STATE DEVELOPMENT, NATURAL RESOURCES AND AGRICULTURAL INDUSTRY DEVELOPMENT COMMITTEE

Members present:

Mr CG Whiting MP (Chair)
Mr DJ Batt MP (via teleconference)
Mr JE Madden MP
Mr BA Mickelberg MP
Ms JC Pugh MP(via teleconference)
Mr PT Weir MP

Staff present:

Dr J Dewar (Committee Secretary)
Ms C Furlong (Assistant Committee Secretary)

PUBLIC BRIEFING—INQUIRY INTO THE NATURAL RESOURCES AND OTHER LEGISLATION AMENDMENT BILL 2019

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 6 MARCH 2019

Brisbane

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The committee met at 1.30 pm.

CHAIR: Good afternoon. I declare open this public briefing for the committee's consideration of the Natural Resources and Other Legislation Amendment Bill 2019. Thank you for your attendance here today. My name is Chris Whiting. I am the member for Bancroft and chair of the committee. I have with me today: Pat Weir, the deputy chair and member for Condamine; Mr Jim Madden, the member for Ipswich West; and Mr Brent Mickelberg, the member for Buderim. On the phone we have: Mr David Batt, the member for Bundaberg; and Ms Jess Pugh, the member for Mount Ommaney.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and 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.

The proceedings are being recorded by Hansard and witnesses will be provided a copy of the transcript. To assist with clarity, can you please identify yourselves when you first speak and speak clearly and at a reasonable pace. All those present today should note that it is possible you might be filmed or photographed by the media during the proceedings and images may also appear on the parliament's website or social media pages. The media rules endorsed by the committee are available from committee staff if required. I ask everyone to turn off their mobile phones or turn them to silent. I also ask that if witnesses take a question on notice today they provide the information to the committee by 10 am on Wednesday, 13 March 2019.

BILL, Ms Sarah, Manager, Land Policy, Department of Natural Resources, Mines and Energy

COOPER, Ms Claire, Acting Executive Director, Mineral and Energy Resources Policy, Department of Natural Resources, Mines and Energy

CUSSEN, Ms Catherine, Acting General Manager, Analytics, Regulation and Commercial, Department of Natural Resources, Mines and Energy

DUNNE, Ms Louise, Principal Policy Analyst, Energy Generation GOC Restructure Project Team, Queensland Treasury

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

MOLLOY, Mr Dennis, Assistant Under Treasurer, Shareholder and Structural Policy Division, Queensland Treasury

WISKAR, Mr David, Executive Director, Water Policy, Department of Natural Resources, Mines and Energy

CHAIR: I now welcome officers from the Department of Natural Resources, Mines and Energy and Queensland Treasury. I invite you to make an opening statement, after which committee members may well have questions for you.

Mr Hinrichsen: Thank you, Mr Chair. We drew straws in the foyer and unfortunately I lost, so I will be making the opening statement on behalf of the department. I thank the committee for this invitation to provide a briefing on the Natural Resources and Other Legislation Amendment Bill 2019. This is an omnibus bill that amends 22 acts that are administered by the Department of Natural Resources, Mines and Energy and two other acts—one that is administered by Queensland Treasury, the Mineral and Energy Resources (Financial Provisioning) Act 2018, and another that is administered by the Department of Justice and Attorney-General, the Right to Information Act 2009.

For the committee's benefit I would like to provide an overview of the key amendments that the bill proposes. The bill is structured with four key themes: land legislation, covered in chapters 2 and 3 of the bill; resources legislation, covered in chapters 4 and 5 of the bill; water legislation, covered in chapter 6; and other amendments relating to the establishment of CleanCo Queensland Ltd, the new government owned corporation, covered in chapter 7 of the bill.

I will start with the land legislation amendments. The land legislation amendments contained in the bill cover a number of acts associated with state land administration, land surveys, statutory valuations and land titling and the administration of Aboriginal and Torres Strait Islander land. I will touch briefly on the key land related amendments.

The first are in relation to the Land Act. The Land Act 1994 is the primary piece of legislation used by the Queensland government to administer around 116 million hectares of state land, which is over 60 per cent of Queensland's land area. The provisions of the bill relate to dealings in: land leases and permits for rural, commercial and residential purposes; land use for roads; land granted in trust for particular purposes; community use reserves; and unallocated state land, of course.

Broadly, the amendments to the Land Act proposed in this bill are about improving the act's operational efficiency and reducing the regulatory burden. For example, the notification requirements associated with local road closures will be simplified and day-to-day administrative decisions—for example, approving the transfer or surrender of an existing lease—will become the responsibility of the department's chief executive officer instead of the minister.

In relation to access over intervening land, the department is responsible for undertaking management and forcing compliance on unallocated state land parcels. There are approximately 50 sites across Queensland where there is no dedicated access to those state land parcels—either that or the access point is unsafe or difficult to traverse. The department's preference in these situations is clearly to obtain the consent of the adjoining landholder to gain access via their property. However, there have been situations where departmental officers have not been able to negotiate that consent.

The bill provides the power for authorised officers to traverse land, whether it be freehold, leasehold or trust land, that is adjacent to state land to undertake compliance and maintenance activities. Before entering the adjacent land, the authorised person must provide advance notice to the landholder of the timing and purpose for which access is to be made. Make-good arrangements are also to provide for a remediation agreement to be entered into with the chief executive if any damage is incurred to the person's land.

In relation to dispute resolution, the Land Act allows a holder of a land lease to enter into a sublease over all or part of the leasehold land in particular circumstances. Currently across Queensland there are some 24,000 such subleases in place. It is pretty infrequent, but from time to time disputes do arise between the sublessor and sublessee in relation to the terms of the sublease.

The bill proposes to introduce an improved dispute resolution framework which aims to provide a more accessible option for the disputing parties. The existing option, which is to seek adjudication in the Queensland Land Court, will remain. The bill provides disputants with the avenue to resolve their differences through either mediation, which is non-binding, or binding commercial arbitration. The Queensland Law Society has been involved in the development of the new framework and has kindly agreed to be a prescribed dispute resolution entity. That means they will provide independent services, obviously at cost to the disputants, to appoint appropriate mediators and arbitrators.

Also in relation to land, the Aboriginal and Torres Strait Islander Land Holding Act is to be amended to provide a process for expediting resolution of some very longstanding home ownership commitments in Aboriginal and Torres Strait Islander communities. This will be achieved by providing a much more efficient process for the transmission of leases under the act where the original lessee has died or dies without a will—that is, dies intestate. Currently, the process for the transmission of such a lease in those circumstances is complex, time consuming and can be quite expensive for the identified beneficiaries of those estates.

In addition to those key amendments in relation to land, the bill also makes a number of administrative and technical amendments to other land legislation administered by the department. This includes to: facilitate operational improvements and streamline processes and clarify and align requirements under the Land Title Act 1994; replace certain regulation-making processes with a ministerial declaration under the Aboriginal Land Act 1991 and the corresponding Torres Strait Islander Land Act 1991; clarify and remove redundant provisions from the Land Valuation Act 2010 and the Valuers Registration Act 1992; clarify powers of delegation and improve the operation of the Surveyors Act 2003; and amend the Foreign Ownership of Land Register Act 1988 to remove the requirement to prepare an annual report to parliament.

In relation to amendments to resources legislation, the bill delivers on a government election commitment to continue to improve the state's resources tenure management system. The bill will support genuine exploration by providing flexibility to respond to on-ground findings, adequate time to make informed investment decisions and ensure effective land turnover.

This is to be achieved by, firstly, introducing a new capped overall life of 15 years for exploration permits. The bill gives more time to permit holders to explore and evaluate their findings before deciding what land the holder of the exploration permit needs to relinquish. Where a permit holder has a number of exploration permits that are worked together, so conjunctively if you like, the bill allows that holder to relinquish land from another of the permits that might have proven to be less prospective, for example. They can also delay the relinquishment in exceptional circumstances, such as an event like a natural disaster or another global financial crisis, that prevent exploration in permitted areas. Also, in such an exceptional event, the minister will have the power under the bill to impose, vary or remove conditions on exploration permits. This may, for example, provide industry relief or assistance during times of such exceptional events.

The bill introduces a new work program that states proposed exploration outcomes and strategies to achieve them. This will enable explorers to quickly adjust their exploration activities to meet desired outcomes. For administrative efficiency the bill removes area limits that are imposed on potential commercial areas and petroleum leases and also allows for their amalgamation. These amendments are supported by transitional provisions that allow existing exploration permits to transition into the new framework. Other amendments to resources acts will improve efficiencies, correct some minor errors and address inconsistency.

I now move to the water legislation amendments. Firstly, amendments to the Water Act 2000 will strengthen its compliance and enforcement provisions by removing ambiguity in relation to offences, strengthening compliance actions and clarifying responsibilities for water taken through common meters and under jointly held water entitlements. These amendments deliver on a Queensland commitment under the Murray-Darling Basin Compliance Compact and the government's response to the 2018 independent audit of Queensland's non-urban water measurement and compliance.

Other amendments in the bill clarify the application of a number of provisions to ensure the appropriate and effective operation of the Water Act. Amendments to the Water Act in relation to water authority boards will encourage balanced gender representation, which is in line with the Queensland government's Women on Boards initiative. Currently, only around 10 per cent of category 2 water board directors are female. Proposed amendments will address this imbalance by requiring that the board have regard to providing balanced gender representation when seeking suitable candidates for the office of director. Candidates must also have appropriate skills, knowledge and experience for the position of director of a water authority board. This approach is in line with other governance models for statutory board processes in Queensland. The changes will afford ratepayers flexibility in their approach in seeking suitable candidates and clarify that the minister is the decision-maker for appointment of a director to a category 2 water authority board.

Amendments to the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 will validate infrastructure charges notices issued by distributor-retailers if there are minor procedural irregularities. This will ensure that infrastructure charges issued by distributor-retailers for water and sewerage infrastructure are recoverable. These changes will mean that local governments, distributor-retailers and developers will all be operating under the same rules and requirements, ensuring consistency with the local government infrastructure charging framework, which is under the Planning Act 2016. You might recall that a similar amendment was previously considered by this committee as part of the Economic Development and Other Legislation Amendment Bill 2018. That amendment also proposed to validate local government infrastructure charges notices that have also experienced these minor procedural irregularities.

Other water related amendments will support operational efficiencies for Seqwater and other water service providers. These include provisions to compensate Seqwater for performing community service obligations that are required under legislation. It also requires water service providers to periodically confirm the extent of their water service areas. Other miscellaneous amendments include the correction of technical and minor errors in the emergency action plan and temporary full supply level provisions in relation to dams.

I now turn to the provisions related to CleanCo Queensland Ltd. The bill supports the establishment of a new renewable electricity generation government owned corporation, CleanCo Queensland Ltd, or CleanCo for short. The amendments to the Electricity Act will enable a regulation to be made to declare CleanCo to be a state electricity entity. This will ensure that CleanCo operates

under the same regulatory framework as other state electricity entities such as CS Energy and Stanwell. Importantly, this will also provide legislative protection for the entitlements of employees who transfer to CleanCo from either CS Energy or Stanwell. A partial exemption under the Right to Information Act will protect CleanCo's competitive interests in national energy and financial markets while preserving access under the Right to Information Act to information about the company's community service obligations.

I would like to touch briefly on the consultation that has been undertaken as part of the development of this bill. As I am sure the committee appreciates, given the significant breadth of the issues covered by the bill there has been broad consultation with a large number of stakeholders. Rather than attempting to detail that consultation that has taken place, I draw the committee's attention to the summaries that are provided in pages 23 to 26 of the bill's explanatory notes. That brings my overview to a completion. Certainly, my colleagues and I would be more than pleased to answer any questions the committee may have.

CHAIR: Thank you very much, Mr Hinrichsen. On the issue of land, it is proposed to amend the Aboriginal and Torres Strait Islander Land Holding Act. The statutory review of the original act was from 2013 and that was due in another five years, which was last year. Hence there is a need to extend that period to 10 years. What were the issues that delayed that review? Why did we suddenly have to make that 10 years instead of five years?

Mr Hinrichsen: Thank you. That is a really good question. One of the most significant issues is addressed directly by this bill. The feedback our department was receiving was that, rather than endure a review process, the communities would much rather see the government get on and address a particular issue—that is, the matter of when a leaseholder has passed away intestate. Dealing with anyone's estate can be quite stressful and quite expensive. That is even more so when you are dealing with those communities on Cape York and in the Torres Strait islands.

There is an existing process under the Justice, Land and Other Matters Act. Those provisions are already dealt with by the Department of Aboriginal and Torres Strait Islander Partnerships, where they can issue what is referred to in the parlance as a section 60 certificate. That provision, which is in the existing act, was limited to where there was what is referred to as a lease entitlement or, if you like, an application that was lodged for the grant of a home ownership lease. That provision related only to those unresolved issues.

The issue was in relation to where the lease had been granted. Quite often, while the lease was granted, in some cases—many years ago—the public housing that was on that land stayed in government ownership. There is a significant investment program that the Department of Housing and Public Works is currently administering to bring the housing up to an appropriate condition before the transfer is effected. With that significant investment, if there is no person to transfer it to—that is, if that land is still in the estate of a deceased person and that estate is not being actively managed—it leaves a gap in terms of the management or custodianship of that property.

This amendment in this bill will address one of the major issues that has been identified in being able to roll out the program. That program that I mentioned, which by and large has been driven by the Department of Housing and Public Works, supported by our department in relation to the underlying land tenures, supported by the Department of Aboriginal and Torres Strait Islander Partnerships in relation to those section 60 certificates and the day-to-day liaison with those communities, is designed to be finalised by 2022. The feedback that our department received quite clearly was, 'Why would you do a review when there is all of this work happening? We would much rather see the efforts of our communities and of government in delivering those particular'—and long overdue, I might add—`home ownership outcomes in those communities.'

That is the contemporary issue. There have been a lot of other factors. The original act was put in place in 1985. We are 34 years down the track. A bit over half of those leases have been resolved. There are still a lot more houses to be transferred. There are a lot of obstacles that were not foreseen in the original 1985 Act. Many of those were addressed when that Act was replaced in 2013, but there remained some significant obstacles to the completion of that program. There is a lot of confidence that, with this provision within the Natural Resources and Other Legislation Amendment Bill 2019, one of the last significant impediments will be resolved and, hopefully, we can see just outcomes for people living in those communities.

CHAIR: To recap, the original Aboriginal and Torres Strait Islander Landholder Act 1985 was redone in 2013. The aim of that was to facilitate the transfer of leases to—

Mr Hinrichsen: The grant of leases.

CHAIR: To people and corporations.

Mr Hinrichsen: No, people—Aboriginal people.

CHAIR: The issue is that we have these outstanding leases. The property on the land is owned by the Department of Housing and Public Works. You probably have some issues with surveying.

Mr Hinrichsen: Historically, there were a lot of issues with survey—with inaccuracy, with being a long way from services, with overlapping surveys that needed to be resolved so that, when title was finally granted, there would not be ambiguity over who owned what. By and large, those survey issues have now been resolved, after significant effort.

CHAIR: The biggest barrier is how you deal with property that is left intestate. Obviously it belongs to someone, or we do not know. Hence, that is standing in the way of resolving all of those aims of the landholding act.

Mr Hinrichsen: Particularly with the passage of time. I think all of the committee members could reflect on where they were and what their priorities were in 1985 compared to 2019. Quite often it is generational change and, in many cases, circumstances have significantly moved on. There is a lot of work that has been done to identify who the rightful beneficiaries are and, obviously, establish whether those arrangements that their parents or even grandparents may have proposed are still appropriate in 2019.

CHAIR: Okay. I am surprised that you are still at the situation where local governments are issuing infrastructure charges and they are still not doing it the right way and we have to come back and sort that out. I have an opinion on this. Can you describe how we came to this situation where these local governments are failing to do what I see are the most basic of requirements?

Mr Wiskar: Essentially, the situation is that a legal challenge has drawn out a particular problem. The committee is considering two bills—one being put forward on behalf of local governments and one that we are doing here today, which essentially mirrors the EDOLA Bill. Why are infrastructure charges important? Infrastructure charges are important because it is the contribution that developers make to accessing the assets that are necessary. This legal challenge has put at jeopardy those charges. Through both the EDOLA Bill and the amendments that are part of this NROLA, we are trying to close that loophole.

I do not think anyone realised that it was there until the recent challenge was made. It is one of those things that is tightening up. In sitting and talking to lawyers about this, I think there are some lawyers who would say that the way it has been done is okay but then others are saying, ‘Make it absolutely tight. Some changes are necessary.’ That is the situation.

CHAIR: It may not be an oversight by local councils but more so a legal loophole that nobody could potentially identify?

Mr Wiskar: Like anything, there are people who have differing views about these matters. Somebody has obviously made a challenge. It then places something at risk. Therefore, we are trying to close it. Why is it important to close? If I look at it from a water utility or local government perspective, if we do not levy a cost on developers for a proportion of their infrastructure, there are really only a couple of choices that water authorities have. One is that they raise people’s water rates to recoup the money. The other is that they come seeking the money from the state or those water authorities borrow more money and, ultimately, water users would end up paying for that. The closing of this loophole is protecting the way businesses currently fund themselves and, ultimately, for people who are water users we will be ensuring they meet the appropriate costs rather than that cost burden being shifted to people who are using water in the community or in their homes and businesses.

Mr WEIR: We have had many discussions over the years about access to state owned land through private land. In what scenarios would you envisage this would come up? State owned land does not have a very good reputation when it comes to weeds and grasses. How do we overcome that?

Mr Hinrichsen: That is a very typical scenario that you outline. Of course the state, when it is unallocated state land, is the custodian of that land and responsible for things like biosecurity obligations. There have been instances where to control weeds or to manage fire, either proactively or reactively, there is a need to bring in appropriate equipment, whether that be spray tanks or whether it be firefighting equipment. In some areas, particularly coastal areas, it is just not practical to gain access from the sea, for example, so it is necessary to cross intervening land—maybe freehold, maybe other state land that is held under a lease, for example.

More often than not, just to make it very clear, the adjoining landholder is very accommodating in providing access across their land, but there are some circumstances—particularly where the department might need to be undertaking some compliance activity for some illegal occupation or

other illegal activities on that unallocated state land—when the landholder can get some pressures from others in the community if they are seen to be, if you like, complicit with the Queensland government in allowing access across their land.

This provision would provide for that statutory access. It is very limited in terms of powers of entry to undertake particular activities. There is a requirement for advance notification. Obviously it is not relevant to access across land to enter dwellings and the like. They are all excluded from this power of access. It also importantly, as I mentioned, ensures there is a mechanism for that landholder to receive appropriate compensation if there is damage that has occurred to their infrastructure, be it a bridge or a crossing or a road that became rutted as a result of that access. Those powers to provide appropriate remedial actions apply if there is statutory entry or if the landholder voluntarily agrees to allow the authorised officers to traverse their property.

Mr WEIR: Would there be somebody experienced in negotiation involved, because you will have lessees, owners and other interests? Weather conditions will also come into it, obviously, if it is wet. There are a whole range of issues.

Mr Hinrichsen: Indeed, and there are mechanisms to negotiate those provisions of access. If there is no need to enter on a particular day because it just happened to rain the night before then those arrangements can be negotiated. If there is a need to enter because of an emergency situation—a fire is an example of that—then obviously the notice would be for an appropriate sort of duration, given those circumstances. To the extent possible, the department's desire is to develop amicable arrangements with that landholder—an ongoing relationship in relation to any impact on their property—to do that respectfully and to make sure that any damages are appropriately addressed. Above all, we want to make sure that the people we have dealing with the landholder are appropriately trained and equipped to undertake those negotiations and undertake entry under appropriate circumstances. It would not be a broad power; it would be to specifically authorise personnel to undertake that entry.

Mr WEIR: This is the exception, not the rule? This is not to facilitate another entry point into that land? This is for a specified task?

Mr Hinrichsen: A very specific purpose indeed.

Mr MADDEN: Is traversing the land simply done by way of the ability to access the land or is it done by way of a permanent easement?

Mr Hinrichsen: That is a really good question. Obviously there are powers of the state to acquire an access. In many circumstances the cost and the impact to the landholder simply do not justify that formal acquisition arrangement. Those powers separately exist, of course, under the Acquisition of Land Act 1967, but more often these are fairly informal arrangements. If it did become that the state needed to acquire permanent, formal access then those mechanisms exist. More often than not, this will be about very infrequent access via existing tracks, with those ongoing arrangements with the landholder. It is not then, if you like, a permanent power that is established. This is on a needs basis.

Mr MADDEN: With regard to the mediation process for lessees and lessors, are we talking about disagreement with regard to the interpretation of the terms of the lease or something different?

Mr Hinrichsen: Quite often it is exactly that, yes. I guess these subleases have been developed over many decades. Some of the older subleases go back to the 1960s and 1970s, for example. Making no comment about the quality of the legal advice that might have been provided in such times, you would have to say that today's lawyers are much more savvy when it comes to the fine print—a lot of the detail that you could say ought to have been in those agreements, because they are pretty important contractual arrangements. I guess in gentler times it was quite possibly more of a handshake arrangement.

Quite often, disputes arise because of a lack of clarity around the intent. These changes do not change any of that. We do not seek to impose new conditions; the conditions are the conditions. We strongly advise, of course, that if somebody is entering into a new sublease arrangement then, just like any commercial transaction, they get appropriate legal advice to check the fine print and make sure their interests are covered in the unforeseen circumstances where a dispute does arise.

This simply provides a mechanism that starts with mediation—getting the parties together with a trained mediator to attempt to bring them closer. We have seen some recent examples where, while the stakes seem to be very high and the parties seem to be miles apart in their positions, skilled mediators were able to very quickly bring them to terms. It is a significant skill set. Of course, the courts are always there. The Land Court is a less formal court than some other jurisdictions but,

nonetheless, the prospect of briefing lawyers—potentially barristers to argue a case in court—is quite daunting for many people. Some cases may still want to go there, of course—and the bill does not change any of that—but the bill provides alternative mechanisms in facilitating mediation. Commercial arbitration works well for many. Again, it avoids going to court. It quite often can drive a more timely outcome where that is an imperative. It provides more and I think better options for the parties in resolving their differences.

Mr MADDEN: Sorry if I am drifting into policy rather than the actual legislation, but why was QCAT not considered as the forum to deal with this? Is it not the right forum?

Mr Hinrichsen: QCAT is certainly an option. Right now when it comes to that type of formal judicial determination it is the Land Court. The Land Court certainly has a lot of expertise when it comes to the Land Act and the land portfolio generally. I guess for that reason we are not proposing to make any change in that space. We are adding the arbitration mechanism and improving mediation. QCAT is a pretty successful dispute resolution mechanism as well, but here and now I guess there is a policy call that the Land Court is the right court to deal with land related issues. Probably its name is a bit of a giveaway in that space. Certainly QCAT does have other responsibilities when it comes to dispute resolution.

Mr MADDEN: This is not a question but a comment. I am very pleased that we will have the ability to have both mediation and arbitration. People often forget about arbitration as an alternative to litigation. I am very pleased that this legislation allows for that.

Mr MICKELBERG: My question is with respect to the gender target of 50 per cent on water authority boards. I understand that currently there is only 10 per cent female representation on boards. What is the reason for that?

Mr Wiskar: I think there are a number of things that have driven that over the years. I guess what we are seeking to do in this bill is drive the government's policy agenda, which is 50 per cent. One of the obstacles at the moment is that at the end of their term people continue, unless they pull out or resign. One of the things we have changed as part of the bill is that that can no longer occur. The bill also seeks to give the authority to the water boards as to how they make the selections, but they need to be able to provide to the minister some options that allow the government to pursue the 50 per cent target.

Mr MICKELBERG: I understand, based on reading the bill, that they also have to take into account qualifications and experience.

Mr Wiskar: Typically, these category 2 water boards are relatively small organisations. Whilst the primary focus of the bill is on dealing with the gender issue on the boards, there are also provisions within it to improve the robustness and professional management of the boards—things like the fact that directors do not automatically continue to roll on and the requirements for skill based considerations so that the governance of those organisations continues to be enhanced. That is certainly also part of what we are trying to do.

Mr MICKELBERG: Are those directors currently paid positions?

Mr Wiskar: I think there is a variety of situations. I could not speak for across the state, but I would say that many of them would not be paid. There may well be some that are paid, depending on individual circumstances.

Mr MICKELBERG: Presumably that will present some challenges if they remain unpaid and there are additional requirements with respect to attracting suitable candidates and, similarly, additional obligations on them. Is that something the department has considered with respect to the availability of suitable candidates for some of those smaller water boards?

Mr Wiskar: We have a process inside the state government whereby we have a list of people who are certainly interested in boards and who have been prequalified. That is a process that any organisation can access. Certainly the individual communities will have their own requirements about local people being involved, but at a state level certainly we are making that prequalified list available for people who would want to take up these positions.

You did make a point earlier about payment. I guess one of the opportunities that exists is that these are the types of positions that people who are wanting to start to get onto boards can use as a bit of a learning ground. In that sense, not necessarily everybody wants to be paid the first time they go on a board. Potentially these positions present some opportunities for folk who are interested in that.

Mr MICKELBERG: Am I correct in my reading of the bill that those individuals who are currently on a board will no longer be on that board nine months after these provisions come into effect, unless they are reappointed?

Mr Wiskar: The selection process will roll over at an appropriate time for each board. It is not based on when the bill happens. That process will be when they come due for renewal.

Mr MICKELBERG: Okay, so as they come due for renewal they will either be appointed—and if they are appointed it will be for a term of three years—or they will finish their duties and someone else will be appointed?

Mr Wiskar: Correct.

Mr BATT: In relation to the land legislation that has been discussed, the road closures part was fairly light on in the explanatory notes. You may have said more before, but can someone go over what this bill means in terms of further information on road closures and how the streamlining is going to work to stop the delays in the process?

Mr Hinrichsen: Thank you, member for Bundaberg. I think I got the question. There are probably a couple of figurative changes that I will talk through. One is in relation to publishing notice around the intent to close the road. Here and now there is a requirement to publish notice in the *Queensland Government Gazette*. If you asked most people out there whether they are regular readers of the *Queensland Government Gazette*, you would probably get quite a few pretty blank looks, and that is certainly the feedback that we get. The readership of the *Queensland Government Gazette* certainly is not what it apparently once was, so we are removing that requirement.

We are also addressing what has become somewhat of an anomaly in the existing legislation which requires all landholders who adjoin the road affected by the closure application to be notified. I guess we get what are pretty ludicrous situations where it might be just a small sliver of the road which might have resulted from, say, a road realignment. If it is in the scenario such as a little part of the Bruce Highway that is being closed and added to the adjoining property, a strict reading of the legislation as it currently stands means that inquiries would need to be made of each landholder that adjoins the Bruce Highway, which runs for 1,700 kilometres. That is clearly not what the intent was.

Obviously the more typical situation is that there are a number of landholders who are directly adjacent to a road that might be in a rural area, for example, that is no longer used that is being closed. Rather than all landholders who adjoin the affected road, the definition is being improved to those who either directly adjoin that part of the road that is affected or the immediate landholders to those landholders—so one property either side, if you like—or any landholder whose access would be directly affected as a result of that closure. It is to basically cut down on the administrative burden for those landholders who are seeking to either permanently or, in some cases, temporarily close a section of a road for incorporation into their adjoining property.

CHAIR: One of the provisions is about the foreign ownership register. We have obviously moved into a situation where there has been some duplication with the federal register. I am assuming that what we have here is a continuation of that streamlining or resisting the duplication of effort in constructing that foreign register. Could you go through exactly what is being planned in this act regarding that?

Mr Hinrichsen: The Foreign Ownership of Land Register Act 1988 was the first such register in Australia, and it simply requires the registrar of titles to record foreign property ownership in Queensland, so property of all types. The register has no other role than to simply record that. There is no approval required, for example. Obviously foreign ownership is regulated by the federal government, so for foreign ownership of land Foreign Investment Review Board approval is required for significant acquisitions. In the last few years the federal government has started to collect that information—and it collects that through the state authorities—and then report on foreign ownership, particularly of agricultural land.

There have been a number of instances where there has been perceived ambiguity between the federal report and the state reports. The Queensland government has decided to discontinue with the published annual report, recognising that the federal government now occupies that space, albeit the federal government's reporting is limited to rural land. It collects the information more broadly from the states but only reports on rural land. The change to this act will only remove the obligation to publish and table a report in the parliament annually, so the registrar of titles will continue to collect that information and will still be able to produce ad hoc reports as and if required, and the lands title register where that information is recorded is of course a public register that is searchable.

CHAIR: Thank you. One of the other issues you talked about was the adjustment or limitation of exploration permits regarding minerals to 15 years. Why 15 years?

Ms Cooper: It was decided that the policy position for limiting or putting a cap on the life of exploration permits is really to put an end to the continual renewal. Up until now, the practice has been that exploration permits have just continued to be reviewed again and again, pretty much ad nauseam for quite a number of years. The objective of these amendments is to have some effective land turnover and also to encourage exploration. To do that, there has been a decision to put a life or a cap on the exploration permits so that the initial term plus renewals will end at the end of the 15 years. In terms of deciding on 15 years as being the appropriate length of time, that was based on doing an analysis of a lot of data in terms of the life of a lot of exploration permits. It was concluded that that was an appropriate amount of time. We have consulted on it and that has not been an issue that has been raised.

CHAIR: Okay. The green paper talks about amending the Mineral Resources Act and the Petroleum and Gas Act to improve the performance of resources tenure management systems. Can you be more specific about that? How do we improve the performance of the tenure system?

Ms Cooper: The tenure system does not just refer to the resources acts that are being amended. The system refers to all of the policies and procedures that are put in place as well as the resources acts by which the government issues permits and issues tenures to anyone who applies. The idea of continual improvement of the tenure management system is not limited to amending the acts, but with this bill that is what the focus is. It is on making amendments to improve the way the tenure management system operates in Queensland. The way that occurs is through a number of different mechanisms, the first one being, as we mentioned before, the idea of capping the life of exploration permits. I would also point out that the focus of the amendments is around exploration as opposed to other forms of tenure and also to encourage exploration to occur more efficiently and to get people to actually do the exploration and then move off the land or move to a higher tenure. That is the intent.

There is already a relinquishment requirement, which requires tenure holders of exploration permits to effectively give back to the state some of the land they have under their permit area if they have done a bit of an analysis to say that that area is probably not going to have suitable prospects for moving up to a further tenure, like production. We have changed those so that there is a bit of additional time for those holders in their initial term to do some more exploration, to do some proper analysis and to make some investment decisions on what areas seem to have potential and what others do not so that they can make those decisions about relinquishment. Again, that is about encouraging exploration. Other amendments go to the terms and the renewals to, again, be able to move people through to higher tenures.

CHAIR: In terms of improving performance of tenure management, as you said, we have talked about limiting the time you can spend or getting more realistic time frames for exploration but encouraging people by saying, 'You need to go to the next step.' We have just done this in terms of mining development and mining leases.

Ms Cooper: Yes.

CHAIR: That is what we mean by efficiencies—that is, making sure that people have the appropriate tenures and are taking action to develop mining activities. Would that be correct?

Ms Cooper: That is correct. It is very much focused on exploration to stop the practice that has been going on for many years of sitting on different areas and taking a lot of time to explore and not necessarily moving into production—just to make sure that the resources of Queensland are being used effectively.

Mr WEIR: It says that it allows the explorer to change on-ground activities to accommodate the results as they become apparent. I would ask for more clarity around that. How does that affect existing land access agreements that the exploring company may have with the landowner if it is going to be terminated early or if they are going to change their activities?

Ms Cooper: On the issue of on-ground activities, this is around the introduction of a different type of work program. Currently the work programs that are in place really do focus on what activities will happen on the ground—that is, very much a list of the types of things that will be done to explore the permit area. The introduction of the outcomes based work program is asking: what are the outcomes that you intend? What is it that you think you will find? What are the strategies that you have in place to be able to achieve those outcomes?

At the moment, whenever you find something different or you realise there is nothing fruitful in a particular area, that might require a change in the activities that you have in your work program so you have to then go and apply to the department for a variation of the conditions of your exploration

permit every time you need to change an activity. The introduction of the outcomes based work program means that you have a little bit more flexibility. Permit holders will be able to really focus on the outcome they need to achieve, and if there is a need to change some of those activities there is no need to then go back to the department to vary the conditions every time they need to vary a bit of their work program. That is where the efficiency comes in and the improvement to that system.

In terms of the land access agreement, it depends on what the agreement is that you have with a landholder to know whether or not there would be a need for an adjustment. The act itself is not explicit. There is still a need to have land access agreements and to address the relationship with the landholder. In terms of what those agreements say, the department does not know what the details are to know whether or not that would require changes.

Mr WEIR: I can see streamlining. That is very good. Some exploration activities are much more invasive than others. I would like to know that the landowner was going to be aware if they went to that next step, because obviously it is going to have an impact. Is the foreign register broken down into states, so there would be ready access to a state-by-state foreign investment register, even though it will be done at the national level?

Mr Hinrichsen: The federal government's current report does break it down into a state-by-state summary.

Mr WEIR: Easily accessible?

Mr Hinrichsen: Yes.

Mr WEIR: The other question is about the road closures. Does it still go through the same process in terms of council involvement and the minister having the final say? I note that the previous one has been moved to the CEO. That was in the Land Act. This is at page 4 of the explanatory notes, just above 'road closures'. Has that changed? Does the minister still have the final say or has that been delegated to a CEO as well?

Mr Hinrichsen: There is a number of provisions in the bill where the responsibility is being, if you like, statutorily shifted from the minister to the chief executive. There are already powers of delegation. Many of those day-to-day decisions, including in relation to road closures, are already made by the chief executive or quite often a delegated officer, even though there is ministerial accountability. As you have mentioned, Mr Deputy Chair, seeking input from relevant local governments is still very much a part of that approval process.

Mr MADDEN: My question relates to the issue of gender equality on the water boards. Certainly some water boards have contacted me about this issue. Mr Hinrichsen, you said that there would be water board equality when seeking candidates. Is it the case that we want equality in the composition of the board that is presented to the minister?

Mr Hinrichsen: I might leave that to my colleague Mr Wiskar to answer.

Mr Wiskar: Essentially the provision will require that a water board makes recommendation to the minister taking into account the gender equity approach. The minister is left with the final decision-making, but I guess the board will have responsibility for providing a skills based outcome and a gender equity based outcome so that the minister is able to fulfil the overall target.

Mr MADDEN: Is it the case that the fifty-fifty split something we are trying to achieve but if the board makes every effort to do that and falls short of a fifty-fifty split there is some discretion for the minister to allow something short of fifty-fifty?

Mr Wiskar: It is important to recognise that the fifty-fifty target is a statewide target, but to get to a statewide target we have to increase the uptake. It is a bit hard for me to comment on individual decisions about individual water boards. At the moment, the solution in the legislation that is before the committee is really about making sure that we get a number of candidates coming forward so that the minister has a pool. It is probably a bit difficult to talk about individual water boards and whether the target is to make 'water board A' have a particular outcome.

Mr MICKELBERG: I note that the bill has a provision to create outcomes based work programs for exploration authorities in certain circumstances. What does that mean?

Ms Cooper: The outcomes based work programs are the types of work programs that I was speaking about before, which is about the outcome that a permit holder wants to achieve in exploring a particular area. In terms of the circumstances, that is a reference to where you have competitive versus non-competitive processes to give exploration permits. In a competitive process, so a tender process, where the government is issuing exploration permits in that way, generally speaking it will be the government deciding what kind of work program would be appropriate for that particular area.

Generally it would be activities based, although potentially the government may decide on a particular area that it is appropriate to have outcomes based programs. Activities, again, are just very much what are you going to do versus what you expect to find and what strategies you have to find them. The idea of circumstance is very much a reference to what type of process there is to actually get your permit.

Mr MICKELBERG: Mr Wiskar, the bill also makes reference to removing the mandatory declaration requirement for a recycled water scheme that supplies or proposes to supply more than five megalitres of recycled water per day for the use of electricity generation. Where does that mandatory declaration currently apply? How does that current provision apply and what are we actually removing? Why is that included in the bill?

Mr Wiskar: This one is a fairly minor amendment. I will refresh my memory on this one a little. Can I take that one as an offline question and we will come back to you on that?

Mr MICKELBERG: No worries.

CHAIR: Either take it on notice or give the answer at the end of the briefing, whichever suits you. We are expecting most submissions to be about resolving sublease issues. This is specifically about the Tangalooma issue. Can we have an outline of what we have done so far and how we have arrived at this particular position?

Mr Hinrichsen: Tangalooma certainly is one area where there have been pretty well publicised, I think it is fair to say, disputes between the head leaseholder and some of the sublessees. From memory, there are in the order of 360 subleases associated with the Tangalooma Island Resort relative to 24,000 subleases statewide. It is a pretty small percentage, if you like, of the total.

Over time we have seen disputes, large and small, that have arisen. It became apparent that, first of all, going to court was too onerous for the vast majority of the types of disputes that had arisen. As I think the member for Ipswich West touched on, many of those disputes at their heart were about the lack of detail in that sublease agreement. Quite often, court adjudication was one thing, but really it was about filling in the blanks. A good mediation process had a lot of opportunity to help resolve those issues and help the parties come to a mutual understanding of what a reasonable interpretation might be in terms of obligations versus responsibilities when the sublease document was not clear.

The mediation process that was already in the Land Act in the end was utilised in the case of the Tangalooma Island Resort dispute between a number of the parties, to reach agreement on a way forward. It is fair to say that it probably took longer than was desirable for all parties concerned to get there. Part of that was, I guess, the role that the state had to play in effectively establishing that there was a dispute in terms of the provisions of the legislation and then appointing an appropriate party to mediate the dispute.

The proposed framework in the bill seeks to streamline that. It seeks to utilise the very experienced services of resolution institutes such as the Queensland Law Society. It also immediately recognises Resolution Australia as providing a similar service. It provides a mechanism by which other future resolution providers can nominate for their services to be provided in that space and be added to the list of dispute resolution entities in the regulation.

Going forward, making those parties that do purchase subleases or enter into new subleases aware of exactly what they are entering into will be a critical part of the process, highlighting to them, as I mentioned in response to the member for Ipswich West's question, that it is really important that when they are entering into those arrangements they get clarity as to what their rights and obligations are, so that there is little room for disputes. However, as I mentioned, we have already 24,000 of those subleases on the books. It will take time for them to roll over and renew, if you like. This framework recognises that a lot of those existing agreements will be older in their nature. If more disputes like the ones that arose on Tangalooma Island Resort do arise, there will be a much more effective and accessible process for the parties to utilise.

CHAIR: Mr Wiskar, I turn to the compliance and enforcement provisions under the Water Act 2000. Obviously the use of water in the Murray-Darling system is increasingly newsworthy. I understand that this change is to ensure water users are taking water in accordance with their entitlements. Where have the issues or the problems been in establishing that, so far?

Mr Wiskar: I note that I have laid my hands on the answer to the question of the member for Buderim, so I might address the question that you have asked and then, with the committee's permission, go back to the question of the member for Buderim.

As the members of the committee would be aware, for about two years now the focus in the Murray-Darling Basin has been on issues around concerns about water take and better measurement. It came out of a series of media coverages that started with some things on *Four*

Corners that highlighted some concerns, particularly in New South Wales. When that happened, the Queensland minister had a look at the issue and made a decision to put in place an independent audit to look into these matters, not only in the Murray-Darling Basin but also right throughout Queensland.

The way that independent audit process worked was that the minister appointed an independent panel chaired by international water expert Tim Waldron, who was ably assisted by Ian Johnson, whom many of you will know is a long-term representative at QFF, and Professor Poh-Ling Tan from Griffith University. Those three folk essentially ran the ruler over how things worked in Queensland and produced an independent report for the minister.

That report identified some really good things about the way the water planning framework particularly was implemented in Queensland, but it also outlined a series of things that we need to get better at. Most notably, at a summary level it talked about the need to get better with measurement, our internal systems, the way we record the information and compliance. To respond to the independent audit, the department and the government put together an extensive program. The bill that you see before you really is the start of a series of work that is going to come through over the next couple of years. We have a significant program, called the Rural Water Management Program, which seeks to address the findings of the audit. That also deals with requirements under the Murray-Darling Basin and a number of audits that have happened in that space.

I would describe the things that are in this bill as the start of the process. We have identified a number of things that can be amended which are quite simple, and we are looking to progress those as rapidly as we can to tidy up some matters. I think this committee can look forward to a series of future discussions and activities—and potentially legislation—as the Rural Water Management Program happens. The things that are in today's bill are, I think, largely uncontroversial. They are putting in place some fairly simple things. A couple of quick examples would be joint and several liability for water take. If we assume that two brothers are on the water allocation, they are both liable. That is not the case currently. In terms of compliance, that is a fairly simple thing to get right.

Another thing in the bill that addresses some concerns is that we have a new offence provision which clarifies that a water entitlement holder must not take in excess of their authorised volume or exceed the rate of take on their water entitlement. We have tightened up that arrangement so people are doing what they should under their allocation or licences. There are also some increases in penalties, particularly around where people have received a compliance notice and then they have not complied with that compliance notice. We are able to levy some additional penalties. There are a number of things that are in and of themselves relatively small, but they are a start towards a bigger piece of work that you will see coming through over the next couple of years.

Mr WEIR: Is the audit available?

Mr Wiskar: Yes, it is publicly available on the department's website, as is the Rural Water Management Program. They should be read in unison. The audit is the panel that I described earlier and its independent view. The Rural Water Management Program is us looking at the recommendations of the audit and saying that this is what government's response would be.

A third document that is also available on the department's website is the Murray-Darling Basin Compliance Compact. This is an agreement that all of the Murray-Darling Basin ministers and the Commonwealth have signed which outlines a series of actions we are all committed to. In terms of the Murray-Darling Basin Compliance Compact, the way that Queensland's works is that our Rural Water Management Program—which has been to cabinet and has been supported—is essentially our blueprint for achieving the compliance compact in the Murray-Darling Basin.

Mr WEIR: I looked at who you have engaged with. It is a big list. It includes mining and petroleum. Is this going to impact all of those? Is this new legislation going to cover the take of mining and petroleum as well as agriculture?

Mr Wiskar: The Water Act is across all licence holders and allocated holders; that is correct. The changes that I have described will affect all of those. As I say, at this point the changes we are making are relatively first-step activities.

Mr WEIR: You mentioned those who are in breach of their allocated take. Has that not been in existence for a long time? Has it not been enforced? What are the actual changes? You said there is an increase in penalties. Do we know what those increases are?

Mr Wiskar: Yes. Currently, the maximum penalty is equal to the number of penalty units that applies for the offence to which the notice relates. The amendment increases the maximum penalty by a multiplier of 1.5 in order to create a stronger deterrent for noncompliance. As an example, if John

Smith had taken water in excess of his water entitlement, education and warning notices would be issued and sent out to John. If he did not alter his behaviour, a compliance notice would be issued to him. If the compliance notice did not deter or alter John's behaviour, he is now in noncompliance with the compliance notice. Under the amended provision, a separate penalty can now be imposed for the breach of the compliance notice.

Mr WEIR: When you talk about unallocated water, does that also include aquifers that do not have a nominated take? For example, just outside Toowoomba is the Nobby-Clifton area. They have an hourly pumping rate. You can pump for 42 hours per week but there is no allocated volume that you can pump in that 42 hours per week. Will this look at those sorts of aquifers?

Mr Wiskar: I might take a specific question like that as a question on notice and try and provide you with a detailed answer rather than try and deal with it in a general sense. I would need to check a few details.

CHAIR: I forgot to go back to your answer in relation to the question from the member for Buderim.

Mr Wiskar: Yes, apologies to the member for Buderim. I will clarify the provision about recycled water. Essentially, the amendment is about simplifying legislative barriers about using recycled water for electricity generation. Critical recycled water schemes are usually those that are at high risk, so those that would be intended to augment drinking water supply or for irrigation of food processed crops. The way the act is written at the moment, critical schemes must be prepared and comply with an approved recycled water management plan. That adds to the cost of water recycling in those cases, but that is appropriate because of the potential risks. Because electricity generation does not hold those risks, what we are doing is making those provisions less stringent for those types of examples. That is the change.

Mr MICKELBERG: Presumably we are not speaking about hydroelectric generation; we are talking about cooling in a conventional power plant?

Mr Wiskar: Yes.

Mr MADDEN: My question relates to CleanCo. This was announced in about August last year, and there was some description with regard to the aims of CleanCo. One of them was that it was to supply 1,000 megawatts of power to the power grid in Queensland. That detail was quite specific. The legislation provides for the framework of the company, but does it describe what the company will actually aim to achieve?

Mr Molloy: No. The establishment of a new government owned corporation is a complex thing and there are many steps that we need to go through. As you noted, the GOC has been established; it has a board. That board and government are carefully considering the nature of the operations of that business. The current bill really just establishes the nature of some of the governance arrangements around that for a few very specific things. It does not look at the nature of the assets that are being transferred or any of those types of things. Obviously, the expectation would be that that would follow. This bill is a very specific bill. It does not address that.

Mr MICKELBERG: Do the RTI provisions contained within this bill as they relate to CleanCo mirror those for CS and Stanwell?

Mr Molloy: They are certainly designed to make sure that we have a level playing field. That is very important, because one of the aspects of CleanCo is to ensure we have a very competitive electricity industry. It helps to drive down prices. If you did not have those RTI exemptions, there is obviously very sensitive commercial information there relating to the cost structures of the business, their bidding strategies and all of those types of things, so it is very important that that is not available.

Mr MICKELBERG: Are they the same as CS and Stanwell or are they different?

Mr Molloy: Yes, they are. As I said, it is all about a level playing field.

CHAIR: There being no further questions, I will close this session. We have one question on notice. I ask that the answer be provided by 10 am on Wednesday, 13 March. That question is specifically about the take from the aquifer at Nobby-Clifton and whether that would be affected by this amendment.

This concludes the briefing. On behalf of the committee I thank all of the departmental officers who have been involved today. Thank you to our Hansard reporters and thank you to secretariat staff as well. A transcript of these proceedings will be available on the committee's parliamentary web page in due course. I declare the public briefing closed.

The committee adjourned at 2.57 pm.