Parliamentary Committees

Land and Other Legislation Amendment Bill (No. 2) 2023

Report No. 2, 57th Parliament

Clean Economy Jobs, Resources and Transport Committee

March 2024

Clean Economy Jobs, Resources and Transport Committee

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All web address references are current at the time of publishing.

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Chair's foreword

This report presents a summary of the Clean Economy Jobs, Resources and Transport Committee's examination of the Land and Other Legislation Amendment Bill (No. 2) 2023.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank our Parliamentary Service staff and the Department of Resources.

I commend this report to the House.

Kim Richards MP

Chair

Recommendations

Executive summary

About the Bill

The Land and Other Legislation Amendment Bill (No. 2) 2023 (the Bill) was introduced into the Queensland Parliament by the Minister for Resources on 15 November 2023. This Bill was referred to the Transport and Resources Committee (former committee). That committee ceased to exist on 13 February 2024 by a motion of the Legislative Assembly with its portfolio areas of responsibility transferring primarily to the Clean Economy Jobs, Resources and Transport Committee (committee). The motion also included transferring this Bill inquiry to the responsibility of the committee.

The objectives of the Bill are to improve regulatory efficiency and ensure the administration of state land and the place naming framework remain contemporary and responsive to community needs.

The committee recommends that the Bill be passed.

Summary of stakeholder views

The committee received evidence from key representatives for local government and the resource industry, as well as several individual councils.

In regard to proposed amendments to the *Land Act 1994* and Land Regulation 2020, submitters generally supported the amendments but commented on the following matters:

- Brisbane City Council (BCC) sought clarification about how the Bill, if passed, would impact Council's use of reserves for community purposes e.g. for roads and drainage.
- BCC sought clarification on the proposed change to the definition of 'public interest' in Schedule 1 of the *Land Act 1994* to include economic considerations for the Minister in deciding when it was appropriate to dedicate a reserve for a purpose other than a community purpose.
- While supportive of the Bill's amendments to widen the powers of trustees to approve the inconsistent use of trust land without ministerial authority, BCC sought clarification on the process and responsibilities that would be required of Council, such as the requirement to develop management plans, in order to fully consider how these amendments would impact resourcing and operational capacity.
- BCC sought clarification on the process by which additional purposes under a lease could be considered, such as the ability to apply to surrender an existing lease and take up a new lease.
- The Local Government Association of Queensland (LGAQ) made several recommendations regarding consultation and engagement with local government, the primary one being the establishment of a Local Government Advisory Panel consisting of itself, the Department of Resources, and experienced council representatives to consider a wide range of matters relating to the Bill. The department supported all recommendations relating to these matters.
- The LGAQ recommended the Queensland Government amend the Bill to allow for the conversion of stock route reserves that no longer support a high demand for travelling stock to other uses that provide for a wider community purpose, where requested by a council. The department did not support the recommendation for several reasons.

In regard to proposed amendments to the *Place Names Act 1994*, the LGAQ supported the broadened list that guides decision makers in naming places to include socio-economic effects of giving a name to a place or changing or discontinuing an approved name of place. However, LGAQ made several recommendations: managing the costs to community, particularly councils, resulting from a place name change; consulting on place naming proposals; and updating the Place Names Policy to ensure it remains contemporary, requires consultation with affected local governments, and provides procedural direction or guidance on implementing changed place names.

In regard to proposed amendments to the Resource Acts, the committee heard from local government and resource industry representatives about the Bill's provisions to introduce the payment of local government rates and charges as mandatory conditions of petroleum, gas, geothermal and greenhouse gas resource authorities. The committee found that the Bill's provisions support its objective to address local government concerns about the current lack of a mechanism to remedy unpaid rates and charges by resource authority holders.

The Bill has sufficient regard to fundamental legislative principles.

We considered the Bill's compliance with the *Legislative Standards Act 1992* including consideration of several fundamental legislative principle issues including retrospectivity in relation to transitional provisions and the use of leased land; delegation of administrative power in relation to amendments to the *Place Names Act 1994*; and retrospectivity in relation to the payment of local government rates and charges as per amendments to the Resources Acts. We are satisfied in all cases that any potential breaches of fundamental legislative principles are reasonable and sufficiently justified in the circumstances.

The Bill is compatible with human rights.

We considered the Bill's compatibility with the *Human Rights Act 2019* and found that it was compatible apart from clause 116, which broadens section 10 of the *Place Names Act 1994* to include dispensing with the need to publish proposals to remove offensive or harmful names, and the right to privacy and reputation. However, we are satisfied that the human rights limitation identified is reasonable and sufficiently justified having regard to section 13 of the *Human Rights Act 2019*.

1 Introduction

The Land and Other Legislation Amendment Bill (No. 2) 2023 (the Bill) was introduced into the Queensland Parliament by the Minister for Resources on 15 November 2023. This Bill was referred to the Transport and Resources Committee (former committee). That committee ceased to exist on 13 February 2024 by a motion of the Legislative Assembly with its portfolio areas of responsibility transferring primarily to the Clean Economy Jobs, Resources and Transport Committee (committee). The motion also included transferring this Bill inquiry to the responsibility of the committee.

1.1 Policy objectives of the Bill

The objectives of the Bill are to:

- improve regulatory efficiency
- ensure the administration of state land and the place naming framework remain contemporary and responsive to community needs.[1]

The Bill proposes to amend:

- the *Land Act 1994* (Land Act) and Land Regulation 2020 to reduce administrative complexity and remove regulatory duplication, with the aim being to improve the allocation of tenure by removing the requirement that the chief executive assess the 'most appropriate use' of the land
- the *Land Title Act 1994* (Land Title Act) to reduce administrative burden and risk to the State by reducing the creation of unapproved unallocated State land
- the *Place Names Act 1994* (Place Names Act) to clarify and broaden place naming considerations to reflect contemporary technologies and clarify the application of the legislation
- the *Recreation Areas Management Act 2006* (RAM Act) to enable the renaming by regulation of a recreation area declared under that Act
- several resource Acts, being the *Geothermal Energy Act 2010* (GE Act)*, Greenhouse Gas Storage Act 2009* (GGS Act), *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act), and the *Petroleum Act 1923* (1923 Act) (together known as the Resources Acts) to introduce the payment of local government rates and charges as mandatory conditions of petroleum, gas, geothermal and greenhouse gas resource authorities
- other legislation to make minor administrative and consequential changes.[2]

1.2 Background

1.2.1 Land amendments

Sixty per cent of Queensland is state land that is administered under the Land Act. This land is allocated for a range of purposes through leases, permits, licences and as trust land reserves and deeds of grant in trust (DOGITs). According to the Department of Resources (department), 'the Bill responds to a need to ensure state land is more available for the timely delivery of priority government projects', such as the Brisbane 2032 Olympic and Paralympic Games and the Queensland Energy and Jobs Plan, and initiatives to support economic and tourism development, First Nations outcomes, and social and affordable housing.[3]

There are over 26,000 reserves in Queensland with a total area exceeding one million hectares with local governments and state government agencies the primary trustees that manage trust land. The

1 Explanatory notes, p 1.

2 Explanatory notes, pp 1-2.

3 Department of Resources, correspondence, 5 December 2023, p 2.

Bill proposes more flexibility to ensure that reserves may be used for purposes that reflect changing community needs and to respond promptly to high priority or urgent needs. It does this by establishing a framework that will allow trustees to take actions that are inconsistent with the purpose of trust lands. The department advised that 'the action must not diminish the purpose of trust land or adversely affect the public interest'. The Bill will also enable the Minister to dedicate reserves for any purpose to address a community need that is in the public interest.[4]

The Bill will also provide for pastoral term leaseholders to diversify how they use their land by removing the limitation that prevents supplementary purposes being added. The department advised this will 'support leaseholders to be more resilient following natural disasters or poor seasonal conditions'.[5]

1.2.2 Place names amendments

The department explained the reasons for the Bill's place names amendments:

> The Place Names Act has limited ability to respond effectively to current place naming issues, Queensland government initiatives and priorities, changed community values and expectations, advances in business practices and technology, and developments in legislation. The amendments seek to make the place naming framework more flexible, responsive to current needs and efficient.[6]

1.2.3 Resource Acts amendments

Queensland's local government legislation provides that the owner of rateable land (which includes a resource authority holder) must pay any applicable rates and charges. In the event of unpaid rates and charges, local governments may place a charge on the land title, take the owner of the rateable land to court, or sell or acquire the rateable land. However, these options are often not viable where the resource authority holder does not own the land on which they operate, due to the costs and requirements associated with these actions and difficulty acquiring and selling a resource authority.[7]

Local governments have raised concerns that in some circumstances resource authority holders have significant outstanding rates and charges, which may represent an important proportion of their annual rates revenue, especially in regional and remote Queensland.[8]

Currently, only the *Mineral Resources Act 1989* (MR Act) prescribes the payment of local government rates and charges as a mandatory condition of a resource authority. Consequently, the Queensland Government is only able to assist local governments and take non-compliance action if the authority is under the MR Act. The Bill will amend the GE Act, GGS Act, P&G Act, and the 1923 Act to ensure the payment of local government rates and charges are a mandatory condition of a relevant resource authority across the Resource Acts.[9]

1.2.4 Recreation areas management amendments

In June 2023, the official name of Fraser Island was changed to K'gari under the Place Names Act. Therefore, the name of the Fraser Island Recreation Area under the RAM Act needs to be changed to align with the official place name. Currently there is no provision in the RAM Act to enable a name change. The Bill includes an amendment to the RAM Act to enable the name of a recreation area to be changed by regulation.[10]

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4 Department of Resources, correspondence, 5 December 2023, p 2.

5 Department of Resources, correspondence, 5 December 2023, p 2.

6 Department of Resources, correspondence, 5 December 2023, p 2.

7 Department of Resources, correspondence, 5 December 2023, pp 2, 3.

8 Department of Resources, correspondence, 5 December 2023, p 3.

9 Department of Resources, correspondence, 5 December 2023, p 9.

10 Department of Resources, correspondence, 5 December 2023, pp 3, 9.

1.3 Legislative compliance

Our deliberations included assessing whether or not the Bill complies with the Parliament's requirements for legislation as contained in the *Parliament of Queensland Act 2001*, *Legislative Standards Act 1992* (LSA) and the *Human Rights Act 2019* (HRA).

1.3.1 *Legislative Standards Act 1992*

During our assessment of the Bill's compliance with the LSA, we considered the following provisions and found they have sufficient regard to the rights and liberties of individuals, including those which seek to:

- provide requirements relating to offers made under proposed sections 34K[11] and 43C[12] of the Land Act (which include a process by which submissions can be made against the offer and that all submissions must be considered by the Minister in making a recommendation)[13]
- apply proposed section 18A of the Place Names Act (which provides that the giving or changing of a place name does not affect a right or obligation of any person) prospectively and retrospectively.[14]

We considered the following provisions and found they have sufficient regard to the institution of Parliament, including those which seek to:

- allow a regulation to:
    - prescribe the way that the purchase price for land is decided in relation to the issue of a deed of grant over an operational reserve[15]
    - change the name of a recreation area under the RAM Act.[16]

We considered the following provisions for potential breaches of fundamental legislative principle regarding rights and liberties of individuals:

- retrospectivity – use of leased land – transitional provisions: see section 2.1.14
- delegation of administrative power – Place Names Act: see section 2.3.10
- retrospectivity – payment of local government rates and charges: see section 2.5.2.

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain. Explanatory notes were tabled with the introduction of the Bill. The notes contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

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11 Offer to recommend issue of deed of grant – operational reserve.

12 Offer to recommend issue of deed of grant – operational deeds of grant in trust.

13 Bill, cl 65 (Land Act, new s 403W). Legislation should be consistent with the principles of natural justice (LSA, s 4(3)(b)).

14 Bill, cls 124, 127 (Place Names Act, new s 18A & pt 5).

15 Bill, cls 29, 37 (Land Act, new ss 34L(4), 43D). See also clauses 77 to 79 of the Bill which amend the Land Regulation to refer to the methodology for calculating the purchase price – being the unimproved value of the land. This is largely already set out in sections 11 and 13 of the Land Regulation.

16 Bill, cl 130 (RAM Act, new 8A). This enables the renaming by regulation of a recreation area declared under the RAM Act (for example, to enable recreation areas to be renamed in response to circumstances such as an official change in place name).

1.3.2 *Human Rights Act 2019*

Our assessment of the Bill's compatibility with the HRA found that the Bill is compatible with the HRA apart from clause 116 which we consider in further detail in section 2.3.11.

A statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights but could have expanded on matters relating to clause 116. This is noted in section 2.3.11 also.

1.4 Should the Bill be passed?

The committee is required to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends the Land and Other Legislation Amendment Bill (No. 2) 2023 be passed.

2 Examination of the Bill

This section discusses key issues raised during the committee's examination of the Bill. It does not discuss all consequential, minor or technical amendments.

2.1 *Land Act 1994* and Land Regulation 2020 amendments

The sections below outline the proposed amendments to the Land Act and Land Regulation 2020, as well as submitter comments and recommendations where relevant.

2.1.1 Deciding appropriate tenure

Currently, the chief executive of the Department of Resources is required to assess the most appropriate use of land before it can be allocated a tenure (e.g. freehold, leasehold or reserve) and transferred to a project proponent. This is the case, even when the most appropriate use of the land has already been determined under the planning framework. This requirement to separately assess use under the Land Act and the planning framework can slow the delivery of government projects.[17]

The Bill removes the requirement to assess the most appropriate use of unallocated State land under the Land Act before it can be allocated a tenure. The amendments will provide that the chief executive will only be required to assess the 'most appropriate tenure' of the land. In doing so, the chief executive's evaluations will be informed by the preferred land uses identified under the planning framework, including instruments made under the *Planning Act 2016*. The chief executive will still be required to have regard to the more general considerations addressed in the object of the Land Act.[18]

2.1.2 Freeholding operational trust lands

Operational trust lands are allocated in trust as either reserves or DOGITs to government and other entities for various operational purposes.[19] The Land Act currently:

- allows a trustee that is a constructing authority (the State, a local government or a person authorised by an Act to take land for any purpose) to apply to freehold the entirety of an operational reserve

[17] Department of Resources, correspondence, 5 December 2023, p 3; explanatory notes, p 25.

[18] Department of Resources, correspondence, 5 December 2023, p 3; explanatory notes, p 25.

[19] Department of Resources, correspondence, 5 December 2023, p 3. Operational purposes include schools, kindergartens, universities, hospitals, police and ambulance stations, court houses, offices, works depots and for sewerage and water supply purposes.

- does not allow other trustees (individuals or incorporated bodies) to apply to freehold reserves of which they are trustee
- does not allow trustees of non-Indigenous operational DOGITs (freehold in trust) to apply to freehold their DOGITs.[20]

The Bill removes the restrictions and provides pathways allowing all trustees to apply for the freehold conversion of operational reserves and non-Indigenous operational DOGITs.[21]

The Bill also establishes a process enabling the Minister to make a conversion offer to trustees for these operational trust lands including price and conditions. Trustees will not be obliged to accept an offer.[22]

The department stated that 'freehold tenure will provide certainty and flexibility for trustees in the ongoing efficient management of the land and any public purpose infrastructure established on the land, like hospitals, schools, and emergency services facilities'.[23]

2.1.3 Freehold grants to the State

While the Minister responsible for Economic Development Queensland can be granted freehold land without a competitive process (to expedite the delivery of priority projects), other Queensland Government departments cannot access this process. In those cases, the Minister for Resources must first decide that land is needed for a public purpose before it can be freeholded without a competitive process.[24]

To assist departments delivering critical projects, the Bill allows unallocated State land to be granted in freehold without competition to the State. The Bill removes the requirement that the Minister for Resources decides that the land is needed for a public purpose.[25]

2.1.4 Reserves – allowable uses

The Land Act places restrictions on the specific purposes for which reserves may be dedicated (and used). To support the proposed use of a reserve that does not match the dedicated reserve purpose (e.g. allowing the recreational use of a reserve for sport purposes), the trustee must seek approval from the Minister.[26]

To enable greater flexibility, the Bill replaces the 34 specific community purposes listed in Schedule 1 with 6 general categories of community purposes:

1. Aboriginal purposes
2. Torres Strait Islander purposes
3. conservation, scenic and land management purposes
4. parks and recreational purposes
5. community facility purposes
6. cemetery purposes.[27]

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20 Department of Resources, correspondence, 5 December 2023, p 3.

21 Department of Resources, correspondence, 5 December 2023, p 3.

22 Department of Resources, correspondence, 5 December 2023, p 3.

23 Department of Resources, correspondence, 5 December 2023, p 3.

24 Department of Resources, correspondence, 5 December 2023, p 4.

25 Department of Resources, correspondence, 5 December 2023, p 4.

26 Department of Resources, correspondence, 5 December 2023, p 4.

27 Department of Resources, correspondence, 5 December 2023, p 4.

According to the department, these amendments 'maintain the community purpose character of Schedule 1, while providing a structure that can accommodate evolving community needs' and will provide trustees with the ability 'to support any use that fits within the general category (e.g. a reserve for 'park' purposes will become a reserve for 'parks and recreational' purposes and be available for a wider range of uses including gardens and sporting activities)'.[28]

Brisbane City Council (BCC) expressed concern about replacing the existing list of specific community purposes under the Land Act with the 6 broader categories of community purpose. BCC stated that several purposes, in particular road and drainage, are no longer considered a community purpose when dedicating a State reserve under the Bill. On this point, BCC sought clarity on how the amended legislation will ensure that relevant land required for Council's infrastructure networks will be preserved for these functions when they are no longer considered a community purpose.[29]

In response, the department pointed to the Bill's aim to enable the Land Act 'to be more flexible and responsive to contemporary community needs' by removing regulatory constraints and simplifying the management of reserves and DOGITs for trustees. In relation to the existing list of specific community purposes, the department stated it was 'unnecessarily restrictive for trustees' and prevented them from adapting land use to meet community needs without the added 'red tape' of requiring further approvals from the Minister.[30] The department contended:

> The new categories still provide specificity (e.g., park and recreational purposes, community facility purposes) and transparency (trust land purposes are searchable in the land registry) which can only be enhanced by sound local level consultation and transparency mechanisms used by trustees.[31]

BCC specifically requested the department clarify 'how the changes introduced by the Bill are intended to interact with the conditioning of land required for road and drainage under the *Planning Act 2016*, to ensure there is no impact to Council's ability to secure the land for that purpose'.[32] The department argued that councils can use existing tools to plan for and manage the acquisition of land for community infrastructure, and it was 'not necessary for the Queensland Government to retain valuable and useable land until such time as a local council is ready to acquire small parts of the land for infrastructure networks'. The department also clarified the current mechanisms available to Councils, noting that there is no change:

- freehold land can be dedicated as a road in a plan of freehold subdivision, with Councils managing this process
- freehold land required for drainage purposes can be addressed via existing mechanisms for development approvals under the *Planning Act 2016*
- councils also have the power to acquire land under the *Acquisition of Land Act 1967* where required for public works and other public purposes, including for road or drainage purposes.[33]

BCC also requested clarity on how conditions which have already been imposed on developments for the dedication of land on trust for drainage or road purposes, but have not yet been carried out, can

28 Department of Resources, correspondence, 5 December 2023, p 4.

29 Submission 1, p 3.

30 Department of Resources, correspondence, 31 January 2024, p 4.

31 Department of Resources, correspondence, 31 January 2024, p 4.

32 Submission 1, p 3.

33 Department of Resources, correspondence, 31 January 2024, p 4.

be complied with.[34] Noting the department's response above about the current mechanisms available to Councils, the department added:

> If the Minister has already approved the dedication of a reserve for drainage purposes on registration of a plan of subdivision, and the plan has been lodged for registration prior to commencement, transitional provisions in clause 71 (new section 563 of the Land Act), clause 93 (new section 225 of the Land Title Act) and clause 96 (new section 226 of the Land Title Act) provide that the plan can still be registered, thereby dedicating the reserve for drainage purposes.[35]

Finally, BCC requested the department advise how the amended legislation will ensure no unintended impacts on the ability to deliver infrastructure works within state reserves, such as water, sewer or stormwater infrastructure, which may be the subject of a development approval condition, both for existing conditions that are yet to be fulfilled and conditions that may be imposed in future.[36] The department advised any proposed use by councils of trust lands is already regulated by the Land Act and the proposed amendments provide greater flexibility for trustees. Existing reserves lawfully used for water, sewer or stormwater infrastructure purposes are not affected, although the Bill will make it possible for trustees to apply to freehold part of these reserves, which aims to provide councils with greater flexibility in the use of the land.[37]

Committee comment

We note Brisbane City Council sought clarification on several matters relating to the implications of the Bill on Council's use of reserves, including concern about replacing the existing list of specific community purposes under the Land Act with the 6 broader categories of community purpose; how the provisions will interact with the conditioning of land required for road and drainage under the *Planning Act 2016*; and how conditions which have already been imposed on developments for the dedication of land on trust for drainage or road purposes, but have not yet been carried out, can be complied with. Brisbane City Council also sought assurances that the Bill would have no unintended impacts on the ability to deliver infrastructure works within state reserves.

We are satisfied with the department's responses that a) the Bill aims to remove regulatory constraints, which will assist councils with managing reserves to meet community needs; b) existing mechanisms remain available to councils to plan for and manage the acquisition of land for community infrastructure; and c) if the Minister has already approved the dedication of a reserve for drainage purposes on registration of a plan of subdivision, transitional provisions provide that the plan can still be registered, thereby dedicating the reserve for drainage purposes.

We note that the Bill aims to provide greater flexibility in the use of land to councils, which is at the centre of the concerns of Brisbane City Council.

2.1.5 Reserves for community need

The Minister currently has no power to dedicate a reserve for community purposes other than those listed in the Land Act (Schedule 1). This means there is no ability to allocate reserve tenure for the delivery of a government initiative if the proposed use is not listed.[38]

Under clause 20, the Bill allows the Minister to dedicate a reserve for any purpose having regard to community need and the public interest for a purpose not covered by Schedule 1. The Bill will amend the definition of 'public interest' to clarify that public interest matters also include economic considerations.

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34 Submission 1, p 3.

35 Department of Resources, correspondence, 31 January 2024, pp 4, 5.

36 Submission 1, p 3.

37 Department of Resources, correspondence, 31 January 2024, p 5.

38 Department of Resources, correspondence, 5 December 2023, p 4.

BCC expressed concern about the Bill's proposed changes to the process for declaring and dedicating state reserves in relation to the ability for the Minister to dedicate a state reserve for a purpose other than a community purpose.[39]

BCC explained further:

> While Council understands that the purpose of these changes is to create flexibility to respond to contemporary issues, in doing so the framework loses specificity and transparency. Council requests that further clarity is provided with the Bill or through other guidance on when the Minister would see it as appropriate to dedicate a reserve for a purpose other than a community purpose. Examples of economic considerations overriding the community purposes outlined in Schedule 1 of the Land Act would be of particular interest.[40]

The department advised that the purpose of the amendment, as noted by BCC above, is to provide 'greater flexibility for the Minister to make land available for community needs to respond to contemporary requirements from time to time' as the Minister's powers are currently restricted to the purposes provided in Schedule 1 of the Land Act. In response to concerns about transparency, the department advised that the 'proposed ministerial power (new section 31(1)(d)) is subject to transparent statutory requirements that the purpose must be for the community, having regard to community need in the public interest'. The aim of giving the Minister this power is to 'make state land available via reserve tenure to deliver high priority or essential government projects even where the proposed use does not fit within one of the broad categories of community purpose in the new schedule 1',[41] such as would be the case in the following example:

> where a community sporting hall is required to deliver a nationwide health initiative at a local level. To remove uncertainty, the new power will enable the Minister to make the land available for this purpose (public health), by adding a purpose to an existing reserve (e.g., sport and recreation), even though 'public health' is not specifically referenced in the new schedule 1.[42]

BCC also commented on the proposed change to the definition of 'public interest' to include economic matters, seeking examples of economic considerations that would override the community purposes outlined in Schedule 1 of the Land Act.[43] The department advised that 'public interest' is already broadly defined to include the planning, social and strategic interests of the public, stating that adding 'economic' interests to the definition of 'public interest' 'supports the Minister to have regard to the full range of matters that best ensure positive outcomes for the people of Queensland'. Furthermore, the department justified that it was 'appropriate that decision makers should consider the broadest range of factors when assessing public interest, including economic interests that can have significant impacts on the standard of living and the cost of living for Queenslanders'.[44]

2.1.6 Reserves – adding and removing purposes

The Land Act does not explicitly provide for a reserve to have multiple purposes, nor for the removal of purposes, to meet evolving community needs.[45]

The Bill provides for the addition and removal of purposes (and therefore allowable use) of a reserve 'via an administratively simple and efficient process' to allow for greater flexibility of use.[46]

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39 Submission 1, p 2.

40 Submission 1, p 2.

41 Department of Resources, correspondence, 31 January 2024, p 2.

42 Department of Resources, correspondence, 31 January 2024, p 3.

43 Submission 1, p 2.

44 Department of Resources, correspondence, 31 January 2024, p 5.

45 Department of Resources, correspondence, 5 December 2023, p 4.

46 Department of Resources, correspondence, 5 December 2023, p 4.

2.1.7 Reserves – trustee powers

The Land Act currently supports autonomous decision making of trustees[47] in relation to management actions and uses that are consistent with the original purpose for which the trust land was dedicated. However, where additional uses are considered inconsistent with the original purpose, such as a coffee van on a reserve for 'park' purposes, ministerial approval is required.[48]

To provide more autonomy to trustees, the Bill widens the powers of trustees that are the State (represented by a government department or agency) or a statutory body (defined under the Land Act to include a government-owned corporation, local government or a port authority) to approve the inconsistent use of trust land without ministerial authority.[49]

A self-assessable framework to support trustees to make decisions is included in the Bill, and trustees are required to develop a management plan that states how the use will not diminish the purpose of the trust land or adversely affect the public interest. However, the management plan will not require approval under the Land Act. The Bill will still allow trustees to seek ministerial approval for decisions about proposed uses that are inconsistent with the purpose of trust land, and the additional autonomy for certain trustees does not avoid the requirement that they comply with all other laws governing land use including the planning framework. [50]

While supportive in principle of the expanded power and functions of trustees, BCC sought clarification on the process and responsibilities that would be required of Council to fully consider and understand how these amendments will impact its resourcing and operational capacity.[51]

The department acknowledged that existing guidance material in relation to the functions and powers of trustees would need to be modified and advised it would work through the Local Government Advisory Panel on this (see section 2.1.12 for more on the establishment of the Panel). The department clarified that the aim of the Bill was to provide additional flexibility and expanded powers for trustees on an 'opt in' basis for the purpose of greater autonomy with reduced administrative burden. The department noted that trustees are not required to change existing arrangements, which will mean no change to their existing operational practices, if they do not wish to do so.[52]

Committee comment

We note that the Department of Resources has confirmed it will work through the Local Government Advisory Panel, which it has committed to establishing and being a member of with local government stakeholders, on modifying guidance material regarding the widening of powers of trustees to approve the inconsistent use of trust land without ministerial authority. We encourage this process to include investigation of the impacts on resourcing for councils to determine their operational capacity to meet requirements under the Bill should a Council 'opt in' to the proposed widened powers of trustees as proposed in the Bill. For example, trustees would be required to develop a management plan that states how the proposed new use of a reserve will not diminish the purpose of the trust land or adversely affect the public interest.

We note the department's advice that Councils, and other trustees, will only be required to take additional actions should they decide to approve an inconsistent use of trust land without ministerial

47 Local government is trustee for most reserves (approximately 87 per cent), followed by the Queensland Government and other statutory bodies (approximately 7 per cent), and incorporated bodies and individuals (approximately 6%).

48 Department of Resources, correspondence, 5 December 2023, p 5.

49 Department of Resources, correspondence, 5 December 2023, p 5.

50 Department of Resources, correspondence, 5 December 2023, p 5.

51 Submission 1, p 3.

52 Department of Resources, correspondence, 31 January 2024, p 3.

authority. We also note trustees can still seek ministerial approval for decisions about proposed uses that are inconsistent with the purpose of trust land, and that trustees must still comply with all other laws governing land use, including the planning framework.

2.1.8 Leases – additional purposes

The Land Act currently provides that the Minister may approve purposes being added to leases in certain circumstances, which creates uncertainty for those seeking to add purposes as to whether that would result in a change to the rental category of the lease (and potentially a change in rental payable).[53] Where additional or fewer purposes would result in a change to the rental category of a lease,[54] the 'current departmental policy is that the application will not be approved because a competitive process should be undertaken having regard to the different nature of the proposed use of the lease land'.[55]

Furthermore, the Department of Environment, Science and Innovation is the day-to-day manager of State forests, timber reserves and certain protected area tenures under the *Nature Conservation Act 1992*. However, any change in the purpose of leases on these lands can be approved by the Minister for Resources without the approval of the Minister for Environment and Science.[56]

The Bill provides that:

- a change to lease purposes cannot be approved where it would result in a change to the rental category of the lease
- the Minister for Resources cannot approve additional purposes being added to term leases for grazing purposes over State forests, timber reserves and certain protected area tenures under the *Nature Conservation Act 1992*.[57]

The latter amendment ensures that any request to change the use of leases on those tenures will need to be made to the Department of Environment, Science and Innovation for the grant of a new authority under the *Forestry Act 1959* or the *Nature Conservation Act 1992* (as relevant and where appropriate).[58]

BCC sought clarification on the process by which additional purposes under a lease could be considered, such as the ability to apply to surrender an existing lease and take up a new lease, noting the restriction on any changes to additional purposes that would impact the rental category.[59] The department reiterated that the 'amendment clarifies that it is not possible to change the purpose of an existing lease where a change to the lease's rental category is required', which is consistent with existing practice.[60]

We note that the department has committed to working through the Local Government Advisory Panel to clarify changes to leasing arrangements involving a change to rental category.

2.1.9 Pastoral leases – additional purposes

Term leases for pastoral purposes cannot currently have additional purposes (uses): they are strictly limited to uses that involve grazing, agriculture or both. This means lessees of pastoral leases cannot diversify into other activities (such as nature-based tourism or renewable energy production) that

53 Department of Resources, correspondence, 5 December 2023, p 6.

54 Such as by making a 'primary production' category lease into a 'business' category lease.

55 Department of Resources, correspondence, 5 December 2023, p 6.

56 Department of Resources, correspondence, 5 December 2023, p 6.

57 Department of Resources, correspondence, 5 December 2023, p 6.

58 Department of Resources, correspondence, 5 December 2023, p 6.

59 Submission 1, p 3.

60 Department of Resources, correspondence, 31 January 2024, p 3.

could assist during periods of unfavourable economic or climatic conditions. This contrasts with other leases which can have additional purposes (with Ministerial approval) as long as the additional purpose is complimentary to, and does not interfere with, the original purpose of the lease (except for a renewable energy purpose).[61]

The Bill enables lessees of term leases for pastoral purposes to apply to add purposes to their leases, under the regime that applies for all other leases. As for all other leases, the Minister will not be able to approve an additional purpose where it would result in a change to the rental category of the lease.[62]

2.1.10 Public interest – definition

The Land Act requires consideration of the public interest in a wide range of decisions, with public interest being defined to include 'the cultural, environmental, heritage, land protection, planning, recreational, social and strategic interests of the public'. As this is not an exhaustive definition, it does not currently exclude the consideration of economic matters when assessing the public interest.[63]

While the definition is not exhaustive and therefore doesn't exclude economic interests, the Bill amends the definition of public interest by expressly adding 'economic interests' into the list of matters that are contained in the definition. Its inclusion will 'confirm the relevance of this consideration for decision makers'.[64] See section 2.1.5 for more discussion on this.

2.1.11 Approved forms

The Bill makes minor administrative changes to remove the requirement for the use of an approved form for certain purposes. This is because 'Operational practice has identified that the use of approved forms for certain purposes is unnecessary and inefficient because the objective can be achieved in a less prescriptive and simpler manner'.[65]

2.1.12 Consultation

For the components of the Bill that amend the Land Act and the Land Title Act, the department consulted with the following entities:

- Local Government Association of Queensland
- AgForce Queensland
- Queensland Farmers' Federation
- Queensland Law Society
- Ergon Energy Corp Ltd
- Property Council of Australia
- Urban Development Institute Australia
- Port of Townsville Ltd
- Queensland Rail Ltd
- Returned and Services League Queensland Branch

61 Department of Resources, correspondence, 5 December 2023, p 6.

62 Department of Resources, correspondence, 5 December 2023, p 6.

63 Department of Resources, correspondence, 5 December 2023, p 6.

64 Department of Resources, correspondence, 5 December 2023, p 6.

65 Department of Resources, correspondence, 5 December 2023, p 7.

- Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd
- Uniting Church in Australia Property Trust.[66]

The Local Government Association of Queensland (LGAQ) made several recommendations regarding consultation and engagement with local government and identified areas for improvement:

- That the Queensland Government establish a Local Government Advisory Panel consisting of LGAQ and experienced council representatives to ensure engagement and consultation with councils in developing and implementing subordinate legislation, funding, policies and instruments to support the Land Act amendments.[67] The department supported the recommendation to establish a Local Government Advisory Panel.[68]
- That the Queensland Government develops and delivers an education training package tailored for councils to effectively communicate and raise awareness of the impacts and application of the Land Act amendments.[69] The department supported the recommendation and proposed the development of an education training package form part of the scope of operations of the Local Government Advisory Panel.[70]
- That the Queensland Government:
    - engage with the LGAQ and Queensland councils on the department's current prioritisation system for Land Act dealings, with a view to identifying improvements that can be made.
    - be adequately resourced to support fast-tracking the assessment of applications submitted by local government under the Land Act, including those under section 26A (Disposal of redundant reservation) or section 166 (Application to convert lease) of the Land Act involving the provision of community infrastructure.[71]

  The department supported the recommendation and committed 'to engaging with the LGAQ and its members through the Local Government Advisory Panel in relation to its prioritisation system for Land Act dealings'.[72]
- That the Queensland Government commences a process to work with the LGAQ and First Nations councils to review the impacts of DOGIT arrangements and consider reforms to DOGIT arrangements as well as other land tenure matters in remote and discrete First Nations communities.[73] The department supported the recommendation and committed to engaging with the LGAQ and its members through the Local Government Advisory Panel to consider reforms and other land tenure matters in relation to DOGIT land held by Aboriginal councils and Torres Strait Islander councils.[74]

Committee comment

We note the Department of Resources has supported all recommendations of the Local Government Association of Queensland in relation to consultation and engagement with local governments. We

66 Explanatory notes, p 15.

67 Submission 2, p 5.

68 Department of Resources, correspondence, 31 January 2024, pp 1, 2.

69 Submission 2, p 5.

70 Department of Resources, correspondence, 31 January 2024, p 2.

71 Submission 2, p 6.

72 Department of Resources, correspondence, 31 January 2024, p 2.

73 Submission 2, p 6.

74 Department of Resources, correspondence, 31 January 2024, p 2.

also support the department's establishment of a Local Government Advisory Panel consisting of the LGAQ and experienced council representatives to engage and consult with stakeholders and manage matters relating to the Bill, thereby providing an avenue to address stakeholders concerns. This could include, but is not limited to, developing and implementing subordinate legislation, funding, policies and instruments to support the Land Act amendments; modifying guidance material in relation to the widening of powers of trustees to approve the inconsistent use of trust land without ministerial authority; developing and delivering an education training package for councils on the impacts and application of the Land Act amendments; identifying improvements to the department's current prioritisation system for Land Act dealings; and considering reforms and other land tenure matters in relation to DOGIT land held by Aboriginal councils and Torres Strait Islander councils.

2.1.13 Performance outcomes for stock route reserves

The LGAQ recommended the Queensland Government support greater flexibility in the Bill, for example the provision of performance outcomes, to allow for the conversion of stock route reserves that no longer support a high demand for travelling stock, to other uses that provide for a wider community purpose, where requested by a council.[75] The department did not support the recommendation for the reasons outlined below:

> In the Queensland Government's Stock Route Network Management Strategy 2021–2025, Resources committed to:
>
> - forming a cross stakeholder Stock Route Management Working Group (SRMWG) to provide advice on developing guidelines and policies to prevent duplication of effort and to encourage greater consistency across Local Government Area boundaries, and
> - continue to conduct regular meetings between Resources, stock route officers and local government stock route officers.
>
> LGAQ, as a key member of the SRMWG, is encouraged to raise this issue through that forum.
>
> Transitional provisions in clause 71 provide that reserves with current purposes that lawfully comprise or support the stock route network are not taken to be one of the new more general community purposes. This approach was adopted after feedback from consultation with AgForce Queensland regarding concerns that the stock route network may be compromised by decisions of local governments about the use of these reserves.
>
> Current Land Act provisions (section 31D) enable local government trustees to apply to the Minister to change the purpose of reserves, including reserves that comprise or support the stock route network. This provision is not substantively changed by the Bill. Resources seeks the views of all stakeholders before advising the Minister in relation to these applications.[76]

Committee comment

We note the recommendation of the Local Government Association of Queensland that the Bill allow for the conversion of stock route reserves that no longer support a high demand for travelling stock to other uses for community purposes if requested by a council. We are satisfied with the department's reasons for not supporting the recommendation including that the Stock Route Management Working Group, of which LGAQ is a member, is the forum to raise this issue, with regular meetings occurring. We note that the Bill does not include the stock route network as one of the new more general community purposes, which was a result of consultation with AgForce Queensland and concerns that the stock route network may be compromised by decisions of local governments about the use of these reserves.

Finally, we note the Bill does not change the process enabling local government trustees to apply to the Minister to change the purpose of reserves, including those that support the stock route network.

[75] Submission 2, p 6.

[76] Department of Resources, correspondence, 31 January 2024, pp 3-4.

We note the department's advice that it seeks all stakeholder views in relation to these applications before advising the Minister.

2.1.14 Compliance with the Legislative Standards Act – clause 71 – use of leased land

Section 154 of the *Land Act 1994* (Land Act) allows a lessee to apply to the Minister for approval to use leased land for additional or fewer purposes to which it was originally granted. However, the Bill limits the ability of some lessees to make such applications depending on what type of lease they hold or the type of purposes they wish to add or remove.[77] This amendment itself does not raise issues of fundamental legislative principle; however, the transitional provisions which set out the timing of when these provisions will be in effect may raise issues of retrospectivity. This is because some of the provisions take effect from when the Bill was introduced (15 November 2023) as opposed to when the Bill is passed and receives assent.

The transitional provisions provide:

- for applications made on or after 15 November 2023 that relate to a term lease, or a special lease, for grazing purposes over land in an area mentioned in the new section 154(10), the application lapses on the commencement[78]
- for applications made on or after 15 November 2023 that relate to a term lease, or special lease for grazing purposes over land in an area mentioned in new section 154(10) and the Minister approved the application, but the change had not been registered, the approval is taken to have no effect[79]
- for applications made between 15 November 2023 and the commencement, if an application was made under former section 154 to change the purpose of a term lease, or a special lease, for grazing purposes over land in an area mentioned in new section 154(10) and before the commencement the change was registered, upon commencement the approval is taken to have no effect and the purpose of the lease is taken to be the purpose of the lease in effect immediately before the change was registered.[80]

This means that for some lessees, there may have been a legitimate expectation of a benefit when they made an application (being consideration of their application by the Minister to add or remove purposes to their lease) which has been removed under these provisions. Further, some applications that have been approved or registered within these time periods will be of no effect.

The explanatory notes do not provide strong justification for these provisions, other to state that if 'a lessee makes an application during this time, they will be aware that, on commencement of the transitional provisions, their application and any approval given for the application will lapse'.[81] However, the department advised during a public briefing that these leaseholders will instead be able to apply to the Department of Environment, Science and Innovation[82] for approval of additional activities rather than under the Land Act.[83] Further, that in practice, there are likely to be few

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77 Bill, cl 51 (Land Act, amends s 154). Specifically, that the Minister cannot approve an application if approval would result in a change to the rental category of the lease (proposed s 154(2)(b)). Further, that an application cannot be made in relation to a term lease for grazing purposes over land in a conservation park, forest reserve, national park, resources reserve, State forest or timber reserve (proposed s 154(10)).

78 Bill, cl 71 (Land Act, new s 579).

79 Bill, cl 71 (Land Act, new s 580).

80 Bill, cl 71 (Land Act, new s 581).

81 Explanatory notes, p 6.

82 Under the *Forestry Act 1959* or the *Nature Conservation Act 1992*.

83 Department of Resources, public briefing transcript, 27 November 2023, p 3.

applications in this category and that applications already made would have been dealt with administratively by the Department of Environment, Science and Innovation.[84]

We sought further information from the department about the effect of proposed section 581 to registered changes to the purpose of term leases or special leases for grazing purposes over land in a conservation park, forest reserve, national park, resources reserve, State forest or timber reserve.

The department advised:

> For leases in these areas, the Bill provides that where an application to change purposes is made after 15 November 2023 (the date of introduction of the Bill), any subsequent approval and registration will have no effect. Changes to leases over all other areas are not affected. The Department of Resources (Resources) was assisted by the Office of the Queensland Parliamentary Counsel in preparing the explanatory notes to the Bill.[85]

The department clarified:

> Section 581 will apply to applications to change lease purposes made after introduction of the Bill. On that basis, section 581 operates prospectively, rather than retrospectively. The purpose of proposed section 581 is to prevent (in the public interest), pre-emptive applications being made between introduction and assent. Since 16 November 2023, Resources will advise any applicant of the effect of section 581 before they apply under section 154. That is, if a lessee makes an application during this time, they will be aware that on the commencement of the transitional provisions, their application and any approval given for the application (even if registered) will lapse. Please note that there have been no applications of this nature in the last five years.[86]

Committee comment

We consider, on balance, the transitional provisions have sufficient regard to the rights and liberties of individuals, given the information supplied by the Department of Resources in relation to the applications that fall under these provisions.

2.2 *Land Title Act 1994* amendments

The Bill proposes to amend the Land Title Act by:

- removing provisions that allow the creation of unallocated State land without consent
- removing requirements for an approved form to provide consistency and clarity for common practice.[87]

When a freehold lot is reconfigured into multiple lots (with the approval of a local government under the planning framework) by the registration of a subdivision plan, the development approval may require the surrender of a portion of the land so that it may be used for delivering services or facilities required to support the community. If a local government does not take steps to acquire (on trust) the freehold land that has been surrendered, current provisions of the Land Title Act provide that the surrendered lot reverts to unallocated State land, thereby cancelling the freehold tenure and shifting the management responsibility, costs and risk of ownership of that surrendered land back to the State.[88]

The Bill amends the Land Title Act to remove the default provision that surrendered freehold land reverts to unallocated State land upon registration of a freehold plan of subdivision. According to the

[84] Department of Resources, public briefing transcript, 27 November 2023, p 4.

[85] Department of Resources, correspondence, 8 February 2024, p 1.

[86] Department of Resources, correspondence, 8 February 2024, p 1.

[87] Explanatory notes, p 3.

[88] Department of Resources, correspondence, 5 December 2023, p 7.

department, this will 'better protect the intended purpose of development approvals to ensure the provision of services and ongoing land management responsibility at a community level'.[89]

The Bill also makes minor administrative changes to remove the requirement for the use of an approved form for certain purposes to improve efficiency.[90]

The LGAQ observed that the proposed amendments will not make unallocated state land a local government responsibility and that 'Local governments will continue to retain the autonomy, when assessing and deciding a development application, to determine whether any part of freehold land is required for the benefit of the community and how best to achieve that outcome (noting that may be by freehold in trust held by the local government)'.[91] While not identifying any significant issues, the LGAQ advised it seeks the opportunity for councils to continue to engage with the Queensland Government on state land and land tenure matters.[92]

2.3 *Place Names Act 1994* amendments

The Bill makes a number of key amendments to the Place Names Act to 'modernise the State's primary legislation for naming areas and geographical features' to make the place naming process 'more contemporary, reduce regulatory burden, and improve the decision-making process'.[93] The department advised it had consulted with key government agencies and stakeholders with place naming responsibilities, and they 'were supportive of the proposed amendments'.[94]

The following provides a brief summary of the major areas of change and submitter comments where relevant.

2.3.1 Place naming issues

The Place Names Act lists 10 place naming issues that guide decision makers in naming places. The Bill extends the place naming issues for consideration when giving a place a name, changing, or discontinuing the name of a place to include:

- government initiatives or policies relating to place names
- socio-economic effects of giving a name, changing, or discontinuing the name of a place, for example, any costs to businesses and members of the community resulting from a change to an approved name of a place
- compliance with other Acts, including, for example, the HRA and the *Anti-Discrimination Act 1991*.[95]

The Bill makes it a requirement for place naming issues to be considered when developing and deciding a place name proposal, including transitional arrangements for name changes. The Bill also allows other place naming issues to be considered.[96]

2.3.2 Place naming powers and functions

The Bill transfers the responsibility for developing, publishing and making a recommendation about place name proposals from the Minister to the chief executive. However, the Minister for Resources

89 Department of Resources, correspondence, 5 December 2023, p 7.

90 Department of Resources, correspondence, 5 December 2023, p 7.

91 Submission 2, p 15.

92 Submission 2, p 15.

93 Department of Resources, correspondence, 5 December 2023, p 1.

94 Explanatory notes, p 15.

95 Department of Resources, correspondence, 5 December 2023, p 7.

96 Department of Resources, correspondence, 5 December 2023, p 7.

continues to be responsible for deciding a proposal. According to the department, this change 'promotes objectivity and transparency' with the separation of powers increasing 'accountability, specifically where the changing of a place name may be seen as controversial'.[97]

2.3.3 Consultation period and submissions

The Bill modernises the submission timeframes and methodology for public consultation on place naming by reducing the minimum consultation period from 2 months to one month. However, the Bill still allows the flexibility to have a longer or extended consultation period should it be considered appropriate. Factors that may influence the consultation period could include the complexity of, or community interest in, the place name proposal, and the extent to which consultation under other government processes can inform decision-making on the naming proposal.[98]

The Bill also allows people to submit their consultation feedback using multiple different technological platforms, including audio and video. This is to assist people, such as those who have English as a second language, or for people with a disability, to make providing comments more inclusive.[99]

2.3.4 Dispensing with publication of place name proposals

The Bill reduces the 'regulatory burden of undertaking inconsequential or duplicative consultation processes', by 'broadening the circumstances in which the publication of a place name proposal for community consultation may be dispensed with', such as:

- for minor or technical matters (minor adjustments to locality boundaries or coordinates, as well as correcting typographical errors, inaccuracies, or omissions)
- to remove or change a place name which is distressing to a community or part of the community including (for example, a community or group of Aboriginal people or Torres Strait Islander people, having regard to the historical or cultural significance of the approved name; or the name is derogatory, racist, or sexist)
- if the proposal is not likely to be of substantial interest to the community or any particular part of the community
- if the proposal has already been subject to adequate consultation under a separate process or further public consultation is likely to cause substantial distress to the community or part of the community, including, for example, a community or group of Aboriginal people or Torres Strait Islander people.[100]

According to the department, this change 'allows the outcomes of relevant processes to inform decision-making under the Place Names Act'.[101]

The Bill also contains a safeguard provision which enables the Minister, before deciding a proposal which was not released for publication, to require that the proposal be released for consultation prior to making a decision.[102]

2.3.5 Continued use of an existing name as an approved name

The Bill introduces the ability for the impacts of a change to, or discontinuation of, a place name to be mitigated through the provision of a transitional period. The Bill enables communities and businesses to transition to a new place name by continuing the existing name as an approved name in addition

97 Department of Resources, correspondence, 5 December 2023, p 7.

98 Department of Resources, correspondence, 5 December 2023, p 7.

99 Department of Resources, correspondence, 5 December 2023, p 7.

100 Department of Resources, correspondence, 5 December 2023, p 8.

101 Department of Resources, correspondence, 5 December 2023, p 8.

102 Department of Resources, correspondence, 5 December 2023, p 8.

to the new name over a period of up to 5 years (if the chief executive recommends it and the Minister approves it), with the possibility of one extension of up to 5 years (if approved by the Minister).[103]

Any continuation of an existing name as an approved name will be recorded in the Gazetteer as an approved name for the stated period. When the period ends, the name will be omitted from the Gazetteer.[104]

2.3.6 Effects of changing or discontinuing a name

The Bill provides continuity and legal certainty that giving, changing or discontinuing a place name does not affect any person's rights and obligations under other legislation or legal documents where a previous name is referenced (for example, title deeds, leases, penalty infringement notices, court documents, search warrants, criminal charges, private and commercial contracts, references to places on the electoral districts map under an electoral redistribution, etc.). This provision will apply both prospectively and retrospectively.[105]

According to the department, these provisions provide clarity and legal certainty, ensuring that documents that reference an approved name are not rendered invalid through a name change.[106]

2.3.7 Delegations

The Minister's place naming powers are currently delegated under the Land Act. To remove the reliance on the Land Act, the Bill expressly provides for the Minister to delegate their powers under the Place Names Act to another Minister.[107]

Due to the transfer of responsibility for developing and publishing a proposal to the chief executive, the Bill adjusts the chief executive's delegation powers to enable delegation to the chief executive of another department, the chief executive of a local government, or an appropriately qualified public service officer.[108]

These amendments also recognise the role of other agencies and organisations in place naming.[109]

2.3.8 Other minor amendments

The Bill proposes other minor amendments:

- recasting the definitions of 'place' and 'excluded place' to provide clarity
- clarifying that a change to a locality boundary (e.g. suburb boundary) is included as a change to a place name
- ensuring the accuracy of the information in the Gazetteer by enabling the chief executive to remove or amend entries
- clarifying that existing section 15 (i.e. the offence provision) does not apply to a business name that includes a place name (because it is not the use of an unapproved place name being represented as the place's name in trade and commerce)

103 Department of Resources, correspondence, 5 December 2023, p 8.

104 Department of Resources, correspondence, 5 December 2023, p 8.

105 Department of Resources, correspondence, 5 December 2023, pp 8-9.

106 Department of Resources, correspondence, 5 December 2023, p 8.

107 Department of Resources, correspondence, 5 December 2023, p 9.

108 Department of Resources, correspondence, 5 December 2023, p 9.

109 Department of Resources, correspondence, 5 December 2023, p 9.

- changing 'the approved name' to 'an approved name', recognising that a place may have more than one approved name, for example, if the continued use of an existing name alongside a new name is permitted for a limited period
- repealing the current restrictions to, and the fee for, accessing the Gazetteer.[110]

2.3.9 Stakeholder views

The LGAQ noted that local governments are a significant stakeholder in place naming and identification, and 'have a long history of management of issues arising from changes in place names, and contributing to consultation around what is an appropriate name for a place'.[111]

The LGAQ submitted that the proposed amendments appear 'to provide greater clarity and responsiveness of the legal framework with regard to place naming and changing of official place names'. Further, the LGAQ supported the broadened list that guides decision makers in naming places to include socio-economic effects of giving a name to a place or changing or discontinuing an approved name of place.[112] However, the LGAQ raised the following issues:

- the likely costs to the community, particularly local councils, resulting from a change to an approved name of a place should be considered given the flow on financial costs can be far reaching depending on the place in question and its use by communities and visitors
- local councils should be consulted on all place naming proposals prior to the Minister's consideration, even when the chief executive dispenses with the publication of a place name proposal because its considered inconsequential or duplicative consultation[113]
- in relation to changing official place names to Aboriginal or Torres Strait Islander Place names:
  - the Place Names Policy, which provides a framework for decision making, does not extend to incorporating the State's position regarding the renaming of official place names to Aboriginal or Torres Strait Islander place names
  - there is no formal guidance for local governments and businesses as to how to implement place name changes on the ground level
  - there can be significant cost impacts on councils and ratepayers, associated with implementing name changes for both local government and local businesses.[114]

As a result of these issues, the LGAQ made the following recommendations:

- the Queensland Government, through the Department of Resources, continue to convene the Place Names Working Group, with representation from the LGAQ and Queensland councils, to progress and introduce a robust and clear policy and guidance framework to support the proposed amendments to the Place Names Act
- the Queensland Government update its Place Names Policy (last updated in July 2021) to ensure it:
  - remains contemporary and clarifies the State's position on the renaming of official place names to Aboriginal or Torres Strait Islander place names

110 Explanatory notes, p 3; Department of Resources, correspondence, 5 December 2023, p 9.

111 Submission 2, p 15.

112 Submission 2, p 16.

113 Submission 2, p 17.

114 Submission 2, pp 16, 17.

  - includes a requirement for consultation with affected local governments on any proposed place name changes, including those where the chief executive has dispensed with publication of a place name proposal
  - provides procedural direction or guidance regarding the implementation of changed place names.
- the Queensland Government provides funding to assist local governments to implement place name changes as and when these are made.[115]

2.3.9.1 Departmental response

The department noted the LGAQ's recommendations and advised it would:

- continue to consult with LGAQ and local councils in implementing the changes to the Place Names Act
- continue to work with LGAQ and local councils to update the Place Names Policy
- continue to work with LGAQ and other stakeholders to address the practical implementation issues associated with place name changes.[116]

The department advised the Department of Environment, Science and Innovation will work with LGAQ to address any practical implementation issues for local government associated with the renaming of a recreation area.[117]

Committee comment

We are satisfied that the Department of Resources and Department of Environment, Science and Innovation will work with the Local Government Association of Queensland to address implementation matters, including costs and consultation, and provide procedural guidance relating to the Bill's proposed amendments to place naming.

On the point of consultation, we note the Bill proposes to reduce the minimum consultation period from 2 months to one month, but that it also allows the flexibility to have a longer or extended consultation period should it be considered appropriate.

2.3.10 Compliance with the Legislative Standards Act – delegation of administrative power

The Bill allows:

- the Minister to delegate their functions and powers under the Place Names Act to another Minister[118]
- the chief executive to delegate their functions and powers under the Place Names Act to the chief executive of another department, the chief executive officer of a local government or appropriately qualified public service officer.[119]

These are broad delegation provisions, which raises the question of whether they have sufficient regard for individual rights and liberties. We considered the significance of the power being delegated and whether the delegates are appropriately qualified, including whether they have the relevant

115 Submission 2, p 17.

116 Department of Resources, correspondence, 31 January 2024, pp 5-6.

117 Department of Resources, correspondence, 31 January 2024, pp 5-6.

118 Bill, cl 125 (Place Names Act, new s 19A).

119 Bill, cl 126 (Place Names Act, amends s 20).

expertise or experience.[120] Here, the explanatory notes justify the ability of the Minister to delegate their functions or powers to another Minister based on flexibility:

> … this approach considers among other things the varied agencies with place naming functions; the differences in their portfolio responsibilities, expertise and capacity; and the variable complexities of place naming proposals. It is therefore reasonable and justifiable that the Place Names Act allows flexibility in the way the Minister's functions and powers may be delegated, including for which type of place.[121]

Further, it is noted that the Minister already has the power to delegate their functions and powers under the Place Names Act through a provision of the Land Act (which allows the Minister to delegate their powers under the Land Act or another Act administered by the Minister).[122]

It is also worth noting that the power to name a place is a power of the Minister,[123] which under these provisions would mean that this power could be delegated only to another Minister.

Functions and powers of the chief executive, however, including developing or publishing a place name proposal, can be delegated to another chief executive officer, local government or public service officer under these provisions. The justification for these delegations centres around the role of other government agencies and authorities in place naming.[124] For example, 'local governments are themselves place naming authorities and they conduct extensive consultations before their naming proposals are considered under the Place Names Act'.[125] The explanatory notes state that local governments would still be required to comply with the provisions of the Place Names Act and relevant state policy and would be expected to consult with the department.[126]

Committee comment

We are satisfied that the provisions are justified and appropriate in the circumstances such that the provisions have sufficient regard for individual rights and liberties, considering the specific functions and powers being delegated and the overall purpose of involving more agencies and authorities in place naming.

2.3.11 Compatibility with the Human Rights Act - clause 116 – right to privacy and reputation

Clause 116 broadens section 10 of the Place Names Act to include dispensing with the need to publish proposals to remove offensive or harmful names. The amendment therefore seeks to exclude the operation of the consultation process set out in section 9 of the Place Names Act. That consultation process is important as it requires the chief executive to publish a notice of proposal, and section 9(3) states that the notice must 'invite submissions about the proposal from interested persons, groups of persons and bodies; …'. This would include descendants/families of commemorated figures which are the subject of the renaming.

The explanatory notes state this approach 'reduces the need to undertake inconsequential or duplicative consultation processes, or consultation on offensive names that may cause further harm to a community or part of a community'. It is noted that the chief executive is not prevented from publishing the proposal where it is appropriate as section 10(2) does not prevent publication, and that,

120 Office of the Queensland Parliamentary Counsel, Notebook, pp 33-34.

121 Explanatory notes, p 10.

122 Land Act, s 392.

123 Place Names Act, s 7.

124 Explanatory notes, p 10.

125 Explanatory notes, p 10.

126 Explanatory notes, p 10.

as an additional safeguard, where a proposal was not published, the Minister is able to require publication of the proposal for any reason under new section 10B before making a decision.[127]

We considered whether the provisions in the Bill seeking to amend the Place Names Act strike a balance between:

(a) protecting the psychological well-being of persons which are likely to be impacted by distressing material, and
(b) the rights of persons who are subject to the renaming process to protect their reputation and make submissions against the renaming.

We considered some potential amendments to clause 116 that may make it fully compliant with the HRA could be to:

- define the term 'distressing' as used in proposed section 10 so that it is not interpreted too broadly. It may be considered that the term 'distressing' is subjective and could be open to very different levels of interpretation in terms of severity of harm which would allow the exemption from publication to be over-used and disproportionately interfere with the rights of others; and/or
- specify the approach which should apply where the renaming process relates to a living or deceased individual. For instance, a clause could be inserted into the legislation which states that any change which impinges on a person's reputation will still be subject to consultation to allow the individual or (if deceased) individual family members to place their objection to the renaming and the reasons for this on the public record.

We sought the department's advice on clause 116 in relation to the protection of the right to reputation and suggestions for amendment to make it fully compliant with the HRA. The department acknowledged our concerns and agreed that the 2 options suggested 'appear to be reasonable approaches to ensuring a balanced outcome'. However, the department concluded that the provision would likely have very limited application and that consultation would likley occur in relation to historical figures:

> … recent assessments by the department have indicated that proposed section 10(1)(b)(i) (discontinuing a name that is distressing to a community or part of the community) is likely to have very limited application relative to section 10(1)(b)(ii) (discontinuing a name that is derogatory, racist, or sexist). For the reasons outlined by the Committee, I can advise that proposals involving the discontinuance of place names relating to historical figures are likely to require public consultation under section 9 of the PNA [Place Names Act] or, where applicable, as recognised by proposed section 10(1)(d).[128]

In regard to the statement of compatibility, we note that more information could have been provided to assist with understanding this provision. The statement of compatibility notes that:

- 'removing an offensive or harmful names can be seen to erase history and cause division within communities'[129]
- 'A person's right to privacy and reputation may be limited if their sense of place and identity is adversely affected by changes to place names (including by non-publication of place name proposals, changes to locality boundaries, the removal of offensive or harmful place, and the continuation period allowing a former name to be used as an approved name'[130]

[127] Explanatory notes, p 8

[128] Department of Resources, correspondence, 8 February 2024, p 1.

[129] Statement of compatibility, p 15.

[130] Statement of compatibility, p 16.

The statement also notes that safeguards have been built in to allow the framework to be more flexible and responsive to needs, including:

- 'Embedding the consideration of potential effects of place name changes on human rights, including on First Nations peoples, in the process of developing and deciding a place name proposal (refer clauses 112 and 114 to 118)'[131]

However, it does not deal with the link between the offensive/harmful name and the reputation of historic figures who may have family who are affected by the proposal. That is, it does not refer to the implications of the process for family/descendants of a person subject to a renaming process where allegations are made against a particular person.

Committee comment

We note the department's acknowledgement that clause 116 has potential to impact on human rights. However, we are reassured that the provision is likely to have limited application and that proposals to discontinue place names relating to historical figures are likely to require public consultation. In this regard, we are satisfied that the human rights limitation identified is reasonable and sufficiently justified having regard to section 13 of the HRA.

2.4 *Recreation Areas Management Act 2006* amendments

In June 2023, the official name of Fraser Island was changed to K'gari under the Place Names Act. As a result, the name of the Fraser Island Recreation Area under the RAM Act needs to be changed to align with the official place name. Currently, there is no provision in the RAM Act to enable a name change. The Bill proposes to amend the RAM Act to allow a name of a recreation area to be changed by regulation.[132] According to the department, the proposed amendment is modelled on an existing provision in the *Nature Conservation Act 1992* that similarly allows for the renaming of a protected area, such as a national park, to occur by regulation.[133]

The Department of Environment and Science consulted with the Butchulla Aboriginal Corporation, who 'supports actions being taken to align the name of the Fraser Island Recreation Area with the new official name for the island, that being K'gari'.[134]

2.4.1 Stakeholder views

The LGAQ noted the change 'will provide greater responsiveness for the renaming of recreation areas' but again raised concerns that 'there may be cost implications for councils resulting from the renaming of recreation areas by regulation', such as replacing signage as well as local marketing material and updates.[135] The LGAQ reiterated its recommendation that the Queensland Government provide funding to councils to offset any cost impacts on local government resulting from the renaming of a recreation area.[136]

The Department of Environment, Science and Innovation noted the recommendation and advised it 'will work with the LGAQ to address any practical implementation issues for local government associated with the renaming of a recreation area'.[137]

131 Statement of compatibility, p 16.

132 Explanatory notes, p 3.

133 Department of Resources, correspondence, 5 December 2023, p 9.

134 Explanatory notes, p 15.

135 Submission 2, p 18.

136 Submission 2, p 18.

137 Department of Resources, correspondence, 31 January 2024, p 6.

2.5 *Petroleum Act 1923*, *Petroleum and Gas (Production and Safety) Act 2004*, *Geothermal Energy Act 2010*, and the *Greenhouse Gas Storage Act 2009* (referred to as the Resource Acts)

The payment of local government rates and charges by the holder of a resource authority is currently only a mandatory condition under the MR Act. To support local governments and incentivise industry compliance in relation to the payment of local government rates and charges, the Bill amends the Resource Acts to:

- make the payment of applicable local government rates and charges a mandatory condition of a resource authority
- allow the Minister to use the resource authorities' security payments to remedy unpaid local government rates and charges
- allow the Minister to consider the non-payment of local government rates and charges during the renewal process for the resource authority.[138]

The explanatory notes state that 'the Queensland Government expects resource authority holders to pay their local government rates and charges to foster social licence and provide benefits to the communities and regions in which they operate'.[139] The amendments are to be applied both prospectively and retrospectively.

The department advised it had consulted with affected local governments and representative resource and industry stakeholders on the provisions including:

- Local Government Association of Queensland
- South-West Queensland Regional Organisation of Councils
- Queensland Resources Council
- Australian Energy Producers
- Association of Mining and Exploration Companies.[140]

On 27 September 2023, the department also released a consultation paper for public comment on proposed amendments to the resources regulatory framework, including the introduction of the payment of local government rates and charges as a consistent mandatory condition across the Resource Acts. Feedback indicated broad support for the Resource Act amendments, particularly from the local government sector, 'which reiterated the urgency and importance of these amendments to ensure resource authority holders foster social licence in the regional communities in which they operate'.[141]

2.5.1 Stakeholder views

The LGAQ welcomed the proposed amendments to 'enable more consistent compliance action and regulation across the Resource Acts'.[142] The LGAQ also supported the retrospective application of the amendments because 'instances of significant non-payment of rates and charges by resource authority holders would not be able to be addressed if the provisions requiring payment of rates and charges were only applied prospectively'.[143]

138 Explanatory notes, p 4.

139 Explanatory notes, p 22.

140 Explanatory notes, p 16.

141 Explanatory notes, p 16.

142 Submission 2, p 18.

143 Submission 2, p 18.

To support the payment of rates not yet paid, the LGAQ recommended the Queensland Government directly engage 'with relevant mining companies on behalf of affected councils to resolve local authority rate arrears promptly and ensure fair financial responsibility, at no cost to councils'.[144]

The Queensland Resources Council (QRC) advised that while it recognised the importance of harmonising the relevant legislation and supported industry payment of 'reasonably determined' local government rates and charges, it held concerns:

- about the consultation undertaken on the department's *Improved Regulatory Efficiency* consultation paper, including:
    - the lack of detail regarding the harmonisation of legislation across the various Resources Acts, which QRC argued 'restricted industry's ability to provide meaningful feedback'
    - the tabling of the Bill (on 15 November 2023) prior to the conclusion of the consultation on the proposed amendments to local government rates and charges via the consultation paper (8 December 2023)
- that there is no statutory constraint to determine rates and charges under the current framework.[145]

QRC was concerned that the introduction of the Bill before considering all submissions received on the Government's consultation paper *Improved Regulatory Efficiency* 'fails to allow appropriate and meaningful consultation required to deliver good regulatory outcomes'.[146]

On the issue of the determination of rates and charges, the QRC submitted:

> There is currently no statutory constraint on local governments' power to determine rate charges, and under the *Local Government Act 2009*, local governments are granted a discretionary power to levy "special rates and charges". The full visibility of a local government budget is also limited under the *Right to Information Act 2009*. This has created an unsustainable system which provides local government with unfettered powers and the ability to excessively increase rating revenue on select industries without clear justification.[147]

The QRC advised there have been 'excessive increases in local government rates and charges' with payments of local government rates as a percentage of a producers' operating costs in some instances having reached double digits.[148] As a result, the QRC stated that marginal projects may be at risk, particularly those of smaller operators, which in the long-term may 'have a knock-on effect and diminish future projects and regional jobs, resulting in decreased economic contribution to local government areas'.[149]

The QRC noted a report, which it commissioned alongside the Property Council of Australia, *Review of local government rates paid by Queensland non-residential property owners and resource projects* published in 2019 by the Queensland Economic Advocacy Solutions.[150] The QRC stated this report 'confirms that Councils are inconsistent in their approaches to levy rates, are not transparent in their decision-making and lack accountability' with the outcome being 'lack of consistency, a lack of

144 Submission 2, p 18.

145 Submission 3, p 2.

146 Submission 3, p 2.

147 Submission 3, p 3.

148 Submission 3, p 3.

149 Submission 3, p 4.

150 Queensland Economic Advocacy Solutions, *Review of local government rates paid by Queensland non-residential property owners and resource projects*, July 2019, https://cdn2.hubspot.net/hubfs/2095495/2019%20Queensland/Review%20of%20Local%20Government%20Rates%20Report%20(FINAL).pdf.

certainty and a patchwork of approaches that could impede new investment and economic growth across Queensland'. The QRC also stated that a finding of the report was that 'many Councils are continually departing from the established 'Guidelines on equity and fairness in rating for Queensland local governments' when balancing competing budgetary pressures'.[151]

The QRC also provided data on increases in local government rates ranging from 15 per cent to 1,270 per cent for various companies, 'noting no change to the project area footprint and no change to the operational capacity, and no change in rating category'.[152] The QRC provided specific examples of rate increases including one council increasing its average petroleum rate by 743 per cent and 2 councils increasing their average minimum charge for workforce accommodation by 353 per cent and 164 per cent.[153]

To address these issues, the QRC recommended:

- that the Queensland Government review the local government rating framework and engage with key stakeholders to develop a fair, sustainable and equitable rating system that allows industry to grow while supporting local governments to deliver regional sustainability outcomes
- that the Queensland Government's 'Guideline on equity and fairness in rating for Queensland local governments' dated June 2017 is mandated alongside the regulatory reform process and legislative amendments being considered by Parliament under this Bill
- that the Queensland Government develop and deliver a local government education package that complements the mandating of the Guideline to ensure local governments are aware of their obligations for fair and transparent rating processes.[154]

The QRC also called for further consultation across industry, state government and local government to implement a reform package prior to considering the proposed legislative amendments.[155]

In response to the QRC's statement regarding the unpredictability of local government rates increases and the examples of rate increases provided, the LGAQ stated that in the previous financial year, 2022-23, the average rate increase across the State was 4.43 per cent, which was noted as being below inflation. LGAQ also stated that it was less than the average input costs that councils incurred, which was 6.7 per cent. In relation to the transparency of councils' decisions about setting rates, the LGAQ stated rate increases are 'always done publicly' in budget meetings and are on the public record.[156]

Mr Hancock, chief executive officer of Quilpie Shire Council, commented on the impact of non-payment of rates and charges by several members of the resources industry in the shire:

> Resources are a big part of our shire and we are very supportive of the resources sector. In recent times it has been identified that there are a few minority operators that essentially are not good corporate citizens and are not doing their due diligence by paying their rates. We are suffering from that at the moment firsthand.
>
> We have seen, in one instance, an operator that was paying their rates up until 2020. However, at that time they started negotiations with regard to converting a number of leases from exploration over to production—that occurred in 2021—which has seen an increase of 270 per cent in rateable land come online. As the local government we are required to raise levies against that rateable land. Council was not aware at the time that those negotiations were ongoing, and once they came online we were required to rate. Since that time we have not received payments towards the rates, and that has significantly

151 Queensland Resources Council, correspondence, 19 February 2024, pp 1, 2.

152 Queensland Resources Council, correspondence, 19 February 2024, p 2.

153 Public hearing transcript, Brisbane, 12 February, p 2.

154 Submission 3, p 1.

155 Submission 3, p 6.

156 Public hearing transcript, Brisbane, 12 February 2024, p 10.

> increased. Our projections at the moment show that the outstanding rates as at 30 June 2024 will be in excess of $6.3 million, which is roughly 90 per cent of our total budgeted general rates revenue for the 2023-24 period. In the meantime, council has spent other ratepayer money trying to work with this single operator to develop a deferral arrangement plan and has sent multiple follow-up emails that have been unanswered to try to get the company to enter into a long-term payment arrangement in order to service the outstanding debt.[157]

Mr Hancock commented on the implications for local government on the lack of mechanism to recover costs:

> Unfortunately, what has been discovered is that, while in other circumstances where households have not paid their rates there are mechanisms to essentially sell and recover the rates, at the moment council does not have an opportunity to sell leases when they are unpaid. They are returned to the state, which leaves council basically without an ability to recover any outstanding rates at all. As you could appreciate, councils are reliant on any rates revenue we can get to make sure we can provide for our communities. Without recovering that much needed revenue as we had forecast, it is a significant hit to our budget and also to the services we can provide to our community.[158]

For these reasons, LGAQ contended that 'without the amendments that these proposed reforms will have what you will see continuing is a free ride for the rogue mining companies that are doing the wrong thing by their communities', noting that the 'majority of the sector is doing the right thing by paying their rates on time and contributing to the welfare and the wellbeing of their communities which are hosting their operations'.[159]

2.5.1.1 Departmental response

In response to the LGAQ's recommendation that the Queensland Government directly engage in discussions with relevant mining companies to resolve local authority rate arrears, at no cost to councils, the department advised:

> The introduction of a mandatory condition will empower the Queensland Government to take compliance action against resource authority holders and use their security to cover overdue rates and charges. This is consistent with the existing framework for mining leases.
>
> If a resource authority breaches their mandatory condition to pay local government rates and charges, the Minister for Resources can take appropriate compliance actions. This could include reducing the term or area of the resource authority, imposing a monetary penalty, or cancelling the resource authority.
>
> The proposed amendments will also provide the Minister the ability to consider non-payment of rates and charges when deciding future resource applications, thereby creating an additional incentive for applicants to fulfil their obligations to their local government and community.[160]

The department advised that the proposed amendments aim to ensure that the resources regulatory framework better supports local communities and fosters the sustainable growth of the resources industry.[161]

On the issue raised by the QRC on consultation, the department stated the Government engaged with local governments through the LGAQ and the South-West Queensland Regional Organisation of Councils throughout 2023 about the non-payment of rates and charges, and that they not only supported the amendments, but called for urgent action 'to address instances of non-compliance by resource companies'. As noted above, the department also released a consultation paper on proposed reforms to the Resource Acts as contained in the Bill, with the consultation period closing

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157 Public hearing transcript, Brisbane, 12 February 2024, p 10.

158 Public hearing transcript, Brisbane, 12 February 2024, p 10.

159 Public hearing transcript, Brisbane, 12 February 2024, p 9.

160 Department of Resources, correspondence, 31 January 2024, p 6.

161 Department of Resources, correspondence, 31 January 2024, p 6.

on 8 December 2023. Further, the department engaged 'with industry stakeholders on multiple occasions' including through industry stakeholder bodies such as the QRC, Australian Energy Producers and Association of Mining and Exploration Companies.[162]

The department noted that of the 16 written submissions received in relation to its consultation process on the proposed reforms to the Resource Acts, only 6 submissions were not supportive. The department added that 'Amongst these submissions, there was a general level of acceptance regarding the intention of the proposed amendments and that the resources industry should provide benefit to the communities in which they operate'.[163]

The department acknowledged that some resource companies and representative bodies raised concerns with the consultation process and the way local governments calculate rates and charges. In regard to the department's consultation timeframe associated with proposed reforms to the Resource Acts, the department reiterated that the Bill 'is a result of significant feedback from local government and a need to respond to serious instances of non-compliance and outstanding rates and charges by resource companies'. In regard to concerns about the local government rating framework, the department stated the 'proposed amendments replicate existing provisions in the *Mineral Resources Act 1989* and do not seek to alter the rating framework under the local government legislation'.[164]

On the QRC's call for greater transparency and improved governance around local government budgets and local government rating frameworks, the department clarified:

> The *Local Government Act 2009* provides that local governments must ensure decisions about rates are made in an open and transparent manner.
>
> The Queensland Government has developed the 'Guidelines on equity and fairness in rating for Queensland local government' (the Guidelines).
>
> Under the framework, local governments are given autonomy and flexibility in developing their rating systems for raising sufficient own source revenue. The Guidelines provide this flexibility to Queensland's 77 local governments, while also assisting local governments to implement fair and equitable rating systems.
>
> Noting the significant differences across Queensland's local governments, each local government needs to be able to develop a rating strategy that best fits its circumstances and its community's needs.
>
> This recognises that individual local governments are best placed to determine the cost of delivering services and providing facilities to their communities and are equally well-placed to determine the revenue required to ensure these objectives are accomplished in a manner which meets the needs and expectations of ratepayers.[165]

Committee comment

We note concerns raised by the Local Government Association of Queensland and councils, including Quilpie Shire Council, about the impact of non-payment of rates and charges by some resource authority holders on annual rates revenue for councils, especially in regional and remote Queensland. For some councils, this represents a significant proportion of their rate revenue, which impacts their budget and the services they provide to their communities.

We acknowledge the government consultation that occurred throughout 2023 with local government and resource industry representatives. We share the concerns of the Queensland Resources Council regarding the introduction of the Bill prior to the conclusion of the departmental consultation on its

[162] Department of Resources, correspondence, 31 January 2024, pp 6, 7.

[163] Department of Resources, correspondence, 31 January 2024, p 7.

[164] Department of Resources, correspondence, 31 January 2024, p 7.

[165] Department of Resources, correspondence, 31 January 2024, pp 7-8.

paper *Improved Regulatory Efficiency*. However, we acknowledge the policy driver for the amendments: addressing, both retrospectively and prospectively, outstanding and often significant non-payment of rates and charges by some resource companies. Currently, there is no mechanism for councils and the Queensland Government to recover outstanding charges and rates under the Resource Acts. We are satisfied that, by introducing the payment of local government rates and charges as mandatory conditions of petroleum, gas, geothermal and greenhouse gas resource authorities, the Bill will address local government concerns to remedy, and manage any future, unpaid rates and charges by resource authority holders.

The QRC expressed concerns about the local government rating framework in regard to increases in local government rates and charges. QRC called for greater scrutiny and predictability in the local government rating system. We note the department's advice that the Bill would replicate existing provisions under the *Mineral Resources Act 1989* and would not alter the rating framework under local government legislation.

The QRC also called for greater transparency and improved governance on local government budgets about how rates for resource authority holders are decided. We are satisfied with the department's response which clarifies that local governments must comply with requirements of the *Local Government Act 2009* to ensure that decisions about rates are made in an open and transparent manner. Furthermore, we note that local governments are provided autonomy and flexibility under the 'Guidelines on equity and fairness in rating for Queensland local government' in response to the diversity of Queensland's local governments and the need to develop a rating strategy that best fits each council's circumstances and community's needs.

2.5.2 Compliance with the Legislative Standards Act – retrospectivity – payment of local government rates and charges

The amendments to the Resources Acts mandate the payment of applicable local government rates and charges as a condition of a resource authority.[166] Under the Bill these amendments will apply both prospectively (to future rates and charges) and potentially retrospectively (to any rates and charges outstanding). We considered whether the retrospective nature of these provisions have sufficient regard to the rights and liberties of individuals.

While it is arguable that the Bill would apply a different consequence to a legal obligation retrospectively, the obligation on a resource authority holder to pay rates and charges already exists.

Committee comment

Given the policy intent of the provisions to assist local governments in recovering rates and charges, that have been noted to be significant in some cases, we are satisfied that the potential breach of fundamental legislative principle is justified in the circumstances.

[166] Bill, parts 2, 3, 7 & 8 (amend various provisions of resources legislation).

Appendix A – Submitters

Sub #	Submitter
1	Brisbane City Council
2	Local Government Association of Queensland
3	Queensland Resources Council

Appendix B – Officials at public departmental briefing

Department of Resources

- Mr Peter Jamieson, A/Executive Director, Land Policy and Support
- Ms Claire Cooper, A/Executive Director, Georesources Policy
- Mr Simon Hausler, Director – Land Operations Support, Land Policy and Support
- Mr Michael Overland, Principal Advisor, Land Policy and Legislation, Land Policy and Support

Appendix C – Witnesses at public hearing

Queensland Resources Council

- Ms Judy Bertram, Acting Chief Executive
- Mr Andrew Barger, Policy Director – Economics
- Ms Nicole Duguid, Policy Director – Resources and Community

Local Government Association of Queensland

- Ms Alison Smith, Chief Executive Officer
- Ms Crystal Baker, Manager, Strategic Policy and Advocate

Quilpie Shire Council

- Mr Justin Hancock, Chief Executive Officer

South Burnett Regional Council

- Mr Mark Pitt, Chief Executive Officer

Appendix D – Abbreviations and acronyms

Bill	Land and Other Legislation Amendment Bill (No. 2) 2023
1923 Act	*Petroleum Act 1923*
BCC	Brisbane City Council
committee	Clean Economy Jobs, Resources and Transport Committee
department	Department of Resources
DOGITs	deeds of grant in trust
former committee	Transport and Resources Committee
GE Act	*Geothermal Energy Act 2010*
GGS Act	*Greenhouse Gas Storage Act 2009*
HRA	*Human Rights Act 2019*
Land Act	*Land Act 1994*
Land Title Act	*Land Title Act 1994*
LGAQ	Local Government Association of Queensland
LSA	*Legislative Standards Act 1992*
MR Act	*Mineral Resources Act 1989*
P&G Act	*Petroleum and Gas (Production and Safety) Act 2004*
Place Names Act	*Place Names Act 1994*
QRC	Queensland Resources Council
RAM Act	*Recreation Areas Management Act 2006*
Resources Acts	*Geothermal Energy Act 2010, Greenhouse Gas Storage Act 2009*, *Petroleum and Gas (Production and Safety) Act 2004*, and the *Petroleum Act 1923*

Statement of Reservation

LNP Members of the Clean Economy Jobs, Resources and Transport Committee

LNP Committee members recognise sound intent with this Bill, however wish to place on record our concern with some particular elements, as identified below.

A common theme raised by submitters is a lack of consultation, which is becoming a recurring issue with this government. From the onset, this is a serious issue that needs to be addressed.

Notwithstanding the fact industry should pay fair and reasonable local government rates and charges, the Opposition is concerned there has been no provision to consider how rates and charges should be determined and applied. As such, the Opposition believes the government must properly engage with stakeholders to develop a fair, sustainable and equitable rating system that allows industry to grow. It is imperative that local government is involved in this process.

Furthermore, the Opposition believes the State needs to establish a Local Government Advisory panel, as outlined in the LGAQ's submission. We also agree the State needs to deliver an education training package tailored to councils, with respect to these proposed amendments.

When it comes to the State's Place Names Policy, the Opposition believes any request for a name change must have full and thorough consultation. This is particularly critical because of the significant cost impacts involved. It is clear there must be significant public support before any name changes are agreed to.

Furthermore, the Opposition supports additional funding directed to local governments to implement place name changes as and when these are made.

Pat Weir MP
Member for Condamine
Deputy Chair

Bryson Head MP
Member for Callide

Trevor Watts MP
Member for Toowoomba North