



STATE DEVELOPMENT, NATURAL RESOURCES AND AGRICULTURAL INDUSTRY DEVELOPMENT COMMITTEE

Members present:

Mr CG Whiting MP (Chair)
Mr DJ Batt MP
Mr JE Madden MP
Mr BA Mickelberg MP
Ms JC Pugh MP
Mr PT Weir MP

Staff present:

Dr J Dewar (Committee Secretary)
Ms C Furlong (Assistant Committee Secretary)

PUBLIC BRIEFING—SUBORDINATE LEGISLATION: NO. 20 OF 2019, ABORIGINAL LAND (MINJERRIBAH) AMENDMENT REGULATION

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 1 MAY 2019

Brisbane

MONDAY, 1 MAY 2019

The committee met at 8.52 am.

DOUGHERTY, Mr Robert, Principal Land Officer, Indigenous Land Operations, Department of Natural Resources, Mines and Energy

NICHOLAS, Mr Graham, Executive Director, Land and Native Title Services, Department of Natural Resources, Mines and Energy

CHAIR: We will now begin the public briefing to consider subordinate legislation No. 20 of 2019, which relates to the Aboriginal Land (Minjerribah) Amendment Regulation. I welcome representatives from the Department of Natural Resources, Mines and Energy. I now invite you to make a brief opening statement after which committee members may have some questions for you.

Mr Nicholas: Thank you very much for the opportunity today to brief the committee on the Aboriginal Land (Minjerribah) Amendment Regulation. The regulation provides for the declaration of two parcels of available state land as transferable land and also provides for a change to the boundaries of the Redland City Council as it relates to land under the Aboriginal Land Act.

Importantly, the regulation had its infancy with the native title determination for Minjerribah. That successful outcome occurred back in 2011 with the Quandamooka people where the Federal Court determined that for the unallocated state land on Minjerribah native title rights and interests did exist and they were exclusive native title rights and interests. A determination of native title does not deliver any land ownership outcomes. Importantly, it recognises native title rights and interests but, for the state to deliver land or property ownership outcomes, the state negotiated an Indigenous Land Use Agreement with the Quandamooka people in 2011.

The parcels of land that are subject to the regulation to be declared as transferable are outcomes of the Indigenous Land Use Agreement which was registered with the National Native Title Tribunal on 8 December 2011, to which the state is a party and to which there is approval from the government to progress with delivering on those outcomes. The Indigenous Land Use Agreement provides, amongst other things, that these two parcels of unallocated state land be transferred as inalienable freehold under the Aboriginal Land Act. All parcels are proposed to be declared as prescribed protected areas, or Indigenous joint management areas, in the North Stradbroke Island region under the Nature Conservation Act. The two parcels are described as lot 3 on SP310010 and lot 12 on SP304074 and are located on North Stradbroke Island and cover a total area of about 280 hectares.

As I mentioned earlier, the parcels are within Redland City. Under the Aboriginal Land Act, we cannot transfer land that is within the boundaries of the city. The regulation will also give effect to removing those parcels from the boundaries of the city with regard to the Aboriginal Land Act. It does not change the boundaries of the city itself; it just enables that land to be declared transferable land. The intention is that the amendment regulation will amend the 2011 regulation to declare lot 3 and lot 12 as transferable land and to change the boundaries of Redland City.

An important aspect of the whole regulation process is consultation. The department consulted with the stakeholders affected including the traditional owners, the registered RNTBC—that is QYAC itself—the local authority and state agencies. This was in relation to, amongst other matters, the most appropriate use and tenure for the parcels in consideration that they might be made transferable land and transferred to Aboriginal people under the Aboriginal Land Act; if, taking into consideration their most appropriate use and tenure for the land, the parcels are appropriate for making transferable land; the proposed regulation process to make the land transferable; and the subsequent actions and approvals required to give effect to the transfer.

There are a number of stakeholders who do have interests in one of the parcels. The Aboriginal Land Act allows us to progress with the regulation as these interests are protected. There is an easement and a mining lease over one of the parcels. The regulation itself does not affect those interests. Those interests will also continue should the land be transferred.

In conclusion, the outcomes that are being delivered through the proposed regulation will give effect to the negotiated outcomes in the 2011 ILUA and also provide for land ownership to the recognised native title holders of Minjerribah.

CHAIR: We have had these amendment regulations come through before and we will have more of them coming through. From what I am seeing here, they all flow from the 2011 decisions and agreements that were made. It is that requirement of the land to be transferred out of the city, even though it is already unallocated state land. I want to confirm that these amendments, the previous ones and future ones are all based on those 2011 agreements and decisions. Is that correct?

Mr Nicholas: Certainly these are. There are others that will come forward that are also based on the 2011 ILUA. Since those negotiations, QYAC has identified a number of other parcels of unallocated state land that were not subject to the ILUA. The government has agreed that they should also be declared transferable. We will be progressing them in the next couple of months as well. They are all unallocated state and they are all subject to exclusive native title rights and interests.

Mr WEIR: Is there any impact on the existing ILUA? This is a significant parcel of land and obviously there is more to come. Does that mean that the ILUA has to be renegotiated?

Mr Nicholas: No, it does not. The ILUA commits the state to undertake best endeavours to deliver on particularly the Aboriginal Land Act outcomes. There is a commitment there for the state to progress those matters. The ILUA itself does not need to be amended to include other unallocated state land. Unallocated state land can be declared transferable and transferred in the absence of an ILUA. The Aboriginal Land Act itself stands alone. The ILUA is an agreement between the state and the Indigenous people whereby the state commits to undertaking certain actions that deliver beneficial outcomes through to delivering on the recognition of native title rights and interests. They can stand alone. We have a number of land transfers that occur that do not have an ILUA as a basis for that transfer. They rely on the act itself.

Mr WEIR: You said that there is an easement and a mining lease and that that all continues.

Mr Nicholas: They all continue. The act provides for certain recognised registered interests to continue—the likes of easements and mining interests. There are a couple of permits to occupy that are on the unallocated state land. To have those parcels declared transferable, those permits to occupy had to be removed. They were for an apiary site and access purposes. Those interests cannot continue through the regulation process. The way the state deals with this is that we have those permits to occupy cancelled prior to the land being declared transferable. Then once it goes through a regulation process we actually reinstate those authorities. Then once they are reinstated they can continue through to the grant of the Aboriginal freehold.

CHAIR: That was an apiary site?

Mr Nicholas: Yes, an apiary site—a beekeeping site—and access across the land.

CHAIR: I know that apiary, beekeeping, is going to be a central part of the economic future of the island. I will throw it open to any other questions. There being no further questions and the time allocated having expired, I will now close this session. We do not have any questions on notice. That concludes this briefing. On behalf of the committee, I would like to thank all the representatives who have appeared here today. I thank Hansard and the committee secretariat as well. A transcript of these proceedings will be available on the committee's parliamentary web page in due course. I declare this public briefing closed.

The committee adjourned at 9.01 am.