

# **GOVERNMENT RESPONSE TO THE PARLIAMENTARY COMMITTEE'S REPORT ON THE ECONOMIC AND REGULATORY FRAMEWORKS FOR QUEENSLAND'S ISLAND RESORTS**

On 21 February 2022, the Queensland Parliament's Transport and Resources Committee (the Committee) held an inquiry into the economic and regulatory frameworks for Queensland's Great Barrier Reef (GBR) islands resorts. The inquiry was based on a terms of reference, consultation with relevant agencies, written submissions, and public hearings.

The final report, tabled on 17 March 2023, comprises 18 recommendations. The Committee report deals with certain GBR islands subject to the grant of a tenure for tourism purposes under the *Land Act 1994* (Land Act). It does not deal with GBR island resorts operating on freehold tenure. There are 29 resorts on 25 GBR islands that fall within this category.

The Queensland Government has a long-term commitment to grow the state's \$22 billion tourism industry and secure Queensland's position as a world-leading tourism destination. Tourism boosts the revenue of the economy, creates thousands of jobs, develops the infrastructure for the regions, and initiates a sense of cultural exchange between foreign visitors and the state's citizens.

GBR island resorts are an integral part of Queensland's tourism offering. There are many GBR island resorts that are being successfully operated and that continue to make a significant contribution to Queensland's tourism sector and coastal communities. However, as the Committee reported, several pre-existing resort developments have been closed for many years.

Long-term closed and / or underdeveloped island resorts represent a lost opportunity for Queensland's economy, the tourism industry, and for the state's regional economies. The Queensland Government is committed to setting GBR tourism islands up for success for decades to come.

## Parliamentary Committee Recommendations

### Recommendation 1

The Department of Resources should take immediate action to cancel tourism leases where lessees have been determined by departmental audit within the last three years to be non-compliant with lease conditions, subject to the requirements of natural justice.

#### *Queensland Government Response:*

- *Recommendation supported.*

The Department of Resources is committed to taking appropriate compliance action in response to non-compliance with lease conditions and payment of rent. Non-payment of rent has resulted in the recent forfeiture of the leases previously held by GKI Resorts Pty Ltd for Great Keppel Island (GKI) and the Department of Resources is also progressing compliance action in relation to Double Island.

### Recommendation 2

Local government should not approve or renew development applications by lessees who have been found to be non-compliant with lease conditions, where such non-compliance has been determined by departmental audit in the previous three years, subject to the requirements for natural justice.

#### *Queensland Government response:*

- *Recommendation not supported.*

The Queensland Government notes there are statutory limitations in how local councils may implement this recommendation.

Land tenure and lease compliance are not typically matters for consideration in the development assessment process. Local governments are required to make decisions on development applications, including extension applications, in accordance with state and local planning instruments and relevant legislation and regulations.

Development applications are not the appropriate mechanism to regulate matters pertaining to lessees or broader commercial arrangements. These should instead be regulated by terms or provisions of the lease, between the lessor and lessee.

### Recommendation 3

For cancelled tourism leases, consultations should commence with local residents and stakeholders around new expression of interest processes for remediation and rejuvenation of existing tourism infrastructure, activities authorised under current development approvals, and/ or alternative land uses.

#### *Queensland Government response:*

- *Recommendation supported.*

The Queensland Government notes the timing of consultation is subject to the specific circumstances of each cancelled tourism lease. The Department of State Development, Infrastructure, Local Government and Planning is in the process of finalising a draft masterplan for the redevelopment of GKI which has been prepared in consultation with key stakeholders and will commence public consultation on the draft master plan in 2023.

The Queensland Government recognises that residents and stakeholders have a high level of interest in processes in future land use activities, particularly the remediation and rejuvenation of existing tourism infrastructure.

#### **Recommendation 4**

Legislative reform should be considered to provide appropriate enforcement tools to allow an effective response to breaches of lease conditions by tourism head lessees.

#### ***Queensland Government Response:***

- *Recommendation supported.*

The Queensland Government agrees that appropriate enforcement tools are required in a modern legislative framework for managing commercial leases.

The Land Act contains enforcement tools which, subject to the requirements of natural justice, allow the Department of Resources to respond to breach of conditions by head lessees. The Department of Resources will undertake a review of the enforcement tools as they relate to commercial leases to determine whether the penalties for a breach of condition is commensurate with the offence. This review will occur concurrently to the policy considerations committed to under recommendations 7, 10, 13, 14 and 16.

#### **Recommendation 5**

The Minister should consider an interim review of the penalties and fines for non-compliance with lease conditions currently available under the *Land Act 1994* so they can become consistent with other contemporary compliance and enforcement regimes.

#### ***Queensland Government Response:***

- *Recommendation supported.*

The Queensland Government supports the recommendation and will explore appropriate penalties and fines, noting the Land Act already allows significant penalties and fines to be applied for non-compliance with lease conditions.

#### **Recommendation 6**

Legislative reform should be considered to ensure fines - suitably proportionate to the gravity of the damage - are applied to tourism leaseholders who do not comply with public health and safety and environmental regulations at any point of their tenure as head lessee.

#### ***Queensland Government Response:***

- *Recommendation supported.*

For environmental regulation, there are a range of penalties available that apply to licensed prescribed environmentally relevant activities e.g., sewage treatment plants. An independent review of the environmental regulator's powers and penalties was undertaken in 2022 which found that the fines available are comparative to other States. The review was released in May 2023, accompanied by a government response which accepted or accepted-in-principle all the recommendations. Other penalties may apply under coastal protection regulation and other legislation administered by the Department of Environment and Science.

Impacts to the environment from resort development may also be categorised as development offences under the *Planning Act 2016* for which the relevant administering authorities would be Local Government or the State Assessment and Referral Agency within the Department of State Development, Infrastructure, Local Government and Planning. In many instances works at a resort will require

development approvals which may include conditions for water management, extraction / filling of land or water, waste management, and other environmental matters.

Public health and safety regulations apply regardless of the tenure category.

#### **Recommendation 7**

The Minister should consider amending the *Land Act 1994* to separate the regulation of commercial state land uses (such as Great Barrier Reef island resorts) from agricultural, local council and not for-profit trustee leases

#### ***Queensland Government Response:***

- *Recommendation supported in-principle.*

The Queensland Government acknowledges that leases under the *Land Act 1994* may not always be the most effective tool for managing commercial developments such as tourism island resorts. The Department of Resources will examine policy options that are complementary to maintaining state ownership, whilst using a regulatory framework that is able to manage and facilitate commercial development.

#### **Recommendation 8**

The Minister should consider whether any lease dispute relating to commercial tourism leases under the *Land Act 1994* should be overseen by Queensland Civil and Administrative Tribunal as a commercial lease dispute.

#### ***Queensland Government Response:***

- *Recommendation supported in-principle.*

The Queensland Government will continue to review its legislation to ensure that there are appropriate avenues for commercial lease disputes to be heard and resolved, including the Queensland Civil and Administrative Tribunal where appropriate.

#### **Recommendation 9**

Research should be undertaken by relevant government departments to understand the market value of Great Barrier Reef island tourism leases at specified stages of their development.

#### ***Queensland Government Response:***

- *Recommendation supported.*

The Department of Tourism, Innovation and Sport will investigate the economic and value proposition of any new GBR island resorts upon state leased land that proceed to project completion.

#### **Recommendation 10**

Legislative reform should be considered to ensure that appropriate rental contributions, tied to the market value of the tourism lease at its present state of development, are sought from current and future head lessees.

#### ***Queensland Government Response:***

- *Recommendation supported in-principle.*

In line with the support for recommendation 7, the Department of Resources will explore policy options that are complementary to maintaining state ownership, whilst using a regulatory framework that is able to manage and facilitate commercial development. This work will take account of the need to ensure rent reflects the market value of the properties.

### **Recommendation 11**

Local councils should ensure that the rates category applied to offshore tourism resort lessees is equitable to that applied to mainland tourism resorts within their jurisdictions, and the additional financial burden that island operators carry for services that are otherwise provided by councils on the mainland, is reflected in the determination of that rates category.

#### ***Queensland Government Response:***

- *Recommendation supported in-principle.*

Local governments are responsible for levying rates fairly and equitably across their local government areas in accordance with relevant statutory requirements and guidelines including the Queensland Government's Guideline on equity and fairness in rating for Queensland local governments. The autonomy and independence of councils to set rates and charges according to local needs and their communities' expectations is fundamental to the Queensland local government system. It is the Queensland Government's policy to not intervene in those decisions.

### **Recommendation 12**

The Minister should consider allowing Queensland Civil and Administrative Tribunal dispute mechanisms to be accessed by sub-lessees of tourism leases or unit holders in tourism lease resorts.

#### ***Queensland Government Response:***

- *Recommendation not supported.*

The *Land Act 1994* already contains appropriate provisions for disputes between sub-lessees and head-lessees to be mediated or arbitrated.

### **Recommendation 13**

Legislative reform should be considered to ensure that functional common user infrastructure and services agreed to by head lessees of Great Barrier Reef island tourism leases is provided through specific lease conditions (e.g. code of conduct, minimum service standards) with programmed delivery dates that trigger specific performance requirements to avoid cancellation of the lease.

#### ***Queensland Government Response:***

- *Recommendation supported in-principle.*

In line with the support for recommendation 7 and 10, the Department of Resources will explore policy options that are complementary to maintaining state ownership, whilst using a regulatory framework that is able to manage and facilitate commercial development. This work will take account of the need for common user infrastructure commitments to be made specific in the lease conditions (e.g., code of conduct, minimum service standards) with programmed delivery dates that trigger specific performance requirements to avoid cancellation of the lease.

#### **Recommendation 14**

Planning frameworks should be reviewed to ensure that a lessee's capacity to implement contemporary, leading practice disaster planning responses (including post-recovery removal or remediation of damaged infrastructure) is a pre-condition to grants or renewals of development applications for Great Barrier Reef island resorts.

#### ***Queensland Government Response:***

- *Recommendation supported in-principle.*

A review of the Queensland planning framework is not required to give effect to this recommendation.

The Queensland planning framework provides for implementation of leading practice hazard risk planning and assessment for consideration in development assessment decisions and extension applications. This includes ensuring development of resilient and appropriately located infrastructure to manage and mitigate hazards.

Post-recovery removal or remediation of damaged infrastructure is not typically addressed in development approvals. This is a matter that is best considered in land tenure and lease requirements. As per recommendation 7, 10 and 13, the Department of Resources will explore policy options that are complementary to maintaining state ownership, whilst using a regulatory framework that is able to manage and facilitate commercial development.

#### **Recommendation 15**

Planning frameworks should be reviewed to ensure that future Great Barrier Reef island tourism developments meet contemporary international sustainable development principles.

#### ***Queensland Government Response:***

- *Recommendation supported in-principle.*

A review of the Queensland planning framework is not required to give effect to this recommendation.

There are stringent environmental requirements under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) that proponents must meet for projects located in the GBR World Heritage Area, which must address potential impacts on outstanding universal values. For coordinated projects under the *State Development and Public Works Organisation Act 1971*, these matters are often assessed under a bilateral agreement.

A project led by the Department of Tourism, Innovation and Sport will examine the application of contemporary international sustainable development principles for tourism development as part of investigation into the economic and value proposition of Queensland's GBR island resorts to the Queensland's economy, as committed to in recommendation 9.

#### **Recommendation 16**

Legislative reform should be considered to require bonds from future tourism lease head lessees to ensure that development happens in an approved timeframe, and that the State is not liable for meeting the costs of removal or remediation of any facilities or infrastructure that may remain at the end of a tourism lease. This bond should be tied to the approximate market value of the development at its final operational stage.

#### ***Queensland Government Response:***

- *Recommendation supported in-principle.*

The *Land Act 1994* section 209 provides for a performance security which is generally to be in the form of a monetary security. The performance security may apply to a new lease, licence, or permit as a

condition to give performance security for failure to comply with conditions under the lease, licence, or permit, or following a review of conditions and in agreement with the lessee.

The condition renders it unlikely, or less likely, the State will be burdened with the cost of a failed development. The security may be used to complete the development, or with the cost of demolishing or removing improvements or other things left on the land at the end of the lessee's, licensee's, or permittee's occupancy.

In line with the support for recommendation 7, 10, 13 and 14, the Department of Resources will explore policy options that are complementary to maintaining state ownership, whilst using a regulatory framework that is able to manage and facilitate commercial development. This work will take account of the need for performance securities to ensure that development happens in an approved timeframe, and that the State is not liable for meeting the costs of removal or remediation of any facilities or infrastructure that may remain at the end of a tourism lease.

#### **Recommendation 17**

The Minister should consider obtaining tripartite agreement between local, state and commonwealth government to establish a full-service (one-stop shop) provider to coordinate all necessary approvals, permits and licences required to develop and operate a tourism lease on Great Barrier Reef island resorts.

#### ***Queensland Government Response:***

- *Recommendation supported in-principle.*

Joint assessments and approvals are undertaken by the Department of Environment and Science and the Great Barrier Reef Marine Park Authority in the GBR marine park.

A coordinated project declaration under the *State Development and Public Works Organisation Act 1971* also enables the Coordinator-General to assist streamlining approvals at all levels of government for projects that have complex approval requirements, will have significant environmental affects or is a project of strategic significance. Australian Government matters under the *Environment Protection and Biodiversity Conservation Act 1999* can be assessed under a bilateral agreement, and depending on the level of information proponents provide as part of their environmental impact statement, recommended conditions can be provided in the Coordinator-General's evaluation report that can be applied to subsequent local government approvals.

#### **Recommendation 18**

With specific reference to Double Island, the Department of Resources to publicly report by 30 June 2023 its findings in respect of the audit of the lessee's compliance with lease conditions, and proceed to take immediate action to cancel the lease if non-compliance continues.

#### ***Queensland Government Response:***

- *Recommendation supported.*

The Department of Resources is progressing compliance action in relation to the Double Island leases. In May 2023 a notice was given to the leaseholder that in accordance with section 238(3) of the *Land Act 1994* the matter may be referred to the Land Court to decide whether the lease may be forfeited because of breach of conditions.