places. You talked about rolling leases moving from years to weeks. I think in the freeholding you talked about this bill reducing costs. I think in the water licensing you mentioned streamlining approvals and removing unnecessary burden. Has the department done an assessment as to what this bill potentially will save in red tape, in operating costs et cetera in the processes that are being suggested in this particular piece of legislation?

Ms Ditchfield: We have not done a time assessment but certainly we will be moving into the implementation phase and we will be able to fully detail the exact savings in time and cost to the department and to government. But with the proposed changes on first blush we anticipate significant savings both to government and to industry.

CHAIR: I commend you for what you have put together because it does sound very refreshing. I know as a committee which was involved in the report we certainly had a lot of feedback about the frustration that people had about processes. I think it is a credit to the parliamentary inquiry process and to the department to be able to pick up on that and reflect on it. I open it up to committee members.

Mr MULHERIN: On those savings to government, how many jobs will be lost as a result?

Ms Ditchfield: I can only talk to the contents of the bill.

Mr MULHERIN: But you are saying that you are going to model or work out the savings to industry and savings to government. If there are savings to government that means fewer people will be required to regulate—

CHAIR: I think that is a hypothetical at this stage.

Mr MULHERIN: The amendments to clauses 126 and 129 are intended to provide greater commercial flexibility for petroleum leaseholders around the timing of production. Clause 127 outlines that a petroleum leaseholder would not be in breach of their obligation if the minister is still considering an application to change the production commencement date or, alternatively, an appeal against the minister's decision is still underway. How long could the ministerial decision appeal process conceivably take? Would it also be possible for proponents to game this process, to hoard the resources, or are there time limits around the minister's decision and appeal?

Mr Tiernan: In regard to how long an appeal would take, I would have to take that on notice because courts work their particular ways. The other part of the question asked whether this could lead to land banking and locking up the resource.

Mr MULHERIN: Yes.

Mr Tiernan: It should not. The petroleum lease has already been granted in this case. How it works at the moment is if the petroleum lease is granted you set a production commencement date no more than two years after the date of grant. What we are saying is that if you have a relevant arrangement and the department assesses it to be essentially a contract and that gas will flow in an arms-length way, you can apply to extend that production commencement date and you do not have to do it one year before the original date. The reason for that is pipelines take time to get built—

Mr MULHERIN: I understand all of that, but I think Ms Ditchfield mentioned it also amended the Mineral Resources Act. Could the same conditions that apply to the Mineral Resources Act lead to land banking, do you think? We have had examples of that in Queensland, particularly with bauxite projects in the cape, where development leases were granted and they had specific time limits around it but nothing happened. Do you think this could lead to land banking?

Mr Tiernan: It is not the design of the bill to do that. The Mineral Resources Act is more about the mine development plans or the development plans that have been assessed in the past or are currently under assessment. This will provide certainty for those companies that have undertaken activities during the assessment process.

Mr MULHERIN: So with regard to the amendments to the Mineral Resources Act, are you saying that a miner might have reached the end of that part of the mine that can produce economically and then it is really a continuation of the mine? Is that what you are inferring?

Mr Tiernan: No. When you get a resource tenure there is a development plan attached to that so we as a government on behalf of the people of Queensland can play a stewardship role. We assess whether the resources are going to be extracted in the most optimum way.

The amendments that are in this bill relate to the fact that those plans have to be lodged no more than 100 days before the expiry of the current program and no less than 40, but they can be quite complex and take time to assess. So we have been reviewing our processes to make sure that we can get through that assessment process within 40 days. This is about giving certainty to those people who have undertaken works in good faith in the past that those works will be completely protected.

Mr KATTER: There was a statement made about removing restrictions on eligibility criteria for holding pastoral leases—removing restrictions on corporations owning and individuals aggregating. I think there appear to be two separate issues there—the individuals aggregating and corporations owning. That would relate to the GHPLs?

Mr Sheppard: Yes.

Mr KATTER: That is where that came from, the GHPLs. I think that is the only case where it is restricted. I take your guidance here, Mr Chair, on whether I am debating policy here or not. The way it was presented to us in that report was that it is opening it up to the market, but there is a social cost to it as well. It removes the space in the market that is reserved for the family farm, which was my understanding of the intent of the GHPLs in the first place. So it is about the way that was presented in the report. I know where I stand on it, and I know that the AgForce membership were fifty-fifty on this issue. So I just raise that as an issue. I feel there is a little bit more to that issue other than just saying it was for the good of all.

CHAIR: From the bill's perspective, would you care to comment on what you are trying to achieve with the amendment?

Mr Burton: The objective of the bill, as Bernadette outlined in her speech, is to free up those eligibility criteria for purchase and for aggregation of leases that have that restriction because of their origin as pastoral holdings. So it is about providing greater opportunity for modern business arrangements, regardless of whether those are family based or not.

Mr HART: Trusts and things like that.

Mr KATTER: I understand what you are doing.

Mr Burton: It is our understanding that the restriction also is a restriction on family business arrangements as much as it is on large corporations.

Mr KATTER: I just make the point that I think AgForce made it pretty clear in their submission that their membership was fifty-fifty on it.

Mr Burton: That is certainly a policy question.

CHAIR: Understood.

Mr HART: Ms Ditchfield, I note that commercial leases were left out of the rolling leases. I have one on the Gold Coast in my electorate in particular that is restaurant on a beach. I wonder why we have left commercial leases out. Is this something we will move to eventually or is there a possibility of moving some forms of commercial leases to a different form of lease that does have a rolling term?

Ms Ditchfield: We are dealing with phase 1 of the tenure reforms. Those issues you have identified will be addressed under stage 2. We are planning to consult on stage 2 later this year.

Mr YOUNG: You are talking about the wet and dry leases.

Mr HART: Yes. The other issue that the committee has struggled with is the native title issue. You have said that might be dealt with under the second phase as well. Taking away the requirement to move to a perpetual lease and then on to freehold is great. That is one step. Do you see a way of dealing with that particular issue? That was something that came up again and again and again at all of our hearings. We struggled with making a recommendation, we really did, on the way forward. Have you managed to develop anything further on that?

Ms Ditchfield: It is a very complex issue. I am not struggling to give you an answer, but we have been working very hard internally to look for ways that we can navigate through native title issues to provide certainty to leaseholders in general. We are really at that pointy end where we are in that policy development phase, so there is nothing that I can probably speak to at this point in time.

CHAIR: If we come to the article that is contained within the bill with regard to the compulsory acquisition of non-native title rights and interests, could you outline for us the benefits of what is being proposed in the bill and potentially consequences as well?

Ms Jensen: The amendment is really mirroring the current provisions in the Native Title (Queensland) Act that currently allow for the compulsory acquisition of native title rights and interests under a suite of compulsory acquisition acts within Queensland where the reach of compulsory acquisition acts has been extended to allow for the compulsory acquisition of native title. So this amendment is not really directed at native title. It is really to provide a process whereby, where compulsory acquisition of native title is occurring, at the same time in a streamlined way non-native title rights and interests can also be acquired.

The issue was raised, I think as Bernadette explained in the opening speech, where it was brought to the department's attention that, where the department was processing requests from local governments to progress compulsory acquisition of native title in response to an offer to purchase unallocated state land as freehold, there could be an example where over a parcel of

unallocated state land native title needs to be addressed in order for that to move to freehold and, if compulsory acquisition is a means by which the native title can be addressed, there was a potential gap that not all other interests could also be taken at the same time in that process. That is essentially to meet the requirements of the Commonwealth Native Title Act, which sets out the requirement for the compulsory acquisition of native title whereby that leads to extinguishment. All other non-native title rights and interests need to be taken at the same time. So this amendment is really facilitating that, under the compulsory acquisition acts, if native title is being acquired then all other non-native title rights and interests can be taken at the same time. So effectively it is providing a streamlining, that you do not have to go through subsequent processes. It can be dealt with at the same time. That would obviously be of benefit for the state or other constructing authorities in the exercise of those powers.

Mr MULHERIN: So this will assist councils like Boulia and other western shires—

CHAIR: You do like Boulia.

Mr MULHERIN: I do like Boulia; Britton is a good mayor—that want to increase their urban footprint or their industrial footprint to accommodate opportunities, particularly in the mining area.

Ms Jensen: Yes.

Mr MULHERIN: It addresses that issue.

Ms Jensen: It provides another means by which that can be addressed.

Mr HART: In that narrow field, we have had a few instances on the Gold Coast where the local government have had an easement adjacent to private property, say, for some sort of power facility or something like that and they no longer require it and they would like to sell it to the landholder but they have to address native title issues. Does that amendment fix that sort of issue?

Ms Jensen: This amendment is providing just another means through extending the reach of the compulsory acquisition acts to be taking non-native title rights and interests over that land if the native title is being compulsorily acquired. Obviously there is a range of ways in which native title can be addressed, either through consent or through other processes. But this is a very specific amendment that is dealing with where native title is being compulsorily acquired that particular compulsory acquisition act can also be the means by which the non-native title rights and interests can be taken. So it is really more directed at providing the means by which all the relevant interests in that land, if compulsory acquisition is the means by which you are addressing that proposal to convert or upgrade that particular interest in the land, can be accommodated.

Mr YOUNG: You have talked about compulsory acquisition of native title land. But what about a private person who wanted to get into some unallocated state land? You would have to go through the ILUA process. That is an agreement. What you are saying is that this takes it to the next step where you can actually extinguish native title.

Ms Jensen: Currently there is the power to compulsorily acquire native title. That is currently in the provisions of the Native Title (Queensland) Act. So this amendment is just providing another means by which if native title is being compulsorily acquired then the non-native title rights and interests can also be compulsorily acquired.

Mr MULHERIN: I refer to clause 47 of the bill, Ms Jensen, which facilitates pastoral leases being converted directly to freehold instead of having first to be converted to perpetual lease. The conversion of pastoral leases to freehold often involves the extinguishment of native title rights. How will this native title extinguishment and compensation process be resourced if this bill provides an incentive for the conversion of pastoral leases to freehold as intended?

Ms Jensen: I might just redirect that question.

Mr Burton: The bill provides, if you like, the tenure mechanism. So it removes the step between term leases and freehold going through the perpetual lease tenure process. These amendments do not facilitate the extinguishment of native title as part of that process. So independent of that red-tape reduction, there is still the native title processes that Judith has gone through.

CHAIR: Would it be fair to say the complexity of the native title issue is being looked at by the department and could be addressed in phase 2 of the reforms?

Mr Burton: At the time that the government responded to this committee's previous tenure inquiry—that response included phase 1 and phase 2—the government stated in that response that in parallel with phase 2 we would have a program to look at better ways, better incentives, for native title consents to be gained.

CHAIR: And that process is on a similar time line with the consultation.

Mr Burton: Yes, a similar time frame.

Mr MULHERIN: I do not know who I should direct this question to.

CHAIR: Put it out there. I am sure someone will answer it.

Mr MULHERIN: The minister's second reading speech outlined that this bill will deliver through future regulation a more affordable rural leasehold land rent and purchased price regime. The details and costs of this proposal are yet to be determined. Is the department aware whether the government will conclude its consideration of these financial matters relating to the regulation prior to this bill being debated in parliament?

Ms Ditchfield: I did include in my speech that as soon as government has considered those matters and we can present to the committee we will do so.

Mr MULHERIN: So will it be before the bill is debated?

CHAIR: It is in the government's hands.

Ms Ditchfield: It is in the government's hands. The timing of that is within the government's control.

Mr MULHERIN: What would be the costs for removing interest payable on deferred rents under the land rental hardship provisions? Will these costs be met by the department?

Ms Ditchfield: We do not have those figures with us, apologies. We will take that on notice and come back to you.

Mr MULHERIN: Will those costs be met by the department?

Ms Ditchfield: We will take that on notice and come back to you with a full answer.

CHAIR: Thank you. We appreciate that.

Ms MILLARD: With regard to high-density development easements—I am not sure who I should direct this to—could you further outline to the committee the proposed amendments and what they mean?

Ms Ditchfield: Sure. Peter, can you do that one? We have a technical expert that will go through that with you.

Mr Statham: The high-density development easement provisions were introduced in the previous LOLA bill to facilitate a streamlined approach to high-density urban developments. After the introduction of those particular amendments, in discussions with industry it was identified that there was a limitation on the application of those high-density development easements insofar as the structures that were to be protected by the easements had to be actually built before the easements could be registered. It was recognised that in high-density development, such as Fitzgibbon and Caloundra South, there were significant and already in place planning controls that identified the types of buildings that were to be built—the size, the shapes, the fact that they had common walls and such. Therefore, it was identified that, provided that a suitable planning control was in place, the high-density development easement could be registered prior to the buildings and walls actually being built.

CHAIR: Can I just pick up on water licensing? I know you addressed it in your opening speech, but just to tease it out for us, if I understand it correctly, the water licencing decisions have some legal deficiency as they currently stand and this is addressing that. Can you take us through how these amendments in the bill will remove any doubt at all for us.

Mr Hinrichsen: A review was undertaken on a number of sample licence applications. To provide some context, the Water Act currently prescribes a significant list of criteria that need to be considered as part of the decision making process. That relates to granting licences, renewing licences, amending licenses and reinstating a number of licences. The various transactions are listed in the provision section 132. If any one of those criteria was not considered as part of the process, that creates doubt over the validity of that grant. Across Queensland there are something like 23,000—24,000 water licences that authorise taking and interfering with ground water, surface water and storage of water. The concern was that quite a large number of those licences are potentially invalid. Given the property right that is associated with a water entitlement, obviously a water entitlement is a high value asset that is fundamental to many rural, industrial and mining developments. This provision would take away any doubt over the validity of those licences that individuals and companies—local governments for that matter—currently hold in relation to the taking or interfering with water.

Importantly in the provision, if there is an appeal process that is underway, either through the Land Court or under the Judicial Review Act, then that will not be affected by the validation provision. There is a six-month period in which the proposed validation provision allows for that action to be initiated post the decision being made. That time frame is longer than the statutory period for appeals to be lodged or for applications under the Judicial Review Act to be made, but also recognises that in many cases courts have the discretion, depending on the circumstances, to give leave to applications or appeals beyond the statutory time frame that is provided.

CHAIR: The doubt that exists is not as a result of a particular court or a ruling that has occurred, it is just something that has been expressed and the department is addressing, is that correct?

Mr Hinrichsen: There have been matters raised in particular court cases that I guess triggered the department to do a much, much broader review right across the state of the validity of decisions made under the Water Act on a broad range of transactions to do with water licences.

Mr HART: Just going back to term leases for a second, we are removing the requirement to enter into a land management agreement. I have not seen a pastoral lease, but I have seen a few of the commercial leases that have been floating around the Gold Coast and I am a little bit concerned that they are really old documents that are really basic. Are we updating the actual lease agreements to incorporate some sort of assessment process that people may have to comply with or is the rolling lease just automatically ticking over and sticking with the original lease agreement that might be 30 years old?

Mr Sheppard: We are introducing a provision, regulated conditions of a lease, and what we are doing at the moment is we are going through each lease type and determining the general conditions for each lease. What will happen is they will be listed on the department's web page so you know what the conditions of these types of leases are. What will happen is that when the lease is rolled over they would then become the new conditions of the lease and the old conditions would be gone.

Mr HART: How long ago was this reviewed before, do you know?

Mr Sheppard: The conditions previously were reviewed at renewal, whenever that was.

Mr HART: Each time?

Mr Sheppard: Yes.

Mr HART: The actual form of the leases, are they more up-to-date and more modern type leases? The commercial one I have seen is three pages that basically gives the government no rights to much at all, or the commercial tenant either.

Ms Ditchfield: That is not directed to the contents of this bill, so we do not have an answer for you at this point in time on the commercial lease arrangements.

Ms MILLARD: You said one of the aims of this bill was to give more opportunity for landholders to sell their leases. Is there any sort of specific amendments to any criteria around that or additions? If you could just explain that. I have another part to that question as well.

Ms Ditchfield: Does it relate to the corporation aggregation restrictions or just generally?

Ms Ditchfield: Just generally, if you could talk more about opportunities for landholders to sell their leases.

Mr Burton: The reference in the speech, without going back to the text specifically, I think would have referred to the removal of the corporations restrictions.

CHAIR: The bill does not provide any additional ability for people who hold leases to be able to sell them above and beyond what currently exists?

Mr Burton: Above and beyond.

Ms MILLARD: We were talking about the water licences. Sometimes with government people can do this thing here but this thing that actually should be going with this thing ends up being stuck here, so the water licences would also be able to be sold and negotiated at the same time as the leases.

Mr Hinrichsen: Apologies, member for Sandgate, I do not really follow the question.

Ms MILLARD: Can somebody sell it as a whole package as opposed to just dealing with the lease and then the licence?

Mr HART: The land and the water.

Ms MILLARD: Exactly.

Mr Hinrichsen: Water licences do attach to title to land and are unaffected by any upgrading of the tenure, for example. Certainly in those cases the sale of any land would include the water.

Ms MILLARD: Is that always the case?

Mr Hinrichsen: In a number of areas the water licence has been converted to a tradable water allocation and in those areas it is a matter for the vendor as to whether they sell the land and the water as a package or they sell separately.

Ms MILLARD: You are not going to make any changes to the current standing?

Mr Hinrichsen: Under this bill, no. The existing Water Act does provide for water licences that are currently attached to land to, if you like, be upgraded to tradable water allocations within rules that are specified in relevant water planning instruments.

CHAIR: Just to be clear for the benefit of the committee, the doubt that exists, is that across both types, the tradable ones and the ones that are linked to the land or is it just with regard to water licences that are linked to the land?

Mr Hinrichsen: The doubt that exists is in relation to water licences. Of course, where those water licences then are upgraded to tradable water allocations, that residual doubt may transfer as well.

Mr MULHERIN: At clauses 43 and 45 changes are made to remove the requirement of land management agreements when renewing a rural lease. In the explanatory notes it states that the process will be simpler as there will be no requirement for rural leases to enter into a land management agreement at the time of the term rollover and no consideration of most of the appropriate use and tenure for the land. While I understand the intent is to reduce the assessment time frames, what compliance steps will the department take to ensure ongoing appropriate land management in the absence of this requirement? The explanatory notes state that land management agreements in the future will be used more as a tool of compliance. Can you elaborate more on this, please?

Ms Ditchfield: I think that is actually part of our implementation phase. We have had some discussions internally within the agency to start looking at the implementation. If I could probably not answer that question but take it on notice we can provide a comment.

Mr MULHERIN: Thank you very much.

CHAIR: Coming to the petroleum leases, we notice the amendments provide for the minister to refuse an application for an extension of production commencement dates for a petroleum lease to act as a safeguard against leaseholders who may be stalling production and reserving petroleum where there is no contract in place. Can you expand on that for us or provide us with information on how these amendments will provide for the minister to do that?

Mr Tiernan: The minister can only approve the extension if there is a relevant arrangement in place. To date we have looked at one and we are in the process of looking at another. These relevant arrangements really only relate to the large LNG type projects. We have to assess them on several grounds, but a key one is that the gas is being sold at a reasonable price, it is not being handed over so there is no other impact on the state. There should only be three or four relevant arrangements in the foreseeable future. There could be more, of course, because of the current state of industry development, but if the minister is of the opinion that it is not a contract per se and it is not a legitimate contract per se then he can refuse the request to extend the production date.

Mr YOUNG: The end goal is to get to freehold. That has been one of the things that we want. You talk about simplifying the process. What are the mechanisms you are going to use to simplify the process from pastoral term lease to perpetual term lease—I know we have native title; that has to be addressed—and then to freehold? What are the mechanisms that will help there? We are talking about simplifying the process. Let us talk about how we are going to do it.

CHAIR: How this bill will do it.

Mr Sheppard: In regard to that amendment, previously what we had to do was convert the pastoral term lease to a perpetual lease, go through the whole process, and then six months later repeat exactly the same process to go to freehold if it could go to freehold. So what we are doing is instead of checking the same things twice we are just going to go straight from term lease to freehold if it can go to freehold. That is what that amendment does.

Mr YOUNG: We still have the ambiguity of pastoral term lease to perpetual term lease. We have native title, but what else do we have to do? Because there are lots of people out there who have pastoral term leases who want to make it perpetual.

CHAIR: What you are saying, if I am clear, is does this bill remove the right to move from a pastoral lease to a perpetual lease or is that still provided for, but where people choose to go direct to freehold they would bypass that step of a perpetual lease?

Mr Sheppard: Can I come back, in the conversion process it is the most appropriate tenure in use assessment evaluation. It still happens. So that would determine whether it would be perpetual or freehold.

CHAIR: Perpetual leases are still available?

Mr Sheppard: For pastoral leases.

CHAIR: But if someone wishes to move to a freehold they do not need to go through that step?

Mr Sheppard: Correct.

Mr YOUNG: Perpetual leases extinguish native title on conversion, do they not?

Mr HART: It has already been dealt with.

Mr Burton: Native title has to be dealt with before the conversion can be done.

Mr YOUNG: From pastoral to perpetual.

Mr Burton: To perpetual.

Mr YOUNG: That is correct. It has to be dealt with. But once they get to perpetual, correct me if I am wrong, native title has already been extinguished and they can convert to freehold.

Mr Burton: If they are in a perpetual lease and native title has been extinguished, which is generally the case, then they can convert to freehold.

Mr MULHERIN: But if they want to go from pastoral to freehold they have to address all the native title issues.

CHAIR: Ladies and gentlemen, the time allocated for this session has now expired. I thank you for your presence here today. I would ask and remind you all that any answers to questions taken on notice should be provided by the close of business this Friday, 4 April. I flag for you that as the committee continues to address this I am sure we will have further questions that we will put forward to you in writing as we progress forward or we may ask you to appear before us at a later time because there are some complex issues to look through. Again thank you all very much for your presence here today.

Committee adjourned at 11.20 am.