# *INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES COMMITTEE*

**Members present:**

Mr J Pearce MP (Chair)
Mr S Knuth MP
Ms AM Leahy MP
Mr AJ Perrett MP

**Staff present:**

Dr J Dewar (Committee Secretary)
Ms L Pretty (Assistant Committee Secretary)
Ms C Sims (Acting Committee Support Officer)

# PUBLIC BRIEFING—INQUIRY INTO THE LAND, EXPLOSIVES AND OTHER LEGISLATION AMENDMENT BILL 2017

## TRANSCRIPT OF PROCEEDINGS

**WEDNESDAY, 25 OCTOBER 2017**

**Brisbane**

# WEDNESDAY, 25 OCTOBER 2017

**Committee met at 9.37 am**

**CHAIR:** I declare open this public briefing on the Land, Explosives and Other Legislation Amendment Bill 2017. I thank you for your attendance here today. As you know, I am Jim Pearce, the member for Mirani and chair of the committee. The other committee members here with me today are Ms Ann Leahy, the deputy chair and member for Warrego; Mr Shane Knuth, the member for Dalrymple; and Mr Tony Perrett, the member for Gympie. Mr Craig Crawford is an apology. He has to be at another meeting. Mrs Brittany Lauga, the member for Keppel, has had her baby.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing orders of the parliament. Witnesses should be guided by schedules 3 and 8 of the standing orders and note that their responsibility is to provide factual and technical background to government legislation and administration. Those here should note that these proceedings are being broadcast to the web and transcribed by Hansard. Media may be present, so you may be filmed or photographed. Could we make sure that we all have our phones turned off or put on to silent.

**BARKER, Ms Mirranie, Manager, Land Policy, Department of Natural Resources and Mines**

**ERICHSEN, Mr Noel, Chief Inspector of Explosives, Explosives Directorate, Department of Natural Resources and Mines**

**HINRICHSEN, Mr Lyall, Executive Director, Land Policy, Department of Natural Resources and Mines**

**STONE, Mr Mark, Executive Director, Mine Safety and Health, Department of Natural Resources and Mines**

**WARNEKE, Mr Brad, Acting Executive Director, Titles Registry, Department of Natural Resources and Mines**

**CHAIR:** I now welcome officers from the Department of Natural Resources and Mines. Lyall, do you have an opening statement?

**Mr Hinrichsen:** Yes, I do. Thank you and good morning, committee members. I appreciate this opportunity to brief the committee on the Land, Explosives and Other Legislation Amendment Bill 2017. The bill is an omnibus bill that amends 10 existing acts that are administered by both the Department of Natural Resources and Mines and the Department of Aboriginal and Torres Strait Islander Partnerships.

The policy objectives of the bill include streamlining and ensuring the effectiveness of key regulatory frameworks within the Natural Resources and Mines portfolio; enhancing worker and community safety and security in the explosives and gas sectors; and the protection of certain Aboriginal freehold land on Cape York Peninsula from the granting of a mining interest. There is a lot of detail in the bill, but I thought it would be useful if I could outline the key amendments to each of the 10 acts that the bill amends.

The bill amends the Land Act 1994 to provide a modern compliance framework. Similar to existing provisions in equivalent state legislation, these amendments will equip the Department of Natural Resources and Mines with contemporary compliance powers and tools to stop inappropriate behaviour on state land for which the department has direct land management responsibilities. This includes improved powers to stop activity such as motorbikes and vehicles causing destruction on state land and causing nuisance to neighbours' properties. It will also enable authorised officers to move people on in certain situations; for example, when a full reduction burn is planned on unallocated state land.

The department will be able to deal with inappropriate structures on state land, including those that pose a risk to public safety and health. For instance, the department could require the removal of unsafe, poorly maintained or inappropriate infrastructure on state land that is a liability to the state and its taxpayers, such as unsafe rock walls or asbestos filled buildings. The department will have the power to undertake the removal if it is not done by the tenure holder within a set time and then recover the associated costs.

Amendments to the Land Act are also proposed to allow for tidal water leases to be rolling term leases if they are tied by covenant to a perpetual lease for tourism purposes on a regulated island. These amendments are proposed in response to stakeholder feedback and will support tourism on our islands by removing the need to separately renew those tied marine leases that are associated with a perpetual lease.

Amendments to the Land Title Act 1994 will encourage and facilitate further take-up of online e-conveyancing. With the introduction of the electronic titles register in 1994, paper certificates of titles are no longer required but, in fact, they still exist for about 12 per cent of properties. This bill proposes to remove the effect of those remaining paper certificates of title as of 1 January 2019. Those paper certificates of title may be retained by the holders after this date, but they would no longer be required by the registry before a transaction could occur. This will complete the move of conveyancing into the digital age and align Queensland with other Australian jurisdictions.

To reduce duplication and red tape in the process of purchasing land in Queensland, the definitions of a 'foreign person' and a 'foreign corporation' in the Foreign Ownership of Land Register Act 1988 will be aligned with those similar definitions that are already in the Duties Act 2001. Currently, those two acts use slightly different definitions and descriptions of who the relevant provisions in relation to foreign ownership apply to, which creates some significant and unnecessary complexity in the process of applying the relevant provisions of those two acts.

Amendments to the Aboriginal Land Act 1991 and the Torres Strait Islander Land Act 1991 provide Aboriginal and Torres Strait Islander owner groups with the option of nominating an existing corporation under the Aboriginal and Torres Strait Islander Act 2006 to be granted land outside of a determination area, thereby negating the need to establish and fund a new landholding entity where an otherwise suitable entity already exists.

The bill also provides for a flexible process for trustees and the state to agree on the sale price of social housing to enhance home ownership opportunities in Indigenous communities. This flexibility will allow the state and the trustees to respond to the unique circumstances in those discrete communities, to recognise that existing interests in the property exist. The amendments will also allow for adjustments to be made in communities where there is limited or no active housing market.

The bill includes amendments to the Cape York Peninsula Heritage Act 2007, prohibiting resource extraction activities for properties transferred as Aboriginal freehold land. These amendments ensure the retention of existing management arrangements to protect the outstanding cultural, environmental and landscape values associated with the Shelburne Bay and Bromley properties on Cape York Peninsula. These amendments were requested by traditional owners of the land and supported by the Cape York Land Council Aboriginal Corporation as part of tenure settlement arrangements for those areas.

The bill amends the Explosives Act 1999 to improve community safety by strengthening the security provisions relating to explosives. The amendments will introduce an explosives driver's licence for the transportation of explosives, require a security-sensitive explosives plan to identify security risks and adopt processes to deal with those risks and for this plan to be reviewed annually. It will also streamline administration by including processes around the application for and transfer of explosives licences, and improve the consistency of safety regulated provisions to improve information provided for the Explosives Inspectorate around notification and investigation of explosives incidents.

The Explosives Act in its current form is silent on security related matters. It is essential that Queensland's explosives legislation is kept current with contemporary safety and security standards and meets community expectations. Under the proposed framework, applicants for a licence under the Explosives Act must satisfy a suitable-person test to gain a security clearance. This test assesses the person's criminal and domestic violence history and spent charges, and supports the Queensland government's *Not now, not ever* report by prohibiting persons who are the subject of a domestic violence order from holding an explosives licence. This will ensure that only persons who are suitable to have access to explosives do so. The bill improves the safety, security and efficiency of the

transportation of explosives on public roads. In the interests of public safety, the amendments will link the Explosives Act with the Public Safety Preservation Act 1996 to enable the declaration of transport routes, areas or times as approved or prohibited for the transportation of explosives on public roads.

The bill makes clarifying and minor operational improvements to the Petroleum and Gas (Production and Safety) Act 2004, so that it remains relevant and contemporary for workers in the gas sector and gives confidence to the community around issues of gas safety. The amendments respond to matters raised by industry and government stakeholders who have identified a number of anomalies and efficiencies impacting on day-to-day operations for the gas sector. In total, there are 13 substantive amendments that will deliver improvements to increase regulatory certainty, consistency and efficiency in the gas industries. For example, the bill proposes replacing annual safety reports with online real-time notifications that will provide the inspectorate with up-to-date information about gas operating plant. The bill also allows for safety obligations at operating plant to be held by either an individual or a corporation, making it more consistent with the frameworks that apply to other Queensland workplaces.

The bill provides a framework for abandoned operating plant to be managed to ensure that the state can authorise persons to remediate operating plant if it has been abandoned by a resource authority holder. This situation may occur where there has been a disclaimer of onerous property under the Commonwealth Corporations Act 2001. A recent example of this was the Linc Energy site, where the liquidators disclaimed all property and that included the resource tenures for the environmental authority's land tenures related to its underground coal gasification activities. The proposed amendments relating to abandoned operating plant are based on the existing abandoned mines framework in the Mineral Resources Act 1989 and will allow an authorised person to enter land to remediate abandoned operating plant.

Amendments are also proposed to address minor and technical issues identified in the overlapping tenure framework for coal and coal seam gas. In short, the amendments contained in the bill will ensure that all disputes about matters that the legislation requires to be contained in a joint development plan can be referred to arbitration under the overlapping tenure framework if there is disagreement between the parties. The bill will ensure that the application of compensation for petroleum leases connecting infrastructure is consistent with industry's preferred policy position; apply the same restrictions that currently prevent a tender for a petroleum lease being released over a coal or oil shale mining lease to also restrict a tender from being released over an area that is subject to an application for a coal or oil shale mining lease; and clarify the original policy concerning the transitional arrangements to the overlapping tenure framework and beneficial use of incidental coal seam gas framework. Industry stakeholders have been consulted on those proposed amendments and are supportive. There are also a number of minor amendments within the bill to clarify and correct errors and omissions in the aforementioned acts.

In relation to consultation, the proposed amendments have been identified variously through feedback from stakeholders and customers, as well as ongoing initiatives by the department to ensure the operational effectiveness of its legislation. As the committee will appreciate, I am sure, as these are wideranging amendments contained in the bill the number of parties consulted is extensive. Rather than listing each of those individually, I would refer the committee to the consultation section of the explanatory notes for detail of the consultation that has occurred. With those few words, my colleagues and I would be happy to take any questions that the committee may have.

**CHAIR:** The bill amends the Aboriginal Land Act 1991 and the Torres Strait Islander Land Act 1991 to provide the option of granting land to a registered native title body corporate outside of their determined native title areas, which is the part that I am interested in. It also allows the setting by agreement of sale prices for social housing on Indigenous land. What is the transparency and accountability for that process?

**Ms Barker:** In regard to the ability for an Indigenous party to nominate what we call a CATSI corporation, like an RNTBC, there are a number of different steps before that happens that the minister must be happy with. The legislation states that there may need to be an anthropological report about who is the appropriate native title body to be represented by the corporation. There will also need to be an ILUA worked out. It may be aligned close by to the existing RNTBC or prescribed body corporate. There are a number of those in there. However, in future if the Indigenous people who initially asked for the RNTBC to cover that area of land want to change it, there are provisions in the relevant acts to say that we transfer it to the new holder of that RNTBC. There are a number of different safeguards already in the act.

**CHAIR:** Does that include auditing the process, to make sure that it has been carried out correctly?

**Ms Barker:** I will have to take that on notice and refer to my DATSIP colleagues regarding that.

**CHAIR:** Why should a registered native title body corporate be given the option to be granted land outside of their determined native title area?

**Ms Barker:** This amendment was on the request of the Indigenous people, in particular, in some of the areas. They have asked for that. It has become apparent that there are a number of different corporations set up to manage land, which means that the Indigenous holders can be spread thinly across a number of different corporations. That means there has to be duplication in terms of setting up corporations, running a corporation, getting together for meetings. They said it would be easier, in terms of what they require, if they can coalesce it into one or two major groups so that they are not always scattered or always seeking meetings. Apparently, it takes a big toll on the communities, especially for the Indigenous elders.

**CHAIR:** If a registered native title body corporate does not hold native title but is granted land, could that potentially impact on the native title holder's interests and rights?

**Ms Barker:** As I said before, if in future they find out that the native title holders do not want that RNTBC to hold that land, they can seek to have it moved to another RNTBC.

**CHAIR:** Why wouldn't that be sorted out before the process is completed?

**Ms Barker:** Again, I will have to take that on notice and talk to my DATSIP colleagues. My understanding is that there can be quite a long time frame between having a native title determination made and going through the process of registering a prescribed body corporate as a registered native title body corporate. It is mainly dealing with the extent of time that it can take for that to occur.

**CHAIR:** We all understand that some of these negotiations and outcomes can be very sensitive. I think it is in our best interests to make sure that it is all sorted out before we get into a situation where there is a dispute.

**Ms LEAHY:** I want to explore the security, safety and transportation requirements in the Explosives Act. Can you give the committee a thumbnail sketch of what the current requirements are in relation to accessing explosives in Queensland and the proposed changes in relation to the transportation of those explosives?

**Mr Stone:** I will give that thumbnail sketch, although I suspect I may need to come back with a better drawing. Essentially, on the relevant context for the security provisions in general—and I will come to your specific question—as my colleague Mr Hinrichsen outlined, the act is currently silent on the security. Over the course of time and I think since late 2014, when the national terrorism threat advisory group raised the security advice to 'probable'—the conditions surrounding that persist today—there has been a growing need to address specific areas of the transportation, handling, authorisation and licensing of any explosive containing material. The provisions that are coming in are a response to a change in the landscape of the terrorism threat and the increased value of protecting and authorising the use and licensing of explosives.

Specifically with transportation, I think the existing provisions only place requirements on the vehicle itself and the way in which explosives material is labelled and transported. There are not provisions—which are introduced in this bill—around authorisation and licensing of those actually transporting material, the requirement for journey plans, and notification and assessments about the transportation routes. Those have become front of mind since the Angellala Creek incident, which was a very serious incident that caused serious injury to a number of individuals. It happened on a Queensland road a couple of years back. Certainly standing back from that accident and investigation and looking at ways in which that could be mitigated in the future with further checks and balances around those transporting explosives and explosive containing materials is a positive step.

**Ms LEAHY:** Mr Stone, as you would be aware, I am very familiar with the Angellala Creek situation. I pose this question to you: if a landholder who is a licensed shot firer—and there are a number throughout Queensland—has a public road through their property and they need to traverse that road to get to other areas of their property, are they going to have to have their vehicle specified?

**Mr Stone:** I will have to take that question on notice and come back with a specific answer.

**Ms LEAHY:** I understand that in relation to ammonium nitrate there are already some particular trafficable routes that are outlined for that. Are you aware of that?

**Mr Stone:** I am aware through my colleagues in the Explosives Inspectorate, yes.

**Ms LEAHY:** Then why the need to change that? Correct me if I am wrong, but my understanding was that you were going to have an additional look at what the transport routes were throughout Queensland.

**Mr Stone:** I think the provisions that are introduced here are more around the timing of the transportation of explosive material and journey management plans as opposed to the routes, which, as you said, already exist.

**Ms LEAHY:** Ammonium nitrate can be used for explosives but it is also a particularly important fertiliser, so I am wondering what consultation there has been with some of those major suppliers, like Incitec Pivot for instance, and also perhaps landholders like cotton growers who use that fertiliser on a regular basis.

**Mr Stone:** I will have to take that question on notice. I think there is a differentiation, but I will have to come back to you on that.

**CHAIR:** Given your reference to the Angellala Creek incident and the routes that some of these transporters use when they are carrying ammonium nitrate in particular, has there been any risk assessment done since to see if there are any communities or areas where people are at a higher risk with regard to the movement of this particular explosive and what damage could be done? I am specifically talking about transporting these products through Walkerston.

**Mr Stone:** I am familiar, as members of the committee are, with the investigation report following Angellala Creek. I know that pre-existing there was a risk assessment of routes taken typically from major import locations and government explosives magazines to the point of use. I will need to take on notice the specific question you asked about those who are perhaps more at risk.

**Mr KNUTH:** It says in the briefing notes that the bill will enhance opportunities for Indigenous people to achieve home ownership by providing an option to set a price for social housing by agreement between trustee and the government. How will that work?

**Mr Hinrichsen:** There is a current framework and it has been listed by our colleagues in the Department of Housing and Public Works, but it is a very complicated pathway. Currently the legislation talks about agreement to a process, so it is like a step removed from the actual discussion around agreement to a price for a particular property. When you start applying a process to many and varied circumstances the length and breadth of Queensland, as I am sure you appreciate in your part of Queensland, it becomes really complicated for something that should be really simple. This is about making it really simple.

If this is the property and there is an interest in a current local traditional owner acquiring ownership then, rather than being bogged down in some broader discussion about process, you can get right to the point of discussing what is a fair and appropriate price for the particular property. As again I am sure the member appreciates, if you are talking about valuing a property that is within a suburban area of a major centre that is a pretty easy process—you can go to existing valuers and real estate agents and they will give you probably pretty close estimates—but if you go to a number of those communities you do not have an established market in many cases, so it is really going to be more horses for courses to have direct negotiations as to what is a fair price in the particular circumstances. It is about simplifying what ought to be a really simple process and currently is not.

**Mr PERRETT:** In relation to the changes to the Explosives Act, are fireworks captured by this?

**Mr Hinrichsen:** Fireworks are regulated under the Explosives Act, yes.

**Mr PERRETT:** How will the amendments contained in this bill affect the transportation of fireworks across Queensland, particularly into regional areas, whether to country shows or community events? Will there be some additional difficulty in getting those products out into these various communities?

**Mr Stone:** There is a clause in the bill that amends section 39 of the act to include security and handling procedures for hazards associated with fireworks, and that would be added to a fireworks operator licence which exists in the act.

**Mr PERRETT:** Will that make it more difficult or more expensive for these operators to provide these events, particularly in regional and rural Queensland?

**Mr Hinrichsen:** The changes in relation to fireworks operators are pretty minimal. As Mark says, they are really about ensuring there are appropriate security considerations, and the security considerations really do come down to the quantity associated with what are referred to as security risks, essentially, of explosives. There is already a regulatory framework for local fireworks operators, yet it is important because a lot of the component materials that go into local fireworks displays can,

in significant quantities, pose a risk. There has been extensive consultation with the peak bodies which represent the likes of explosives operators, and they have expressed no concern. In many respects it reflects the best practice that good operators already utilise in managing their operations.

**Mr PERRETT:** I was just concerned that any changes to the designated routes across Queensland would affect their ability to take those explosives into areas where you would not ordinarily expect them to go, whether it is country shows, community events or fetes, whereby there would be some additional difficulty in them providing that service to those local communities.

**Mr Hinrichsen:** I understand the member's question. There are obviously limits around quantities and the like. I think Mark suggested we will get back to the committee—if we can take that on notice—in terms of some of the specifics that might directly address your question.

**Mr PERRETT:** Thank you for that. Similarly with the Explosives Act, is ammunition for weapons captured by this?

**Mr Hinrichsen:** Yes, small arms ammunition is regulated under the Explosives Act. Again, it recognises that the componentry that goes into the manufacture of small arms ammunition is basically an explosives product, but none of the changes here significantly deal with the use and transportation of small arms ammunition, most of which do align with the existing framework under the Weapons Act. I guess that is a reciprocal recognition, if you like. Yes, there is a regulatory framework, but most of the day-to-day operational management associated with small arms ammunition—and that is defined in the Explosives Act—is through that Weapons Act licensing framework.

**Mr PERRETT:** The transportation of gunpowder, primers or cartridges from a dealer to someone's property should not be affected by these changes?

**Mr Hinrichsen:** The only caveat I will put on that is if we were talking about significant commercial quantities. We will take on notice the limitations associated with that. Then obviously that will get into the bulk handling of explosives, and it is subject to the regulatory framework. If you are talking about the use of cartridges associated with a licensed gun holder then the regulatory framework does not apply to that form of transportation.

**Mr PERRETT:** If you could provide some further clarity on the limitations that are associated with that, that would certainly be appreciated. I have a couple of queries with regard to the changes to the Land Act 1994. Firstly, how many leases across Queensland are directly administered by the Land Act or have some provisions within the Land Act 1994? Do you know how many there are approximately?

**Mr Hinrichsen:** We can take the question on notice. Without being able to quote the number of leases, around two-thirds of Queensland's land area is directly administered through leases under the Land Act.

**Mr PERRETT:** I know that you gave some examples earlier. I think rock walls and asbestos were mentioned. Obviously there are a lot of pastoral leases across Queensland that are affected. I wonder whether this extends to assets that are on that land with cattle yards, fencing, water facilities and the like where the department may then say to those leaseholders that those structures are unsafe. Perhaps you clarify whether there is a public safety issue associated with that. I raise those issues because I assume it is more than just rock walls and asbestos.

**Ms Barker:** Yes, a lot of the amendments we are seeking were driven because of our commercial leases and leases closer to urban areas. With regard to the legacy structure ones in terms of pastoral leases, unless there is a community complaint we will not be looking at them because they are rolling term leases. A lot of these new provisions come in when a lease expires or is cancelled or surrendered, and that is when we will ask about these legacy structures. The caveat on that is: if we get community complaints or there is public concern about a structure then, yes, the department will work on responding to that community complaint.

**Mr PERRETT:** I was concerned about that, because I can understand rock walls et cetera that are unsafe, but I wonder whether the provisions within these proposed changes may capture more than what they initially anticipated and what the department's view would be, for example, with regard to cattle yards, a fence, a water structure or something else that may have been operating successfully for many years or decades. When suddenly someone makes a complaint or perceives there is an issue, how would the department respond in those wide circumstances?

**Ms Barker:** In reality I do not think that will happen very often, but if somebody does complain we have an obligation to have a look at the issue and prioritise it against the other work that we have and then see how we respond. Like everything else it will be case specific, but it really was to deal with a lot of legacy building structures that are unsafe but are also causing a huge financial burden to

the state in terms of having to deal with it and making the leased or permitted land available for future use. Some of the incidents were happening where you have structures remaining on a lease, which means that there is limited future use to occur on that lease. Also it has been hampering some of the land going across to beneficiaries in terms of native title outcomes, because we have had to deal with structures on land to ensure they were safe before giving it to the relevant native title holder.

**Mr PERRETT:** When a lease expires and a new lease is issued, are those provisions proposed to be written into those leases? I will use an example. If a lease expires under the existing arrangements, within a certain period of time that lessee should remove any of those structures from that lease. Is this a change to deal with the reissuing of leases or complaints? Someone complains about a particular matter. The department says, 'That is unsafe. You need to fix it.'

**Ms Barker:** There are two arms to this. We have one that deals with dangerous structures that are a risk to the public and, in terms of the new legislation, we will issue a safety notice and make sure that it is safe for the public. That could just be making sure that the public cannot have access to it.

In terms of what I will call legacy issues but things that will cause the state problems, under the proposed amendments, prior to a lease or a permit ending we are going to ask the lessee or permittee—possibly the permittee but not in all cases—to provide us with a report about what structures are on the lease and what they want to do with those structures and also to give us an indication of whether they are well maintained, whether the lessee wants them to be destroyed or what they want to do with them. Based on that information, the department will then respond saying, 'It is okay,' or, 'No, we want you to either make the building safe or remove that structure.'

As I was saying before, it deals with things for tourism leases. We have abandoned sewerage works; we have old industrial complexes full of asbestos, which means that we cannot do anything with them; we have marinas that are causing an issue, both to the public and potentially to safety. We have a number of those types of instances at the moment and we have limited powers to deal with those. We are getting a lot of concern about what the department is supposed to be doing and why we are not dealing with those types of structures.

**Mr PERRETT:** Thank you for that.

**CHAIR:** Before we go off that area, are fishermen's shacks covered under this legislation? Could they be considered a structure that is a risk? As you know, there are a lot of issues around that.

**Ms Barker:** Were they lawfully built?

**CHAIR:** Probably in most cases no, but there certainly would be a number of those that were built lawfully. When you say 'built lawfully', they have the approval of the council.

**Ms Barker:** I could take that on notice, but it would be a case-by-case situation. It would depend on the future use of that land and whether it is appropriate to retain that type of structure on it. There would probably be a lot of history associated with that as well. It is very hard to give a broad example of what we would do, because it is very much a case-by-case situation.

**CHAIR:** Potentially, those types of structures could be considered under this proposed legislation.

**Mr Hinrichsen:** I could envisage a couple of different scenarios. One might be whether that fishing hut that you refer to is on a permit to occupy or on a Land Act tenure. It may well be that it has been left abandoned. It may well be that it is in a state where squatters are accessing it, or the roofing iron is coming loose and that is posing a threat to adjoining property holders. This type of provision would absolutely apply in those circumstances.

Other compliance provisions within the bill are about those situations of unlawful occupancy or trespass on state land. That includes the powers to give directions to move on in various situations where someone might be causing damage or nuisance through things like motorcycles and causing a disturbance to neighbours. There are also powers for the department in the existing framework where there are illegal structures—for example, on state land that the department administers—to remove those. That framework is already in existence.

The major changes here would be about those areas where you have an existing Land Act tenure where the infrastructure on there was of a concern, particularly in those situations, as Mim mentioned, where the lease is expiring. Already it is a significant issue for the state of basically acquiring legacy clean-ups where tenures are not renewed. Where it is a building, if it is contaminated in some way it costs the state to then come in to remediate that site. It is about being able to take

some proactive action so that towards the end of a lease, when it is not going to be rolled over, it is known exactly what the plans are; it is known whether it is appropriate for that building to be left there so that it could be transferred for future use, or if the current lessee ought to do the right thing and clean it up or get it to a proper state before the expiry of that tenure.

**CHAIR:** Given that some of these structures have been in place for a long time—50 or 60 years—if this change to the legislation considers whether structures are safe and livable, I suggest that it would be an enormous issue. I suggest that the department tread warily with that one, because you are going to have a lot of local members in trouble because of things like this happening, mainly because of the history. I am sure you are aware of that.

**Mr Hinrichsen:** We are absolutely aware of that. It is about making sure that community safety is addressed and that there is no adverse impact on neighbouring property owners from a piece of infrastructure that is abandoned, effectively, on a state land tenure as well as making sure that the person who is responsible for that leaves it in a fit and proper state as opposed to leaving a significant legacy for the taxpayers of Queensland to fix up.

**CHAIR:** I go back to the protection of the Shelburne and Bromley properties on Cape York. What are the existing arrangements for the protection of the Shelburne and Bromley properties? Why are these legislative amendments considered necessary to retain protection of those properties?

**Mr Hinrichsen:** The Shelburne and Bromley properties were acquired by the state government back in the 1980s and have been managed as part of a framework under the Nature Conservation Act. There is the Cape York Peninsula national park. Historically they have had protection under the Nature Conservation Act, which has meant that no mining tenures have been able to be granted over those properties.

Earlier this year there was an agreement on future tenures associated with the Bromley property. Obviously, it is a significant tract of land. Part of the negotiation with the traditional owner groups was for part of the property to remain as part of the protected area estate under a co-management arrangement as a national park, but parts of the property were transferred to the traditional owners as Aboriginal freehold land. With the transfer to Aboriginal freehold land, they no longer have the protection under the Nature Conservation Act in terms of mining tenures being granted. As part of the negotiation process, the government committed to the traditional owners to maintain the existing level of protection in relation to any potential for resources activities, whether it is mining, petroleum and gas or any of the other resource acts that are able to be used to grant tenures for certain forms of development.

In many respects, it is maintaining the status quo. There was an interim arrangement put on under the Mineral Resources Act, which is a restricted area, which means that, for a period by which that restricted area declaration applies, resource tenures are not able to be granted. The restricted area framework is really meant for a shorter term arrangement. Whilst it is not time bound in the legislation, it is at the discretion of the resources minister as to when that restricted area is applied and when it might be lifted. Putting that protection for those very specific areas—they are defined in terms of specific properties—into primary legislation was considered the most appropriate way to give long-term effect to the government's commitment to the traditional owners.

**CHAIR:** From what you said earlier, my understanding is that the traditional owners have been consulted and are in agreement with what is happening under this bill.

**Mr Hinrichsen:** Absolutely, and this is part of the government's commitment as part of those land negotiations for that particular settlement.

**Ms LEAHY:** I turn to the Foreign Ownership of Land Register. In your opening you said that the changes were to align the Foreign Ownership of Land Register more with some of the definitions in the Duties Act. Can I ask if there have been any other alignments with any other foreign ownership of land registers?

**Mr Hinrichsen:** Thanks, member for Warrego. My colleague Brad Warneke, the deputy executive director for titles, has been dying for this question to be asked, so I will hand over to him.

**Mr Warneke:** Thanks, Lyall. The alignment between the Duties Act and the Foreign Ownership of Land Register Act is in relation to the definitions. As part of the requirements, the land registry will maintain the Foreign Ownership of Land Register. During the conveyancing process, the lawyer representing their client has to interpret the requirements of the Duties Act in regard to a foreign person. They also have to interpret the requirements under the Foreign Ownership of Land Register and they have to declare the different things.

The alignment is to reduce red tape and simplify the process so that, when declaring the level of foreignness by an individual or a company, the lawyers are just looking at one set of definitions, those being in the Duties Act. It is intended that the definitions in the Foreign Ownership of Land Register Act will just refer to the Duties Act. It simplifies the process and reduces red tape.

**Ms LEAHY:** How does the state Foreign Ownership of Land Register Act relate to the report on the Register of Foreign Ownership of Agricultural Land done by the Foreign Investment Review Board?

**Mr Warneke:** The Commonwealth government has slightly different definitions as well. The ATO issues its report regarding the level of foreign ownership of agricultural land. The report that the land registry prepares for the minister in relation to the Foreign Ownership of Land Register relates to all foreign owned land. There are slight differences between the two reports in that we report on all foreign owned land and the Commonwealth ATO's report relates to agricultural land. In the Foreign Ownership of Land Register, we do not differentiate between agricultural land and residential land; it is all just land owned by foreigners.

**Ms LEAHY:** Can I ask why the explanatory notes say that no other Australian state or territory has similar legislation when there is clearly a report on the foreign ownership of agricultural land from the Foreign Investment Review Board?

**Mr Warneke:** The explanatory notes refers to other jurisdictions in regard to the land titles offices within those jurisdictions. We are the only land registry in Australia that has a Foreign Ownership of Land Register. The introduction of the Commonwealth ATO Foreign Ownership of Agricultural Land Register has only been of recent times. We are still maintaining ours as well as they are maintaining their register.

**Ms LEAHY:** You capture your data through title transfers. How does the Foreign Investment Review Board capture its data?

**Mr Warneke:** They capture their data through applications to the Foreign Investment Review Board. There is an obligation for foreign purchasers to seek approval through the Foreign Investment Review Board as to their ability to purchase the property. They base their information on those applications that are approved. Like you said, ours come through a declaration under their obligations under the Foreign Ownership of Land Register Act in declaring their level of foreignness when purchasing a property in Queensland.

**Ms LEAHY:** I would assume that under the Duties Act—I do not have it in front of me—there is a clear definition of what a foreign person is?

**Mr Warneke:** There is. The reason for the alignment to the Duties Act is that it is a quite complex but simple differentiation in definition between the two. They are very complex definitions when you try to compare both acts. We are trying to align it to the Duties Act so that there is one definition applying to foreign purchasers.

**Ms LEAHY:** Is it anticipated that when those alignments are made between the legislation a lot more people will be included in that definition?

**Mr Warneke:** It is not expected that there will be significant numbers, but there will be some people who will be caught up in this change in definitions. It is difficult to determine how many. On the other side of the coin, there might be other people that the definitions do not apply to. If the proposed legislation is passed, under the Duties Act they have three months to notify us regarding the changes to the definitions. They will be notifying the land registry if the new definitions apply, and there is no cost associated with that identification of them becoming foreigners under the new definitions.

**Ms LEAHY:** Could you give the committee an example of a person who may now be captured by the definitions who was not before—I am happy for you to take it on notice—and perhaps an example of where someone who was captured before will now not be captured?

**Mr Warneke:** I will have to take that on notice.

**CHAIR:** I have a question about online conveyancing. Are paper certificates of title still used or have they all been replaced with the electronic conveyancing system?

**Mr Warneke:** They are still being used but, since the introduction of the Land Title Act 1994, there was a provision where the registrar was not required to issue certificates of title automatically; they were issued on request. Since 1994, for 88 per cent of 2.3 million certificates of title in the land registry a duplicate does not exist. For the remaining 12 per cent, the intention under the proposed

legislation is to remove the need for those certificates of title. That is part of the overall digital strategy for the future, moving into electronic conveyancing. Like I said, 88 per cent have chosen not to have the certificates of title in that 20-year period.

**CHAIR:** Can you explain the amendments to the Land Title Act relating to caveats? Why are they considered necessary?

**Mr Warneke:** The proposed amendments are just a clarification of practice. Our current practice is going to be more reflected in the proposed legislation in regard to the requirements of notifying the registrar in certain situations regarding lodgements of caveats and caveat practices. It was pointed out by a client or a customer that there is a slight gap there. The inclusion of the word 'and' rectifies the situation. There is a requirement there to do something 'and' notify the registrar. It is a clarification of our practices.

**CHAIR:** It has caused you some problems.

**Mr Warneke:** At the time it did, yes. That legislation had been written since 1994. This is the only time this potential loophole in the legislation has been pointed out to us. The proposed amendments are to tighten that up to reflect our existing practices.

**CHAIR:** In terms of the framework for managing abandoned operating plant, what is the definition of an 'abandoned operating plant'?

**Mr Hinrichsen:** That is probably not for our deputy registrar of titles.

**CHAIR:** He looked pretty keen to answer.

**Mr Hinrichsen:** Yes, he was. In relation to this amendment, operating plant is a reference to a tenure under the petroleum and gas act. It might be a petroleum lease, for example, or a petroleum facility, as was the case with the Linc Energy site. For many years the Mineral Resources Act has had a framework for managing abandoned mines, as I am sure you would appreciate, Mr Chair, coming from the electorate of Mirani.

In the past there has not been an issue with a similar sort of problem with the petroleum and gas sector. Certainly Linc Energy disclaiming those sites has created this need for a similar framework to exist so that the relevant government agencies in the case of Linc—our Department of Natural Resources and Mines, which administers the abandoned mines program, and EHP as the environmental regulator—are able to get on the site with the appropriate abilities to manage that, make it safe and mitigate any future impact. It is really just bringing that form of potential impact into an existing framework so we can apply absolutely consistent approaches.

Obviously, it is coupled with other reforms that the government have put in place to better regulate those situations where resource authority holders might seek to leave behind significant legacies for the state. In those situations where it does arise it is obviously a last resort but it provides really important powers for the state to be able to get on those sites and appropriately manage those abandoned sites.

**CHAIR:** Who is going to bear the costs for all the time that is going to be taken up with government agency personnel or maybe remediation works? Is that going to be left to the taxpayer?

**Mr Hinrichsen:** Obviously in the case of Linc Energy there are still matters very much before the court, so I will not delve into those. The chain of responsibilities framework that exists is very much about making sure that those who benefit from resource developments are ultimately responsible, as most companies are, for appropriate remediation of the site. Linc Energy is obviously a case where there has been a significant liability left potentially for the state, and already the state has incurred significant expenditure in securing that site. We would hope that these types of powers are used very infrequently, but they are a necessary tool in those cases. In the here and now, many of those costs associated with the Linc site are certainly being borne by the Queensland taxpayers.

**CHAIR:** This legislation will help change that situation?

**Mr Stone:** I might answer that as I have some familiarity with the group. The legislation really aligns the P and G act to the Mineral Resources Act. There are provisions that exist today that are applied to abandoned mine sites. We now see the need to apply similar provisions to abandoned petroleum and gas sites with operating plant under the P and G act. That is the legislative change. There exists a group within DNRM, the Abandoned Mines Unit, which administers the abandoned mines framework. That group is already administering the Linc example that my colleague gave. However, there will be further petroleum and gas sites and operating plants under the P and G act. It is expected that those would be allocated funding out of the financial assurance framework reform, which is a reform underway to try to better provide for legacy sites, both mines and petroleum.

**Ms LEAHY:** My question follows on from the chair's question in relation to the abandoned mine sites. As you talked about, quite often there are costs to the taxpayer. Is there any intention from the department to increase the financial assurances or to do any sort of risk analysis about future abandoned sites so that the financial assurance is satisfactory to cover any works on those abandoned sites?

**Mr Hinrichsen:** Absolutely. It is certainly not part of this framework, but there is a project group within Queensland Treasury. Our department is participating in that project, as are the Department of Environment and Heritage Protection and other concerned government agencies, to address that issue in setting up an appropriate ongoing financial assurance framework which will ensure that there is, first and foremost, appropriate remediation of sites. Also, it will look at establishing a contingency fund, if you like, for funding these legacy issues.

Currently, our Department of Natural Resources and Mines does, through its annual appropriations, have a budget for abandoned mines. That focuses on making those sites safe. Certainly, the scale of sites like Linc Energy is of significant concern and goes beyond the budget that would be normally allocated. This framework—the amendments we are talking about here—does not get into the financials. It does not get into how you manage to stop a site becoming abandoned. It is really about making sure that the department, as the manager of that site in the here and now, has appropriate powers. As my colleague Mr Stone said, it is to align with those definitions that exist in the Mineral Resources Act that are applied by our Abandoned Mines Unit.

Currently, the site is being mapped by our unit, but the petroleum and gas act did not contemplate an abandoned site, quite frankly. The management framework that needs to be applied assumes that it is an ongoing operation. The arrangements that apply to an ongoing operation in many ways are quite different to those that are appropriate for remediation of a site which are about immediately securing the site and addressing the safety imperatives in relation to the infrastructure of the operating plant that is located there.

**Ms LEAHY:** You said that the amendments to the overlapping tenure framework are minor and technical. Perhaps you could give us more information about those amendments.

**Mr Hinrichsen:** The overlapping tenure framework has existed since primarily the Mineral and Energy Resources (Common Provisions) Act was put in place. It recognises that there are many parts of Queensland where there are coal tenures and coal seam gas tenures. It certainly does address the priority, both in terms of access—how the state gets the best return out of that resource in terms of extracting the gas—and in terms of ensuring that the coal is still available for taking. A lot of work was done with the industry in coming up with that framework so that both interested tenure holders have their concerns addressed.

As you would appreciate, in reality there are a lot of scenarios with the stage at which the various tenures were granted and the phase of development that has occurred. A number of operational issues have arisen that really have been the basis for these amendments. For example, currently some aspects of the joint development plan are outside the scope of what can be referred to arbitration.

The whole framework is about the parties reaching an agreement. There are guiding principles in terms of priorities, but ultimately if the parties cannot agree it provides for commercial arbitration. In certain circumstances there are cases where matters are outside of the arbiter's powers. This makes sure that everything that is required within that joint development plan is able to be ultimately referred to an arbiter rather than there being an ongoing stalemate. That has been identified in a few very specific circumstances, so the amendment addresses that.

There are compensation provisions if there is a need for the coal tenure holder to accelerate their development plan and that does not allow enough time for the petroleum lease tenure holder to extract a gas to compensate them or to make good on the gas supply that is forgone. There are issues to do with connecting infrastructure which might sterilise some of the resource, making sure that it is not just the petroleum tenure but those other areas to be considered as part of that compensation framework.

There is already a provision such that a tender or a release of land for a petroleum tenure cannot occur where there is an existing mining lease—that is for oil shale or coal—but it does not include those areas where there is an application for a mining lease. In that scenario, it might be a week before the coalmining lease is to be allocated. There is still this opportunity for a tender to be released. It removes uncertainty in those very specific circumstances to say that, if you have an application afoot to move your exploration authority or exploration permit for coal to a mining lease, the state will not act to grant a petroleum lease over that area, as opposed to maybe some uncertainty

as to what the state might do in that intervening period while an application is being assessed. They are very small issues. Both APPEA and the Queensland Resources Council as the relevant peak bodies have been consulted with extensively.

**Mr PERRETT:** I want to go back to the framework for managing abandoned operating plant. Are some of those sites where there is abandoned operating plant historical? Do they have some sort of heritage value? How does the department view those? I ask that question because I represent the electorate of Gympie and there is a lot of history associated with mining in the region that I represent and some historical relics that really tell stories. I wonder how the department assesses those and whether this legislation will have an impact on some of that history, which dates back almost 150 years.

**Mr Hinrichsen:** The amendments in this bill relate only to petroleum and gas, and there are no historical tenures associated with that. Under the Mineral Resources Act our Abandoned Mines Unit has existing powers to deal with sites that have a long history. Their focus is very much on ensuring safety. In the part of Queensland that the member represents there are a lot of historical mine shafts, and it is not unusual for some of those old shafts to collapse, particularly in wet weather. The Abandoned Mines Unit has responsibility for ensuring safety of those sites.

There are many, many sites the length and breadth of Queensland. Many have historical significance. Many have evolved to have ecological significance. When it comes to how that site is managed, the imperative every time is about safety. In making a site safe they do consider those heritage values and work very closely with our colleagues in the Department of Environment and Heritage Protection, both in terms of cultural heritage and in terms of any environmental significance that has evolved. One that comes to mind is in relation to bats that use those caves as habitat now. While the imperative is to make it safe, it is not to take away those other values. Many in the community value both environmental and heritage perspectives.

**CHAIR:** I have a question on one of your favourite subjects: consultation. Was the Office of Best Practice Regulation consulted in relation to any of the amendments proposed in the bill?

**Mr Hinrichsen:** Yes, absolutely. It is routine process for our department to consult with the Office of Best Practice Regulation on all legislative amendments, and that certainly was the case with the amendments included in this bill.

**CHAIR:** There is nothing mentioned in the explanatory notes about that. Is there any reason?

**Mr Hinrichsen:** Not particularly, but it certainly is part of the operating protocol across the Queensland government to consult with OBPR in relation to their requirement for best practice regulation. We can certainly provide those details to the committee if that is useful.

**CHAIR:** It might have been overlooked.

**Ms LEAHY:** I want to come back to the changes to the Explosives Act. Can the department outline exactly what is required to obtain a security clearance? I am interested in the process and the steps that an individual would have to go through.

**Mr Stone:** I will read from some—

**Mr Hinrichsen:** Mark, before you do, I will point out to the committee that we are fortunate that sitting right behind me is the chief inspector of explosives, who is joining us for the next session. Mr Erichsen might be able to help with some of the more specific questions as well.

**Mr Stone:** I will gladly defer to my chief if the committee agrees.

**Mr Erichsen:** I am Noel Erichsen, the Chief Inspector of Explosives.

**CHAIR:** Can you respond to the question?

**Mr Erichsen:** Yes, I am happy to do that. The security card is planned to be issued to those persons who are deemed suitable, and the suitability check is conducted by the Explosives Inspectorate based on the national criminal history check conducted on the applicant and an Australian Security Intelligence Organisation politically motivated violence check. Those factors are assessed by the inspectorate and we then determine if that person is suitable. There are a number of offences in there that would preclude a person from being deemed suitable in that process. In the act that is tabled there is also an exclusion around those persons who are the holder of a domestic violence order against them.

**CHAIR:** There being no further questions, I will close this briefing. I think 10 or 11 questions have been taken on notice. Could we have responses back by close of business on Wednesday, 1 November?

**Mr Hinrichsen:** Thank you, Mr Chair and committee members.

**CHAIR:** I thank you for your attendance at today's briefing on the Land Explosives and Other Legislation Amendment Bill. I also thank the Hansard reporters, who always do a great job. A transcript of these proceedings will be available on the committee's parliamentary web page in due course. I declare this briefing closed.

**Committee adjourned at 10.54 am**