

Question on Notice

No. 455

Asked on 2 April 2019

MR MOLHOEK ASKED THE DEPUTY PREMIER, TREASURER AND MINISTER FOR ABORIGINAL AND TORRES STRAIT ISLANDER PARTNERSHIPS (HON J TRAD)—

QUESTION:

Will the Deputy Premier advise what role the Department of Aboriginal and Torres Strait Islander Partnerships has had in disputes relating to Frasers Property Australia's plan to develop land around the former Deebing Creek Mission, including any role in mediation and identification of appropriate Indigenous representatives to take part in mediation activities?

ANSWER:

The Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) is responsible for administering the Aboriginal and Torres Strait Islander Cultural Heritage Acts (Cultural Heritage Acts).

There is a duty of care on all land users to take all reasonable and practicable measures to avoid harming Aboriginal cultural heritage. The cultural heritage duty of care can be met by acting under an approved Cultural Heritage Management Plan (CHMP) developed under Part 7 of the Cultural Heritage Acts. The legislation requires each party to negotiate and make every reasonable effort to reach agreement about the provisions of the plan.

Section 34 of the Cultural Heritage Acts establishes a framework to identify the relevant Traditional Owners to assist land users in managing the impacts on cultural heritage arising from their activity. This is done by linking into the procedures under the Commonwealth *Native Title Act 1993*.

The Yuggera Ugarapul People Native Title Claim was registered by the Federal Court of Australia in August 2017 and the site of the former Deebing Creek Mission is located within the claim area. The Yuggera Ugarapul People therefore constitutes the 'native title party' for cultural heritage purposes and the relevant entity who must be consulted by the sponsor when developing a CHMP.

DATSIP officers took part in the initial community meetings conducted by Frasers Property Group in October 2015 and have continued to liaise with all relevant parties since that time. DATSIP has continued to be involved in consultation activities with the Ipswich community comprising Aboriginal people with both traditional and historic links with the former Deebing Creek Mission site. The Yuggera Ugarapul People and Frasers Property Group formally commenced negotiations in January 2018.

It is important to note that DATSIP is not actively involved in these negotiations and its legislative responsibilities are confined to administrative functions as stipulated by the Cultural Heritage Acts.

On 15 February 2019, the Member for Ipswich met with Frasers Property Group, representatives of the Yuggera and Ugarapul People, Ipswich City Council, and a DATSIP representative, to discuss dispute resolution mechanisms. DATSIP provided parties with a list of possible dispute resolution specialists with expertise in the cultural heritage and native title sphere.

On 18 February 2019, an application was made in the Land Court of Queensland by a member of the Yuggera Ugarapul Native Title claim group seeking an interim interlocutory injunction against Frasers Property Group over their proposed development of the former Deebing Creek Mission pursuant to the *Land Court Act 2000*.

On 27 and 28 February 2019, the application was heard and dismissed with parties directed to participate in court-supervised mediation. The application for an injunction was subsequently discontinued. DATSIP was not a party to these proceedings.

On 1 March 2019, and pursuant to section 113 of the Cultural Heritage Acts, Frasers Property Group referred its draft CHMP to the Land Court of Queensland. The chief executive of DATSIP is a statutory party to all matters referred to the Land Court of Queensland under the relevant provisions of the Cultural Heritage Acts.

On 22 March 2019, parties participated in court-supervised mediation held in Ipswich. While DATSIP, as a statutory party to this matter, attended the mediation as a courtesy to the court, it had no active role in the mediation conducted that day.

On 4 April 2019, Frasers Property Group provided DATSIP with a CHMP for approval. The management plan was executed by Frasers Property Group and five of the nine Yuggera Ugarapul People native title applicants.

On 15 April 2019, DATSIP approved the CHMP in accordance with Part 7 of the Cultural Heritage Act. Parties were advised of this decision on 16 April 2019.