

Nature Conservation and Other Legislation (Indigenous Joint Management - Moreton Island) Amendment Bill 2020

Report No. 5, 57th Parliament

State Development and Regional Industries Committee

March 2021

State Development and Regional Industries Committee

| | |
|---------------------|---|
| Chair | Mr Chris Whiting MP, Member for Bancroft |
| Deputy Chair | Mr Jim McDonald MP, Member for Lockyer |
| Members | Mr Michael Hart MP, Member for Burleigh |
| | Mr Robbie Katter MP, Member for Traeger |
| | Mr Jim Madden MP, Member for Ipswich West |
| | Mr Tom Smith MP, Member for Bundaberg |

Committee Secretariat

| | |
|---------------------------------------|--|
| Telephone | +61 7 3553 6662 |
| Fax | +61 7 3553 6699 |
| Email | sdric@parliament.qld.gov.au |
| Technical Scrutiny Secretariat | +61 7 3553 6601 |
| Committee webpage | www.parliament.qld.gov.au/SDRIC |

Acknowledgements

The committee acknowledges the Quandamooka People, Traditional Custodians of the lands, waters and seas referred to within this report. The committee acknowledges the Ngugi clan of Mulgumpin - 'place of sandhills' - and pays its respects to Elders past, present and emerging.

Contents

| | |
|---|------------|
| Abbreviations | ii |
| Chair's foreword | iii |
| Recommendations | iv |
| 1 Introduction | 1 |
| 1.1 Role of the committee | 1 |
| 1.2 Inquiry process | 1 |
| 1.3 Policy objectives of the Bill | 2 |
| 1.4 Should the Bill be passed? | 3 |
| 2 Examination of the Bill | 4 |
| 2.1 Building understanding of native title and joint management arrangements | 4 |
| 2.2 Improving consultation and transparency of information | 5 |
| 2.3 Permit applications | 7 |
| 2.4 Implementation and governance | 8 |
| 2.5 Clarification of other matters | 9 |
| 3 Compliance with the <i>Legislative Standards Act 1992</i> | 10 |
| 3.1 Fundamental legislative principles | 10 |
| 3.2 Explanatory notes | 10 |
| 4 Compliance with the <i>Human Rights Act 2019</i> | 11 |
| Appendix A – Report No. 3, 56th Parliament, State Development, Tourism, Innovation and Manufacturing Committee | 12 |
| Appendix B - Submitters | 13 |
| Appendix C – Officials at public departmental briefing | 14 |
| Appendix D – Consultation on Mulgumpin | 15 |
| Statement of Reservations | 16 |

Abbreviations

| | |
|---------------------------|--|
| ALA | <i>Aboriginal Land Act 1991</i> |
| Bill | Nature Conservation and Other Legislation (Indigenous Joint Management – Moreton Island) Amendment Bill 2020 |
| committee | State Development and Regional Industries Committee |
| DDG | Deputy Director-General |
| department / DES | Department of Environment and Science |
| DoR | Department of Resources |
| Federal Court | Federal Court of Australia |
| Former committee / SDTIMC | Former State Development, Tourism, Innovation and Manufacturing Committee |
| HRA | <i>Human Rights Act 2019</i> |
| IJMA | Indigenous Joint Management Area |
| ILUA | Indigenous Land Use Agreement |
| IMA | Indigenous Management Agreement |
| LSA | <i>Legislative Standards Act 1992</i> |
| Minjerribah | North Stradbroke Island |
| Mulgumpin | Moreton Island |
| NCA | <i>Nature Conservation Act 1992</i> |
| NTA (Cth) | <i>Native Title Act 1993 (Cth)</i> |
| NNTT | National Native Title Tribunal |
| ORIC | Office of the Registrar of Indigenous Corporations |
| QPWS&P | Queensland Parks and Wildlife Service and Partnerships |
| QYAC | Quandamooka Yoolooburrabee Aboriginal Corporation |
| RAMA | <i>Recreation Areas Management Act 2006</i> |
| RNTBC | Registered Native Title Body Corporate |

Chair's foreword

I acknowledge the Quandamooka People, Traditional Custodians of the lands, waters and seas referred to within this report. I acknowledge the Ngugi clan of Mulgumpin - 'place of sand hills' - and pay my respects to Elders past, present and emerging.

This report presents a summary of the State Development and Regional Industries Committee's examination of the Nature Conservation and Other Legislation (Indigenous Joint Management - Moreton Island) Amendment Bill 2020. This Bill was examined by the State Development, Tourism, Innovation and Manufacturing Committee in the previous Parliament, and I commend them on their thorough work.

Moreton Island, or Mulgumpin as it is known to the Quandamooka People, is one of the largest sand islands in the world, with outstanding natural features and quite significant cultural significance. It has unique archaeological importance and is an important recreation area for many visitors each year.

In November 2019, the Federal Court of Australia made a native title consent determination recognising the Quandamooka People's native title rights on Mulgumpin. The determination included a series of land agreements. This included that protected areas on the island be jointly managed by the state and the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC).

The Bill provides the legal framework for those arrangements to be implemented and the committee has recommended that the Bill be passed. During the inquiry, the committee welcomed the opportunity to speak with QYAC, local residents and tourism operators regarding the introduction of joint management arrangements.

The committee heard that joint management can deliver benefits for both traditional owners and the broader community. Opportunities include economic development through the provision of jobs and quality visitor experiences; enhanced conservation and protection of national park and recreation areas; and opportunity for increased cultural tourism and education on the island.

The Chair of the Committee conducting the previous inquiry into this Bill wrote in regards to QYAC "I have not seen an organisation subjected to such a concerted line of questioning" from Opposition Members. Whilst it was not as extensive during this Inquiry, the unproven and "hearsay" nature of some questions was inflammatory and not relevant to the Bill. If corporations are subject to this vein of questioning in future inquiries, it will be harder to solicit their participation in such inquiries in the future. I urge non-government contributors to not expose inquiry participants to unfounded or irrelevant statements and questioning.

On behalf of the committee, I thank all individuals and organisations who participated in the inquiry for their valuable contributions. I also thank my fellow committee members for their collaborative approach, and the Parliamentary Service staff for their professional support throughout.

I commend this report to the House.



Chris Whiting MP

Chair

March 2021

Recommendations

Recommendation 1 **3**

The committee recommends the Nature Conservation and Other Legislation (Indigenous Joint Management - Moreton Island) Amendment Bill 2020 be passed.

Recommendation 2 **5**

The committee recommends that the Department of Aboriginal and Torres Strait Islander Partnerships considers developing training, education and professional development mechanisms on native title processes for a range of stakeholders.

Recommendation 3 **7**

The committee recommends that the Department of Environment and Science and the Quandamooka Yoolooburrabee Aboriginal Corporation – as joint managers of the protected area:

- give consideration to the establishment of consultative activities at which timely and consistent information can be provided to businesses, residents and other stakeholders
- complement statutory consultation requirements for the preparation of the draft Management Plan for protected areas on Moreton Island/Mulgumpin, with additional accessible consultation activities.

1 Introduction

1.1 Role of the committee

The State Development and Regional Industries Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 26 November 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The committee's primary areas of responsibility include:

- State Development, Infrastructure, Local Government and Planning
- Agricultural Industry Development, Fisheries and Rural Communities
- Regional Development, Manufacturing and Water.

The functions of a portfolio committee include the examination of bills in its portfolio area to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles
- matters arising under the *Human Rights Act 2019*.²

The Nature Conservation and Other Legislation (Indigenous Joint Management - Moreton Island) Amendment Bill 2020 (Bill) was introduced into the Legislative Assembly and referred to the committee on 3 December 2020 for report to the Legislative Assembly by 12 February 2021. The committee was granted a reporting extension to 8 March 2021 by the Committee of the Legislative Assembly to undertake further consultation.

1.2 Inquiry process

56th Parliament

This Bill was first introduced in July 2020 during the 56th Parliament and referred to the former State Development, Tourism, Innovation and Manufacturing Committee for examination and report. The committee conducted an inquiry comprising a call for public submissions, public briefing with departmental officials, public hearing in Cleveland, and site visit to Moreton Island/Mulgumpin.

The former committee tabled its report in August 2020 (**See Appendix A**) and made two recommendations:

- That the Bill be passed
- That the Queensland Government, in partnership with the Quandamooka Yoolooburrabee Aboriginal Corporation, complement statutory consultation requirements for the draft Management Plan for Moreton Island, with further accessible consultation activities, including community information sessions.³

The Bill did not progress to a second reading and lapsed on 6 October 2020 on dissolution of the 56th Parliament. A government response to the report was tabled in the Legislative Assembly on 11 November 2020 by the then Minister for Employment and Small Business, and Minister for Training

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

² *Parliament of Queensland Act 2001*, s 93; and *Human Rights Act 2019* (HRA), ss 39, 40, 41 and 57.

³ State Development, Tourism, Innovation and Manufacturing Committee, Report No. 3, 56th Parliament, Nature Conservation and Other Legislation (Indigenous Joint Management – Moreton Island) Amendment Bill, August 2020, p iv.

and Skills Development. The response stated that the Government noted the committee's recommendation and that it would be further considered prior to the introduction of the Bill.⁴

Committee comment

The committee acknowledges the work of the former State Development, Tourism, Innovation and Manufacturing Committee in preparing its *Report No. 3, 56th Parliament, Nature Conservation and Other Legislation (Indigenous Joint Management – Moreton Island) Amendment Bill*, tabled August 2020. This committee endorses that report and its recommendations. This report should be therefore be read in conjunction with the former committee's report which is attached at **Appendix A**.

57th Parliament

On 3 December 2020, the Bill was introduced to the Legislative Assembly and referred to the committee for examination and report. The Bill is identical to that considered by the former committee.⁵

The committee invited written submissions on the Bill, particularly those which provided updated information, or discussed the former committee's recommendations. The committee received 12 submissions. **(See Appendix B)**

The committee conducted a public briefing with officials from Queensland Parks and Wildlife Services and Partnerships (QPWS&P) with the Department of Environment and Science (department/DES); and Land and Native Title Services, Department of Resources, on 17 December 2020. **(See Appendix C)** Departmental officials also provided answers to questions on notice, responses to issues raised in submissions, and addressed other matters during the course of the inquiry.

On 1 March 2021, the committee met with Quandamooka Elders and senior representatives of the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC) on Country at Mulgumpin. Over the course of the visit the group discussed native title, joint management and cultural heritage matters, and visited Cape Moreton, Eagers Cultural Camp and Koorringal. On 1 and 2 March 2021 the committee met with local business and community representatives at the Tangalooma Resort and local Fire Station, Bulwer. **(See Appendix D)**

All inquiry documents including submissions, transcripts of proceedings, questions on notice, and other correspondence are available on the committee's inquiry [web page](#).

1.3 Policy objectives of the Bill

In November 2019, the Federal Court of Australia made a native title consent determination recognising the Quandamooka people's native title rights on Moreton Island - Mulgumpin as it is known to the Quandamooka people.

As part of the native title claim process, the State of Queensland and the Quandamooka people negotiated a number of settlement outcomes. This included an agreement to work towards joint management of protected areas on Mulgumpin.⁶

⁴ Minister for Employment and Small Business, Minister for Training and Skills Development, Correspondence, 11 November 2020, p 1.

⁵ Public briefing transcript, Brisbane, 17 December 2020, p 2.

⁶ Public briefing transcript, Brisbane, 17 December 2020, p 2.

Around 98 per cent of Moreton Island is dedicated as protected area as national park and conservation park under the *Nature Conservation Act 1992* (NCA).⁷ The area is also a recreation area declared under the *Recreation Areas Management Act 2006* (RAMA).⁸

The primary objective of the Bill is to provide the legislative framework for implementation of the joint management arrangements. Specifically, the Bill:

- amends the *Aboriginal Land Act 1991* (ALA) to give prescribed protected areas on Mulgumpin the status of transferable land so that they may be granted as Aboriginal land
- inserts references to Moreton Island in relevant sections of the ALA to recognise the Indigenous Management Agreement (IMA) between the State and QYAC and facilitate the declaration of an Indigenous Joint Management Area (IJMA)
- amends the NCA to provide for the declaration of an IJMA over the national park and conservation park on Mulgumpin
- amends the RAMA to ensure consultation with QYAC and other requirements, as specified in the IMA, are met before certain permits and authorities are granted within the jointly managed area.⁹

According to the explanatory notes, the legal framework will primarily be achieved by amending or mirroring existing sections of the NCA and ALA that currently apply to the Cape York Peninsula region and North Stradbroke region, which have been specifically defined to provide for joint management of protected lands in these areas.¹⁰

1.4 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

The committee recommends the Nature Conservation and Other Legislation (Indigenous Joint Management - Moreton Island) Amendment Bill 2020 be passed.

Recommendation 1

The committee recommends the Nature Conservation and Other Legislation (Indigenous Joint Management - Moreton Island) Amendment Bill 2020 be passed.

⁷ South East Queensland Biogeographic Region, Moreton Island National Park, Cape Moreton Conservation Park and Moreton Island Recreation Area Management Plan, April 2007, p 5

⁸ Public briefing transcript, Brisbane, 17 December 2020, p 2.

⁹ Public briefing transcript, Brisbane, 17 December 2020, pp 1-2.

¹⁰ Explanatory notes, p 2-3.

2 Examination of the Bill

Committee comment

As previously noted, this report should be read in conjunction with the former committee's report attached at **Appendix A**. This section builds on information contained in the former committee's report, updates information where available, and provides clarity where the committee has made additional recommendations.

2.1 Building understanding of native title and joint management arrangements

In November 2019, the Federal Court of Australia made a native title consent determination recognising the Quandamooka people's native title rights on Moreton Island – Mulgumpin. Like all native title applications, extensive negotiations between the parties were held in the lead up to the final consent determination. As part of the Mulgumpin claim process, an Indigenous Land Use Agreement (ILUA) and an IMA were negotiated between the Queensland Government and representatives of the Quandamooka People – QYAC. These documents included an agreement to work towards joint management of protected areas on Mulgumpin.¹¹

Joint management is a specific model of protected area management that provides for land management to occur jointly between the State and an Indigenous land owner under the ALA. Under the Mulgumpin joint management arrangements, decisions about the protected areas are to be made jointly between the QPWS&P and QYAC.¹² Joint management will occur in accordance with an IMA for the IJMA.

The nature of information to be contained in an IMA is stipulated by the ALA and includes among other things: interim management arrangements; Ministerial and trustee responsibilities; details of how a management plan will be developed; areas where public access may be restricted; infrastructure management; and how existing and future interests in the land will be created and managed.¹³ The ALA also stipulates that an IJMA must not result in a decrease, in the aggregate, in the public rights of access that existed in relation to the national park immediately prior to it becoming an IJMA.¹⁴

The IMA is an ancillary document to the ILUA agreed between the State and Quandamooka people. The ILUA contains a confidentiality clause which places restrictions on the release of the document to other parties.¹⁵ The committee has not viewed a copy of the IMA as part of its consideration of the Bill.¹⁶

Committee comment

The committee acknowledges the native title determination of the Federal Court of Australia recognising the Quandamooka People's native title rights on Mulgumpin, and the settlement outcomes agreed between the State and Quandamooka People as part of this process.

The committee respects the comprehensive and confidential nature of this process, and the complex and sensitive negotiations leading to these outcomes.

In its submission to the inquiry, QYAC suggested that the process of Native Title, particularly the content of native title rights that have already been recognised at law, was not well understood. QYAC

¹¹ Public briefing transcript, Brisbane, 17 December 2020, p 2.

¹² Public briefing transcript, Brisbane, 17 December 2020, p 2.

¹³ Section 170, *Aboriginal Land Act 1991*.

¹⁴ Section 170(2), *Aboriginal Land Act 1991*.

¹⁵ Department of Environment and Science, correspondence 12 January 2021, p 1.

¹⁶ Department of Environment and Science, correspondence 12 January 2021, p 1.

stated that it had requested that the National Native Title Tribunal assist to host educational workshops for community on Mulgumpin to support understanding of the legal basis of Native Title.¹⁷

Committee comment

The committee welcomes the intention of QYAC to host, with assistance from the National Native Title Tribunal, community workshops to support understanding of native title and its legal ramifications. The committee is hopeful that this will be an important step in building understanding of native title process, as well as constructive relationships with the community. The committee recommends that the Department of Aboriginal and Torres Strait Islander Partnerships considers developing training, education and professional development mechanisms on native title processes for a range of stakeholders affected by native title processes.

Recommendation 2

The committee recommends that the Department of Aboriginal and Torres Strait Islander Partnerships considers developing training, education and professional development mechanisms on native title processes for a range of stakeholders.

2.2 Improving consultation and transparency of information

According to the explanatory notes, Government consultation on the Bill occurred with QYAC and that no other consultation occurred due to the confidential nature of negotiations relating to the native title claim.¹⁸

The adequacy of consultation was raised by several inquiry participants who indicated that the confidential nature of the ILUA and IMA made it difficult to understand the possible future impacts of the joint management arrangements and Bill.¹⁹ By way of example, Moreton Island Adventures, a family run business operating tourism and recreational services, stated:

Moreton Island Adventures is concerned about the fact there is no visibility about the terms of the agreement that has already been reached between QYAC and the State about how the land is proposed to be managed, and, in particular, those areas where general public access may be restricted.²⁰

A similar opinion was submitted by the Koorringal Residents Association:

The secretive nature of the ILUA, the IMA, the decision making and the future decision making between QYAC and the Queensland Government for the use of the island has been and remains very concerning to many.²¹

Departmental officials outlined reasons as to why confidentiality was needed. Mr Klaassen, Deputy Director-General of QPWS&P, explained that it was common practice in Australia for the contents of ILUAs to remain confidential as native title discussions typically occur on a 'confidential and without prejudice basis':

... as with most of the Indigenous land use agreements registered in Australia under the *Commonwealth Native Title Act 1993*, the contents of these agreements are confidential between the parties because discussions usually occur on a confidential and without prejudice basis as part of native title claim negotiations. The department is required to adhere to those confidentiality requirements while balancing the expectations of businesses and the community.²²

¹⁷ Quandamooka Yoolooburabee Aboriginal Corporation, submission 10, p 2.

¹⁸ Explanatory notes, p 4.

¹⁹ See submissions 2, 3 9 and 11. See also sections 2.3.7 and 2.3.8 of former committee's report.

²⁰ Moreton Island Adventures, submission 9, p 5.

²¹ Koorringal Landholders Association, submission 2, p 2.

²² Public briefing transcript, Brisbane, 17 December 2020, p 2.

Ms Brogan, Director, Land and Native Title Services, Department of Resources, also added that the Commonwealth *Native Title Act 1993* required ILUAs registered with the National Native Title Tribunal to be kept confidential in instances where parties do not wish details to be made public. The ILUA and IMA in this case were registered on 29 May 2020.²³ Ms Brogan also advised that the Native Title Act did not place any constraints on the publication of ILUAs and IMAs, however the registered ILUA contained a confidentiality clause agreed to by all parties. This was also considered standard practice.²⁴

In December 2020, Mr Klaassen of QPWS&P advised that the department had met with QYAC to discuss how best to consult with local business and community about transition to joint management arrangements. QPWS&P indicated that a meeting would take place early 2021.²⁵ At its visit to Moreton Island, the committee heard from local operators who attended this meeting. Many acknowledged that there was much opportunity for collaboration with the Quandamooka People and the enhancement of the cultural-tourism offering on the island. However, reservations were relayed about new conditions attached to the renewal of commercial activity permits. Resident groups also called for more information around the joint management arrangements.²⁶

A new Management Plan for Gheebulum Coonungai (Moreton Island) National Park and Moreton Island Recreation Area is to be developed. Mr Jamie Merrick, Director General of DES, advised that ‘the new plan will be developed under the Queensland Parks and Wildlife Service Value Based Management Framework, a contemporary approach based on international standards.’²⁷ Mr Merrick also advised that the draft Management Plan will reflect those elements of the IMA where they relate to management of the IJMA. The recently gazetted Naree Budjong Djara Management Plan, that covers protected areas that are also Quandamooka Country, provides an example of how information contained in an IMA is communicated to the public.²⁸

The former committee acknowledged the opportunity for more effective consultation on the Management Plan and recommended that the Queensland Government, in partnership with QYAC, complement statutory consultation requirements for the draft Management Plan for Moreton Island, with more accessible consultation activities, including community information sessions.²⁹

In response to this recommendation, Mr Klaassen, Deputy Director-General of QPWS&P, advised that ‘the department will incorporate further consultation into the planning process to address requests from members of the community and business owners for further information and consultation sessions in relation to the future management of protected areas on Mulgumpin’.³⁰

The Director-General advised that QYAC and the department have initiated a co-designed planning process to review the Management Plan. Work is ongoing on the timeline and key milestones for the review of the management plan, alongside thematic strategies and consultation processes. Subject to

²³ Department of Resources, correspondence 13 January 2021, attachment, p 1.

²⁴ Department of Resources, correspondence 13 January 2021, attachment, p 1

²⁵ Public briefing transcript, Brisbane, 17 December 2020, p 2.

²⁶ Site visit, Moreton Island, 1 – 2 March 2021.

²⁷ Department of Environment and Science, correspondence, 20 January 2021, attachment, p 1; Department of Environment and Science, correspondence, 21 January 2021, attachment, p 5.

²⁸ The management plan is available at the following link: <https://parks.des.qld.gov.au/parks/naree-budjong-djara/about/naree-budjong-djara-management-plan>

²⁹ State Development, Tourism, Innovation and Manufacturing Committee, Report No. 3, 56th Parliament, Nature Conservation and Other Legislation (Indigenous Joint Management – Moreton Island) Amendment Bill, August 2020, p iv.

³⁰ Public briefing transcript, Brisbane, 17 December 2020, p 3.

endorsement of the project plan by QYAC and DES, planning is anticipated to officially commence in March 2021.³¹

Committee comment

The committee welcomed departmental advice that meetings would be held with commercial operators in early 2021 to discuss transition to joint management arrangements. That said, it appears more can be done to support clarity and certainty, particularly around conditions associated with the renewal of commercial activity permits.

The committee endorses and reiterates the recommendation of the former committee that the Queensland Government, in partnership with the Quandamooka Yoolooburrabee Aboriginal Corporation, complement statutory consultation requirements for the preparation of the draft Management Plan for Moreton Island, with additional activities.

The committee adds to that, and recommends that the Department of Environment and Science and Quandamooka Yoolooburrabee Aboriginal Corporation – as joint managers of the protected area – give consideration to the establishment of consultative activities at which timely and consistent information can be provided to businesses, residents and other stakeholders.

The committee welcomed the commitment of the Department of Environment and Science that additional consultation will be incorporated into the planning process for the new Management Plan.

Recommendation 3

The committee recommends that the Department of Environment and Science and the Quandamooka Yoolooburrabee Aboriginal Corporation – as joint managers of the protected area:

- give consideration to the establishment of consultative activities at which timely and consistent information can be provided to businesses, residents and other stakeholders
- complement statutory consultation requirements for the preparation of the draft Management Plan for protected areas on Moreton Island/Mulgumpin, with additional accessible consultation activities.

2.3 Permit applications

The Bill inserts a new section into the RAMA to provide that the department may only issue a permit to carry out certain activities in the IJMA, if all requirements relating to issuing the permits are satisfied. This includes among other things, consulting with the Indigenous land owners and obtaining prior written consent.³²

Some stakeholders sought clarity on how the permitting regime would work in practice, particularly in cases where QYAC does not consent to the grant or renewal of a permit. Some called for additional safeguards including an appeal process.³³ Operators also sought clarity and certainty around new conditions associated with the renewal of commercial activity permits, scheduled to expire on 31 March 2021. This includes requirements around cultural training, land access, and the involvement of Indigenous tour guides on the island. Operators also called for the term of commercial activity permits to be extended to enable business development and access to finance, noting that Mr Klaassen confirmed that the department had agreed with QYAC that existing permits were to be extended for a period of two years, from registration of the ILUA and IMA which took place in May 2020.³⁴

³¹ Department of Environment and Science, correspondence, 20 January 2021, attachment, p 3.

³² Nature Conservation and Other Legislation (Indigenous Joint Management – Moreton Island) Amendment Bill 2020, cl 23.

³³ See for example submissions 2, 9 and 11.

³⁴ Public briefing transcript, Brisbane, 17 December 2020, p 9.

Mr Klaassen, Deputy Director General of QPWS&P, advised that consultation with Indigenous land owners 'is a fundamental principle of joint management and it is entirely reasonable to seek the views of the owners of the land during the permit application process'.³⁵

Mr Klaassen of QPWS&P, explained that as the protected areas on Moreton Island also fall within the recreation area declared under the RAMA, the Bill amends this act to mirror existing consultation requirements contained in the NCA as 'this will ensure consistent consultation processes occur with the Indigenous landholder irrespective of which legislation a permit for activities on Mulgumpin is sought under'.³⁶

Correspondence from the department also confirmed that the joint management arrangements will be similar to those on Minjerribah where camping and vehicle access permits are granted by QYAC; and other leases, agreements, licences, permits and authorities under the relevant legislation are granted by DES in consultation with QYAC in accordance with existing legislation.³⁷

Asked about what measures were in place to ensure that the permit assessment process was fair, Mr Klaassen explained that there was an established assessment process in place under the NCA and RAMA and that this process included both internal and external review mechanisms. Mr Klaassen assured the committee that the assessment framework ensured equity, fairness and objectivity:

In terms of the commercial operators, there is an established process for permit assessment under either the Nature Conservation Act or the Recreation Areas Management Act which provides for transparency. If someone is not satisfied with a decision there is an internal review process, and then there is ultimately a QCAT process that someone can appeal to. There is a process there. We have, through the Indigenous management agreement, some parameters we and QYAC will deal with which we cannot be specifically public about, but I assure you that they do provide a framework that ensures equity, fairness and overall objectivity in assessing applications that come before both partners.³⁸

Committee comment

The committee acknowledges the wishes of commercial operators seeking assurance that the assessment process is transparent and fair. The committee welcomes the advice from QPWS&P that the assessment framework outlined within the IMA provides for equity, fairness and objectivity and includes internal and external appeal processes. The committee encourages the Department of Environment and Science and the Queensland Government to outline how the assessment framework for Commercial Activity Permits on Mulgumpin will provide for equity, fairness and objectivity, including the details of any appeal mechanisms.

2.4 Implementation and governance

The Deputy Director-General of QPWS&P advised that \$16.22 million, over 4 years, and on ongoing allocation of \$2.77 million, had been allocated to implement a joint management approach with the Quandamooka People on Mulgumpin. This figure includes a number of defined projects subject to certain state conditions. Further, revenue collected by the department under the RAMA, is available for reallocation to the Quandamooka People to deliver and manage campground, visitor and vehicle access services.³⁹

Transition to joint management is underway. Mulgumpin Camping has been established, and the campgrounds are now being jointly managed with QYAC. Staffing is also starting to come into place,

³⁵ Public briefing transcript, Brisbane, 17 December 2020, p 3.

³⁶ Public briefing transcript, Brisbane, 17 December 2020, p 3.

³⁷ Department of Environment and Science, correspondence, 21 January 2021, attachment, p 5.

³⁸ Public briefing transcript, Brisbane, 17 December 2020, p 5.

³⁹ Department of Environment and Science, Answers to Questions on Notice.

so some of those early programs are up and running.⁴⁰ A service agreement is in place with QYAC for the management of camping and vehicle access permits and facilities. The IMA also sets out requirements relevant to each party.⁴¹

The Deputy Director-General advised that DES has established corporate governance practices and internal control mechanisms and specific reporting protocols are in place to ensure that any funds provided are accounted for. This includes compliance with the Queensland Government's *Financial Management Practice Manual*, Queensland Audit Office Review, as part of annual financial audits, and audit and risk committee oversight. Furthermore, a senior officer working group and operational working group also have oversight of the funds.⁴²

Questions relating to the governance of QYAC were also raised by some committee members. The Office of the Registrar of Indigenous Corporations administers the *Commonwealth Corporations (Aboriginal and Torres Strait Islander) Act 2006* and is responsible for regulating the compliance of Prescribed Body Corporates – such as QYAC - with that Act.⁴³

Committee comment

The committee is satisfied that departmental governance arrangements in place are relevant and appropriate. The committee notes the role of the Office of the Registrar of Indigenous Corporations in regulating Prescribed Body Corporates.

2.5 Clarification of other matters

DES provided a number of clarifications in relation to information provided in submissions to the inquiry.

The department advised that there had been some misinterpretation of the land grants associated with the Bill. The department confirmed that, 'upon grant, the land is held in trust for the Quandamooka People and, as agreed between the State and QYAC as part of the resolution of native title claim, Moreton Island will continue to be managed as protected area. The land is not granted to QYAC for exclusive use'.⁴⁴ DES also confirmed that no land is removed from the national park through the process or any clause of the Bill. Additional State lands on Moreton Island are proposed to be added to the National Park (but will be subject to the requirements of the NCA) before being granted as Aboriginal land. Notwithstanding, the ILUA may apply to other State lands (such as Unidentified State Lands) on Moreton Island that are not protected area; however, these lands are not the subject of this Bill.⁴⁵

In relation to issues around land access, the department advised that the Bill does not contain any provisions to restrict public access. It also noted that under the NCA and RAMA, the Chief Executive is enabled to respond to emerging management requirements through the use of regulatory notices and the declaration of restricted access areas. These tools are already used by DES on protected areas if public access restrictions are considered necessary for circumstances such as health and safety, land rehabilitation, infrastructure installation and maintenance, disaster recovery, pest and fire management operations, and protection of natural and cultural sites.⁴⁶

⁴⁰ Public briefing transcript, Brisbane, 17 December 2020, p 7.

⁴¹ Department of Environment and Science, correspondence, 21 January 2021, p 3.

⁴² Public briefing transcript, Brisbane, 17 December 2020, p 3.

⁴³ Public briefing transcript, Brisbane, 17 December 2020, p 3.

⁴⁴ Department of Environment and Science, correspondence, 21 January 2021, p 4.

⁴⁵ Department of Environment and Science, correspondence, 21 January 2021, p 4.

⁴⁶ Department of Environment and Science, correspondence, 21 January 2021, p 6.

3 Compliance with the *Legislative Standards Act 1992*

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992 (LSA)* states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals
- the institution of Parliament.

Committee comment

The former committee examined the application of the fundamental legislative principles to the Bill. The committee makes no further comment on this matter and refers readers to chapter 3 of the report in **Appendix A**

3.2 Explanatory notes

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.

Committee comment

The former committee concluded that the explanatory notes were tabled with the introduction of the Bill and that the notes are fairly detailed and 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. The committee makes no further comment on this matter and refers readers to chapter 3 of the report in **Appendix A**.

4 Compliance with the *Human Rights Act 2019*

The portfolio committee responsible for examining a Bill must consider and report to the Legislative Assembly about whether the Bill is not compatible with human rights, and consider and report to the Legislative Assembly about the statement of compatibility tabled for the Bill.⁴⁷

Committee comment

The former comment made comment on a number of human rights issues. The committee makes no further comment on this matter and refers readers to chapter 4 of the report in **Appendix A**.

⁴⁷ HRA, s 39.

**Appendix A – Report No. 3, 56th Parliament, State Development, Tourism,
Innovation and Manufacturing Committee**

Nature Conservation and Other Legislation (Indigenous Joint Management - Moreton Island) Amendment Bill 2020

Report No. 3, 56th Parliament
State Development, Tourism, Innovation and
Manufacturing Committee
August 2020

State Development, Tourism, Innovation and Manufacturing Committee

| | |
|-----------------------------|---|
| Chair | Mr Duncan Pegg MP, Member for Stretton |
| Deputy Chair | Mr Jon Krause MP, Member for Scenic Rim ¹ |
| Members | Ms Sandy Bolton MP, Member for Noosa Mr Mark Boothman MP, Member for Theodore Ms Cynthia Lui MP, Member for Cook Mrs Charis Mullen MP, Member for Jordan |
| Participating Member | Dr Mark Robinson MP, Member for Oodgeroo ² |

Committee Secretariat

| | |
|---------------------------------------|--|
| Telephone | +61 7 3553 6662 |
| Fax | +61 7 3553 6699 |
| Email | sdtimc@parliament.qld.gov.au |
| Technical Scrutiny Secretariat | +61 7 3553 6601 |
| Committee webpage | www.parliament.qld.gov.au/sdtimc |

Acknowledgements

The committee acknowledges representatives from the Department of Environment and Science; Department of Natural Resources, Mines and Energy; and Queensland Parks and Wildlife Service for their assistance throughout the inquiry.

¹ Dr Mark Robinson MP, Member for Oodgeroo, was a substitute member for Mr Jon Krause MP, Member for Scenic Rim, for committee business on 17 August 2020.

² The Member for Oodgeroo was granted leave by the committee to participate at the committee's hearing on 5 August 2020.

Contents

| | |
|---|------------|
| Abbreviations | ii |
| Chair’s foreword | iii |
| Recommendations | iv |
| 1 Introduction | 1 |
| 1.1 Role of the committee | 1 |
| 1.2 Inquiry process | 1 |
| 1.3 Policy objectives of the Bill | 1 |
| 1.4 Government consultation on the Bill | 2 |
| 1.5 Should the Bill be passed? | 3 |
| 2 Examination of the Bill | 4 |
| 2.1 Moreton Island/Mulgumpin | 4 |
| 2.1.1 Native title process and determination | 4 |
| 2.2 Joint Management Arrangements | 6 |
| 2.2.1 What is joint management | 7 |
| 2.2.2 Steps towards joint management | 8 |
| 2.3 Stakeholder views | 9 |
| 2.3.1 Recognition of rights held by Quandamooka People | 9 |
| 2.3.2 Benefits of joint arrangements | 9 |
| 2.3.3 Cultural heritage | 13 |
| 2.3.4 Environmental benefits | 14 |
| 2.3.5 QYAC Governance | 16 |
| 2.3.6 Cost of joint management implementation | 19 |
| 2.3.7 Visibility of terms in the Indigenous Management Agreement | 20 |
| 2.3.8 Consultation | 24 |
| 2.3.9 Management plan and consultation going forward | 26 |
| 2.3.10 QYAC consultation and consent requirements relating to permit applications | 27 |
| 2.3.11 Minor amendments | 31 |
| 2.3.12 Local issues outside scope of Bill | 31 |
| 3 Compliance with the <i>Legislative Standards Act 1992</i> | 34 |
| 3.1 Fundamental legislative principles | 34 |
| 3.2 Explanatory notes | 34 |
| 4 Compliance with the <i>Human Rights Act 2019</i> | 35 |
| 4.1 Human rights limitations | 35 |
| 4.2 Statement of compatibility | 35 |
| Appendix A – Submitters | 36 |
| Appendix B – Officials at public departmental briefing | 37 |
| Appendix C – Witnesses at public hearing | 38 |

Abbreviations

| | |
|--------------------|--|
| ALA | <i>Aboriginal Land Act 1991</i> |
| Bill | Nature Conservation and Other Legislation (Indigenous Joint Management-Moreton Island) Amendment Bill 2020 |
| committee | State Development, Tourism, Innovation and Manufacturing Committee |
| DDG | Deputy Director-General |
| DES/the department | Department of Environment and Science |
| DNRME | Department of Natural Resources, Mines and Energy |
| Federal Court | Federal Court of Australia |
| HRA | <i>Human Rights Act 2019</i> |
| IJMA | Indigenous Joint Management Area |
| ILUA | Indigenous Land Use Agreement |
| IMA | Indigenous Management Agreement |
| LSA | <i>Legislative Standards Act 1992</i> |
| Management plan | <i>Moreton Island National Park, Cape Moreton Conservation Park and Moreton Island Recreation Area Management Plan</i> |
| Minjerribah | North Stradbroke Island is known as Minjerribah to the Quandamooka people |
| Mulgumpin | Moreton Island is known as Mulgumpin to the Quandamooka people |
| NCA | <i>Nature Conservation Act 1992</i> |
| NTA (Cth) | <i>Native Title Act 1993 (Cth)</i> |
| NTA (Qld) | <i>Native Title (Queensland Act) 1993.</i> |
| NNTT | National Native Title Tribunal |
| ORIC | Office of the Registrar of Indigenous Corporations |
| QPWS | Queensland Parks and Wildlife Service |
| QALSMA | Quandamooka Land and Sea Management Agency |
| QYAC | Quandamooka Yoolooburrabee Aboriginal Corporation |
| RAMA | <i>Recreation Areas Management Act 2006</i> |
| RNTBC | Registered Native Title Bodies Corporate |
| State | State of Queensland |

Chair's foreword

This report presents a summary of the State Development, Tourism, Innovation and Manufacturing Committee's examination of the Nature Conservation and Other Legislation (Indigenous Joint Management - Moreton Island) Amendment Bill 2020.

Moreton Island, or Mulgumpin as it is known to the Quandamooka People, is one of the largest sand islands in the world. With its impressive natural features, the island is of considerable environmental and cultural significance, and is an important recreation area for many visitors each year.

In November last year, the Federal Court of Australia made a native title consent determination recognising the Quandamooka People's native title rights on Mulgumpin. The determination included a series of land agreements. This included that protected areas on the island be jointly managed by the state and the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC).

The Bill, provides the legal framework for those arrangements to be implemented and the committee has recommended that the Bill be passed.

During the inquiry, the committee welcomed the opportunity to speak with QYAC, local residents and tourism operators regarding the introduction of joint management arrangements.

The committee heard that joint management can deliver benefits for both traditional owners and the broader community. Opportunities include economic development through the provision of jobs and quality visitor experiences; enhanced conservation and protection of national park and recreation areas; and opportunity for increased cultural tourism and education on the island. The pandemic situation that we find ourselves in, makes it more important than ever that all parties work collaboratively to ensure that these benefits can be realised.

During the public hearings in relation to this Bill, QYAC was subject to intensive and repetitive questions regarding their finances from Non-Government Members (excluding the Member for Noosa). In the nearly 6 years that I have served on Committees, I have not seen an organisation subjected to such a concerted line of questioning. Interestingly, these issues were hardly raised by submitters. Notwithstanding these attacks, QYAC answered all questions extensively and provided further documentary evidence to substantiate their position. As outlined in this Report, the Department also confirmed joint management funds are subject to corporate governance and internal control mechanisms. While this additional documentation and assurances from the Department may not satisfy the abovementioned Non-Government Members, I am confident that they would satisfy a reasonable person.

The committee also heard calls from residents and local tourism businesses for further consultation and information regarding the arrangements. The committee understands that consultation is planned as part of the development of a new management plan for the area. The committee has recommended that the government, in partnership with QYAC, complement this statutory requirement with further consultation and information sessions, in a manner that is accessible for all who wish to participate.

On behalf of the committee I thank all those individuals and organisations who took the time to participate in the committee's inquiry. I also thank representatives from Queensland Parks and Wildlife Service, QYAC and Tangalooma Resort for sharing their wealth of knowledge about the island during the committee's site visit. I also thank our Parliamentary Service staff for their professional support throughout.

I commend this report to the House.



Duncan Pegg MP

Chair

Recommendations

Recommendation 1

3

The committee recommends the Nature Conservation and Other Legislation (Indigenous Joint Management-Moreton Island) Amendment Bill 2020 be passed.

Recommendation 2

27

The committee recommends that the Queensland Government, in partnership with the Quandamooka Yoolooburrabee Aboriginal Corporation, complement existing statutory consultation requirements on the draft Management Plan for Moreton Island, with further accessible consultation activities, including community information sessions.

1 Introduction

1.1 Role of the committee

The State Development, Tourism, Innovation and Manufacturing Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 21 May 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.³

The committee's primary areas of responsibility include:

- State Development, Tourism and Innovation
- Regional Development and Manufacturing

The functions of a portfolio committee include the examination of bills in its portfolio area to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles
- matters arising under the *Human Rights Act 2019*.⁴

The Nature Conservation and Other Legislation (Indigenous Joint Management - Moreton Island) Amendment Bill 2020 (Bill) was introduced into the Legislative Assembly on 14 July 2020. The Bill was subsequently referred by the Committee of the Legislative Assembly to the committee on 16 July 2020, for examination and report to the Legislative Assembly by 28 August 2020.

1.2 Inquiry process

On 20 July 2020 the committee invited stakeholders and subscribers to make written submissions on the Bill. A total of eleven submissions were received. A list of submitters is provided at Appendix A.

The committee received a public briefing about the Bill from representatives of the Department of Environment and Science (the department/DES) and the Department of Natural Resources, Mines and Energy (DNRME) on 27 July 2020. A list of officials participating in the briefing is provided at Appendix B. The committee also received written advice from the department in response to matters raised in submissions, which is available on the inquiry website.

The committee conducted a public hearing in Cleveland on 5 August 2020, hearing from the Quandamooka Yoolooburabee Aboriginal Corporation (QYAC), and residents and tourism operators on Moreton Island. A list of witnesses is provided in Appendix C.

The committee also undertook a site visit to Moreton Island on 17 August 2020, visiting sites of environmental and cultural significance, and meeting with Queensland Parks and Wildlife Service (QPWS) and QYAC rangers, and local operators.

Inquiry documents including submissions, transcripts of proceedings, answers to questions on notice, tabled documents and correspondence are available on the committee's inquiry webpage.

1.3 Policy objectives of the Bill

In November 2019, the Federal Court made a native title consent determination recognising the Quandamooka people's native title rights on Moreton Island. As part of the consent determination process, a number of settlement outcomes were negotiated between the State of Queensland (State) and the Quandamooka people. This included an agreement to work towards joint management of protected areas on Moreton Island, or Mulgumpin as it is known to the Quandamooka people.

³ *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

⁴ *Parliament of Queensland Act 2001*, s 93; and *Human Rights Act 2019*, ss 39, 40, 41 and 57.

The primary objective of the Bill is to provide the legislative framework for the implementation of the joint management of protected areas on Moreton Island as agreed by the State and QYAC – in its role as trustee for the land under the *Aboriginal Land Act 1991* (ALA).

To provide the necessary legal framework for joint management arrangements, the Bill amends the ALA, the *Nature Conservation Act 1992* (NCA) and the *Recreation Areas Management Act 2006* (RAMA).

The Bill also proposes a number of minor, unrelated amendments to legislation to provide clarification about the operation of existing provisions and provide consistency across related legislation.

1.4 Government consultation on the Bill

Government consultation relating to amendments outlined in the Bill occurred with QYAC. No other consultation occurred due to the confidential nature of negotiations relating to the native title claim on the area:

QYAC was consulted on the amendments relevant to delivering joint management of protected areas on Moreton Island. This outcome is the result of confidential negotiations between the State and QYAC as part of the settlement of the Quandamooka native title claim through a consent determination process. As such, no other consultation occurred in relation to these amendments.⁵

Concerns regarding a lack of consultation on the Bill, as well as the confidential land management agreements negotiated as part of the native title determination, were raised by several inquiry participants.

In relation to the Bill, Ms Elizabeth Hemmens, CEO, Moreton Island Adventures (a fifth-generation family business which operates ferry, general store and accommodation services), argued that it was difficult to make submissions on the Bill, as Indigenous Land Use Agreements (ILUA), including related schedules remained confidential:

... the Indigenous land use agreement, including all of the schedules, needs to be made public to allow business, stakeholders and the community to make meaningful submissions on the bill... We understand that there is a reason for confidentiality to date. However, it is very difficult to make submissions on this bill when it constantly refers to the ILUA [Indigenous Land Use Agreement] and the schedules. We do not actually know what the intended changes are because the ILUA is confidential ... we request that this be made public.⁶

The majority of Moreton Island is protected area. As such, it is managed in accordance with the *Moreton Island National Park, Cape Moreton Conservation Park & Moreton Island Recreation Area Management Plan* (management plan). A review of the management plan is to take place and a new management plan developed in partnership with QYAC. The department advised that public consultation will form part of this process:

This will be done as soon as practicable in partnership with QYAC and in consultation with the community. This will be done in a similar manner to the development of the new Minjerribah (North Stradbroke Island) draft Naree Budjong Djara National Park Management Plan that was jointly developed and released for public consultation in July 2020.

The new plan will be produced using a values-based planning framework that is based on international standards and public submissions will be sought and considered before the draft is finalised.

⁵ Explanatory notes, p 4.

⁶ Public hearing transcript, Cleveland, 5 August 2020, p 18.

The requirements of the NCA to publish a notice about the draft plan and ensure it is available for inspection and invite submissions as well as considering all submissions made about the draft plan will apply, so the public will be provided with an opportunity to provide submissions at the appropriate time.⁷

With reference to minor amendments proposed by the Bill, the explanatory notes state:

Other amendments to provide clarity and consistency are technical amendments and do not change the intent of the existing legislation. The amendments have no negative consequences and therefore consultation on these amendments was not considered necessary.⁸

1.5 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

Recommendation 1

The committee recommends the Nature Conservation and Other Legislation (Indigenous Joint Management-Moreton Island) Amendment Bill 2020 be passed.

⁷ DES, correspondence dated 7 August 2020, p 5.

⁸ Explanatory notes, p 4.

2 Examination of the Bill

2.1 Moreton Island/Mulgumpin

Moreton Island/Mulgumpin is a 37km long, 10km wide sand island located approximately 58 kilometres north-east of Brisbane on the eastern side of Moreton Bay. The island has a small resident population of between two and three hundred people, and is an important recreation area, receiving more than 170,000 visitors each year.⁹

Mulgumpin lies within the area referred to as Quandamooka, which is commonly defined as the region and Indigenous people of Moreton Bay and its islands. The Indigenous people of Quandamooka include the Ngugi (Moreton Island) and the Goenpul and Nunukal clans (North Stradbroke Island).¹⁰ Mulgumpin has a rich and significant cultural history and the Quandamooka People have a strong spiritual connection to the island, having more than 20,000 years' association with their Country.¹¹

View from Cape Moreton



Source: Site visit, State Development, Tourism, Innovation and Manufacturing Committee, 17 August 2020.

2.1.1 Native title process and determination

Native title describes the pre-existing rights and interests of Indigenous people under their traditional laws and customs that may continue today. On 27 November 2019, the Federal Court made a native title consent determination recognising the Quandamooka People's native title rights on Moreton Island. The determination related to approximately 98 per cent of the island and recognised the following rights:

- Live and be present on the determination area

⁹ DES, *Nature, culture and history*, <https://parks.des.qld.gov.au/parks/moreton-island/about/culture>.

¹⁰ QYAC, submission 11, p 2.

¹¹ DES, *Native title on Mulgumpin (Moreton Island) FAQ*, 2019, pp 1-2, https://parks.des.qld.gov.au/__data/assets/pdf_file/0014/165200/native-title-on-mulgumpin.pdf.

- Conduct traditional ceremonies
- Take, use, share and exchange traditional natural resources for traditional practices
- Conduct burial rites, teach about the physical and spiritual attributes of the area
- Maintain places of importance and areas of significance.¹²

Extract of welcome to country by Dr (Uncle) Bob Anderson, Public hearing, Cleveland, 5 August 2020

Yura, Yura! (Traditional language). Welcome to this part of the Quandamooka estate, Nandini. It is a pleasure for me to give the introduction to the discussion that we will be having around the issue of part of our cultural estate and, in particular, Mulgumpin. I must say too that my history and association, skin and bloodlines to country would take me back to my great grandmother, Winyeeaba, who was born on Mulgumpin estimated in the mid-1800s and if great grandmother was born on that land it would imply, I would suggest, that her parents would have been born on that land also, so our connection—spiritual connection and physical connection—with that area goes back generations and generations who would have seen the sails of the early sailing ships of Europeans passing through our seaways. Our association with that place is unlimited, is endless, and we say that the future for the area is much the same for us. When I speak I speak as a father, a grandfather, a great grandfather and I call to many nieces and nephews who have bloodlines and skin lines to that place. It is a pleasure for me to welcome you to this place today.

Yura, Yura! Welcome.

2.1.1.1 Native title process

The native title process is governed by the federal *Native Title Act 1993 (Cth)* (NTA Cth) and the *Native Title (Queensland Act) 1993* (NTA Qld). In its preamble, the NTA (Cth) recognises, that the Aboriginal peoples of Australia inhabited the country for many years prior to European settlement and that the Aboriginal peoples were progressively dispossessed of their lands. It records that the Constitution was amended, by the overwhelming vote of the people of Australia, to enable laws such as the Act to be passed and to facilitate recognition by our shared legal system of native title rights and interests.¹³

The native title claim process begins when a native title claim group, such as the Quandamooka People, file an application in the Federal Court of Australia (Federal Court) seeking a determination that recognises them as native title holders over the area claimed. The applicant for the Quandamooka People #4 claim relating to land and waters of Moreton Island, was the respected Ngugi Elder, Dr Robert Anderson OAM (Uncle Bob). The claim was filed in federal court and accepted for registration by the National Native Title Tribunal (NNTT) in 2014.¹⁴

This was followed by extensive negotiations between the Quandamooka People, the State and other respondents to the claim. Under section 66(3) of the NTA, the Native Title Registrar is required to notify certain people and organisations about the claimant application to ensure those who hold an interest in the land have opportunity to become involved in the Court proceedings, should they wish.

Once all parties reached in-principle agreement, consent documents were drafted, signed and lodged with the NNTT for determination by the Federal Court. On 27 November 2019, the Federal Court made its determination.¹⁵

¹² DES, *Native title on Mulgumpin (Moreton Island) FAQ*, 2019, pp 1-2, https://parks.des.qld.gov.au/__data/assets/pdf_file/0014/165200/native-title-on-mulgumpin.pdf.

¹³ NTA (Cth), Preamble.

¹⁴ DES, *Native title on Mulgumpin (Moreton Island) FAQ*, 2019, p 1, https://parks.des.qld.gov.au/__data/assets/pdf_file/0014/165200/native-title-on-mulgumpin.pdf.

¹⁵ Federal Court of Australia, *Quandamooka People (Mulgumpin Claim v State of Queensland (No 2)) [2019]*, <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2019/2019fca2001>

As part of the consent determination process, a number of settlement outcomes were negotiated between the State and the Quandamooka people. This included an agreement to work towards joint management of protected areas on Moreton Island.¹⁶

An agreement was also reached between QYAC and Tangalooma Island Resort. The State is not a party to this confidential agreement.¹⁷

2.1.1.2 Quandamooka Yoolooburrabee Aboriginal Corporation

QYAC is the prescribed body corporate established under the NTA (Cth) to manage the recognised native title rights and interests of the Quandamooka People. The Quandamooka people voted at authorisation meetings of the Mulgumpin native title claim for QYAC to have the authority to negotiate outcomes for Mulgumpin.¹⁸

At the committee's public hearing, Mr Costello, CEO, QYAC, described the significance of the determination:

*This is a jubilant occasion for the Quandamooka people. On 27 November, and after many, many years, the Federal Court recognised the Quandamooka people's—more importantly the Ngugi people's—connection to country on Mulgumpin and their native title rights and interests. Significantly, the 4 July determination on Minjerribah was not a grant of anything to the Quandamooka people; it merely recognised what they always had, which was a continuous connection to country and a continuous right to manage their lands. In that context, it is a great honour and we are humbled to see what our ancestors laid before us and what has happened on the island since colonisation, where we were chased off that land and deaths occurred in the process to a denial of what the Quandamooka had to now a process of joint management where we have come together and are on a journey of reconciliation to jointly manage and walk together to manage the national parks on Mulgumpin. This is a great journey for all of us.*¹⁹

QYAC is also the registered Cultural Heritage Body under the *Aboriginal Cultural Heritage Act 2003* (Qld) and is responsible for cultural heritage management across the Quandamooka estate.

2.1.1.3 Committee comment

The committee acknowledges the determination made by the Federal Court recognising the Quandamooka People's native title rights on Moreton Island, including the settlement outcomes relating to the joint management of protected areas. The committee respects the comprehensive and confidential nature of this process, as well as the complex and sensitive negotiations leading to these outcomes. As such, the committee does not intend to canvass matters raised by stakeholders relating to this process within this report.

2.2 Joint Management Arrangements

The majority of Moreton Island is protected area, being national park and conservation park under the NCA. The majority of the area is also included in a recreation area declared under the RAMA. Tidal wetlands and waters around the island are protected as part of the Moreton Bay Marine Park.²⁰ A map of protected areas on the island is provided below.

As noted above, a key outcome of the native title determination was that the land continue to be managed as protected area, and an agreement for the State and QYAC to enter into joint management

¹⁶ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 2.

¹⁷ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 4.

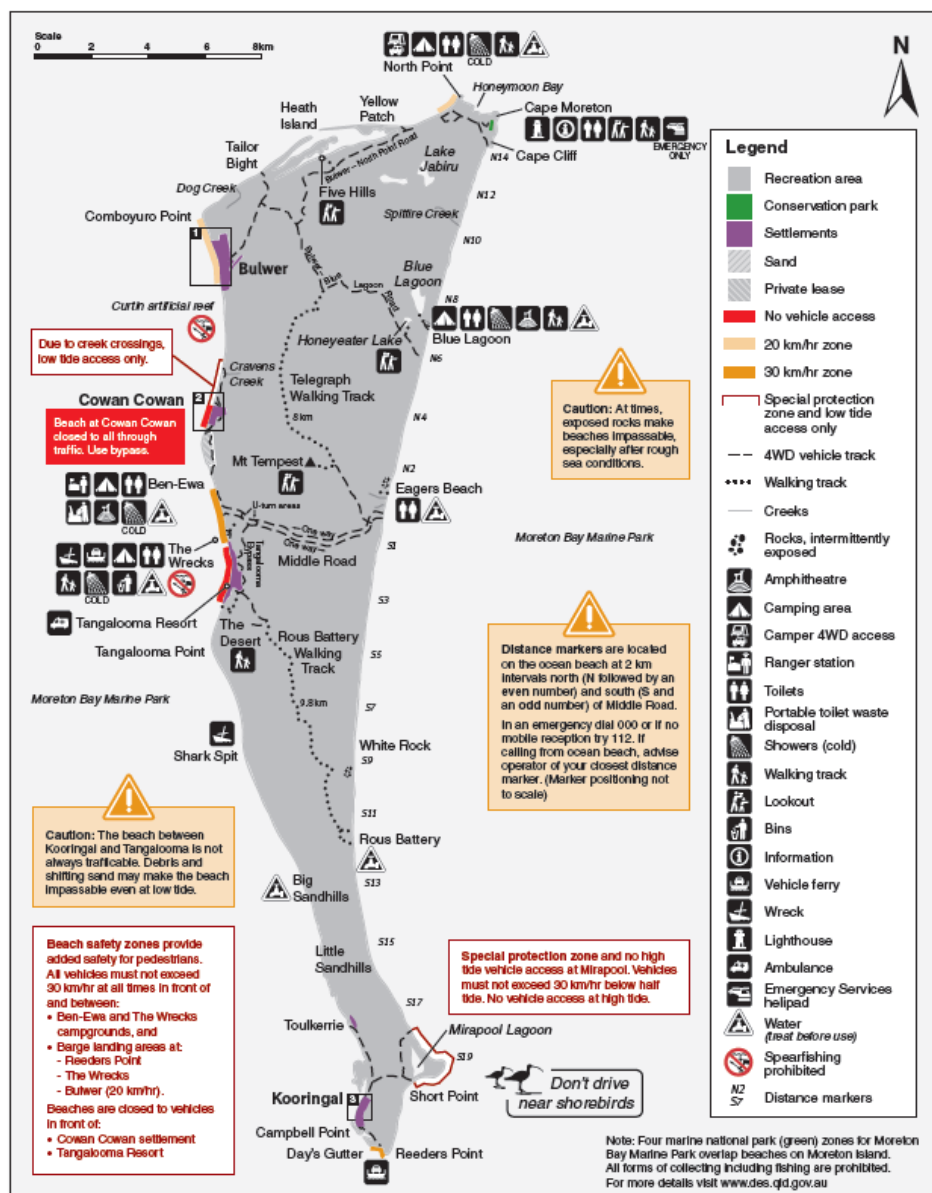
¹⁸ Fact sheet, undated, QYAC, Queensland Government, 'Native title on Mulgumpin (Moreton Island) Frequently asked questions', p 2.

¹⁹ Public hearing transcript, Cleveland, 5 August 2020, p 2.

²⁰ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 1.

arrangements for the protected area was reached. These are similar joint management arrangements implemented on Minjerribah / North Stradbroke Island following the Quandamooka Peoples' native title determinations over that land in 2011, and on the Cape York Peninsula.²¹

Moreton Island National Park and Recreation Area



Source: QPWS, DES. https://parks.des.qld.gov.au/data/assets/pdf_file/0027/164376/moreton-isl-np-rec-area.pdf.

2.2.1 What is joint management

Joint management is a specific model of protected area management that provides for management of land to occur jointly between QPWS within DES and the indigenous land holder – the trustee for the land under the ALA. Under joint management arrangements, decisions about land management will be made by the two parties in accordance with an Indigenous Management Agreement (or IMA). An IMA has been prepared for Mulgumpin. This is a confidential document agreed as part of the native title determination process.²² The committee has not seen a copy of this agreement.

²¹ Explanatory notes, p 1.

²² DES, correspondence dated 7 August 2020, pp 3-4.

Section 170 of the ALA sets out requirements as to what information an IMA must contain. This includes:

- how the land is proposed to be managed
- details of interim arrangements for its management before the approval of a management statement or management plan for the land
- responsibilities of the environment Minister, and the chief executive under the NCA, in relation to the management of land
- responsibilities of the trustee in relation to its management
- details of the process for developing a management statement or management plan for the land
- details of areas of the land to which general public access may be restricted
- information about the management any infrastructure on the land
- how existing interests in the land will be managed and how future interests in the land will be created and managed.²³

Section 170 of the ALA, also requires that an indigenous joint management area must not result in a decrease, in the aggregate, in the public rights of access that existed in relation to the national park immediately before it becomes an indigenous joint management area.²⁴

2.2.2 Steps towards joint management

During the inquiry, it was explained that a number of steps must take place in sequence before joint management arrangements can be implemented. The Bill proposes the necessary amendments to the legal framework to enable joint management to occur.

2.2.2.1 Transfer of the land

In order for the land to be granted as freehold land for the benefit of Aboriginal people, the land must first be made transferrable land. This is achieved by clause 3 of the Bill which amends section 10 of the ALA to provide a further category of transferrable land – that is, protected areas on Moreton Island, as identified in new section 175A of the ALA.²⁵ Clause 8 of the Bill defines the protected areas on Moreton Island as ‘a national park or conservation park under than an area that is an excluded protected area’.²⁶ Definitions of excluded protected areas have been added and include access roads and sites relevant to safety purposes.

Once the land becomes transferrable land, the Minister for the ALA may give direction to prepare Deeds of Grant and appoint QYAC as grantee of the land – as the Registered Native Title Bodies Corporate (RNTBC). Deeds of Grant then need to be submitted to the Governor in Council, and, if approved, handed over to the grantee.²⁷

²³ ALA, Part 11, Division 1, Section 170, <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1991-032#sec.170>.

²⁴ ALA, Part 11, Division 1, Section 170, <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1991-032#sec.170>.

²⁵ Explanatory notes, p 5.

²⁶ Bill, p 7.

²⁷ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 2.

In order for the land to be granted as Aboriginal freehold, a full survey of relevant areas must be undertaken. DNRME is working through the process of doing those required surveys to meet the requirement to have that land recorded in the land registry as freehold land.²⁸

The explanatory notes state that a series of land dealings must be resolved prior to declaration of an Indigenous Joint Management Area (IJMA).²⁹ State lands on Moreton Island (Mulgumpin) will be surveyed and approval sought from the Governor to dedicate and amalgamate additional state lands into the protected area estate.³⁰

2.2.2.2 Declaration of land as Indigenous Joint Management Area

When the Aboriginal land has been granted to the indigenous landholder, the Minister for the NCA may recommend that the Governor in Council make a regulation declaring the land to be an IJMA.³¹

Once the IJMA is declared, formal joint management arrangements come into effect.³²

2.3 Stakeholder views

Inquiry participants included QYAC, departmental representatives, local resident and business operators, interest groups, and individuals. Their views on the Bill are summarised below.

2.3.1 Recognition of rights held by Quandamooka People

QYAC submitted that the Bill should be recommended to be passed primarily because it reflects the outcome of a determination in the Federal Court, and the ILUA registered by the NNTT:

It delivers on recognition of rights held by Quandamooka People.

Each and every resident of Moreton Island, and any business were entitled to be Respondents to those proceedings, and be a part of the negotiations, and many people did. They had their day in court, as have the Quandamooka People and the Parliament is upholding that determination by passing this legislation. It is long past time when this recognition should have occurred, justice delayed, is justice denied. Should the Parliament choose to delay this legislation, it would represent a significant injustice to the Quandamooka People, and represent a significant impairment of their legal rights.³³

2.3.2 Benefits of joint arrangements

QYAC submitted that the arrangements will have considerable benefits, not only for the Quandamooka People, but the broader island community:

We believe Joint Management will benefit all residents, and businesses, and we confidently predict a similar outcome to Minjerribah where Quandamooka People are empowered to play a critical role in progressing a sustainable and vibrant future. To our children's children, a glad tomorrow.³⁴

²⁸ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 2.

²⁹ Explanatory notes, p 3.

³⁰ Mr Nicholas, Executive Director, Land and Native Title Services, Lands Divisions, DNRME, public briefing transcript, Brisbane, 27 July 2020, p 5.

³¹ Explanatory notes, p 3.

³² Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 2.

³³ Submission 11, pp 9 – 10.

³⁴ Submission 11, p 10.

*...We are really excited that joint management is going to be extended and that the success will be extended to Mulgumpin. That is going to bring great economic, social, cultural and environmental benefits to the residents, traditional owners and tourism sector of Mulgumpin.*³⁵

The department expressed a similar view:

In the longer term we hope to build an additional ranger base on the island which will provide more employment—jobs—and an economic return for the community. In terms of social and cultural impacts... It is about providing a greater connection for people to the traditional history of Mulgumpin, and the Quandamooka people are very keen to ensure that visitors get that traditional owner experience. They are working on projects to do that with tour operators and with visitors in general so they can understand the history and the traditional stories of the island. That will enhance people's visitation.

*Separate to what we have done, there are agreements with Tangalooma Island Resort—between Quandamooka and the resort—which we are not party to and there are benefits that flow from that. Overall, that is a range of economic, social and cultural outcomes that will be achieved through this particular bill proceeding.*³⁶

As noted above, joint management arrangements are in place on Cape York and on Minjerribah (North Stradbroke Island). The committee asked department representatives for advice on how successful these arrangements had been. The DDG, QPWS and Partnerships advised:

*Generally, they are all going quite successfully. We have committees that are established for each park where we work with the local traditional owners. We incorporate their aspirations into the management principles that we have put in place for the park. We understand sites of cultural significance and work with the traditional owners on how they can be managed. We work collaboratively in the space of authorisations for other activities, whether it is tourism operations, research permits or a range of other things. Overall, we are quite happy with how joint management is working. It gives the traditional owners a clear voice in how the country that is Aboriginal land can be and should be managed, and it is an ideal model for incorporating that into the particular way we manage the national parks. Overall, it is going quite well.*³⁷

2.3.2.1 Economic benefits for Quandamooka people

The gaps between economic and social outcomes for indigenous and non-indigenous people in Australia are widely documented. Reflecting on the experience in Minjerribah (North Stradbroke Island), QYAC submitted that poverty on the island was a function of two causes: remoteness and aboriginality. QYAC also observed that statistics of poverty in remote and Aboriginal areas are not very reliable and are likely to be underreported.³⁸

QYAC submitted the table below, which shows the different employment, participation and unemployment rates experienced by indigenous population in the Redland islands area, compared to Redland City as a whole. It highlights the lower levels of employment and participation experienced by indigenous population, and an unemployment rate double that of the Redland city population.

³⁵ Mr Costello, CEO, QYAC, public hearing transcript, Cleveland, 5 August 2020, p 2.

³⁶ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 4.

³⁷ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Cleveland, 27 July 2020, p 4.

³⁸ Submission 11, p 7.

Rates of employment, participation and unemployment Redland islands indigenous compared to Redland City.

| Rate for 15-64 yrs old | Employment | Participation | Unemployment |
|-----------------------------|------------|---------------|--------------|
| Redland Islands Indigenous | 0.364 | 0.455 | 0.15 |
| Redland City All population | 0.611 | 0.644 | 0.052 |

Source: QYAC, Submission 11, p 6.

QYAC submitted that the most strategic response identified by the Quandamooka People to address and improve poverty levels of Minjerribah is to provide stable employment, and training to ensure that employment outcomes are transferrable. QYAC pointed to improvements in employment outcomes that had been achieved in the last 8 years, as a result of the Minjerribah ILUA and IMA. The table below shows uplift in the number of positions across all teams, from a combined total of 4 positions, to around 31 positions.

Employment outcomes teams Minjerribah

| Team | 2011 | 2019 |
|---|------|------|
| QPWS | 4 | 8 |
| QYAC NBD (Naree Budjong Djara) | 0 | 6 |
| QYAC Community | | 5 |
| Minjerribah Camping Rangers | 0 | 3 |
| Indigenous Advancement Strategy / Department of Environment and Heritage Protection | 0 | 9 |

Source: QYAC, Submission 11, p 8.

QYAC also submitted figures relating to Minjerribah Camping, a QYAC owned business. The table below shows the increase in staff, broken down by indigenous and Quandamooka staff between 2012 and 2019.

Minjerribah Camping – Total staff, indigenous staff, Quandamooka staff – 2012- 2019

| Year | Total Staff | Indigenous Staff | Quandamooka Staff |
|------|-------------|------------------|-------------------|
| 2012 | 23 | 12 | 11 |
| 2017 | 38 | 26 | 23 |
| 2018 | 44 | 23 | 20 |
| 2019 | 39 | 23 | 20 |

Source: QYAC, Submission 11, p 8.

QYAC explained that the overall economic impact of the additional positions for Aboriginal staff living locally was significant, and resulted in important social outcomes for families and local and broader communities. QYAC explained:

QYAC and Minjerribah Camping have between them delivered an additional 35 Aboriginal staff, living locally. This generates over \$1.35 million in additional income for Dunwich, and Redlands Shire each year and over 5 years close to \$7 million. The multiplier effect to the local economy is approximately \$15.5 million. In a remote economy with a historically dispossessed community this is a significant public good outcome, and allows those families to be more secure, suffer less stress and create a stable environment for their children and make a positive contribution to their local and broader communities.³⁹

³⁹ Submission 11, p 9.

QYAC explained that it expects a similar economic outcome through the Indigenous management arrangements on Mulgumpin:

Already there is a commitment for 50% of island based QPWS Rangers to be Quandamooka people. From the first year of the legislation passing, an additional \$227,000 will be brought to the local economy, and it is reasonable for the Committee to expect a similar growth rate in additional income to the local economy to that delivered on Minjerribah.⁴⁰

Representatives from QYAC and QPWS, Moreton Island



Source: Site visit, State Development, Tourism, Innovation and Manufacturing Committee, 17 August 2020.

Transition to joint management arrangements has begun and Mr Costello, QYAC, spoke of the employment of up to six new positions to support joint management, and the resulting economic benefits:

....We already have four more people there, so we are already up to 10 people. For us we will be looking at, as we move forward in terms of tourism as well, economic development through tourism. We will expect to take tours and so on coming through there as well. There are opportunities down the track for enhanced glamping infrastructure, so there may be infrastructure builds that happen as well. We are expecting that the economy of the island will be enhanced by our presence and our management.⁴¹

⁴⁰ Submission 11, p 9.

⁴¹ Public hearing transcript, Cleveland, 5 August 2020, p 10.

2.3.2.2 *Broader economic benefits*

Mr Costello, QYAC, also advised the committee that broader economic benefits were expected to be delivered as a result of the Bill, in particular for the local tourism sector:

*I think in terms of the economy we find in particular not only caring for country activities and the number of rangers employed obviously is going to provide an economic outcome for Quandamooka people, but also there is a broader economic benefit as well and we see that specifically within tourism.*⁴²

Mr Costello, QYAC, explained that the vision of the Quandamooka people is for Quandamooka country to be a global eco, cultural and tourism destination based on a foundation of culture, sustainability, innovation and research. Adding, 'Mulgumpin is a cultural and wildlife sanctuary and it should be treated that way. We are looking forward to driving that agenda'.⁴³

The Gudjundabu Marumba Gubiyiyanya – Tourism for a Glad Tomorrow is a five-year strategy from 2018 for tourism within Quandamooka Country, including Mulgumpin (Moreton Island). The strategy identifies opportunities for cultural tourism initiatives including the management of national park by Quandamooka Rangers, a Great Walk, mainland to islands and inter-island connectivity, and more broadly, immersing of Quandamooka culture (language, art, dance, food, and cultural protocol) in tourism products, and building strategic partnerships for tourism infrastructure and products.⁴⁴

QYAC also noted that there is currently little information on the island celebrating the Quandamooka Peoples' relationship with Mulgumpin and its natural values. Even the Management Plan for the Park and local publications talk about the relationship in the past, rather than the present. There is a small plaque in a reserve and a small display within the Cape Moreton visitor centre, but little else which celebrates our unique and ancient relationship with this landscape.⁴⁵

2.3.2.3 *Committee comment*

The committee notes and welcomes the anticipated economic benefits to be delivered as a result of the joint management arrangements. This includes economic benefits not only for the Quandamooka People but for the broader, local tourism sector. The committee encourages all relevant stakeholders to build effective working relationships to ensure that anticipated benefits are maximised.

2.3.3 Cultural heritage

According to the existing Moreton Island Management Plan, Moreton Island contains the most undisturbed and diverse range of archaeological evidence of the relationship Aboriginal people have with a coastal wallum environment in south-east Queensland.⁴⁶ In its submission, QYAC described some of the significant findings and initiatives in this area. This included:

- Uncle Bob Anderson, and Uncle Ian Delaney, supported by many other Quandamooka Elders leading the recovery of a skeleton immediately prior to the consent determination. A wide range of younger Quandamooka rangers, as well as the Quandamooka Land and Sea Management Agency (QALSMA) cultural heritage unit were present during this recovery. QYAC

⁴² Public hearing transcript, Cleveland, 5 August 2020, p 4.

⁴³ Public hearing transcript, Cleveland, 5 August 2020, p 4.

⁴⁴ QYAC, *Gudjundabu Marumba Gubiyiyanya – Tourism for a Glad Tomorrow, A five-year strategy for sustainable tourism on Quandamooka Country*, 2018 – 2023, pp 24-26.

⁴⁵ Submission 11, p 5.

⁴⁶ DES, https://parks.des.qld.gov.au/__data/assets/pdf_file/0033/167856/moreton-island-national-park-2007.pdf, p 12.

is working with the University of Queensland to investigate dating of the recovered bones, and inform appropriate repatriation.⁴⁷

- The Island landscapes are of significant archaeological significance including an ancient stone quarry and other components of a cultural complex at Cape Moreton, and the extensive coastal middens on the western side of the island. These significant cultural features require improved management so that they are preserved for future generations rather than used as parts of roads which is sadly the case in some circumstances. QYAC, and the Quandamooka Elders have prioritised Cultural Heritage Surveys, and ecological surveys to inform proposals for these areas.⁴⁸

At the public hearing, Mr Mark Fitzgerald, a landowner on Moreton Island, offered an original observation on a cultural tourism opportunity, advising of the significance of the bunkers on Moreton Island to war veterans.

I am the son of a World War II veteran. The bunkers on Moreton Island are of considerable importance culturally, spiritually and physically to Caucasian war veterans. I would like to see access to them given fully, with no charges, and that there be some certainty in being able to access those sites for future generations. As those bunkers on Moreton Island are relatively undefined in terms of the correspondence that I have seen, I am looking for some certainty on that aspect with regard to historical importance such as the Brisbane Line, the defence of Brisbane in World War II, and the cultural significance around that for people who participated in World War II. Basically, that is my request—

Regarding the importance of those bunkers, my father served on the Shropshire, which is pictured at Dunwich, One Mile. He passed away two years ago, still with war terrors—70 years later. The Brisbane Line was a defence point from the Japanese. It was very real at that time. My mother-in-law would say that should the invading forces get this far then the parents would shoot their children. That is how grave it was. It is around that context that it is culturally significant to World War II veterans.⁴⁹

2.3.4 Environmental benefits

QYAC submitted that the Quandamooka People have a cultural responsibility to protect and manage Mulgumpin, and have always advocated for the highest possible standards of management, noting the cultural significance of Mulgumpin and key cultural locations on the island.⁵⁰

QYAC talked of the connection of the Quandamooka people to the environment:

Quandamooka People hold the creation stories for Mulgumpin, the stories of its changes through geological time. Quandamooka People have cared for and interacted with the landscape throughout that time, and the scale of the middens and culturally managed landscapes bear testimony to that relationship.⁵¹

Mr Costello also provided comment on the practical benefits that will be delivered for the national park noting that there will be enhanced fire management and fire trails, and a dedicated budget for the lands:

There will be enhanced fire trails, so that requires work. The budget, that dedicated budget for Mulgumpin, is something that the Quandamooka people secured ... One of the great outcomes

⁴⁷ Submission 11, p 5.

⁴⁸ Submission 11, p 5.

⁴⁹ Public hearing transcript, Cleveland, 5 August 2020, p 29.

⁵⁰ Submission 11, p 4.

⁵¹ Public hearing transcript, Cleveland, 5 August 2020, p 10.

for the residents of Mulgumpin is that we will be securing a dedicated budget for their national park, which is not often found in Queensland, so they can rest assured that they will have security in terms of us working with local residents about better fire management and increasing the number of fire trails.⁵²

Moreton Island



Source: Site visit, State Development, Tourism, Innovation and Manufacturing Committee, 17 August 2020.

QYAC also advised that recently they had worked with the Queensland Government to jointly prepare a tentative list nomination for Quandamooka Country (including Mulgumpin and Minjerribah) to be recognised with World Heritage listing for its outstanding natural and cultural values. QYAC has worked with World Heritage experts to articulate clearly the unique relationship between Quandamooka People and their environment through enormous fluctuations of sea level, and hydrological changes, as documented through their knowledge and cultural heritage.⁵³

QYAC works closely with the University of Queensland, Griffith University and over 100 scientists, archaeologists and social scientists to clearly document the values and attributes of Minjerribah, and Quandamooka. QYAC facilitates discussion between scientists and Quandamooka People on key priorities to support effective natural and cultural outcomes on Quandamooka Country. This considered land and sea planning and management is supported through guidance from QALSMA.⁵⁴

⁵² Public hearing transcript, Cleveland, 5 August 2020, p 10.

⁵³ Submission 11, p 4.

⁵⁴ Submission 11, p 5.

The environmental benefits to be delivered by the arrangements were supported by Wildlife Preservation Society of Queensland which submitted that it had a strong interest in the protected area estate, especially national parks, as national parks are the cornerstone of biodiversity conservation.⁵⁵ Wildlife Preservation Society of Queensland added, 'the cardinal principle of management for national parks as well as the need to strengthen the Quandamooka Peoples governance of Country are strongly emphasised. Such strategic management directions are strongly supported by Wildlife Queensland and welcomed'.⁵⁶

2.3.5 QYAC Governance

As noted earlier in the report, QYAC is the prescribed body corporate (RNTBC) established under the NTA (Cth) to manage recognised native title rights and interests of the Quandamooka people. As such, QYAC is registered with, and regulated by the Office of the Registrar of Indigenous Corporations (ORIC), a federal independent statutory authority.⁵⁷

A number of inquiry participants raised matters related to governance arrangements.

2.3.5.1 Financial viability

During the inquiry, questions were asked about the financial viability of QYAC. The need for questioning on this matter arose from statements in the QYAC *Consolidated Financial Report for the Year Ended 30 June 2019*, and subsequent reports in the media. The relevant extract from the independent audit report, prepared by PKF, is provided below:

Page 16, Part of 'Emphasis of Matter' from PKF reads—

We draw attention to Note 1(m) in the financial report which describes that the Corporation during the year ended 30 June 2019 has current liabilities which exceeded its current assets by \$1,166,816. These conditions indicate the existence of uncertainty that may cast doubt about the Corporation's ability to continue as a going concern and therefore, may be unable to realise its assets and discharge its liabilities in the normal course of business.

Further down it states—

Our opinion is not qualified in respect of this matter.⁵⁸

Through the submission process, and at the public hearing, Mr Costello, QYAC, was provided with an opportunity to respond to this matter. Mr Costello explained:

I think the audit report itself is evidence that we were not trading insolvent. The auditor would be compelled to report if we were trading insolvent and I think that is pretty clear from the audit report. I refer to page 20 of the audit. At the AGM the auditor was quite clear that that is the one you want to look at. That is your profit and loss, your cash flow. On page 20 it clearly shows that in 2019 we actually made a profit of \$226,000. We had a positive net asset position and a positive cash flow for the year. Also, the clause you are talking about refers to note (m), which talks about being a going concern. That says—

*The Board of Directors believe the Group to be a going concern and is able to pay its future liabilities in the ordinary course of business and are of the view that the continued profitability of the camping business and other business services projects will improve the Group's short term liquidity ratios.*⁵⁹

QYAC submitted:

⁵⁵ Submission 4, p 1.

⁵⁶ Submission 4, p 2.

⁵⁷ QYAC, submission 11, pp 2-3.

⁵⁸ QYAC RNTBC and Controlled Entities ICN 7564, Consolidated Financial Report for the Year Ended 30 June 2019, p 16, <https://register.oric.gov.au/document.aspx?concernID=1758225>.

⁵⁹ Public hearing transcript, Cleveland, 5 August 2020, p 5.

*All of the Quandamooka Native Title funds have been held in trust in a separate financial bank account and accrued interest since receipt. Every QYAC audit report has reported on the increase in funds, and the fact that none of the capital or interest has ever been spent, as there has been no authorisation for expenditure. This is reported upon annually in our Annual Report and is publicly available and reported through the ORIC website. QYAC has not traded at a loss. QYAC is not insolvent, nor has it traded while insolvent, a fact that is abundantly clear on its audited annual financial statements which are publicly available.*⁶⁰

*It is not clear how this conclusion is reached nor what information has been sourced to enable this view to be formed. To say QYAC is in the red damagingly misrepresents QYAC's financial position and demonstrates a lack of understanding on how to interpret the financial statements of a prescribed body corporate where members funds are held on trust until authorisation is obtained to direct QYAC how to manage these funds. The auditor personally attended and spoke at our AGM to our audited financial statements and took questions from members present. The audited financial statements tabled at our AGM clearly shows QYAC was profitable, QYAC subsidiary entities traded at a profit, the balance sheet of QYAC and QYAC's subsidiaries are a net asset position.*⁶¹

Explaining further about 2018-19 financial statement -

*The emphasis of matter in our 2018 - 2019 financial statement, relates to the over \$8 million held in member liabilities, not general liabilities. They are not tax, credit or trade liabilities, and are not able to be called upon without the appropriate authorisation. The remainder relates to bookings held in advance for camping, but not yet taken. This is why there was no qualification of our audit as our auditor understood the technical nature of the matter, unlike some in the press or Parliament. The bottom line is that our audited financial statements demonstrate and organisation with plenty of assets and cash at hand, and far from '\$1.6 million in the red'.*⁶²

At the hearing, Mr Costello, provided further information on this point, explaining:

*What I would want to point out for the committee is that the concern is that there is \$8 million of mining royalties that are held by QYAC as agent for the Quandamooka people and is considered a short-term liability. In reality, for us to spend any of that money requires us to call a full authorisation, notified publicly, for the Quandamooka people to come and vote on whether that money could be spent. In the last year and a half there has been no such meeting, so you can look at our financials and know full well that none of our mining royalties have been spent or accessed—and they have not been since we have been formed. For us, one of the things we are very proud of is that our mining royalties are safe in there for our people. They know that. They can see in every annual report that the mining royalties held as agent for the Quandamooka people are there in full. We remain strong and firm that we are cash flow positive, that our net asset value is in the black and insolvency is not an issue. If it had been, it would have been raised.*⁶³

In support of this position, Mr Costello tabled a letter from the Registrar of ORIC:

There have been some concerns raised with this committee about QYAC so we obtained a letter from the registrar of ORIC who chaired the AGM at which the audit in question was presented. I

⁶⁰ Submission 11, p 3.

⁶¹ Submission 11, p 3.

⁶² Submission 11, pp 3-4.

⁶³ Public hearing transcript, Cleveland, 5 August 2020, p 6.

*table that letter. He states that we have never had a qualified audit and also that no investigations are currently being undertaken around QYAC. We stand by our record.*⁶⁴

Questioned around assertions that ASIC, the regulator, had to strike off Minjerribah Camping, Mr Costello responded.

*That is also false and incorrect. ... Minjerribah Camping has never been struck off the ASIC register. This is slandering and defaming my corporation's reputation. We have many businesspeople interested in investing in Mulgumpin and Minjerribah, and these types of accusations are defamatory and put at risk the investment environment not just for the Quandamooka people but for the whole Redlands community.*⁶⁵

*There are two types of funds. It is a complex arrangement with QYAC because we are essentially two entities. We are the agent for the Quandamooka people, so any native title benefits they get, whether it is land or mining royalties, we hold as agent for them. Then there is our operational funding. We go out and get grants, we go out and get contracts and we have our own services and make our own money there. We have a discretion over that bucket of money, but we cannot touch and we do not touch any of those other revenues. The native title funds are those mining royalties, and that is what has been held in a separate account. The interest is held in a separate account. The Quandamooka people can move on knowing in comfort that we handle their affairs in accordance with corporations law.*⁶⁶

Responding to concerns around Governance, Mr Costello advised:

*This is not the first time people have questioned our governance. We have made a conscious decision to work really closely with our regulator, which is why at the last two AGMs we have had the registrar of the regulator chair our meetings. If there was any issue of insolvency, the regulator of the corporation that regulates us—the registrar—would be compelled to take action as well, and none has been taken because there is no insolvency issue whatsoever. I would even go further to say that, given our record, there is no safer pair of hands for the government to partner with in joint management than us moving forward. We have a joint management committee that oversees the joint management. We are on the senior implementation working group, and that is how we work through and look at the budgets of the joint management. We have done that very successfully and we will continue to do that. Our finances are not an issue for us. We are moving forward and we are positive. We have weathered the storm of COVID and we are actually coming out and looking like we are going to have good times ahead.*⁶⁷

2.3.5.2 Submissions

Issues were also raised by inquiry participants. One submission, made on behalf of 20+ First Nation People Business Owners on North Stradbroke Island, reported concerns with the management, operation and implementation responsibilities being given to QYAC.⁶⁸ The submitter strongly recommends before the management, operation and implementation being given to QYAC in this Bill that the following recommendations be undertaken:

- a performance audit of all projects by the independent State Auditor General
- a performance audit of joint management

⁶⁴ Public hearing transcript, Cleveland, 5 August 2020, p 2, Tabled paper - <https://www.parliament.qld.gov.au/documents/committees/SDTIMC/2020/NCIndJointMgmtMoretonIs/t p2-5Aug2020.pdf>.

⁶⁵ Public hearing transcript, Cleveland, 5 August 2020, p 8.

⁶⁶ Public hearing transcript, Cleveland, 5 August 2020, p 6.

⁶⁷ Public hearing transcript, Cleveland, 5 August 2020, p 6.

⁶⁸ Submission 10, p 1.

- a performance audit of QYAC's consultation and decisions with common law holders.⁶⁹

Four Wheel Drive Queensland suggested that that the new arrangements for Moreton Island be subject to clearly defined governance processes, including what reviews of effectiveness will be completed and how often, how will financial transactions be audited and what degree of transparency will apply.⁷⁰

2.3.5.3 Department response

The department was also questioned about measures in place to protect state funds directed to joint management arrangements. The department confirmed that joint management arrangements between the State and QYAC are governed through a number of instruments. A service agreement is in place with QYAC for the management of camping and vehicle access permits and facilities. The ILUA and IMA also set out requirements relevant to each party.⁷¹

Further, joint management arrangements have specific reporting protocols in place to ensure that money provided for joint management is accounted for. This includes a senior officer working group, an operational working group and day to day joint management collaborations.⁷²

In addition, joint management funds are subject to the department's corporate governance and internal control mechanisms which include compliance with the Queensland Government Financial Management Practice Manual; Queensland Audit Office review as part of the annual financial audits; and Audit and Risk Committee oversight.⁷³

2.3.5.4 Committee comment

The committee notes that QYAC is regulated by Office of the Registrar of Indigenous Corporations, and that it is required to operate in accordance with the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

In the interest of accountability, committee members questioned QYAC about matters relating to the organisation's financial viability. The committee provided QYAC with opportunity to respond to this matter through the submission and inquiry process. The committee is satisfied with the explanations provided by the Chief Executive Officer, QYAC, that the organisation is not insolvent. The committee also notes the letter supplied by the regulator to support this position.

The committee is also satisfied that measures implemented by the Department of Environment and Science to safeguard state funding for joint management activities are appropriate.

2.3.6 Cost of joint management implementation

According to the explanatory notes, the State will incur additional costs to facilitate joint management arrangements. Additional funds for the first four years have been allocated, as well as recurrent funding to support implementation of the joint management arrangements.⁷⁴

The DDG of QPWS and Partnerships did not confirm a dollar amount, however confirmed that it would run to several million dollars, further noting that the funding was provided for additional positions, pest and fire work, as well as defined projects:

I do not have the specific number. What I can tell you is that there is money for the six additional positions that have been provided and that is ongoing funding. There is funding for additional

⁶⁹ Submission 10, p 1.

⁷⁰ Submission 7, p 2.

⁷¹ DES, correspondence dated 7 August 2020, p 3.

⁷² DES, correspondence dated 7 August 2020, p 3.

⁷³ DES, correspondence dated 7 August 2020, p 3.

⁷⁴ Explanatory notes, p 3.

*pest and fire work. There is funding for what we call projects, which will be where QYAC can engage community rangers to go and do projects, which could be cultural projects such as mapping cultural sites. There is the funding for the ranger base, which is proposed for down the track. It is several million dollars, but I do not have a specific figure. That is the purpose for which the funding has been allocated.*⁷⁵

While one submitter questioned whether sufficient funding had been allocated to implement proposed arrangements in a timely manner⁷⁶, another queried why there was a need for the allocation of increased resources for Moreton Island.⁷⁷

In response, the department confirmed that the additional funds were required ‘to facilitate the major capital works associated with the construction of a new ranger base, workshops and accommodation and to allow QYAC to employ new rangers and other staff required to support joint management’. Further adding that this funding ‘will help to deliver improved cultural, conservation, visitor and bushfire management outcomes’.⁷⁸

The department also advised that QYAC rangers will complement services provided by existing QPWS rangers. Acknowledging that may be some adjustments to roles over time, the department explained that QPWS rangers are still required and will work with the Quandamooka rangers to build their skills and capacity over time. QYAC rangers will also lead and spend considerable time involved in traditional cultural activities.⁷⁹

2.3.7 Visibility of terms in the Indigenous Management Agreement

Several inquiry participants raised concerns regarding a lack of visibility of the terms contained within the IMA reached between QYAC and the State. In particular, how the land on Moreton Island is proposed to be managed, and those areas where general public access may be restricted.

Mrs Paula Gill, President of the Koorringal Land Owners Association, stated:

*I want to start on the premise that we do not have any issue at all with the native title being granted to the Quandamooka people on Moreton Island. ... We are, however, concerned about the lack of transparency concerning the future use of land on Moreton Island which will be transferred to QYAC as Aboriginal freehold land. We understand that there is a draft Indigenous management agreement which has been agreed to between QYAC and the government and that several million dollars have been allocated for funding for QYAC's use on Moreton Island. We would like to have access to the draft Indigenous management agreement.*⁸⁰

Mrs Gill explained that a large portion of elderly residents lived in Koorringal (a township with approximately 150 residents on the southern point of the island) and that a lack of transparency around how the land was to be managed was resulting in fear and anxiety in the community:

There is a big portion of elderly residents who live in Koorringal. Some have had houses there for 80 years and so forth. ...in fairness to our elderly community particularly but all of our residents, some transparency is required. The secrecy behind these scenarios has really bred fear and anxiety amongst our community to the point where I have had older people ringing me crying saying they cannot sleep at night. They have obviously made it into something bigger than it

⁷⁵ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 6.

⁷⁶ Wildlife Preservation Society of Queensland, submission 4, p 2.

⁷⁷ Four Wheel Drive Queensland, submission 7, p 2.

⁷⁸ DES, correspondence dated 7 August 2020, p 3.

⁷⁹ DES, correspondence dated 7 August 2020, p 3.

⁸⁰ Public hearing transcript, Cleveland, 5 August 2020, p 11.

*probably is, but if we could just get communication around the scenarios it would put them at ease.*⁸¹

Mr Bill Gollan, President, Moreton Island Community Association – Bulwer (a township on the north west of the island with some 20-50 residents), raised similar concerns:

*For a group of people to want to take ownership of it and treat it with respect I think is a great thing in principle. We do support that. As Paula said before, there has been no information given to us. The lack of information breeds fear and then after that it breeds distrust. That is what we need to pull back on. We need to bring it back to having an honest and open discussion.*⁸²

Inquiry participants also raised concerns about the potential for access restrictions being imposed on locations including Cape Moreton, Honeymoon Bay, Blue Lagoon, Ben Ewa, Reeder's point, North Point, The Desert and other areas enjoyed by the general public; and asked for further information on how these areas will be managed going forward.⁸³

At the public hearing, several local tourism operators talked about the potential impact of closures on their businesses, and asked that further information be provided on this matter. Mr Greg Alder, Business Manager/Director, Australian Sunset Safaris (a family-owned tour business, with a large international visitor base) talked about the potential impacts to his business of access restrictions and the importance of timely information:

*QYAC cannot close Moreton Island's tourist attractions to the general public, in particular Cape Moreton, the lighthouse and Blue Lagoon, with no notice and no consultation. Again, I do not know if they are planning this. There have been rumours going around about this and it breeds fear. If they get closed or prices get bumped up to crazy prices then shut my business doors on Moreton Island. We have to put our prices out to the international community two years in advance. If it suddenly changes, not only are we going to have egg on our faces but also the destination is going to have egg on its face and Queensland will have egg on its face. We have international tour operators that rely on us heavily because we suit a very particular sector—the ecotourism sector for the middle kind of class people. We do that very well. We are well respected in what we do.*⁸⁴

⁸¹ Public hearing transcript, Cleveland, 5 August 2020, p 11.

⁸² Public hearing transcript, Cleveland, 5 August 2020, p 14.

⁸³ See for example, submissions 1, 5, 6, 8 and 9.

⁸⁴ Public hearing transcript, Cleveland, 5 August 2020, pp 25-26.

Cape Moreton Lighthouse



Source: Site visit, State Development, Tourism, Innovation and Manufacturing Committee, 17 August 2020.

Ms Hemmens, Moreton Island Adventures (a fifth generation family business which operates the vehicle ferry service, the general store and glamping and accommodation at Bulwer), echoed this position:

We are extremely concerned about the lack of visibility of the terms of the agreement that have already been reached between QYAC and the state in terms of how the land is proposed to be managed and, in particular, those areas where the general public may have access restricted. If access to tourist attractions is going to be restricted by QYAC, including Cape Moreton, the lighthouse and Blue Lagoon, we need to consider whether our business will be viable considering these are the three main tourist attractions on the island for the public and for tour operators.⁸⁵

2.3.7.1 Responses from QYAC and the Department

At the hearing Mr Costello, QYAC, commented on access arrangements going forward, and explained that cultural heritage and environmental protection would be primary considerations. Mr Costello also advised that there will be legislative requirements to close parks down for particular areas:

There are areas, including in our own campgrounds, where we have looked at cultural heritage surveys to identify if there are any significant areas that need cultural heritage protection or protection from an ecological perspective. There are some areas that we need to protect and preserve. There are some areas that are sacred—areas that might not necessarily mean no access but will mean restricted access or access with conditions. That is to protect the environment and protect cultural heritage sites. There will be areas of that that occur. That

⁸⁵ Public hearing transcript, Cleveland, 5 August 2020, p 19.

*happened before this. It happened when there were cultural heritage findings on Mulgumpin. They had to close an area temporarily because of a significant archaeological cultural heritage find. That is what you need to do in accordance with legislation. There are times when there will be legislative requirements to close parks down for particular areas...*⁸⁶

However, Mr Costello, QYAC, explained that it was important to be aware that the national park had been enhanced and the overall area increased as a result of the new arrangements.

*I will make the point that we have actually enhanced and increased the amount of national park through this arrangement. The Quandamooka people have taken their lands, as they did with Minjerribah, and actually agreed to have them used as national park. On the bottom layer it is Aboriginal land. National park is on top. We felt that our conservation values were compatible with the state government and agreed to that. We are very happy with that and we have actually increased the amount of national park on Mulgumpin and we are very proud of that fact. We look forward to undertaking cultural heritage—looking at particular sites, better signage, better information and sharing our stories with people about Mulgumpin. People ... are going to actually get, through our management, more knowledge from the Quandamooka people and understand more about their island than previously.*⁸⁷

Mr Costello also explained that the joint management arrangements would provide opportunity for enhanced visitor experiences, through the provision of facilities and the sharing of the Quandamooka story and knowledge:

*We look forward to undertaking cultural heritage—looking at particular sites, better signage, better information and sharing our stories with people about Mulgumpin. People ... are going to actually get, through our management, more knowledge from the Quandamooka people and understand more about their island than previously.*⁸⁸

The department also provided comment on visibility and access issues, advising that the IMA is confidential. However, elements of the terms of the IMA will be reflected in a new management plan for the protected areas on Moreton Island (discussed further below).⁸⁹ 'Further, certain aspects of the IMA may be implemented alongside the current management plan and consultation will occur in relation to these matters in accordance with the requirements of existing legislation.' For example, regulatory notices are used if restrictions are required for a range of circumstances including health and safety; rehabilitation; infrastructure installation and maintenance; disaster recovery; pest and fire management operations; and protection of significant natural and cultural sites.⁹⁰

The department advised that the Bill does not provide for public access restrictions and that existing provisions under the NCA and RAMA will be required should restrictions be imposed. For example, unless grounds for an immediate declaration exist (such as because of a natural disaster), section 80 of the Nature Conservation (Protected Areas Management) Regulation 2017 and section 103 of the RAMA provide that consultation must occur with stakeholders if activities conducted under a commercial activity permit or commercial activity agreement would be significantly affected by the declaration of a restricted access area.⁹¹

The department also confirmed that in relation to existing interests on the island, the extract from the Register of Indigenous Land Use Agreements on the NNTT website for the Quandamooka Tenure

⁸⁶ Public hearing transcript, Cleveland, 5 August 2020, p 7.

⁸⁷ Public hearing transcript, Cleveland, 5 August 2020, p 7.

⁸⁸ Public hearing transcript, Cleveland, 5 August 2020, p 7.

⁸⁹ DES, correspondence dated 7 August 2020, pp 3-4.

⁹⁰ DES, correspondence dated 7 August 2020, pp 3-4.

⁹¹ DES, correspondence dated 7 August 2020, pp 3-4.

Resolution ILUA includes an attachment that shows how certain existing and future interests will be managed, including permits under the NCA and RAMA. These are listed in the Agreed Acts schedule of the ILUA and can be viewed at the NNTT website.⁹²

2.3.7.2 *Committee comment*

As noted at the outset of this report, ILUAs and IMAs are confidential documents negotiated through the native title determination process. The committee respects the need for confidentiality over these matters.

The committee acknowledges that members of the community and local businesses seek further information and consultation. The committee believes that there is opportunity for the department and QYAC to work together to provide further information to address these issues.

2.3.8 Consultation

Concerns about lack of consultation were raised by multiple inquiry participants. These concerns related not only to the development of the Bill, but the native title process generally, and outcomes of the ILUA and IMA.

Mr Bill Gollan, President, Community Residents Association:

*Where there is uncertainty, you cannot plan. There are some businesses over there, particularly at Bulwer, that I am pretty sure simply cannot plan at the moment. There is talk possibly of a new barge service. Until this is sorted out, I am sure no-one would want to invest in the island whatsoever until they had clear delineations. It was raised before about where you can and cannot visit on the island when this legislation goes through. They are the issues that are causing the greatest concern. It is a beautiful island. I always say that this island needs to be protected the way that I looked after it as a kid and the way my kids look after it in the same way. The first thing we have in common with everyone in the room here is to make sure that the island is kept the way it is. It is such a great place.*⁹³

Mr Fergus, [Sunrover]:

*There has been no correspondence. There has been no conversation. There has been nothing. We are just a side thought. It is very frustrating. Sitting here, I am getting more and more frustrated because nobody knows anything and nobody is telling anybody anything so then the rumour mill starts. Then there is innuendo, hearsay and Chinese whispers. It has all got out of hand. Could we just be consulted? All we are trying to do is run a business and trying to survive and this is just making it infinitely harder. Do the ferry fees go up? Do the commercial activity agreements go up? Do we even get them anymore? Who knows? Let us know what is going on. We are happy to work with anybody and we will. We will follow any guideline you give us, but please let us know what these guidelines are.*⁹⁴

Mr Wilson, Moreton Island Tourist Services, who mainly run the camp side of the business (group camps, group accommodation, school camps and school tours), which is Moreton Island Wilderness Camp:

... we are concerned about the lack of consultation and information to business operators. As business operators and local residents, we would like the opportunity, as tourism operators, to have a voice as we have not even had any meetings or been given any factual information from

⁹² DES, correspondence dated 7 August 2020, pp 3-4.

⁹³ Public hearing transcript, Cleveland, 5 August 2020, p 16.

⁹⁴ Public hearing transcript, Cleveland, 5 August 2020, p 26.

*QYAC or anybody else. As everyone says, there is a lot of hearsay and rumours about what is going to happen in the near future.*⁹⁵

Public hearing, Cleveland



Source: State Development, Tourism, Innovation and Manufacturing Committee, Public Hearing, Cleveland, 5 August 2020.

The DDG from QPWS and Partnerships advised that he did not consider there to be any financial impact of the Bill to business or residents, stating:

*... the bill does not affect Tangalooma resort because it is not prescribed protected area. There are no impacts, and they have negotiated their own agreement with QYAC through the native title process. That is a matter between Tangalooma and QYAC. In terms of the residents, no, I cannot see any financial impact. There are no plans to increase costs or charge for new activities. I do not see that there is any financial impact at this time on residents.*⁹⁶

The department confirmed that DES wrote to commercial operators 22 November 2019 to provide an update regarding the Federal Court process and to advise there would be no immediate impact on their current commercial activity permit following the native title determination on 27 November 2019. However, the letter stated there would be changes to permit terms over the longer term.⁹⁷

While specific details could not be provided in the letter due to the confidential aspects of the ILUA and IMA, operators were informed that DES intended to issue new permits with contemporary

⁹⁵ Public hearing transcript, Cleveland, 5 August 2020, p 27.

⁹⁶ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 6.

⁹⁷ DES, correspondence dated 7 August 2020, p 7.

conditions consistent with the Quandamooka Peoples' rights and interests following the consent determination and that DES was proposing to meet with all commercial operators and QYAC to discuss the transition in the near future.⁹⁸

The meeting was delayed due to COVID-19 restrictions. However, DES understands that QYAC is currently working on developing material to facilitate discussions with tourism operators and that a meeting will be scheduled as soon as practicable.⁹⁹

2.3.9 Management plan and consultation going forward

Several inquiry participants raised concerns that there has been a lack of consultation and called for opportunity for them, and other landholders, to provide written submissions in response to any draft management plan associated with the IJMA before the management plan is finalised.¹⁰⁰

Some inquiry participants offered suggestions as to how consultation could effectively take place going forward. For example, Mr Rose, President, Four Wheel Drive Australia, suggested:

*...as the other businesspeople here are saying, we are not against any of this but what we want to do is have consultation. There needs to be some sort of layer put in here so that basically the land users and the business owners can come together with the traditional owners and we can work out the way forward so that everybody wins. That is what needs to happen. It needs to be a win-win situation.*¹⁰¹

Reflecting on his experience working with the Wonnarua people in New South Wales, Mr Rose suggested that a way forward might be to form a committee, with membership representative of those with various interests in the area:

*They agreed to form a committee of people who were involved in that area, so that included all business owners, all of the land users, the surf clubs and all of the people who used these areas. We worked as a group to formulate the plan moving forward. That worked very well. That is not what I am seeing here and that is the challenge that we have.*¹⁰²

The President, Koorringal Landowners Association, spoke of the importance of information provision to her community:

*It would be good if there could be some communication where we are involved in items such as that [land use Lot 3], where we have the opportunity to inform our members or the community as a whole as to what is happening. As you say, there are some scenarios where we cannot have an opinion and that is okay, but to be able to go back to them and say, 'Look, the ranger station is being built here'—whatever the scenario is—that would really help, because at the moment we have nothing and nothing breeds fear.*¹⁰³

Protected areas on Moreton Island will continue to be managed consistent with the current management plan for Moreton Island National Park, Cape Moreton Conservation Park and the Moreton Island Recreation Area, until a review of the current management plan is completed and a

⁹⁸ DES, correspondence dated 7 August 2020, p 7.

⁹⁹ DES, correspondence dated 7 August 2020, p 7.

¹⁰⁰ See for example submissions 1, 5, 6, 8, and 9.

¹⁰¹ Public hearing transcript, Cleveland, 5 August 2020, p 20.

¹⁰² Public hearing transcript, Cleveland, 5 August 2020, p 20.

¹⁰³ Public hearing transcript, Cleveland, 5 August 2020, p 12.

new management plan is developed.¹⁰⁴ The department advised that this will be completed as soon as is practicable and in consultation with QYAC and the community.¹⁰⁵

Further, the Management Plan will be developed in a similar manner to the development of the Minjerribah (North Stradbroke Island) draft Naree Budjong Djara National Park Management Plan that was jointly developed and released for public consultation in July 2020.¹⁰⁶

The approach is regulated by sections 111 and 112 of the NCA, which provide that either a management statement or a management plan be prepared for protected areas, and Part 7, Division 3 of the NCA, which outlines the requirements for preparing, approving and implementing management plans.¹⁰⁷

The requirements of the NCA to publish a notice about the draft plan and ensure it is available for inspection and invite submissions as well as considering all submissions made about the draft plan will apply, so the public will be provided with an opportunity to provide submissions at the appropriate time.¹⁰⁸

2.3.9.1 Committee comment

The committee welcomes the Department of Environment and Science's advice that consultation on the draft management plan for Moreton Island will occur.

As noted above, the committee suggests that there is opportunity for the department and QYAC to work together, to address calls from members of the community and business owners for further information and consultation. The committee therefore recommends that the Queensland Government, in partnership with QYAC, complement statutory consultation requirements on the draft management Plan for Moreton Island, with further accessible consultation activities, including community information sessions.

Recommendation 2

The committee recommends that the Queensland Government, in partnership with the Quandamooka Yoolooburrabee Aboriginal Corporation, complement existing statutory consultation requirements on the draft Management Plan for Moreton Island, with further accessible consultation activities, including community information sessions.

2.3.10 QYAC consultation and consent requirements relating to permit applications

Clause 23 of the Bill inserts a new section into the RAMA (35A Restriction on issuing permits – indigenous joint management areas) to provide that the chief executive may only issue a permit for a recreation area situated in an IJMA if all requirements relating to issuing the permit under the IMA for the area are satisfied. Examples of such requirements outlined in the Bill include consulting with the indigenous landholder and obtaining the prior written consent of the indigenous landholder for the issuing of the permit.¹⁰⁹ The committee did not receive any further evidence as to whether there are any other restrictions included within the IMA.

¹⁰⁴ DES, correspondence dated 7 August 2020, p 5.

¹⁰⁵ DES, correspondence dated 7 August 2020, pp 4-5.

¹⁰⁶ DES, correspondence dated 7 August 2020, p 5.

¹⁰⁷ DES, correspondence dated 7 August 2020, p 5.

¹⁰⁸ DES, correspondence dated 7 August 2020, p 5.

¹⁰⁹ Explanatory notes, pp 8-9.

According to the explanatory notes, similar provisions already exist in sections 34 and 35 of the *Nature Conservation (Administration) Regulation* for Aboriginal land protected areas in the Cape York Peninsula Region and IJMAs.¹¹⁰

The explanatory notes state that ‘this will protect the consultation rights of the indigenous landholder within the IJMA and ensure that decisions made by the State on the basis of the consultation requirements are valid, and less vulnerable to challenge on administrative law grounds on the basis of the decision maker considering matters outside of the requirements of RAMA’.¹¹¹

This was one of the most contentious issues raised and several inquiry participants raised concerns about this requirement, including:

- how the permitting regime will work in practice in circumstances where QYAC does not provide consent to the grant or renewal of a permit
- impacts on existing business operations and job losses if QYAC does not consent to the grant or renewal of permits and operators are unable to continue operating
- uncertainty about the grant of future commercial activity permits, leading to significant impacts such as the inability to make future investments and businesses will be put in a position of stagnation and stress
- impacts on public access to Moreton Island if the permit for the Micat landing is not renewed
- ensuring that consent will not be unreasonably refused by QYAC or that consent cannot be refused by QYAC and that DES should be able to make permit decisions, even where consultation requirements have not been satisfied.¹¹²

For example, Ms Elizabeth Hemmens, CEO, Moreton Island Adventures, contended that QYAC should not have unrestricted ability to insert new conditions into permits unilaterally, or have the ability to refuse requests for new or the renewed permits, without good reason:

*... we absolutely agree that QYAC should be notified about the renewal or grant of a new permit on Moreton Island. However, they cannot be provided the unfettered ability to insert any requirements into permits unilaterally or veto any new permit or renewal of permit. We are concerned about the introduction of new restrictions on both the issue and renewal of permits, in particular the unfettered ability to insert any conditions into permits.*¹¹³

Ms Hemmens advised of the detrimental impacts that such an approach would have on her business, as well as the broader access impacts to residents and visitors to Morton Island:

*If we cannot renew our commercial activity permit to land on the island, our business ceases to exist, so there would be no way for the general public or various businesses operating on Moreton Island to actually access the island on a regular basis. If QYAC choose not to renew the various commercial tour activity permits for tour operators, this will again dramatically affect our business and our ability to operate the ferry regularly to the island and, therefore, again provide access to the general public and other businesses.*¹¹⁴

Asked about whether it would be counter-intuitive for QYAC to not renew permits, and whether there was any basis for thinking that permits would be removed, Ms Hemmens replied:

¹¹⁰ Explanatory notes, p 9.

¹¹¹ Explanatory notes, p 9.

¹¹² See for example, submissions 1, 5, 6, 8 and 9.

¹¹³ Public hearing transcript, Cleveland, 5 August 2020, p 19.

¹¹⁴ Public hearing transcript, Cleveland, 5 August 2020, p 19.

I guess the concern from us is that they want to increase Indigenous tourism through Indigenous business and the employment of Indigenous people. We are just a family-run business so we would be running in competition to potentially something that QYAC wanted to run. If they have complete control over the permits, they could not give us a permit and our business would not exist and they could just grant themselves a permit.¹¹⁵

Mr Greg Alder, from Australian Sunset Safaris, echoed these comments, adding that certainty in permit requirements was needed as without it, he would not be able to invest in his business.

... they [QYAC] cannot be provided the unfettered ability to insert any requirements into permits unilaterally or veto any permits or renewal of permits without agreed checks and balances in place. I have no reason to believe that they would do any of those things, but I just do not know. We have been given no information and there has been no consultation. Our business brings in close to 15,000 people from overseas. ... We need some certainty to continue investing in this state. If QYAC choose not to renew the commercial activity permit we operate under, for whatever reason, this will dramatically affect our business viability.¹¹⁶

Mr Alder continued that he had no issue with a permit being rejected in cases where decisions were based on an agreed framework:

We have no problem with QYAC rejecting a permit based upon an agreed framework everyone agrees with; we simply ask that we be consulted and that we all come to an acceptable agreement after meaningful consultation by implementing some checks and balances to ensure arbitrary decisions are not made. It is that simple.¹¹⁷

Mr Wilson, Moreton Island Tourist Services (a small business providing group camps, accommodation, school camps and tours on the island), voiced the same concern, as he considered it to be a conflict of interest:

... we are very concerned about a requirement to obtain prior written consent of the Indigenous landholders for the issuing of the permits. Due to QYAC running businesses, that would be a conflict of interest. We also are concerned about the length of time that permits will be issued for. We just want some certainty in the length of our permit. Our permit is due for renewal in May, and we just do not know what will happen in the near future. Since February we have been unwilling to invest any money into our business. I am not going to go and get a \$100,000 loan to continue our business when I do not know what is going to happen in March or May of next year, when our permit potentially renews.¹¹⁸ QYAC is the overarching body that has several businesses that sit underneath it, like Mulgumpin Camping. How are QYAC able to make an unbiased decision to provide consent about permits when in the near future they will potentially be our competition in business in tourism? We see this as a conflict of interest.¹¹⁹

In order to address this issue several inquiry participants called for amendments to the Bill which would make clear, that consent cannot be unreasonably refused by QYAC, that the chief executive of DES should be able to make permit decisions under the IMA where QYAC has been notified.¹²⁰

¹¹⁵ Public hearing transcript, Cleveland, 5 August 2020, p 23.

¹¹⁶ Public hearing transcript, Cleveland, 5 August 2020, p 25.

¹¹⁷ Public hearing transcript, Cleveland, 5 August 2020, p 25.

¹¹⁸ Public hearing transcript, Cleveland, 5 August 2020, p 27.

¹¹⁹ Public hearing transcript, Cleveland, 5 August 2020, p 27.

¹²⁰ See for example, submissions 1, 5, 6, 8 and 9.

2.3.10.1 Department response

In response, the department advised that there will be no change to the permitting process for applicants. DES's process will be adjusted so that relevant applications are forwarded to QYAC for consideration and the provision of comment or consent where required.¹²¹

The department reiterated the point in the Bill, that these arrangements are necessary to comply with the requirements of the relevant IMAs or ILUAs that govern specified types of procedural activities (requiring comment) or significant activities (requiring consent) on land that has been returned to the First Nations people. For Moreton Island, this outcome is consistent with the native title consent determination that was progressed through the Federal Court.¹²²

The department explained that the NCA already includes provisions requiring that the consultation requirements of an ILUA or IMA are complied with before certain permit applications are granted. These provisions already apply for permit applications made for activities within the protected areas on Moreton Island. The amendments in the Bill will insert similar requirements into the RAMA to provide consistent requirements across the legislation. Moreton Island includes both protected areas under the NCA and recreation area under the RAMA and the amendments will allow the consultation requirements of the IMA to be met irrespective of whether an applicant applies for a permit under the NCA or RAMA.¹²³

The department advised that the ILUA provides for existing permits to continue for two years after registration of the ILUA. This occurred on 29 May 2020. The requirement for QYAC to provide consent will apply to the renewal of existing permits and to any new permit application for significant activities.¹²⁴

Importantly, the department confirmed that existing natural justice provisions in the RAMA, such as the ability to seek an internal review – by the chief executive (see Division 3 – Internal reviews) and external reviews (see Division 4 – External reviews by QCAT) of such a decisions, continue to apply.¹²⁵

2.3.10.2 Committee comment

The committee acknowledges the concerns raised by local businesses regarding the insertion of a new section 35A into the RAMA – Restriction on issuing permits – indigenous joint management areas. This is necessary to comply with the requirements of the relevant IMA and ILUA.

The committee welcomes confirmation by the Department of Environment and Science that provisions relating to internal and external reviews under the RAMA will continue to apply and are consistent with other joint management arrangements implemented in the state.

2.3.10.3 Camping and vehicle access permits

A number of other issues were raised relating to camping and vehicle access permits, with one submitter stating that that it must be very clear to the general public about what is the typical duration for permit issue and to what extent permits are refused.¹²⁶

In response, the department confirmed that camping and vehicle permits are now issued directly through the Mulgumpin Camping website, operated by QYAC. This arrangement has been in place since February 2020 and that the Bill does not make any changes to provisions governing the grant of

¹²¹ DES, correspondence dated 7 August 2020, p 6

¹²² DES, correspondence dated 7 August 2020, p 6

¹²³ DES, correspondence dated 7 August 2020, p 6

¹²⁴ DES, correspondence dated 7 August 2020, p 6

¹²⁵ DES, correspondence dated 7 August 2020, p 6

¹²⁶ Submission 7, p 1.

these permits or the duration of these permits. DES has no role in issuing these permits, however the duration of the permits is specified in the NCA and RAMA.¹²⁷

Another inquiry participant, Mr Brennan, Four Wheel Drive Queensland, voiced concerns about the potential for increases in prices of vehicle access permit fees, using the example of North Stradbroke as an example.¹²⁸

Fees are provided in regulation, enabled by the NCA and RAMA. The Minister responsible for introducing the changes in 2019 noted that the increased fees were as a result of the first comprehensive review of the fees in nearly a decade, and that fees would be reinvested in the area.¹²⁹

The President of the Moreton Island Community Association – Bulwer, sought further information relating to the provision of personal information provided to Mulgumpin Camping as part of the permit process.¹³⁰

2.3.11 Minor amendments

The Bill also proposes a number of minor amendments to legislation to provide clarification about the operation of existing provisions and provide consistency across related legislation. The department confirmed that:

These amendments are unrelated to the consent determination, and will clarify the relationship between several sections of the Nature Conservation Act that relate to the grant of permissions over state land protected areas, Indigenous joint management areas, national parks, Cape York Peninsula Aboriginal land and special wildlife reserves.

Also unrelated to the consent determination is a technical amendment that will clarify the preservation of certain existing interests on land subject to an available state land agreement made under the Aboriginal Land Act. For consistency, this amendment is mirrored in the Torres Strait Islander Land Act.¹³¹

No issues were raised by inquiry participants regarding the minor amendments.

2.3.12 Local issues outside scope of Bill

A number of other issues were raised in evidence to the inquiry, however are considered to be outside of the scope of the Bill. For completeness, these are discussed briefly below.

Concerns relating to fishing taxes and charges for access to recreational fishing

A number of inquiry participants raised concerns about the impact of the introduction of fishing or other taxes. The department confirmed that the Bill does not include any amendments relating to fees and charges. The Moreton Island amendments in the Bill only apply to land on Moreton Island that is above the high water mark. The Bill does not include any amendments that may impact on the regulation of recreational fishing. DES is not aware of any proposals to introduce a 'fishing tax'.¹³²

¹²⁷ DES, correspondence dated 7 August 2020, p 7.

¹²⁸ Public hearing transcript, Cleveland, 5 August 2020, p 20.

¹²⁹ Redland City Bulletin, *Minister Shannon Fentiman says four-wheel-drive fees will pay for campsite upgrades, beach access, improvements on North Stradbroke Island*, Cheryl Goodenough, 11 October 2019, <https://www.redlandcitybulletin.com.au/story/6432131/four-wheel-drive-fees-to-pay-for-campsite-upgrades-on-straddie/>

¹³⁰ Mr Gollan, President, Moreton Island Community Association – Bulwer, public hearing transcript, Cleveland, 5 August 2020, p 15.

¹³¹ Mr Klaassen, DDG, QPWS and Partnerships, DES, public briefing transcript, Brisbane, 27 July 2020, p 2.

¹³² DES, correspondence dated 7 August 2020, p 9.

Recognition of townships on Moreton Island

The Bill only relates to prescribed protected areas. The Bill does not impact on the townships which continue to be managed by Brisbane City Council.¹³³

Transferability of vehicle permits for residents and landowners

The Bill does not affect current arrangements in relation to vehicle access permits. Residents can apply for fee exemptions. The requirement is to avoid a single permit being ‘handed around’ and used by multiple people on the island.¹³⁴

Dog permits

The Bill makes no changes to the prohibition on taking dogs into the national park on Moreton Island. Management of dogs in townships is governed by Brisbane City Council.¹³⁵

Tangalooma and Bulwer wrecks in need of refurbishment

The Moreton Island related amendments in the Bill do not address any matters outside of the boundaries of the prescribed protected areas on Moreton Island, which do not extend over the Tangalooma Wrecks.¹³⁶

Beach closure in front of Cowan Cowan township

The Bill is unrelated to management of the beach closure which was implemented over a decade ago and helps to protect pedestrian beach users from vehicle traffic on the narrow beach. The closure was reviewed in 2007 and continued following that review. A bypass track is in place.¹³⁷ It is understood that this could be revisited as part of the new Moreton Bay Management Plan process.¹³⁸

Fishing permits and change in zoning in the Moreton Bay Marine Park

These matters are unrelated to the Bill. The Bill does not include any provisions relating to the regulation of fishing, or propose new regulation of fishing. It is also unrelated to the current Moreton Bay Marine Park Zoning Plan which was established in 2008.¹³⁹

Re-establishment of second barge service to Moreton Island

This matter is unrelated to the provisions of the Bill.¹⁴⁰

Seeks assurance that fees for Moreton Island will not increase beyond CPI year on year.

The Bill does not include any amendments relating to the statutory fees and charges.¹⁴¹

North Stradbroke Island outcomes

The Bill relates to commitments made through the Federal Court native title consent determination process for Moreton Island. The provisions of the Bill are not relevant to the point being made in the submission 7, which refers in substantial part to investment outside the purview of joint management

¹³³ DES, correspondence dated 7 August 2020, p 9.

¹³⁴ DES, correspondence dated 7 August 2020, p 9.

¹³⁵ DES, correspondence dated 7 August 2020, p 9.

¹³⁶ DES, correspondence dated 7 August 2020, p 10.

¹³⁷ DES, correspondence dated 7 August 2020, p 10.

¹³⁸ Site visit, State Development, Tourism, Innovation and Manufacturing Committee, 17 August 2020.

¹³⁹ DES, correspondence dated 7 August 2020, p 10.

¹⁴⁰ DES, correspondence dated 7 August 2020, p 10.

¹⁴¹ DES, correspondence dated 7 August 2020, p 10.

arrangements. Any such funding is subject to the standard controls, evaluation, audit and parliamentary scrutiny mechanisms that apply to Queensland Government expenditure.¹⁴²

DES partners with QYAC through joint management arrangements on Minjerribah (North Stradbroke Island) and has specific reporting protocols in place to ensure that money provided for joint management is accounted for. DES also has oversight of how those funds are applied through a senior working group, an operational working group and day-to-day joint management.¹⁴³

¹⁴² DES, correspondence dated 7 August 2020, p 9.

¹⁴³ DES, correspondence dated 7 August 2020, p 9.

3 Compliance with the *Legislative Standards Act 1992*

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals
- the institution of Parliament.

The committee has examined the application of the fundamental legislative principles to the Bill.

3.1.1.1 Committee comment

No issues of fundamental legislative principle were identified.

3.2 Explanatory notes

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.

3.2.1.1 Committee comment

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and 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.

4 Compliance with the *Human Rights Act 2019*

The portfolio committee responsible for examining a Bill must consider and report to the Legislative Assembly about whether the Bill is not compatible with human rights, and consider and report to the Legislative Assembly about the statement of compatibility tabled for the Bill.¹⁴⁴

A Bill is compatible with human rights if the Bill:

- (a) does not limit a human right, or
- (b) limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the *Human Rights Act 2019* (HRA).¹⁴⁵

The HRA protects fundamental human rights drawn from international human rights law.¹⁴⁶ Section 13 of the HRA provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

The committee has examined the Bill for human rights compatibility.

4.1 Human rights limitations

The committee is required to provide a conclusion on the compatibility of the Bill with the HRA.

4.1.1.1 Committee comment

The committee did not identify any human rights limitations in accordance with the HRA as a result of the Bill.

4.2 Statement of compatibility

Section 38 of the HRA requires that a member who introduces a Bill in the Legislative Assembly must prepare and table a statement of the Bill's compatibility with human rights.

4.2.1.1 Committee comment

A statement of compatibility was tabled with the introduction of the Bill as required by s 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.

¹⁴⁴ HRA, s 39.

¹⁴⁵ HRA, s 8.

¹⁴⁶ The human rights protected by the HRA are set out in sections 15 to 37 of the Act. A right or freedom not included in the Act that arises or is recognised under another law must not be taken to be abrogated or limited only because the right or freedom is not included in this Act or is only partly included; HRA, s 12.

Appendix A – Submitters

| Sub # | Submitter |
|-------|--|
| 001 | Koorringal Landholders Association |
| 002 | Sunfish Moreton Branch Inc. |
| 003 | Moreton Island Community Association-Bulwer |
| 004 | Wildlife Preservation Society of Queensland |
| 005 | Moreton Island Adventures |
| 006 | Moreton Island Tourist Services Pty Ltd Moreton Island Wilderness Camp |
| 007 | Four Wheel Drive Queensland |
| 008 | Australian Sunset Safaris |
| 009 | Sunrover Tours |
| 010 | Name withheld |
| 011 | Quandamooka Yoolooburrabee Aboriginal Corporation RNTBC |

Appendix B – Officials at public departmental briefing

Department of Environment and Science

- Mr Ben Klaassen, Deputy Director-General, Queensland Parks and Wildlife Service and Partnerships
- Mr Todd Kelly, Manager, Queensland Parks and Wildlife Service and Partnerships

Department of Natural Resources, Mines and Energy

- Mr Graham Nicholas, Executive Director, Land and Native Title Services, Lands Division
- Mr Robert Dougherty, Principal Land Officer, Indigenous Land Operations, Land and Native Title Services, Lands Division

Appendix C – Witnesses at public hearing

Quandamooka Yoolooburrabee Aboriginal Corporation

- Dr Robert (Uncle Bob) Anderson, Ngugi Elder
- Mr Darren Burns, Indigenous Joint Management Coordinator
- Mr Cameron Costello, Chief Executive Officer

Koorinal Landholders Association, Moreton Island

- Ms Paula Gill, President

Moreton Island Community Association—Bulwer

- Mr Bill Gollan, President
- Mr Alistair Gow, Member

Four Wheel Drive Queensland

- Mr Miles Brennan, Committee Member (Vehicle Standards & ICT Services)
- Mr Michael Elliott, CEO
- Mr Shane Rose, President

Moreton Island Adventures

- Ms Elizabeth Hemmens, CEO
- Ms Roz Shaw, Owner

Australian Sunset Safaris

- Mr Greg Alder, Business Manager/Director

Sunrover Expeditions

- Mr Robert Fergus, Office Manager

Moreton Island Tourist Services and Moreton Island Wilderness Camp

- Mr Craig Wilson, Director
- Mr Keith Wilson, Owner

Private capacity

- Mr Mark Fitzgerald

**Nature Conservation and Other Legislation (Indigenous Joint Management – Moreton Island)
Amendment Bill 2020**

There can be no greater endeavour than efforts for our First Nations peoples and supporting their journey to create a future of physical, spiritual, and economic health for their people. This journey, as we have seen, has been not easy and this Bill, which defines a joint management agreement between the Quandamooka people and State Government, has not been any easier.

As seen through the consultation and hearings process, the support was tangible, with submitters reiterating that the Bill should be passed primarily because it reflects the outcome of a determination in the Federal Court of Australia, and the Indigenous Land Use Agreement (ILUA) registered by the National Native Title Tribunal.

However there has been questions raised around the ILUA, as well the Indigenous Management Agreement (IMA) which as a confidential document could not be provided to inquiry participants seeking access to, as well concerns surrounding the designated partner representing the Quandamooka. Within submissions and at the public hearing, there was several issues raised which were outside the scope of the Bill, or the role of the Committee to address.

In the majority, concerns raised have been addressed by the Department in its response or considered appropriately by the committee when outside of the scope of this inquiry. However, there is one within the scope of the inquiry that has not been adequately addressed, hence this Statement of Reservation.

Within every organisation, group or community, there can be dissent on how best to move forward in efforts to create opportunity, and capacity. Within our First Nations people this is not an exception. Highlighted during this inquiry again is the importance of adequate consultation activities prior to a Bill being brought before a Committee. There was a level of inadequacy demonstrated through concerns and questions raised by several stakeholders including First Nation and other business owners, residents and associations about the 'how, what and why'. Clarifications on these prior, as well referrals to appropriate jurisdictions and agencies, could have been both reassuring and unifying.

As a result, Committee recommendation 2 is for Government in partnership with the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC) to extend beyond the existing statutory consultation in the Draft Management Plan for Moreton Island to include further accessible consultation activities, including community information sessions.

However, these sessions need to be more than just be informative. They need to have answers to questions especially in relation to what may be within the IMA which could not be provided, assist in finding a quick resolution to tangible concerns, and create the space for the intent of this joint management undertaking.

To the Department, agencies and my fellow Committee members, submitters and Hearing attendees, thank you, though this is not the end of a process, it is just the beginning. It is vital that Governments of all levels now make provision to incorporate into consultations and beyond a process of mediation, as the journey forward requires unity, respect and collaboration between and within communities. As well, to review why management documents such as an IMA cannot be made available within our First Nations communities as part of building that unity.



Statement of Reservation

The LNP members of the State Development, Tourism, Innovation and Manufacturing Committee are generally supportive of the Bill.

We congratulate the Quandamooka People's recognition as the native title holders on Moreton Island (Mulgumpin).

Unlocking jobs and economic development on Moreton Island (Mulgumpin) is vitally important to break unemployment and create new free enterprise jobs not dependent on government alone.

Growing local business opportunity, supporting private sector investment – current and future – requires clear and transparent decision making which supports business confidence.

The lack of Queensland Government frameworks to ensure transparency, accountability and certainty in decision-making and expenditure of public funds has been highlighted by many submissions to the committee.

The committee heard real concerns from submitters in relation to the prescribed body corporate the Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC) and its handling of taxpayer money.

Independent entities such as QYAC's Auditor, PKF, and the financial regulator ASIC, also raised concerns with management of QYAC, as reported in the media (Courier-Mail). These concerns must be fully investigated and addressed by the Palaszczuk Labor Government, rather than swept under the carpet.

We have been made aware in discussions held outside of this committee process, that there are numerous parties interested in the management of QYAC who feel they cannot speak out for fear of reprisal against them, their families and their businesses. Some feel that their personal, physical safety could be put at risk if they speak out publicly about issues they have with QYAC. Voices of dissent, particularly whistleblowers, should be protected from threats of harm.

Stakeholder submissions also raised concerns about the secrecy around Indigenous Land Use Agreements (ILUAs) and the lack of consultation between QYAC and stakeholders on Moreton Island (Mulgumpin).

For instance, as the terms of the ILUA are confidential, many businesses on Moreton Island (Mulgumpin) raised the issue that they do not have any visibility in relation to the proposed terms and additional clauses for commercial activity permits to be granted in the future. The Indigenous Management Agreement, entered into between QYAC and the State of Queensland, is confidential – it should be made public in the interests of transparency and accountability for all parties who are interested in understanding with certainty how the joint management process of QYAC and the State will be managed.

Furthermore, many businesses require a commercial activity permit and commercial activity agreement in order to operate tourism operations on Moreton Island (Mulgumpin). There are serious concerns that proposed amendments in this Bill will have a significant impact on these business operations in the event that QYAC refuse to consent to the grant or renewal of their commercial activity permit and/or commercial activity agreement.

With this uncertainty many businesses consider they will be unable to make any future investments in their business or operations and will be put in a position of stagnation -which could cost jobs.

There is also the risk of a conflict of interest in situations where QYAC is, or could be, a commercial operator on Moreton Island (Mulgumpin), while at the same time also being the issuing authority (or at least a party that needs to consent to the issue) of commercial activity permits.

The Palaszczuk Government has clearly neglected its duties by not having a legal framework in place that provides certainty, consistency and transparency for business on Moreton Island (Mulgumpin). In a COVID-19 environment this is more important than ever and businesses need to have certainty to be able to plan ahead to support local jobs.

The LNP believes small businesses need the confidence and certainty to invest in their business and help small businesses to create more jobs with a no-new-tax guarantee.

In conclusion, while the LNP generally supports the Bill, these issues raised need to be addressed by the Government to provide certainty to business and transparency to all Queenslanders in the way in which these joint management arrangements will operate.



Jon Krause
Member for Scenic Rim



Mark Boothman
Member for Theodore

Appendix B - Submitters

| Sub # | Submitter |
|-------|--|
| 001 | Mark Fitzgerald |
| 002 | Koorinal Landholders Association |
| 003 | Sunrover Safari Tours |
| 004 | Moreton Island Protection Committee (MIPC) |
| 005 | Confidential |
| 006 | Four Wheel Drive Queensland |
| 007 | Healthy Land and Water |
| 008 | Greg Curtis |
| 009 | Moreton Island Adventures |
| 010 | Quandamooka Yoolooburrabee Aboriginal Corporation RNTBC |
| 011 | Moreton Island Tourist Services and Moreton Island Wilderness Camp |
| 012 | Confidential |

Appendix C – Officials at public departmental briefing

Department of Environment and Science

- Ben Klaassen, Deputy Director-General, QPWS and Partnerships
- Todd Kelly, Manager, Parks and Forests Policy

Department of Resources

- Julie Brogan, Director, Native Title Policy and Indigenous Land Operations, Land and Native Title Services
- Robert Dougherty, Principal Land Officer, Indigenous Land Operations, Land and Native Title Services

Appendix D – Consultation on Mulgumpin

The committee undertook a site visit to Mulgumpin on 1 and 2 March 2021 to engage with relevant stakeholders. The committee met with the following organisations and individuals during its visit.

Quandamooka Yoolooburrabee Aboriginal Corporation and community Elders

- John Campbell, Elder
- Dr Valerie Cooms, QYAC, Chair
- Margaret Kucirek, Elder
- Sandra Delaney, Elder
- Josh Walker
- Dan Crouch, Mulgumpin Joint Management Coordinator
- Michael Costelloe, Senior Cultural Heritage Officer
- Kathryn Ridge, Lawyer
- QYAC rangers

Tangalooma Island Resort

- David James, Director

Moreton Island Adventures

- Rosalind Shaw, Owner
- Liz Hemmens, Chief Executive

Sunrover Safari Tours

- Garth Howard
- Terry Howard

Bulwer Progress and Social Association

- Karen Kerr, President
- Jan Noble, Secretary

Koorringal Landholders Association

- Rosalind Shaw, Treasurer

Cowan Cowan Residents' Association

- Garry Nolan, President
- Trevor Hassard, Committee Member

Moreton Island Protection Committee

- Greg Curtis, Executive Committee Member
- Tom Vaughan, Executive Committee Member

Individual

- John Kluba, Fire Chief First Officer, Bulwer Fire Station

Statement of Reservations

STATEMENT OF RESERVATIONS
Mr Jim McDonald MP (Deputy Chair), Mr Michael Hart MP and Mr
Robbie Katter MP

We the non-government members of the State Development and Regional Industries Committee (the Committee) are supportive of the policy intent of the Bill and congratulate the Quandamooka people on having their native title recognised.

We recognise the Statement of Reservations from non-government members contained in Report No. 3, 56th Parliament, State Development, Tourism, Innovation and Manufacturing Committee August 2020.

Whilst we support the policy intent of the Bill a number of issues have been uncovered during the inquiry process. These issues fall under the following themes; Transparency of arrangements and access to ILUA and IMA; Commercial Activity Permit assessment process and term (length of agreement); Access arrangements; and improved communication with stakeholders.

Transparency of arrangements and access to ILUA and IMA

Non-government committee members believe the secretive actions of the Labor Government during this committee inquiry and when negotiating with stakeholders is putting the opportunity for a world class indigenous tourism offering on Mulgumpin (Moreton Island) at risk.

Committee members are being asked to review and provide recommendations on a Bill which provides the legislative support to the joint management agreement without knowing the contents of the underlaying Indigenous Management Agreement (IMA) and Indigenous Land Use Agreement (ILUA).

With over \$30 million of honest Queenslanders tax dollars in play the Labor Government needs to be open and accountable around the agreements made as part of the joint management of Mulgumpin (Moreton Island).

The Committee has the power to seek documents including the ILUA and IMA. The Committee is not limited in that power. The Committee has not seen the ILUA or IMA. This is regrettable and a failing in the system of reporting and accountability. When a Committee is required to consider a Bill, it should be able to be done in a sensible and informative way. If the Committee had visibility of the ILUA and IMA including a private briefing, this native title and inquiry process would have had (even in a confidential setting) the benefit of an additional level of reporting and accountability and arguably given all stakeholders more confidence in the process.

This secrecy is concerning for non-government committee members as there is limited public oversight being allowed as to how \$30 million of honest Queenslanders money will be spent under the joint management agreements. There is limited vision of performance agreements around track and facilities maintenance or restriction/s of access to built and natural assets for local residents, tourism operators, or family campers and four-wheel drivers.

Concerns about the secrecy of agreements were also raised by stakeholders and the media during the committee process. The Deputy Chair of the Committee and

Shadow Minister for Environment and the Great Barrier Reef, Shadow Minister for Science and Innovation, Shadow Minister for Youth wrote to the Committee about these matters.

We **recommend** that a confidential briefing of the ILUA and IMA be provided to parliamentary committees considering native title.

Moreton Island Adventures (Sub 9, p 1) stated:

Moreton Island Adventures is concerned about the fact there is no visibility about the terms of the agreement that has already been reached between QYAC and the State about how the land is proposed to be managed, and, in particular, those areas where general public access may be restricted.

Moreton Island Adventures have had no visibility over this process at all, and there has been no consultation about the proposed plans for the ongoing use and management of the Island.

Moreton Island Adventures is particularly concerned that restrictions will be imposed on the location of its current operations including Cape Moreton and various other locations enjoyed by the general public on Moreton Island.

Moreton Island Adventures is also concerned about the terms of the IMA, and how existing interests in the land will be managed and how future interests in the land will be created and managed.¹

Koorringal Residents Association (Sub 2) stated:

The secretive nature of the ILUA, the IJMA, the decision making and the future decision making between QYAC and the Queensland Government for the use of the island has been and remains very concerning to many. A number of members of the Koorringal Landholders Association have been closely connected to the island regularly for over 50 years and feel shut out. There was a genuine opportunity to facilitate a collaborative relationship between locals and the indigenous landowners, instead the secrecy breeds a level of fear and animosity for some.²

Commercial Activity Permit assessment process

Moreton Island Adventures (Sub 9) stated:

Without a commercial activity permit allowing Moreton Island Adventures' to land on Moreton Island, our business cannot exist, and the last 100 years of history comes to an end. If the Bill is passed, the power to provide commercial activity permits rests with QYAC, a competitor.

¹ Sub 9, p 5.

² Sub 2, p 1.

The Bill does not set out any framework with which QYAC will make decisions regarding all commercial activity permits covering tour operators' activities on Moreton Island and Micat landing on Moreton Island. Accordingly, QYAC may make an arbitrary decision not to renew our commercial activity permit, and Moreton Island Adventures will not have any recourse. Unlike the current application and renewal process, QYAC is not subject to the scrutiny of government, does not have a process for objection and review of decisions, or other governing body ensuring the freedom of information.

We submit that QYAC should be consulted regarding commercial activity permits but should not have the right of veto due to the clear conflict of interest.³

Moreton Island Adventures (Sub 9) continued:

The Explanatory Notes to the Bill (at page 9) provide that the amendments will require the chief executive of the Department of Environment and Science and any delegates to seek comment or consent from QYAC before granting permits for activities.

Moreton Island Adventures supports the intent of the amendments to ensure that consultation occurs with QYAC, and to increase QYAC's involvement with tourism and the development of ecotourism products on Moreton Island. However, Moreton Island Adventures is extremely concerned about these amendments, including how this permitting regime will work in practice.

For example, in circumstances where QYAC refuse to provide consent, then it is possible, and reasonably likely, that the chief executive of the Department of Environment and Science will refuse to grant or renew a permit or commercial activity agreement.

Moreton Island Adventures requires a commercial activity permit and commercial activity agreement in order to operate its tourism operations on Moreton Island. The proposed amendments will have a significant impact on Moreton Island Adventures business operations in the event that QYAC refuse to consent to the grant or renewal of our commercial activity permit and/or commercial activity agreement.

In addition, if QYAC refuse to renew the Commercial Activity Agreement for Micat landing on Moreton Island, there will be no way for the public or various businesses operating on Moreton Island to access the island.⁴

Koorringal Residents Association (Sub 2) stated:

The relevant provisions in the Bill should be amended to make it clear that consent will not be unreasonably refused by QYAC. There again should be safeguards included in the Bill to ensure there is a fair

³ Sub 9, p 6.

⁴ Sub 9, p 3.

process, including a right of appeal should QYAC refuse to grant a permit.⁵

Commercial Activity Permits – Term extended to 5 years – 10 years

Terry Howard, Sunrover Tours, has operated on the island for more than 30 years stated:

All tour permits on Mulgumpin (Moreton Island) should be issued under the same regulations and requirements without discrimination on size. This is why Attorney General Yvette D'Ath and Environmental Minister Steven Miles agreed that a longer permit (renewable every ten years - as on Fraser Island) provided greater access to finance and investment, particularly for small operators. The small tour operators deserve a meeting to assist with the process of change required with QYAC and the RAMA on permit renewal and small business sustainability. We require this now. COVID has only added to that need.⁶

Stakeholders also identified challenges around the difficulty of businesses getting traditional bank finance with any agreement of 3 years and under. The non-government members believe all operators should have their existing permits renewed for a 5 year period. This would allow for capacity building of QYAC while QPWS&P and QYAC work toward implementation of the QuEST program. This contemporary tourism management policy for Queensland national parks, already refers to Moreton Island Recreational Area and has been successfully implemented on K'gari (Fraser Island) with the Butchulla native title holders. This program includes accreditation by operators and provides for 15year permits renewed after 10years.

Recommend QPWS&P and QYAC implement the QuEST program on Mulgumpin to provide operators and stakeholders with 15year permits renewed after 10years

Access arrangements

Koorinal Residents Association (Sub 2) stated:

The ability to have continued unfettered access to all areas of the island as they have historically been able to do is very important to members of the Koorinal Landholders Association. If any section of the island is to be excluded, there should be wide consultation with the general public including any of the landholder associations and businesses operating on the island before that occurs.

As had occurred on North Stradbroke Island, the Koorinal Landholders Association is very concerned the Queensland Government will re-zone land use for future development by QYAC without proper consultation. Such development including for commercial and residential purposes. They are also concerned about

⁵ Sub 2, p 5.

⁶ Sub 3, p 1.

the land clearing that occurred on North Stradbroke by QYAC without consultation with the local community.⁷

Moreton Island Protection Committee stated:

MIPC has concerns of restrictions of access and limitations to the current freedom of access to all locations. There is no detail of land that will be granted and transferred to QYAC, or land which may become subject to restrictions of public access.

Of particular concern is Cape Moreton. MIPC has spent a considerable amount of time and effort in care and rehabilitation of the Cape. It is hoped our access to this area will not be restricted and that we will be able to continue to do work necessary to care for the Cape.⁸

Improved communication with stakeholders

Communication and consultation are at the heart of change management practises. Much of the community and business angst would have benefitted from a timelier government led communication and consultation strategy.

Examples of the lack of good communication strategy include local freehold owners, who still hold the mistaken belief and fear the loss of their land due to native title. Another example of the poor communications is the lack of action for the renewal of existing tour operators and permit holders. These permits are due to expire on 31 March 2021 and despite a transitional management arrangement being in place for almost two years. The first meeting by QPWS&P and QYAC with Mulgumpin commercial tourism operators only occurred on 10 February 2021. This presentation, only 7 weeks before the permits expire whilst welcome should have occurred a lot sooner.

Stakeholders have also indicated to us that the presentation also demonstrated the continuing uncertainty with many of the 13 conditions lacking detail and costings. Uncertainty exists regarding cost of cultural training courses for eco-tourism cultural competency; course dates; availability of a pool of trained cultural guides and transition process.

Access to the protected area or part of the protected area may be restricted/closed (at short notice) due to severe weather conditions; other natural disasters; cultural heritage protection (or other cultural heritage activities) or for management purposes e.g. fire, flood.

The non-government members believe that a deficiency exists in Government processes that has led to a very poor communication and consultation strategy. Some submitters also expressed that the Department of Tourism, Innovation and Sport should also play an advocacy role in the future development of Mulgumpin.

We **recommend** a review be conducted to clarify roles and responsibilities by Government Departments including Department of Environment and Science;

⁷ Sub 2, p 2.

⁸ Sub 4, p 2.

Department of Resources as well as Queensland Parks and Wildlife Service and Partnerships in order to ensure improved communication with all stakeholders.

And further that the Department of Tourism, Innovation and Sport should also play a role in the future development of Mulgumpin.

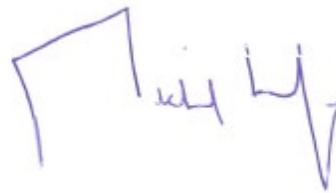
Recommendations:

- That a confidential briefing of the ILUA and IMA be provided to parliamentary committees considering native title.
- That QPWS&P and QYAC implement the QuEST program on Mulgumpin to provide operators and stakeholders with 15 year permits renewed after 10years.
- That a review be conducted to clarify roles and responsibilities by Government Departments including Department of Environment and Science; Department of Resources and Queensland Parks and Wildlife Service and Partnerships in order to ensure improved and more timely communication with all stakeholders.
- And further that the Department of Tourism, Innovation and Sport should also play a role in the future development of Mulgumpin.



James McDonald MP

Member for Lockyer
Shadow Assistant Minister for State
Development, Shadow Assistant Minister
for Natural Resources and Mines
Deputy Chair



Michael Hart MP

Member for Burleigh



Robbie Katter MP

Member for Traeger