

## Queensland Government response to the *Inquiry into the Future and Continued Relevance of Government Land Tenure across Queensland*

On 7 June 2012, the Queensland Parliament tasked the State Development, Infrastructure and Industry Committee (the committee) to inquire into the future and continued relevance of government land tenure across Queensland.

The committee considered the following:

- ensuring our pastoral and tourism industries are viable into the future
- the balanced protection of Queensland's ecological values
- ongoing and sustainable resource development
- the needs and aspirations of Traditional Owners.

The State Government controls billions of dollars worth of land in Queensland. This is an asset that must be managed in a way that strengthens the vital pillars of our economy—tourism, agriculture, resources and construction.

Leaseholders need improved security and certainty to promote business investment and diversification in Queensland without impinging on the native title rights of Traditional Owners.

The committee delivered its final report on 31 May 2013. The final report makes 44 recommendations, which deal with:

- enhancing native title resolution
- matters of tenure security and investment certainty for rural leases
- community reserves
- tourism leases
- protected area estate
- a variety of matters relating to stock routes, rail corridors, tenure data, walking trails and renewable energy.

Response to the individual recommendations will be led by responsible agencies:

- Recommendations 5 and 31 - Department of State Development, Infrastructure and Planning
- Recommendations 32, 33, 34, 35, 36, 37, 39, 41 - Department of National Parks, Recreation, Sport and Racing
- Recommendation 38 - Department of Agriculture, Fisheries and Forestry
- Recommendation 27 - Department of Local Government, Community Recovery and Resilience
- All other recommendations - Department of Natural Resources and Mines (DNRM).

The DNRM will implement its response to the committee's recommendations in two phases:

**Phase one** — The government has commenced reforms to promote greater investment certainty for rural leasehold land. This phase focuses on red tape reduction in lease renewal processes and setting clear pathways to upgrade from leasehold to freehold.

**Phase two** —The government will reform the *Land Act 1994* and other land legislation to modernise the principles and purposes of land administration, management and disposal. The review will focus on:

- investment certainty and sustainable land management focusing on leases for tourism and other commercial purposes
- management of reserves and roads including stock routes.

In parallel with phase two, development of a smoother approach to native title negotiation and incentives for all parties to resolution will be considered.

The DNRM will work closely with local governments, business, Indigenous parties and the community to progress these reforms.

The table below outlines the 44 parliamentary inquiry recommendations and the Queensland Government’s response to each.

Recommendation		Government response
<b>Native title</b> <i>Recommendations 1, 2, 4, 5, 6, 7, 10, 11</i>		
1	The committee recommends the presentation of the proposal for Future Development Area Indigenous Land Use Agreements (ILUAs) to all stakeholders for consideration to facilitate Queensland tenure reform and a more efficient and cost effective means of compliance with native title requirements.	<i>Not accepted.</i> The government supports the need to reduce the transaction costs of native title resolution for all parties. The government will work with key stakeholders to develop template ILUAs which will facilitate streamlined agreement-making.
2	The committee recommends the Future Development Area ILUAs as a useful means to address identified barriers for Indigenous people wishing to develop land affected by native title, as well as limiting the current associated time and high cost of establishing an ILUA in having matters dealt with individually for each tenure.	In parallel to modernising land tenure arrangements and processes, the government will work with all interested parties to consider an improved approach to native title negotiations, including examining incentives to enhance how consents are obtained.
4	The committee recommends that the proposed Future Development Area ILUAs also cover the amendment of current pastoral leases to allow other activities. The process for granting or amending leases, granting other tenures and notification of native title holders, as well as establishment of a compensation process and scope,	

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	resulting from new leases granted or current leases amended, include guidelines to the extent of any compensation, time of payment and negotiation procedures.	
5	The committee recommends that the state undertakes research to determine focus areas for economic development and, subject to Future Development Area ILUAs, taking into consideration areas where ILUAs are unnecessary because of extinguishing tenures or areas where native title may exist but are not suitable for future economic development.	
6	The committee recommends that Future Development Area ILUAs should be considered as an option to reduce the transaction costs of negotiating an ILUA and that the issue of compensation should remain on an individual basis between the landholder and the Traditional Owner.	
7	The committee recommends further extension of the model of Future Development Area ILUAs to other areas in Queensland to provide native title holders inclusion and involvement in the management of such areas as well as develop regional Indigenous recruitment and training, cultural and natural resource management, visitor and commercial opportunities, and community partnerships.	
10	The committee recommends that the Queensland Government establishes an advisory service to support proponents seeking to enter into a lease agreement or undertake activities on crown land affected by native title, or in some instances, to streamline a proponent's development to facilitate Future Development Area ILUAs.	<p><i>Not accepted.</i></p> <p>Advisory and mediation assistance that supports proponents seeking to enter into lease agreements and ILUAs is already available from the Commonwealth National Native Title Tribunal and the private sector.</p> <p>A lack of generally accepted methodology in determining compensation payable, and the lack of incentives for all parties, is the reason for protracted negotiations, rather than a lack of negotiators.</p>
11	The committee recommends that the Queensland Government provides support for mediation services to expedite the development of compensation agreements between parties negotiating compensation under the <i>Native Title Act 1993</i> in order to resolve land tenure issues in the pastoral industry in a more efficient manner.	<p>In that context, the government does not believe these services should be duplicated.</p> <p>However, the government recognises that negotiation costs are high for all parties; in some cases higher than the compensation agreed to in the ILUA.</p> <p>The government will work with key stakeholders to develop template ILUAs, which will facilitate</p>

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		streamlined agreement-making. Investigations involving all interested parties will consider an improved approach to native title negotiations, including examining incentives to enhance how consents are obtained.
<b>Pastoral leases</b> <b>Recommendations 3, 8, 9, 12, 13, 14, 15</b>		
3	The committee recommends the introduction of a new type of lease – a General Purpose Lease –in conjunction with <i>Recommendation 2</i> , to deliver a framework for providing rights to a lessee to engage in a range of activities, not restricted to a particular purpose, such as a pastoral purpose. This new type of lease will allow activities not currently permitted under pastoral and agricultural leases, such as the development of a business unrelated to a pastoral operation.	<i>Not accepted.</i> A general purpose lease is not necessary as pastoral, grazing and agricultural leases are currently able to diversify their lease purposes within native title constraints. However, the government will look at how existing diversification opportunities are communicated to leaseholders; and investigate how the diversification policy can be further expanded to cover business leases.
8	The committee recommends that the Queensland Government investigates the provision of rolling pastoral leases of up to 50 years that provide security of tenure to pastoralists subject to the caveat that any lease renewal is in compliance with the requirements of the <i>Native Title Act 1993</i> .	<i>Accepted.</i> The government is developing the provision of a rolling term lease under the <i>Land Act 1994</i> that provides lessees with increased security of tenure and complies with the requirement of the <i>Native Title Act 1993</i> (Cwlth).
9	The committee recommends that the Queensland Government reviews the trigger point for determining the lease renewal process for pastoralists and whether this should best occur when the lease has reached a certain percentage of its term or at the point of receiving a significant capital investment proposal from pastoralists.	<i>Accepted.</i> Existing arrangements provide flexible triggers to initiate lease renewal processes. A lessee may apply to renew a term lease once 80 per cent of the existing term has expired or before then where, in the Minister's opinion, special circumstances exist. A special circumstance may be a significant capital investment proposal. Improvements to lease renewal process will be considered as part of the broader reform of land tenure.
12	The committee recommends that the Queensland Government ensures that leaseholders approaching the expiration of their current lease are granted short-term extensions to their existing leases to ensure that they have the opportunity to renew their lease under the new terms and conditions proposed in the recent reforms to the State Rural Leasehold Land Strategy.	<i>Accepted.</i> The government will ensure that leaseholders currently renewing their leases are no worse off during the phase one reform of rural land tenure arrangements. On 14 May 2013, legislation amendments took effect allowing short-term lease extensions which will allow lessees who are currently renewing their leases to take advantage of the proposed reforms.

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13	The committee recommends that the Queensland Government ensures that, if converting leasehold land to freehold title, the applicant should have the option of engaging a valuation professional from a regional panel of government-approved valuers.	<p><i>Not accepted.</i></p> <p>The Office of the Valuer-General provides the transparency for state land valuations while minimising the states' and lessees' costs for valuation services.</p> <p>The Queensland Valuer-General's Office provides professional expert valuation advice on the value of leasehold land.</p> <p>A lessee who disputes the valuation may appeal the land valuation.</p>
14	The committee recommends that the Queensland Government considers a program of incentives to support lessees wishing to convert from term leases to fee simple.	<p><i>Accepted.</i></p> <p>The government supports investigating potential incentives for lessees wishing to convert to freehold.</p> <p>As part of phase one of the land tenure reforms, the government will introduce clearer pathways to freehold for rural lessees to promote the development of the rural sector in Queensland.</p> <p>Further investigation of incentives to support non-rural leases converting to freehold title will be investigated in the broader reform of land tenure arrangements.</p> <p>Native title and the state's interests in native forest will need to be resolved prior to converting leasehold land to freehold.</p>
15	The committee recommends that the Queensland Government reviews the current restrictions with regard to corporations and trusteeships and their managing of leasehold tenure.	<p><i>Accepted.</i></p> <p>The government accepts that the corporation and aggregation restrictions under the <i>Land Act 1994</i> are outdated, inflexible and ineffective as policy instruments in today's business and land management environments. The provisions will be repealed in their entirety.</p> <p>In a complementary move, the conversion restrictions under the <i>Land Act 1994</i>, which require a rural lease to first be converted to a perpetual lease before it can be freeholded, will also be removed.</p>
<p><b>Pastoral lease rent</b></p> <p><b>Recommendations 16, 17, 18</b></p>		
16	The committee recommends that the Land Regulation 2009 be amended to incorporate additional capacity for the Queensland Government to respond to the needs of pastoralists in a more timely and flexible manner in its methods of rental calculation	<p><i>Accepted.</i></p> <p>The rental cap for rural leases has continued and new caps for other leaseholders have since been introduced to provide wider rental relief in difficult economic and environmental conditions.</p>

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	employed during periods of hardship, resulting from natural disasters and market failure.	The <i>Land Act 1994</i> also enables individual leaseholders to apply for relief where rent can be deferred in times of hardship.
17	The committee recommends that the Queensland Government considers alternatives to the current method of rent calculation which is based on unimproved capital value.	Nevertheless, the government recognises that rents are an ongoing concern for rural leaseholders.
18	The committee recommends that the Queensland Government retains the current cap on annual rent arrangements due to expire at the end of 2017 until the completion of the Queensland Government review, as proposed in <i>Recommendation 17</i> , considering alternatives to the current method of rent calculation which is based on unimproved capital value.	A rural rent roundtable comprising relevant industry and government experts has been appointed to provide proposals on a new rural rental regime to the Minister for Natural Resources and Mines. This advice will be considered by government in the coming months.
<b>Reserves</b> <b>Recommendations 19, 20, 21, 22, 23</b>		
19	The committee recommends that the Queensland Government explores the development and establishment of a program of incentives to encourage local government to convert community reserve land held in trust which hosts operational facilities to freehold tenure.	<i>Accepted.</i> Under current arrangements, a local government can apply to have essential operational reserve land reallocated to the local government as freehold land. The present policy for conversion of essential operational reserve land allows for the local government to obtain freehold ownership of the land whilst still providing the state with a reasonable return on its land asset. However, the government will investigate the possibility of extending current arrangements to include community purpose reserve land held by local government as part of the broader land tenure reforms.
20	The committee recommends that the current bank of community reserves occupied by organisations such as the Queensland Country Women's Association and showgrounds continue to be held as State leasehold land in trust.	<i>Accepted.</i> The government acknowledges the special values of certain community purpose reserves such as those occupied by the Queensland Country Women's Association and these values will be considered as part of the response to Recommendation 19.
21	The committee recommends that the Queensland Government notes the concerns raised regarding leases of community reserves held in trust, including those by local and state government, and investigates the provision of a template	<i>Accepted in part.</i> The government notes the concerns of the leaseholders of community purpose reserves held in trust, and will further investigate implementing a trustee lease template of standard terms. Although, ministerial discretion for 100-year

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	lease with agreeable terms and conditions including Ministerial discretion to provide a lease period of up to 100 years for security of tenure and significant capital investments purposes.	trustee leases is not accepted, other higher forms of tenure, such as freehold or a <i>Land Act 1994</i> lease, may provide security if it is determined that it is the most appropriate use for the land.
22	The committee recommends that the Queensland Government explores the means by which ongoing commercial activities can occur on tenures which are presently restricted, including community reserves.	<i>Not accepted.</i> The <i>Land Act 1994</i> does not prevent commercial activities where the activity would not diminish the purpose of the reserve or deed of grant in trust. In response to concerns raised by a number of tertiary institutions, the government notes that current legislation allows universities to undertake commercial activities consistent with university functions on educational or university reserves and deeds of grant in trust, and grant leases for terms up to 100 years. Further, for state instructional institutions on a reserve, the Minister (under the <i>Education (General Provisions Act 2006)</i> ) may permit a person to use the premises of the instructional institution for any purpose, including a purpose not connected with education.
23	The committee recommends that the current definition of community purpose listed in Schedule 1 of the <i>Land Act 1994</i> be extended to include a specific category of educational and research purposes and that upon renewal all such leases are extended to the maximum tenure of 100 years.	<i>Not accepted.</i> The most appropriate tenure for land used for educational and research purposes is freehold. The <i>Education (General Provisions) Act 2006</i> and the Acts governing universities provide exceptions to the current restrictions placed on the term of trustee leases over educational purpose reserves. These exceptions would not be necessary if the land was freeholded and under the control of the relevant educational body. However, clearer public information on the rights of educational institutions to lease their reserves and deeds of grant in trust will be developed and released.
<b>Tourism leases</b> <b>Recommendations 24, 25, 26, 28, 29, 30</b>		
24	The committee recommends that the Queensland Government investigates the provision of rolling leases of up to 50 years that provide security of tenure to tourism proponents subject to the caveat that any lease renewal is in compliance with the requirements of the <i>Native Title Act 1993</i> .	<i>Accepted.</i> The government will consider extending the rural rolling term lease model to tourism leases.
25	The committee recommends that the Queensland Government reviews the trigger point for determining the renewal process for tourism leases and whether this should best occur when the lease has	<i>Accepted.</i> Existing arrangements provide flexible triggers to initiate lease renewal processes. A lessee may apply to renew a term lease once 80 per cent of the existing term has expired or before then

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	reached a certain percentage of its term or at the point of receiving a significant capital investment proposal from a tourism operator/developer proponent.	where, in the Minister's opinion, special circumstances exist. A special circumstance may be a significant capital investment proposal. Improvements to lease renewal process will be considered as part of the broader reform of land tenure.
26	The committee recommends that the Queensland Government considers a mechanism to provide for a reduction in lease rents and payments for tourism operators and developers immediately after natural disaster events that impact upon their operations to encourage investment and recognise their importance to the Queensland economy.	<i>Accepted.</i> New caps for tourism lessees have been introduced to provide wider rental relief in difficult economic and environmental conditions. The <i>Land Act 1994</i> also enables individual lessees to apply for relief where rent can be deferred in times of hardship. A tourism lease rent review roundtable has been established to consider recommendations relating to mechanisms to reduce state leasehold land rents following periods of hardship and natural disasters impacting on industry and to undertake a review into rental calculations for tourism businesses.
28	The committee recommends that the Queensland Government retains the current cap on annual rent arrangements due to expire in June 2015 until the completion of the review into rental calculations for tourism businesses, which is recommended in Recommendation 29.	The government will be considering advice provided by the roundtable in the second half of 2013.
29	The committee recommends that the Queensland Government undertakes an urgent review into rental calculations for tourism businesses.	
30	The committee recommends that the Land Regulation 2009 be amended to incorporate additional capacity for the Queensland Government to respond in a more timely and flexible manner in its methods of rental calculation employed during periods of hardship, resulting from natural disasters or market failure, for tourism proponents.	
<b>Tourism – other</b> <b>Recommendations 27 and 31</b>		
27	The committee recommends that the Queensland Government engages with local councils to investigate alternatives to the current inequity of local government rate calculation for tourism-based industries.	<i>Not accepted.</i> This recommendation is not consistent with the state's policy of empowering local government and the state's recognition that they should have autonomy in setting rates and charges.
31	The committee recommends that the issues raised in relation to foreshore development are fully reviewed by the Queensland Government in a separate and specific independent inquiry.	<i>Not accepted.</i> While not accepted as a separate and specific independent inquiry, further consideration of the issues raised will form part of the broader reform of land tenure.



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<b>Protected Estate</b> <b>Recommendations 32 to 39</b>		
32	<p>In the context of proposals for the development of ecotourism facilities in the protected area estate, the committee recommends that the Queensland Government uses the data gathered during the identification and mapping of bioregions in Queensland to:</p> <ul style="list-style-type: none"> <li>• further investigate and address gaps in biodiversity planning</li> <li>• determine the potential benefits of including compulsory biodiversity management plans as part of major developments within the protected area estate.</li> </ul>	<p><i>Not accepted.</i></p> <p>Biodiversity planning is undertaken at a much broader scale than the site specific nature of ecotourism facility proposals. Any gaps in biodiversity planning are appropriately identified and addressed through existing processes undertaken by the Department of Environment and Heritage Protection and this approach should continue.</p> <p>The Department of National Parks, Recreation, Sport and Racing has recently finalised the implementation framework for ecotourism facilities on national parks. The framework contains existing provisions for managing the interaction between development and protected area values including biodiversity. It is therefore considered that this recommendation can be met by the contents of the implementation framework.</p>
33	<p>The committee recommends that the annual reports for the Department of Environment and Heritage Protection and the Department of National Parks, Recreation, Sport and Racing incorporate uniform information outlining the ways in which the management plans for each of the 13 bioregions influence and improve the implementation of the Tourism in Protected Areas framework.</p>	<p><i>Not accepted.</i></p> <p>There is no direct link between the suggested development of bioregional plans and the Tourism in Protected Areas framework. However, the Department of National Parks, Recreation Sport and Racing has an existing program of supporting tourism initiatives associated with protected areas and will investigate the suitability of reporting on these programs in its annual report in the same manner as existing reporting against delivery of fire, pest and management planning programs.</p>
34	<p>The committee recommends that the Queensland Government continues to actively develop relationships with private tourism enterprises adjacent to national parks in order to support management of infrastructure within the protected area estate.</p>	<p><i>Accepted.</i></p> <p>The Department of National Parks, Recreation, Sport and Racing will continue to develop relationships and implement agreements with tourism enterprises where there is a mutually beneficial outcome for both parties.</p>
35	<p>The committee recommends that the Queensland Government reviews the adequacy of existing tenure categories to determine whether they provide sufficient scope to accommodate new, high and medium impact tourism activities adjacent to national parks to meet the escalating demand for such facilities in Queensland.</p>	<p><i>Accepted.</i></p> <p>The Department of National Parks, Recreation, Sport and Racing is currently finalising an implementation framework for ecotourism opportunities on national parks as part of the Queensland Ecotourism Opportunities Initiative. Associated implementation processes are designed to optimise the assessment of tourism related proposals adjacent to national parks providing for secure tenure arrangements. This makes a review of existing tenure categories</p>

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		unnecessary.
36	The committee recommends that the Queensland Government investigates enhanced management options to respond to increased activities within the protected area estate.	<i>Accepted.</i> The Department of National Parks, Recreation Sport and Racing will investigate the viability of this recommendation.
37	The committee recommends that the Queensland Government considers investigating the implementation of an education program to highlight to visitors to national parks the benefits to themselves and conservation of the park when paying a fee for entry into, or engaging in a particular activity within, a national park.	<i>Accepted.</i> The Department of National Parks, Recreation Sport and Racing will investigate educating visitors of the benefits of existing user fees in protected areas.
38	The committee recommends that the Queensland Government tables a whole-of government report annually in Parliament consolidating its reporting on the management of weeds, pests, fences and other infrastructure as part of its responsibility under the good neighbour policy.	<i>Accepted with further clarification required.</i> The Department of Agriculture, Fisheries and Forestry will collaborate with the State Land Pest Management Committee and relevant agencies to table in Parliament an annual whole-of-government report on weeds and pest management matters using available data and resources. The fence and infrastructure elements of the recommendation will be subject to further clarification.
39	The committee recommends that the Queensland Government considers incentives for lessees to maintain areas of national parks that are located adjacent to their properties and any tourism-related infrastructure.	<i>Accepted.</i> The Department of National Parks, Recreation, Sport and Racing will continue to develop relationships and implement agreements with owners of adjacent tourism enterprises where a mutually beneficial outcome for both parties can be achieved.
<b>Stock routes</b>		
<b>Recommendation 40</b>		
40	The committee recommends that the Queensland Government notes the previous committee report into the <i>Stock Route Management Bill 2011</i> and that it reintroduces the Bill in accordance with the recommendations of the report on the Bill by the Transport and Local Government Committee at its earliest convenience.	<i>Accepted.</i> Approval will be sought for the preparation and introduction of a Bill on stock route network management following the implementation of a new leasehold land rent regime and resolution of issues raised by local government.
<b>Others</b>		
<b>Recommendations 41 to 44</b>		
41	The committee recommends that the Queensland Government coordinates the development of a whole-of-government	<i>Accepted in part.</i> There is in principle support for the development of a whole-of-government management framework

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	management framework that addresses the opportunities available and the risks associated with establishing and managing walking trails.	for multi tenure trails. Resolution of the identified issues will enable increased participation in sport and recreation activities and offer tourism opportunities. The development of such a framework would however require an investment of significant time and human resources, appropriate governance arrangements and commitment from all concerned parties. The establishment and management of long distance, multi-tenure trails for other non-motorised activities such as horse riding and mountain biking raises many similar issues. Any management framework that addresses opportunities and risks for walking trails would extend to other non-motorised activities.
42	The committee recommends that the Queensland Government introduces incentives for proponents of major renewable energy projects applying to lease or purchase unallocated state land.	<i>Accepted.</i> The <i>Land Act 1994</i> provides incentives such as priority access to tenure and fixed rent during the development phase of renewable energy projects. Also, term leases can be diversified, provided native title is sufficiently addressed, to enable renewable energy projects.
43	The committee recommends that the Queensland Government integrates all tenure data sets and maps to address surface and subsurface tenure issues as a priority.	<i>Accepted.</i> The government supports the concept of this recommendation, with implementation in the long term through a range of joint government-industry initiatives.
44	The committee recommends that the Queensland Government identifies its preferred approach to addressing the present tenure barriers to investment security for corporations investing in rail infrastructure projects.	<i>Accepted.</i> The government accepts there are significant barriers to investment security for linear infrastructure projects due to the inability to create tenure over some areas of land for example non-tidal watercourses and lakes. In the broader land tenure reform, the government will investigate amending legislation to remove these tenure barriers.