



Stock Route Network Management Bill 2016

**Report No. 41, 55th Parliament
Infrastructure, Planning and Natural
Resources Committee**

March 2017

Infrastructure, Planning and Natural Resources Committee

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Chair's foreword

This report presents a summary of the Infrastructure, Planning and Natural Resources Committee's examination of the Stock Route Network Management Bill 2016.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles to it, including whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

On behalf of the committee, I thank those organisations and individuals who appeared at the hearings and lodged written submissions on the bill. I would especially like to thank those who travelled considerable distances to appear before the committee at its regional hearings. The committee appreciated your effort.

In addition, I would like to thank the departmental officials who briefed the committee; Hansard staff; the committee's secretariat; and the Technical Scrutiny of Legislation Secretariat.

The committee consulted widely during its inquiry — seeking submissions from stakeholders and holding public hearings in Brisbane, Boulia, Longreach and Emerald. We heard of the importance of stock routes to these stakeholders and of the different issues that arise in the various regions of Queensland.

My fellow committee members and I considered all the evidence we had received and came to the conclusion that we could not recommend that the bill be passed. This report summarises key issues raised by stakeholders about the bill and the committee's position on them.

I commend the report to the House.



Jim Pearce MP

Chair

March 2017

Abbreviations

| | |
|---------------------|--|
| AgForce | AgForce Queensland Industrial Union of Employers |
| the bill | Stock Route Network Management Bill 2016 |
| the committee | Infrastructure, Planning and Natural Resources Committee |
| DNRM/the department | Department of Natural Resources and Mines |
| explanatory notes | Stock Route Network Management Bill 2016 Explanatory Notes |
| FLP | fundamental legislative principle |
| GA | Grazing approval |
| GIS | Geographic Information System |
| LG | local government |
| LGAQ | Local Government Association of Queensland |
| LSA | <i>Legislative Standards Act 1992</i> |
| the Minister | Hon Dr Anthony Lynham, Minister for State Development and Minister for Natural Resources and Mines |
| MAT | Mobile Assessment Tool |
| NRM | natural resource management |
| OQPC | Office of the Queensland Parliamentary Counsel |
| proposed Act | proposed Stock Route Network Management Act |
| RIS | regulatory impact statement |
| SDIIC | former State Development, Infrastructure and Industry Committee |
| SLC | former Scrutiny of Legislation Committee |
| SRMS | Stock Route Management System |
| SRN | stock route network |
| TLG Committee | former Transport and Local Government Committee |

Recommendations

Recommendation 1

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The committee recommends the Stock Route Network Management Bill 2016 not be passed in its current form until the department has developed and consulted on the State Management Plan and the regulation, and undertaken an updated regulatory impact statement.

1 Introduction

1.1 Role of the Committee

The Infrastructure, Planning and Natural Resources Committee (the committee) was established by the Legislative Assembly on 27 March 2015 and consists of three government and three non-government members.

At the time the bill was introduced in the House, the committee's areas of portfolio responsibility were:

- Infrastructure, Local Government and Planning and Trade and Investment
- State Development, Natural Resources and Mines
- Housing and Public Works.¹

On 14 February 2017, the committee's portfolio responsibilities were amended to the following portfolio areas:

- Transport, Infrastructure and Planning
- State Development, Natural Resources and Mines
- Local Government and Aboriginal and Torres Strait Islander Partnerships.²

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each bill in its portfolio area to consider:

- the policy to be given effect by the legislation, and
- the application of fundamental legislative principles to the legislation.

1.2 The referral

On 3 November 2016, Hon Dr Anthony Lynham, Minister for State Development and Minister for Natural Resources and Mines (the Minister), introduced the Stock Route Network Management Bill 2016 (the bill) in the Legislative Assembly. The bill was referred to the committee, with a reporting date of 2 February 2017.³ On 29 November 2016 the reporting date was extended to 7 March 2017 in order to enable regional consultation on the bill.

AgForce Queensland Industrial Union of Employers (AgForce) noted its appreciation for the extension of the report date in its submission:

AgForce would like to thank the Parliamentary Committee for the opportunity to make a submission to the Stock Route Network Management Bill 2016 and also for gaining an extension to the consultation so as to avoid scheduling important hearings over the Christmas break.⁴

¹ Schedule 6 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (amended 18 February 2016).

² Schedule 6 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (amended 14 February 2017).

³ Queensland Parliament, Record of Proceedings, 3 November 2016, pp 4146-4149.

⁴ AgForce, submission 5, p 2.

1.3 The committee's inquiry process

On 11 November 2016, the committee called for written submissions by placing notification of the inquiry on its website, notifying its email subscribers and sending letters to a range of stakeholders. The closing date for submissions was 12 December 2016. The committee received seven submissions (see [Appendix A](#)).

On 30 November 2016, the committee held a public briefing with officers from the Department of Natural Resources and Mines (DNRM/the department). The committee held public hearings in Brisbane on 6 February 2017, Boulia on 7 February 2017, and Longreach and Emerald on 8 February 2017 (see [Appendix B](#)).

Copies of the submissions, the transcripts of the briefing and hearings, tabled papers, and responses to the questions taken on notice at the briefing and hearings are available on the committee's [webpage](#).⁵

1.4 Policy objectives of the bill

The explanatory notes advised the main purpose of the bill is to:

*... provide a single contemporary Act that manages Queensland's stock route network (the network) and administers stock (travel and grazing) and pasture harvesting activities on the network and other related roads and reserves.*⁶

DNRM advised that the policy objective underpinning the bill is:

*...that having a connected and well-managed stock route network is important for the state and its pastoral industry. That is particularly so in times of drought. For this reason, the bill makes it clear that the main purpose of the stock route network is for travelling stock on foot. It also recognises that the network has other uses such as grazing and that parts of the network are also used for road travel purposes.*⁷

It is intended that the proposed Act will introduce 'improvements to the management and administration of the network to ensure Queensland's network has a sustainable future.'⁸ Specifically, the policy objectives of the bill are to:

- *clarify the roles of the state and local governments for managing and administering the network;*
- *maintain an integrated and connected state network for travelling stock;*
- *ensure the network is sustainably managed so it remains available for use;*
- *manage the network in a way that minimises the impact of stock related activities on other uses of the network and ensures road safety and the operational integrity of the transport network;*
- *provide for the use of the network for stock related activities;*
- *recognise the natural heritage and cultural heritage values on the network;*
- *strengthen local governments' ability to sustainably manage and monitor the network;*

⁵ See www.parliament.qld.gov.au/ipnrc.

⁶ Explanatory notes, p 1.

⁷ DNRM, public briefing transcript, Brisbane, 30 November 2016, p 1.

⁸ Explanatory notes, p 2.

- enable local governments to administer stock travel, grazing and pasture harvesting on other roads and reserves that are not part of the network;
- improve the fee framework to reflect the benefits users derive from the network; and
- reduce the regulatory burden on local governments as the day-to-day managers of the network.⁹

1.5 Estimated cost for government implementation

The explanatory notes do not provide a dollar figure for the cost of government implementation of the bill. The notes advise that local governments are already administering many aspects of the arrangements and that the new arrangements and requirements for local government 'will be phased in over time to ensure a smooth transition for local governments and network users' which is 'expected to minimise the initial up-front implementation costs for local governments.'¹⁰ DNRM advised:

The implementation will be phased over one to two years to enable a smooth transition of functions being adopted by the local government. The department will also work closely with other departments and key stakeholders during the development of the state stock route management plan and the associated regulation.¹¹

The Stock Route Management System (SRMS) is used for monitoring, enforcement and compliance by local governments, to issue approvals online, and to allow local governments to identify stock and pasture condition on the network; record and issue all travel, grazing and pasture harvesting approvals; and record water facility agreements.¹² DNRM will be required to update the SRMS for use by local governments. DNRM advised that the 'state will also continue to provide capital works funding for water facilities on the stock route network' and specifically, the \$800,000 made available from the state to local governments for capital works on the stock route network in 2015-16 will continue to be available.¹³

The department will also provide assistance, training and support for local governments in regard to the new requirements in the bill and the existing departmental budget will cover these costs.¹⁴

1.6 Government consultation on the stock route network

The following timeline provides details of consultation on the management of the stock route network:

| | |
|----------------|---|
| 2002-03 | Heavy use of network during drought exposed issues. Consultation commenced with Local Government Association of Queensland (LGAQ, AgForce, conservation organisations, local governments, Aboriginal groups and drovers. Led to convening of Stock Routes Assessment Panel. |
| 2009-10 | Stock Routes Assessment Panel released report and a Regulatory Impact Statement, and called for submissions. |
| September 2011 | Stock Route Network Management Bill 2011 was introduced into Parliament. |
| February 2012 | Parliamentary Transport and Local Government Committee (TLG Committee) undertook inquiry into bill and tabled its report, recommending that the bill be passed subject to its recommendations. |

⁹ Explanatory notes, pp 2-3.

¹⁰ Explanatory notes, pp 5-6.

¹¹ Public briefing transcript, Brisbane, 30 November 2016, p 3.

¹² Explanatory notes, p 6.

¹³ Public briefing transcript, Brisbane, 30 November 2016, p 3.

¹⁴ Explanatory notes, p 6.

| | |
|----------------|---|
| March 2012 | Bill lapsed with the end of 53 rd Parliament. |
| September 2012 | State Development, Infrastructure and Industry Committee (SDIIC) undertook an inquiry into the future and continued relevance of Government land tenure across Queensland. |
| May 2013 | SDIIC tabled its report and recommended in its report that the Queensland Government reintroduce the 2011 Bill subject to recommendations made by TLG Committee. |
| Mid-2014 | DNRM released a discussion paper <i>Queensland state land – Strengthening our economic future</i> for public consultation. This paper sought feedback on the existing stock route network framework, which indicated that there was general support for the policy objectives of the 2011 Bill but that further streamlining would be of benefit. |

Source: explanatory notes, pp 9-10.

1.6.1 Consultation on the bill

DNRM advised that while the bill has been under development for many years, recent consultation has specifically included discussions with LGAQ, AgForce Queensland, drovers through the Queensland Drovers Association, Native Title representative bodies and the Queensland Beekeepers' Association. DNRM advised:

Further consultation was also undertaken with local government representatives as part of the local government stock route implementation group and where the department was invited to attend local government conferences and other forums.¹⁵

The Office of Best Practice Regulation was consulted in relation to the regulatory impact statement (RIS) system and advised:

... given the extensive consultation and analysis that had already been undertaken on relevant issues associated with regulatory impact assessment, the proposed Bill was unlikely to benefit from further analysis and assessment under the regulatory impact statement process.¹⁶

1.7 Should the bill be passed?

Standing Order 132(1)(a) requires the committee to determine whether to recommend the bill be passed.

The committee notes the statement from the Office of Best Practice Regulation; however, the committee is of the view that the bill would in fact benefit from the RIS process. This is because the RIS that was undertaken on the 2011 bill was based on a different fee structure methodology to the current bill.

The committee recommends the Stock Route Network Management Bill 2016 not be passed in its current form until the department has developed and consulted on the State Management Plan and the regulation, and undertaken an updated regulatory impact statement.

¹⁵ Public briefing transcript, 30 November 2016, p 3.

¹⁶ Explanatory notes, p 10.

Recommendation 1

The committee recommends the Stock Route Network Management Bill 2016 not be passed in its current form until the department has developed and consulted on the State Management Plan and the regulation, and undertaken an updated regulatory impact statement.

2 Examination of the bill

2.1 Background

Stock routes are roads or routes used by stock, including alpacas, buffaloes, camels, deer, donkeys, goats, horses, llamas, mules, sheep and vicunas.¹⁷ The stock route network in Queensland comprises of ‘an interconnected system of stock routes and reserves for travelling, or moving, stock on foot’ that ‘covers about 72 000km across 44 local government areas and forms part of a national route for moving stock on foot.’¹⁸

The explanatory notes state the following regarding the use of stock routes and the need to ensure a well-managed network:

*The network is primarily used by the pastoral industry to move and graze stock as an alternative to moving stock by road or rail transport. While the use of the network to move stock on foot fluctuates, it is vitally important, particularly during periods of drought. Other uses such as road travel, recreation and tourism, along with the presence of many natural and cultural heritage sites or features means a well-managed network is an important outcome for the State.*¹⁹

2.1.1 Current administration of stock route network

Activities relating to stock travel and grazing on and off the stock route network are currently administered under several pieces of legislation:

- *Stock Route Management Act 2002*
- *Land Act 1994*
- *Transport Infrastructure Act 1994*, and
- *Transport Operations (Road Use Management) Act 1995.*²⁰

The explanatory notes advise that stock routes are roads or routes ordinarily used by stock and declared under the *Stock Route Management Act 2002* and that a declaration of a road or route as a stock route under the Act does not give it a separate land title or tenure and the public may continue to use it, including as a thoroughfare for walking, cycling or motorised vehicle.²¹

The reserves that are used as part of stock routes are declared under the *Land Act 1994* and may serve a variety of community purposes and can include camping and water reserves, pasture reserves, trucking reserves, or reserves specifically dedicated for travelling stock.²²

¹⁷ Explanatory notes, p 1.

¹⁸ Explanatory notes, p 1.

¹⁹ Explanatory notes, p 1.

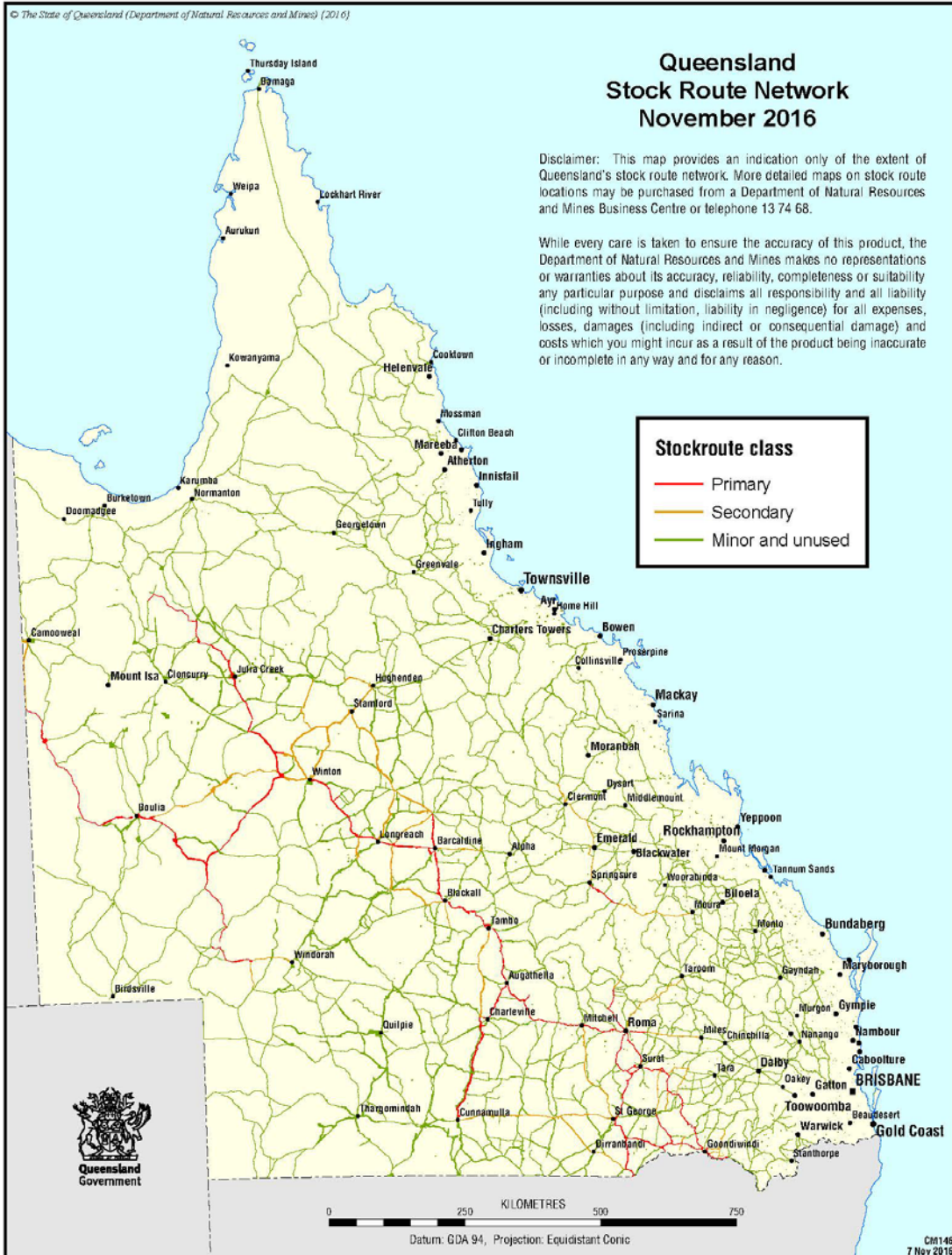
²⁰ Explanatory notes, pp 1-2.

²¹ Explanatory notes, p 1.

²² Explanatory notes, p 1.

2.1.2 Location of stock routes

The following diagram depicts Queensland’s Stock Route Network (SRN) as at November 2016:



Source: Department of Natural Resources and Mines

2.1.3 Issues with the current management and administration of the stock route network

In response to a request from the committee for clarification on why changes are needed to the current management and administration of the stock route network, DNRM advised that increased use of the network during severe drought conditions over the last decade or more exposed several shortcomings in the existing management arrangements for the network. These included:

- as the day-to-day managers of the network, local governments only recover a small proportion of their administration and management costs – this means that local ratepayers subsidise the shortfall
- multiple pieces of legislation governing the management of the network, with multiple government entities (state and local government) currently able to issue approvals for stock travel and grazing – this has resulted in multiple approvals being issued over the same area, leading to conflicting use between approval holders about who has priority and over-use of the fodder resources
- existing penalties are not sufficient to deter misuse or authorised use of the network – local governments and the pastoral industry acknowledge this should not continue
- there is currently no mechanism to identify natural and cultural heritage features on the network, and
- there is currently no mechanism for local governments to limit the use of the network based on the fodder resources or conditions of the network.²³

2.1.4 Why a new piece of legislation is necessary

The committee asked the department to provide information on why it was considered necessary to introduce a new piece of legislation. DNRM advised that stock travel and grazing activities both on and off the network are currently administered under several pieces of legislation and ‘this has led to duplication, unnecessary regulation and complexity, particularly for local governments as the day-to-day managers of the network’.²⁴ Further, while the pest provisions were removed in 2016 due to the commencement of the *Biosecurity Act 2014* and the Act was renamed as the *Stock Route Management Act 2002* this ‘did not fix the shortcomings in the existing administration of stock routes... and it retained historical administrative processes that are no longer required or applicable’.²⁵

DNRM advised that stakeholder consultation, in recent years, reaffirmed the need to streamline and clarify the role of local governments and address the shortcomings in the existing legislative framework. DNRM stated:

While many aspects of managing the network are retained in the Bill, the Bill does provide the following fundamental changes:

- *New principles for administering the network;*
- *Revised identification process and classification of the network;*
- *Revised application and approvals framework;*
- *New provisions to deal with natural and cultural heritage features on the network;*
- *New powers for local government to manage the network;*
- *Revised enforcement and compliance powers, including offences and penalties;*

²³ DNRM, correspondence dated 16 January 2017 - Clarifying Information, p 2.

²⁴ DNRM, correspondence dated 16 January 2017 - Clarifying Information, p 2.

²⁵ DNRM, correspondence dated 16 January 2017 - Clarifying Information, p 2.

- *New review processes for decisions made under the legislation; and*
- *New revenue and fee arrangements.*

Given the extent of the changes, a new Bill is the most appropriate way to provide a clearer, streamlined and updated legislative framework for network management.²⁶

2.2 Principles for the administration of the proposed new Act

Clause 4 of the bill states that any action taken under the Act must be taken in a way that is consistent with the listed of principles. The explanatory notes state:

The first principle mandates the maintenance of the integrity and connectivity of the network for travelling stock. Other principles aim to ensure: road safety and the operational integrity of the transport network (both on and off the network); the network is sustainably managed for use now and in the future in line with the order or priority for use. Sustainable management of the network will ensure future users of the network have the same opportunity to use the network as the current users.

Another principle of the Act is that users of the network pay a reasonable amount which is reflective of the benefit users receive from using the network. The amounts paid by the uses [sic] are to help maintain the network.

Underpinning the Act is the principle that the use of the network is subject to an order of priority for how approvals may be issued. The order of priority is firstly afforded to a travel approval for travelling stock; secondly, an unfit stock approval for travelling stock that become unfit stock or an emergency grazing approval; thirdly, short-term or long-term grazing approvals; and lastly, harvesting approvals.

The principles reinforce and support the purposes of the Act by ensuring decision-makers refer to them when considering taking any actions under the Act.²⁷

2.2.1 General obligation on users of the network

LGAQ expressed the view that ‘local government carries almost exclusive responsibility for the achievement of the main purposes of the Act’ and, based on this view, argued that permit holders, the ‘users of the resource’ [stock routes] ‘therefore should carry a general obligation to use the network in a responsible and sustainable manner.’²⁸ LGAQ further explained as follows:

This places an up-front responsibility for how the network is used with the user rather than the local government, who should predominantly be the facilitators of appropriate uses, managers of unoccupied sections of the network and lastly the compliance and enforcement agency when necessary.

This approach is consistent with modern legislation and facilitates a better understanding of each stakeholders’ role.²⁹

DNRM responded that one of the key underlying principles of the proposed Act ‘is that the stock route network is managed sustainably to ensure it remains available for use (clause 4)’:

Under the Bill (clause 41(e)), all approval holders will be required to exercise a duty of care for the approval route or area of the network they are authorised to use. This duty of care is

²⁶ DNRM, correspondence dated 16 January 2017 - Clarifying Information, p 3.

²⁷ Explanatory notes, p 12.

²⁸ Submission 2, p 4.

²⁹ Submission 2, p 4.

*a mandatory condition on all approvals and encompasses the expectation that persons authorised to use the network need to do so responsibly and sustainably.*³⁰

2.3 Identifying the stock route network

2.3.1 Introduction of a two tier classification system

When introducing the bill, the Minister advised the bill would improve ‘local governments’ ability to manage the network’.³¹ There are currently four stock route classifications: primary, secondary, minor and unused and the Bill proposes to introduce a two-tier classification system for stock routes — primary and secondary. The new primary network will consist of current primary and secondary routes while the new secondary network will consist of the current minor and unused routes.³²

The explanatory notes clarify why the bill proposes changes to the classification system and how it would simplify management requirements for local government:

*Classification of stock routes plays an important role in local government decisions about maintenance of, and investment in, the network and associated stock facilities (such as water facilities).*³³

*... local governments’ management efforts will be focused on maintaining stock facilities (including water facilities) on primary stock routes—the most important areas of the network for travelling stock. They will be able to dispose of stock facilities located on the secondary network with the state’s approval)...*³⁴

DNRM advised that councils will no longer be required to prepare local management plans and have that plan approved by the State Government. Instead, it will all be under one state management plan that will be developed in consultation with local government.³⁵

Stakeholder views

AgForce advised that while it had been involved in the stock route reform discussion for over a decade ‘this current Bill fails to address a number of the initial purposes for significant reform and as such, AgForce is unable to support it in its current form’.³⁶ Each of the recommendations made in the AgForce submission is discussed in the relevant sections of this report.

In relation to the categorisation of stock routes, AgForce submitted that prior to the commencement of the legislation, DNRM should consult with affected and/or adjacent landholders in regards to reclassification of secondary stock routes, to primary stock routes, to ensure connectivity of the network. AgForce advised:

*AgForce have previously reinforced the need to this with the Department who have responded that AgForce needs to point out any known issues however, we are not in a position to do this across the entire SRN [stock route network] and given the regional complexity of the task we believe it would be better done by the Department.*³⁷

³⁰ DNRM, correspondence dated 16 January 2017, p 2.

³¹ Queensland Parliament, Record of Proceedings, 3 November 2016, p 4147.

³² The Minister, Queensland Parliament, Record of Proceedings, 3 November 2016, p 4147.

³³ Explanatory notes, p 14.

³⁴ Explanatory notes, p 2.

³⁵ Public briefing transcript, 30 November 2017, p 2.

³⁶ Covering letter to submission 5.

³⁷ Submission 5, p 2.

DNRM responded that, prior to commencement of the Act, it will ensure that any existing secondary stock routes that are appropriate will be classified as primary stock routes, and ensure connectivity of the primary network is maintained:

If relevant stakeholders, including Agforce, are aware of any issues with the existing network classifications, DNRM would be happy for these issues to be raised so they can be considered. However, it is important to note that the Minister for Natural Resources and Mines in his explanatory speech introducing the Bill has made it clear that the State government has no intention of reducing the overall size of Queensland's stock route network.³⁸

Central Highlands Regional Council sought clarification on the standard of maintenance expected by local government with respect to secondary stock routes and asked whether there will still be a cost if local government is expected to provide a standard of maintenance with respect to secondary stock routes.³⁹

In response, DNRM provided the following advice:

- *Local governments are currently responsible for managing the entire stock route network, including stock facilities across the entire network in their areas, regardless of the level of use.*
- *The Bill will simplify the classification of existing stock routes from four categories to two (primary and secondary).*
- *The Bill recognises that local government's management efforts should be focused on the essential, and most used, driving routes, and local governments will now be required to maintain stock facilities on the primary network, rather than the entire network.*
- *DNRM may require a local government to maintain certain secondary stock facilities in the local government's area (clause 23), but this would be of lower priority than the maintenance of primary facilities. The requirement to maintain stock facilities on the secondary network is expected to be rare.*
- *To assist local governments, the state government intends to continue providing annual capital works funding to local governments to maintain stock facilities.*
- *Local governments will also have the opportunity to seek approval from DNRM to relocate, remove, or sell stock facilities that are on the secondary network.*
- *The Bill requires primary stock facilities be maintained in good working order. During the transition period to the new arrangements, further guidance will be developed around maintenance of stock facilities. This will be done in consultation with local government, LGAQ and other relevant stakeholders.*
- *Under the Bill, local governments have the opportunity to use water facility agreements with landholders adjoining the network as a tool to ensure the maintenance of water facilities of the stock route network within their local government area.⁴⁰*

2.3.2 Stock route network register

Clause 7 of the bill proposes that a stock route network register of the roads, routes and reserves that make up the network be kept, which would provide for a 'single point for obtaining information about the location and management of the network'.⁴¹ The explanatory notes state:

³⁸ DNRM, correspondence dated 16 January 2017, p 15.

³⁹ Submission 4, p 4.

⁴⁰ DNRM, correspondence dated 16 January 2017, p 10.

⁴¹ Explanatory notes, p 13.

The register will be the reference point for which roads, routes and reserves are part of the network, although the chief executive may reflect the register in an administrative map.

The register must state the location of each of the stock routes and reserves and whether a stock route has a primary or secondary classification. The chief executive does not classify a reserve that is part of the network, as under the definition of a reserve, the reserve will reflect the classification of the stock route it is next too. For example, a reserve near a primary stock route will be a primary reserve, and a reserve near a secondary stock route will be a secondary reserve. If a reserve is near a primary and secondary stock route, then the reserve takes on the highest classification.

The register must also include whether local government have decided to temporarily restrict or temporarily prevent access to a part of the network.

Additionally, for each special interest area (state or local) on the network, the register must state: its location; the basis on which the area has been registered as a special interest area (i.e. the special feature of natural heritage or cultural heritage); and whether the area is a local or state special interest area. The clause also provides that the register must contain any other information required to be registered under the Act.

The chief executive must also ensure the register is publicly available on the department's website.⁴²

2.3.3 Registering existing stock routes and reserves

Under the transitional provisions of the bill, existing stock routes and reserves would be classified and transitioned into the proposed Act:⁴³

On commencement of the Act, a primary or secondary stock route under the repealed Act immediately before commencement, will be taken to be a primary stock route under the Act.

A minor or unused stock route under the repealed Act immediately before commencement, will be taken to be a secondary stock route on the Act's commencement.

An existing reserve under the Land Act that may be used for travelling or grazing stock will take on the classification of the part of the stock route the reserve adjoins. For example, if the reserve adjoins a primary stock route, the reserve will be a primary reserve.

The clause also ensures that existing stock routes and reserves do not need to be registered under the Act. They will be taken as having been automatically registered under clause 8 on commencement of the Act. This significantly reduces the administration requirements on commencement of the Act and ensures clarity for local governments and network users about the classification of stock routes and reserves under the Act.⁴⁴

2.3.4 Registering new stock routes and reserves

Clause 8 of the bill provides for how new stock routes and reserves would be registered after commencement of the proposed Act:

Clause 8 provides that the chief executive may register a road or route that is ordinarily used for travelling stock as part of the network, if the road or route is suitable for travelling stock (for example: existing stock routes or routes historically used to travel stock). Not all roads are suitable to be stock routes. Upon registration, these roads or routes are stock routes under the Act.

⁴² Explanatory notes, p 13.

⁴³ Clause 140.

⁴⁴ Explanatory notes, p 69.

The chief executive may also register a reserve as part of the network, if the reserve may be used for travelling or grazing stock under the Land Act. A reserve can be registered regardless of its dedicated community purpose under the Land Act, so long as the use by travelling or grazing stock is not inconsistent with the community purpose.

Registration of the road, route or reserves does not affect (extinguish or suppress) native title as the registration does not change the tenure of the land.⁴⁵

While transitional provisions would provide for existing stock routes to be automatically registered on commencement of the Act, the chief executive would be required to consult if he or she decided to register a new road, route or reserve after the commencement of the Act:

If the chief executive decides to register a road, route or reserve after the commencement of the Act, then the chief executive must consult with each affected local government (including neighbouring local governments affected by the registration) before deciding to register the road, route or reserve.

Further, before a State-controlled road can be registered, the chief executive (transport) must be consulted. This is to ensure operational and road safety matters have been considered in determining the suitability of the State-controlled road for stock and pasture harvesting related purposes. Some of the considerations the chief executive (transport) may consider include the speed limit or the number and type of vehicles that use the State-controlled road.⁴⁶

The clause also requires the chief executive to have regard to listed matters before classifying a stock route as a primary or secondary stock route. Those matters include: access from the stock route to a natural water source or a water facility; matters from the State management plan about the suitability of the stock route for travelling stock and whether the stock route is travelled by stock; the access to, and connectivity of, the stock route; and any other matter prescribed by regulation. However, the chief executive will not have regard to these matters for the initial registration of the classification of the stock routes, as the Act establishes that existing classifications under the Stock Route Management Act will transition and be registered on commencement of the Act.⁴⁷

2.3.5 Changing or removing stock routes or reserves

Under clause 9 of the bill, the chief executive would be required to undertake consultation before changing or removing stock routes or reserves from the register:

Clause 9 provides that the chief executive must consult each affected local government (which includes local governments neighbouring the local government area in which the affected part of the network is located) before changing the classification of a stock route, or removing a stock route or reserve from the register. Similarly, for a stock route on a State-controlled road, the chief executive (transport) must also be consulted.

Following consultation and a subsequent decision by the chief executive to amend the register, the chief executive must notify each affected entity of the decision. Notice of the decision includes electronic notification.⁴⁸

The explanatory notes clarify the importance of the chief executive consulting on any changes to the stock route network including reserves:

This requirement is important to ensure that local governments affected by the decision of the chief executive are aware of any changes to the network (located within or next to their

⁴⁵ Explanatory notes, p 14.

⁴⁶ Explanatory notes, p 14.

⁴⁷ Explanatory notes, p 14.

⁴⁸ Explanatory notes, p 15.

local government area), as the changes may affect management and administration decisions of local governments. Consultation with the chief executive (transport) where a proposed change may affect a State-controlled road is also important to ensure that road safety and the operational integrity of the transport network have been considered, prior to the chief executive making a decision about changing a classification or removing a stock route on a State-controlled road.⁴⁹

Stakeholder views

Several stakeholders advised the committee that a number of stock routes are rarely or never used and argued this presents issues, including complying with stock route regulations.⁵⁰ Some stakeholders advocated for closing these stock routes.

A Rolleston landholder, Ms Kerryn Piggott, provided the following evidence:

We have a 50,000-acre property. Inside that property we have a stock route that has not been used for 50 or 60 years but it is well mapped and it is surveyed. It is also a lease inside a lease that we upgraded from a special lease which was over a road or a reserve to a term lease with grazing rights. There is no fencing. I have been married and lived there for 30 years and there has been no stock. We have maintained that area to the best of our ability, but because it is a stock route with a road that is surveyed we are unable to clear it in a fashion. We can thin it and then we have to apply for a permit under the Vegetation Management Act. For us it is an issue.

It comes up on the Globe and on Google Maps as a stock route and our lease agreement says it is a camping and watering reserve. That actually comes up on the map. We regularly have travellers who think they can just come into our property and camp, but the road that actually leads to this watering reserve is not there. There is no road so they then go along the highway to find entry into the property with their GPS maps, getting the closest route to go to this watering point. The majority of the time there is no water there anyway, because it is a creek that only runs when there is enough rain to make it run. We have an issue with people entering our property to have access to this stock route reserve, and it does not come off the highway. It is so crazy. The entry comes from our neighbouring property's boundary, which is not the same width as the road which comes into our place.

... if you then go to DNR to ask to have that stock route closed and go through all the process of trying to freehold or incorporate that into our property, they have said, 'No. It belongs to stock routes and it has to stay.' I think that really needs to be looked at because (1) in my lifetime it has never been used and (2) who is maintaining it? What is the point of having it?

It is very frustrating as a landholder trying to manage your day-to-day business and also for the safety of people. It is in the middle of nowhere. I think it is an issue where people look at a map. By law, if you read the fine print in our lease, we as the landholder are supposed to allow that to happen. I think inactive and unused stock routes really need to be addressed.⁵¹

Ms Piggott also commented that stock route mapping inaccuracies need to be examined.⁵²

A landholder from Cappella, Mr Jonathan Reinke, stated:

There are a lot of disused routes that really need to be wound up and closed up. That would tidy the whole show up considerably. Council is talking about the costs of managing. They

⁴⁹ Explanatory notes, p 15.

⁵⁰ See for example, McKinlay Shire Council, public hearing transcript, Longreach, 8 February 2017, p 5.

⁵¹ Public hearing transcript, Emerald, 8 February 2017, p 11.

⁵² Public hearing transcript, Emerald, 8 February 2017, p 11.

*would be able to concentrate on their primary and secondary routes and not have someone driving up and down a disused route that is not going to make them any revenue anyway.*⁵³

In answer to a question from the committee about the cost related to surveying a stock route so that it can be removed from the network, Mr Reinke advised:

*Certainly there would be some cases that you would have to survey to know exactly where they were. Here, it is a lot smaller areas. You are only talking about three-chain stock routes or 10-chain stock routes, whereas around Boulia there is a lot bigger area, so it depends. Some do follow boundary lines, so it is simply a matter of going off the boundary line. For others, when it goes through the middle of a place, it would be harder to pick.*⁵⁴

Central Highlands Regional Council advised the committee that while there are some minor stock routes that could be removed it did not support the removal of all minor stock routes:

*It is like a spider web. If you start pulling out pieces of that spider web, what is going to happen to the spider web? There is no integrity to it.*⁵⁵

*If those minor or secondary are gone, you do not have the chance to send them around on a different path to then come back, because you will get to where they will logjam themselves and there is nowhere to go. There will be no feed.*⁵⁶

In its submission LGAQ supported 'consultation with all affected local governments in the review of the stock route network's extent and hierarchy'.⁵⁷

Committee comment

The committee has noted the concerns raised by some landowners that there is no process set out in the bill for landowners or councils to apply to have stock routes or reserves removed from the network register. The committee has also noted that clause 9 of the bill states the chief executive is required to undertake consultation before changing or removing stock routes or reserves from the register.

The committee heard from some stakeholders that it has been decades since the secondary/minor/unused stock routes on their properties have been used by travelling stock. We consider that there should be a straight forward process for landholders to have such routes or reserves removed from the stock route network register.

The committee is of the view that the process for landowners or councils to apply to have a stock route or reserve removed from the network register and the likely cost of such removal be made clear.

2.4 Local special interest areas

The bill would enable a local government to decide that an area is a *local special interest area* if it 'contains a special feature of natural heritage or cultural heritage that is of local significance'.⁵⁸ The purpose of this provision would be so that a 'local government may identify a local special interest area to assist in administering approvals in order to minimise the impact of the use granted under the approval on the special feature of the area.' The explanatory notes advise this would assist with minimising impacts from stock or harvesting on the special features 'without undermining the main purpose of the network in providing for travelling stock.'⁵⁹

⁵³ Public hearing transcript, Emerald, 8 February 2017, p 10.

⁵⁴ Public hearing transcript, Emerald, 8 February 2017, p 10; one chain is equal to 20.1168 metres.

⁵⁵ Public hearing transcript, Emerald, 8 February 2017, p 14.

⁵⁶ Public hearing transcript, Emerald, 8 February 2017, p 16.

⁵⁷ Submission 2, p 3.

⁵⁸ Clause 10.

⁵⁹ Explanatory notes, p 15.

Stakeholder views

The Wildlife Preservation Society of Queensland advised the committee that the bill provides for certain areas that are a significant cultural or natural heritage area to be managed appropriately, depending on the circumstances and that it did not support the views of some other conservation organisations that such areas should be removed from the stock route:

*We do not share that view, because in doing so you would be fragmenting the stock route. The biggest value in the stock route is its continuity across the landscape, it is unique in that. In fact, in some places it is the only semblance of the original vegetation and fauna that exists because of agricultural development.*⁶⁰

Desert Channels Queensland advised the committee that its main concern with the legislation is that it does not necessarily recognise the biosecurity value of the stock route network and does not provide provision for ongoing management of existing weeds.⁶¹

At the Boulia public hearing, a local grazier referred to the interest from some conservation groups in establishing nature corridors and connectivity between nature corridors:

*That is a great principle. I would agree with that, but I think it is completely unreasonable to expect that landholders should foot the whole bill for everything, for whatever the goals are of each particular interest group. Why should adjoining landholders be responsible?*⁶²

Central Highlands Regional Council sought clarification on the 'special interest areas' and any conditions, guidelines and legislation that may be proposed to recognise significant values such as natural and cultural heritage; and what management conditions may be imposed on local government with respect to special interest areas.⁶³

In response, DNRM provided the following advice:

- *Special interest areas are identified areas on the stock route network with special natural or cultural heritage values (e.g. Aboriginal cultural heritage values or post settlement heritage).*
- *Special interest areas may be identified by either local government (e.g. matter identified on a local heritage register) or the state government (protected area or listed on a cultural heritage register maintained by the State).*
- *Natural resource management groups, Landcare groups or adjacent landholders may also approach a local government to assist in the identification of locally significant values.*
- *The Bill does not impact on protections already in place for such areas under other legislation such as the Nature Conservation Act 1992, the Aboriginal Cultural Heritage Act 2003 or the Queensland Heritage Act 1992.*
- *The Bill does not require a local government to actively manage special interest areas. It simply allows local governments to be able to impose conditions on approvals issues under the Bill to minimise the impact of stock travel, grazing and pasture harvesting on these areas.*
- *Special interest areas cannot be used to permanently close off parts of the network to travelling stock. However, preventing access temporarily is allowed under the Bill to maintain the natural or cultural heritage feature.*

⁶⁰ Public hearing transcript, Brisbane, 6 February 2017, p 8.

⁶¹ Public hearing transcript, Longreach, 8 February 2017, p 18.

⁶² Ms Kelsey Neilson, public hearing transcript, Boulia, 7 February 2017, p 13.

⁶³ Submission 4, p 2.

- *For special interest areas identified by the State, the State will work with the relevant local government to identify any conditions the State may require to be imposed on approvals issued under the Bill.*
- *If the Bill is passed, the state government will work with local governments to implement the special interest area requirements.⁶⁴*

McKinlay Shire Council stated that councils should not be responsible for maintenance of state special interest areas:

In the case where the conditions are too high or they are not acceptable and we cannot enforce those conditions, the maintenance will go back to local government. Local government does not feel that we should be taking on the responsibility without reasonable compensation.⁶⁵

The LGAQ submission advised that it had confirmed with DNRM:

- there would be no new management requirements as a result of the registration of a special interest area, and
- watering facilities will remain State assets and the State will continue to provide capital to local governments for their upgrading and replacement.⁶⁶

Central Highland Regional Council strongly advocated for the retention of all Queensland Stock Route networks being maintained and that no consideration for any future wildlife corridors be entertained.⁶⁷

In response, DNRM advised:

- *The State government has no intention of reducing the overall size of Queensland's stock route network.*
- *The state has a strong interest in ensuring the network, as a whole, is maintained in good condition across the state, and can continue to be used for travelling stock into the future.⁶⁸*

AgForce raised a number of concerns in its submission about local and state special interest areas including:

- whilst the bill states that conditions must not prevent access to the stock route network in these areas, it should also be explicitly stated that such conditions should not result in additional grazing approval costs,
- there is no protection against 'land banking' of the stock route network via gazettal of nature refuges and other special interest areas which would affect the use of the network by stock,
- it is unclear who will pay for the management costs associated with the imposition of a maintenance condition in these areas, and
- noted that protected plants (under the *Nature Conservation Act 1992*) have not been listed as a potential natural or cultural heritage feature that may be identified as a State special interest area, and queried whether this is on purpose given the potential pasture harvesting provisions in the bill.⁶⁹

⁶⁴ DNRM, correspondence dated 16 January 2017, pp 9-10.

⁶⁵ Public hearing transcript, Longreach, 8 February 2017, p 1.

⁶⁶ Submission 2, p 4.

⁶⁷ Submission 4, p 8.

⁶⁸ DNRM, correspondence dated 16 January 2017, p 9.

⁶⁹ Submission 5, pp 2-3.

In response, DNRM advised:

- *While local governments will be able to condition the use of these areas, or temporarily exclude stock to maintain the heritage feature, they will not be able to use these provisions to permanently close off to travelling stock, or 'land bank', these parts of the network.*
- *The Bill, however, does not impact on protections that may already be in place for such areas under other legislation such as the Nature Conservation Act 1992, the Aboriginal Cultural Heritage Act 2003 or the Queensland Heritage Act 1992.*
- *For the purposes of identifying a state special interest area, clause 13 of the Bill allows an area used by endangered wildlife, vulnerable wildlife or near threatened wildlife under the Nature Conservation Act 1992 to be identified. Protected plants are included in the definition of endangered wildlife, vulnerable wildlife or near threatened wildlife under the Nature Conservation Act 1992.⁷⁰*

2.5 Status of stock route network

2.5.1 Temporarily restricting or preventing access to part of the network

Clause 16 of the bill would enable a local government to manage situations that may arise and affect the network in their local area by allowing it to impose restrictive conditions that will temporarily restrict or prevent access to that part of the network.⁷¹ The explanatory notes advise that certain situations may make it necessary for a local government to use this power, for example, to allow 'local governments to prevent or restrict stock related activities (travelling, grazing) or pasture harvesting activities authorised under the bill', or if it is considered to be in the interests of public safety, for example, a fire or flood event.⁷²

The explanatory notes advise this clause included provisions to ensure that local governments do not impose restrictive conditions on access to parts of the network for an excessive amount of time, with notices being capped at 12 weeks, unless revoked prior.⁷³ AgForce advised it was supportive of the 12 week cap on notices proposed under this section of the bill.⁷⁴

Clause 17 of the bill provides that if the chief executive (transport) gives the local government notice that access is temporarily restricted or prevented to all, or part of, a State-controlled road on the network, the local government must as soon as practicable decide to temporarily restrict or prevent access as required under the notice, for example:

... the chief executive (transport) temporarily restricts access to all, or part of, a State-controlled road due to an emergency such as a vehicular accident or chemical spill, or the movement of a vehicle with a wide load, or a community event.⁷⁵

Clause 18 provides that if a local government decides to temporarily impose a restriction to the network, 'it may impose a restrictive condition on a new approval or similarly amend the conditions of an approval to include a restrictive condition'.⁷⁶

⁷⁰ DNRM, correspondence dated 16 January 2017, pp 15-16.

⁷¹ Explanatory notes, p 19.

⁷² Explanatory notes, pp 19-20.

⁷³ Explanatory notes, pp 20-21.

⁷⁴ Submission 5, p 3.

⁷⁵ Explanatory notes, p 21.

⁷⁶ Explanatory notes, p 21.

Stakeholder views

In its submission, AgForce queried how money would be collected to pay for any rectification works associated with the closure of part of the stock route network.⁷⁷ DNRM advised:

- *The Bill does not establish a fee associated with rectification works of the network.*
- *However, the Bill does provides [sic] that all revenue a local government receives from the use of the stock route network under the Bill must be spent for the administration, maintenance and improvement of the network in the local government's area (clause 126). This includes money received by a local government from penalties and fines, application fees and water facility agreements.*
- *This revenue could be spent on part of the network that has had to be temporarily closed to allow for pasture to recover.*⁷⁸

2.6 Managing the stock route network

2.6.1 State management strategy and local management plans

The explanatory notes detail the current roles of state and local government in the administration and management of the network, and advised that these arrangements are part of the reason for the need to provide a single Act to administer and manage the network:

These arrangements, operating under several pieces of legislation and with multiple government entities issuing approvals, are confusing for users of the network as responsibility for authorising the network's use is unclear. It also can lead to conflicting use of the network. For example, the state and local governments can issue multiple permits over the same area of the network, causing conflict as to which approval has priority use (e.g. a permit issued under the Land Act or the Stock Route Management Act); or which activity has priority use of the pasture resource (e.g. travel or grazing).

*The arrangements are also difficult for local governments, as the network managers, to administer. The legislative environment is complex and leads to duplication and unnecessary regulation. It also does not provide contemporary and flexible management, enforcement and compliance arrangements to enable local governments to effectively manage the network and make informed decisions based on local knowledge.*⁷⁹

DNRM advised that the bill proposes to make the following changes in relation to the roles of local and state government:

As day-to-day managers of the stock route network, local governments are currently responsible for issuing travel and short-term agistment permits; for managing the network's infrastructure, which includes water facilities and stock holding yards; and for undertaking compliance and enforcement. However, under the existing arrangements, the state government is responsible for issuing what is referred to as long-term grazing permits both on and off the stock route network. Under the bill, local governments will now be the decision-makers for authorising all stock related activities on the network, including the long-term grazing. This will reduce the number of government entities the landholder or a drover of stock has to deal with for travel and grazing approvals.

The state government will continue to be responsible for the strategic oversight of the network and for ensuring that the act is effectively administered. This will be through the development of a state management plan that sets out the management outcomes necessary

⁷⁷ Submission 5, p 3.

⁷⁸ DNRM, correspondence dated 16 January 2017, p 16.

⁷⁹ Explanatory notes, p 2.

to maintain an integrated and connected stock route network for travelling stock. The bill provides powers for the minister to direct a local government to perform functions under the act and to step in and take action if they are not.

Stock travel decisions made by a local government, as they are now, will also continue to be reviewable by the state. For state controlled roads, state consent through the chief executive of transport will be required before a local government can issue approval under the bill. This is to ensure the operational integrity of the state's transport network and for obvious road safety reasons.

The bill reduces the existing management administrative burden on local governments. In particular, under the current arrangements, local governments are expected to maintain stock facilities on the entire network. They are also required to prepare a local management plan for the network in their area and have that plan approved by the state government.⁸⁰

Clause 19 of the bill provides for the 'State's strategic oversight of the network to ensure the integrity and connectivity of the network for the purpose of travelling stock, through a State management plan', and provides details of the plan, including that:

- the Minister must prepare the plan in a way prescribed by regulation
- the Governor in Council may approve the plan by gazette notice
- the plan is not subordinate legislation, and
- the Minister must publish a copy of the plan on the department's website.⁸¹

DNRM advised that, to the extent that it has been appropriate, responsibilities have been handed back to local government but the state still sees a significant role in maintaining a network that 'is connected the length and breadth of Queensland and, for that matter, connecting to similar networks that exist in the Northern Territory and in New South Wales in particular'.⁸² Further, DNRM advised that the state will continue to have an on-going role with regard to:

- water facilities, as they are high cost items, and
- travelling fees, as stock may move through half a dozen different shires, and they will be able to get one permit, one fee and one set of conditions.⁸³

To allow time for the Minister to undertake consultation with stakeholders in the development of the State management plan, the existing State management strategy and local management plans made by local governments will continue until this new plan is prepared, or 2 years after this clause commences (whichever occurs first).⁸⁴

In response to a question by the committee regarding the need for the change to a single State management plan, the department advised:

The reason why we are moving away from individual local government plans is that it is a lot of red tape for local governments to have to do those plans. There are quite significant preparatory requirements under the current legislation and they have to get those individual management plans approved by the state. There is nothing to stop a local government in future still having their own management plan, but they just will not have to come to the state for approval. That is a red-tape reduction mechanism from our point of view.⁸⁵

⁸⁰ DNRM, public briefing transcript, Brisbane, 30 November 2016, pp 1-2.

⁸¹ Explanatory notes, p 22.

⁸² Public hearing transcript, 6 February 2017, p 16.

⁸³ Public hearing transcript, 6 February 2017, p 16.

⁸⁴ Clauses 19 and 141.

⁸⁵ Public briefing transcript, Brisbane, 30 November 2016, p 6.

Stakeholder views

The Wildlife Preservation Society advised the committee that it:

- supported stand-alone legislation and for none of the network to be sold or fragmented
- acknowledged the primary purpose of the network is to accommodate the needs of bona fide travelling stock and that other appropriate uses including biodiversity must be protected,
- supported the proposal for one state management plan for the entire network
- advocated for strong compliance and enforcement programs to ensure the state management plan is complied with
- recommended that clause 3(2)(c) be strengthened to recognise and ‘conserve’ (rather than ‘protect’) natural, cultural, recreational and tourist values, and
- suggested the role stock routes may play in climate change be recognised in the bill, perhaps as principle in clause 4 of the bill.⁸⁶

AgForce submitted that it had not been provided with a copy of the State stock route management plan and ‘given the importance of it, believe that it should have been developed upfront and tabled with the Bill’ and in addition ‘given the process and contents of the State stock route management plan is currently so undefined, it will require significant consultation as it underpins the success or otherwise of this Bill’.⁸⁷ At the Brisbane public hearing, AgForce added that if the plan had been tabled with the bill it would have given all local governments an opportunity to understand the bill and its implications.⁸⁸

In response to AgForce’s submission, DNRM committed to consult with all relevant stakeholders, including AgForce, local governments, LGAQ and conservation organisations in developing the State Management Plan.⁸⁹

In its submission, LGAQ stated it was supportive of the ‘removal of the mandatory requirement of a local government area stock route management plan’, noting also that ‘local governments may maintain their plans if they wish to’.⁹⁰

LGAQ advised that it had worked with Queensland local governments and the State on SRN reform since 2003 and in its view, ‘the proposed Bill provides the flexibility and scope to meet the key policy requirements of local governments, particularly in relation to a framework enabling greater cost recovery for the administration and management of the Queensland Stock Route Network’.⁹¹

Isaac Regional Council also supported the bill advising it had been an active participant in the Stock Route Implementation Group and that the bill had captured the important comments from that consultation process. The Council specifically indicated support for the following provisions in the bill:

- The continuation of the Capital Works Program for the maintenance of facilities on the Primary Stock Routes.
- The ability of local government to consider and approve the harvesting of the stock route.
- The ability of local governments to retain all revenue from approvals and agreements.⁹²

The Central Highlands Regional Council supported the proposed legislative change on the basis it will:

⁸⁶ Public hearing transcript, Brisbane, p 7.

⁸⁷ Submission 5, p3.

⁸⁸ Public hearing transcript, Brisbane, 6 February 2017, p 1.

⁸⁹ DNRM, public briefing transcript, Brisbane, 30 November 2016, p 16.

⁹⁰ Submission 2, p 4.

⁹¹ Submission 2, covering letter.

⁹² Submission 3, p 1.

- provide local governments with greater capacity and control to obtain revenue for the management and upkeep of the stock route network
- more clearly define the local government's obligations and streamlines approval processes and compliance actions
- ensure that data captured from regular audits of the network can be easily tracked and reported on with the implementation of a centralized electronic stock route management system administered by the State, and
- provide for a transition period of one to two years which will be a suitable period of time for council to adapt its current business practices and ensure that all relevant officers receive sufficient training to carry out council's obligations under the new legislation.⁹³

Clause 133 of the bill proposes to give the Minister power to direct a local government to perform a function the local government is required to perform under the Act but that the Minister reasonably believes the local government is not performing.

The Central Highlands Regional Council sought clarification on the powers the State will reserve to ensure that the stock route network is managed to deliver the state interest and whether will they will be in any formal regulation.⁹⁴

McKinlay Shire Council recommended that clause 133 contain a limit as to the directions that the Minister may make in regards to the roles and responsibilities of local government under the Act and that in the absence of compensation and revenue to cover the expenses of the SRN, the local government should have no action taken against it by the Minister or other parties.⁹⁵

AgForce submitted that it considers the State has not effectively used its oversight powers in situations where local governments are not properly managing the network and questioned how clause 133 will change this situation.⁹⁶

At the Brisbane public hearing, AgForce explained that in the 2011 draft bill stock route supervisors were to be placed around the state and they could have been used to oversight local governments to ensure legislative requirements were being met:

*We need an oversight process – stock route supervisors, a compliance committee above the local government level or whatever – so there is something between the local government and the minister. As we read the bill, we have the local government and the minister but nothing in between. That is the problem.*⁹⁷

In response to the issues raised in submissions, DNRM advised:

- *The state has a strong interest in ensuring the network, as a whole, is maintained in good condition across the state, and can continue to be used for travelling stock into the future.*
- *Clause 19 of the Bill enables the state to have strategic oversight of the network to ensure the integrity and connectivity of the network for the purpose of travelling stock, through a state management plan.*
- *The Bill states that the Minister must prepare, in the way prescribed in regulation, a plan (state management plan) for managing the stock route network. The Governor in Council can approve the state management plan by gazette notice.*

⁹³ Submission 4, p 7.

⁹⁴ Submission 4, p 6.

⁹⁵ Public hearing transcript, Longreach, 8 February, p 3.

⁹⁶ Submission 5, p 6.

⁹⁷ Public hearing transcript, Brisbane, 6 February 2017, p 3.

- *The plan will contain information about the outcomes to be achieved by managing the network, as well as the strategies and actions that local governments may use to achieve the outcomes.*
- *The Minister also has the power to direct a local government to perform its functions under the legislation and to step in and take action if the local government does not (clause 133). The Minister must first consult with the local government before directing the local government to perform the function.*
- *The Minister also has the power to ask for information from a local government about how an amount received under the Act has been spent on the stock route network or to request a written report about any power or function exercised by a local government (clause 132).⁹⁸*

Central Highlands Regional Council's submission also raised a number of specific implementation issues including a comment that local government assumed that the electronic stock route management system will provide:

- accurate and GIS information regarding stock route infrastructure and this be made available to Councils, and
- copies of travel and grazing permits issued by the State Government provided to Council's for their records.⁹⁹

DNRM advised that a number of local governments were already using the SRMS to record travel and agistment permits issued on the SRN and that local governments will be able to access copies of travel and grazing permits issued for the network through SRMS.¹⁰⁰

The department added that during the implementation period, DNRM 'will work closely with LGAQ, local governments and relevant stakeholders in aligning the current SRMS with the requirements of the bill and local governments' needs'.¹⁰¹ In relation to the Central Highland Regional Council's suggestion about providing Geographic Information System (GIS) information through the SRMS, DNRM responded that it would investigate this issue further.¹⁰²

Committee comment

The committee notes the suggestion made by the Central Highlands Regional Council that GIS information regarding stock route infrastructure be made available through the Stock Route Management System. The committee notes and supports the Department of Natural Resources and Mines' advice that it will consider providing GIS information on stock route infrastructure through the Stock Route Management System.

2.6.2 Managing pasture

Under the State management plan, local governments would be required to manage the pasture in the area to ensure, as far as practicable, that there is an adequate supply of pasture for travelling stock and land degradation in the area is prevented or minimised.¹⁰³

⁹⁸ DNRM, correspondence dated 16 January 2017, p 11 and pp 21-22.

⁹⁹ Submission 4, p 3.

¹⁰⁰ DNRM, correspondence dated 16 January 2017, p 7.

¹⁰¹ DNRM, correspondence dated 16 January 2017, p 7.

¹⁰² DNRM, correspondence dated 16 January 2017, p 7.

¹⁰³ Clause 20(2).

Stakeholder views

LGAQ stated that clause 20 represented a ‘significant challenge to local governments’:¹⁰⁴

*Determining the tipping points between ‘adequate’ and ‘inadequate’, ‘sustainable’ and ‘unsustainable’ requires knowledge, skill and adequate information. Local government officers must be able to speak with confidence and authority if they are to be required to set stocking rate limits or tell a permit holder they are to remove their stock from the network to maintain adequate pasture and expect the permit holder to accept their decision.*¹⁰⁵

However, LGAQ also advised that clause 20 also provided ‘an unmet opportunity’:¹⁰⁶

*The State’s Advancing Queensland and innovation agendas provide the platforms for the State, stock owners and local governments to partner in the development of innovative new approaches and uses of technology to collect the data and build the knowledge base around sustainable pasture management of all stakeholders.*¹⁰⁷

In relation to this, LGAQ recommended:

*Recommendation 2: The State commit to working with the LGAQ, local governments and other key stakeholders such as AgForce and Regional NRM [Natural Resource Management] Groups in the development of innovative tools, datasets and capability building supporting the effective identification of pasture tipping points and appropriate responses.*¹⁰⁸

DNRM responded to the recommendation made by the LGAQ as follows:

- *A number of local governments are already using the electronic SRMS to record travel and agistment permits on the stock route network. DNRM has recently undertaken training of a number of local governments on the SRMS.*
- *If the Bill is passed, it will not commence immediately. The Bill provides transitional arrangements and is to be commenced by proclamation to allow sufficient time to transition to, and implement the new arrangements (expected to take one to two years).*
- *DNRM will continue to work closely, during this transition period, with LGAQ, local governments and relevant stakeholders in aligning the current SRMS with the requirements of the Bill, developing supporting implementation tools and guides and providing further training to build local governments’ capacity.*
- *DNRM is continuing the development of a Mobile Assessment Tool (MAT)—a software system that can be used in the field to capture and record data on pasture condition, water facility assets, and other environmental data—for use by local governments.*
- *DNRM will also be consulting with local governments, LGAQ and other key stakeholders in developing the State management plan for the stock route network. The State management plan will set out outcomes, strategies and actions for ensuring adequate pasture levels are maintained on the network for travelling stock.*¹⁰⁹

¹⁰⁴ Submission 2, p 4.

¹⁰⁵ Submission 2, p 4.

¹⁰⁶ Submission 2, p 4.

¹⁰⁷ Submission 2, p 4.

¹⁰⁸ Submission 2, p 4.

¹⁰⁹ DNRM, correspondence dated 16 January 2017, p 4.

The Central Highlands Regional Council requested further information on the pasture management tool including whether it will be used to assess the amount of feed on the stock route.¹¹⁰

DNRM responded that the data from the MAT software system can be used in the field to capture and record data for use by local governments and that this data would be transferred into the SRMS.¹¹¹

The AgForce submission:

- supported the use of the MAT for all approval types to ensure adequate pasture is retained
- argued that harvesting must be conducted using the MAT to ensure sufficient pasture remains available for other users
- supported the use of MAT to keep harvest record, as required by the Bill
- queried the order in which adjacent landholders will be asked if they would like to apply for a short-term grazing approval to manage excess pasture in the instance where there are no existing approvals and there are multiple adjacent landholders, and
- queried if lower priority uses could also be used to manage issues such as fire hazard and weed and native species encroachment.¹¹²

In response to these issues, DNRM advised:

- *The proposed Bill clearly sets out that the primary purpose of the network is for travelling stock, and as such, it must be managed in a manner that maintains a viable, and functioning network for travelling stock.*
 - *To achieve this outcome, other lower priority uses, including grazing, and pasture harvesting, may be permitted, so long as they do not affect the usability of the network for travelling stock.*
 - *A key aspect of ensuring the network remains viable for travelling stock is the retention of adequate pasture levels.*
 - *To assist local governments in their decision-making, tools and system will be available to monitor, and keep records, of pasture levels and land condition.*
 - *The Bill will require local governments to record approvals in the electronic Stock Route Management System (SRMS). In addition to processing applications, the SRMS will be able to record usage data and provide reliable, up-to-date information on travelling stock and grazing activities, as well as information on pasture condition, and the status of stock routes.*
-
- *The SRMS and MAT are designed to support more effective, informed, and sustainable long-term management of the stock route network.*
 - *Local governments may only grant short-term grazing approvals in situations where the land where the stock are situated is drought-declared and cannot sustain the stock, or following the publishing of a pasture availability notice inviting persons to apply.*

¹¹⁰ Submission 4, p 3.

¹¹¹ DNRM, correspondence dated 16 January 2017, p 7.

¹¹² Submission 5, p 3 and p 5.

- *Before inviting persons to apply, via a public notice, the local government must ask the owner of adjacent land whether they want to apply for a short-term grazing approval for the area.*
- *In circumstances where short-term grazing is not feasible, lower priority uses of the network, such as pasture harvesting, will give local governments a tool to manage pasture levels to address fire risks.¹¹³*

2.6.3 Secondary stock facilities

Clause 23 of the bill provides the chief executive may, by notice given to a local government, require the local government to maintain a secondary stock facility in the local government's area. The explanatory notes advised a secondary stock facility:

- is a stock facility that is on, or provided for, the benefit of persons using a secondary stock route or secondary reserve
- may include a public water facility, a stock holding yard, a bridge or water crossing, and
- may be relocated, removed or sold subject to the chief executive's written approval – this would allow local government to rationalise and focus their management and capital works investments to parts of the network with higher use, e.g. a primary stock route.¹¹⁴

Stakeholder views

AgForce submitted that it did not support the removal of secondary stock facilities:

Where LG [local government] is considering what to do with these facilities, LG needs to discuss with local landholders the best and most efficient use of these facilities prior to making a decision. In many instances, a long GA [grazing approval] or water facility agreement where the landholder agrees to pay fees and/or do all the maintenance would be preferable to removing the facility.¹¹⁵

In response, DNRM advised:

Local governments must consult with the State before relocating, removing or selling a stock facility on a secondary stock route as these facilities are assets owned by the State.

The need to retain a secondary stock facility (i.e. if it is still being used) would need to be considered before any decision is made to relocate, remove, or sell the asset.¹¹⁶

AgForce also submitted that the clause 24 of the bill should be amended to enable approval holders to elect to do maintenance in lieu of paying rents on the land.¹¹⁷

2.6.4 Water facilities

A number of local governments raised the issue of maintenance of water facilities with the committee, pointing out that the revenue for water agreements does not cover the cost of maintenance.¹¹⁸

¹¹³ DNRM, correspondence dated 16 January 2017, pp 16-17

¹¹⁴ Explanatory notes, p 24

¹¹⁵ Submission 5, p 3.

¹¹⁶ DNRM, correspondence dated 16 January 2017, p 17.

¹¹⁷ Submission 5, p 4. The department did not provide a response to this suggestion in its correspondence which addressed issues raised in submissions.

¹¹⁸ See for example McKinlay Shire Council, public hearing transcript, Longreach, p 2 and Flinders Shire Council, public hearing transcript, Longreach, 8 February 2017, p 14.

Maranoa Shire Council advised the committee that it issues approximately one quarter of all the permits in the stock route network in Queensland and is responsible for about 136 water facilities:

*We receive constant feedback from stock route users on the condition of our water facilities. We have invested quite a lot of time and effort into bringing those up to standard through the use of departmental capital works and our own resources. However, even given the sheer volume of permits that we issue, the revenue that we receive from stock routes goes nowhere near funding even the maintenance of one of those facilities. We rely heavily on the support of the department and heavily on the support of our ratepayers to do that.*¹¹⁹

In response to a question from the committee regarding maintenance of infrastructure on its stock routes Maranoa Regional Council stated:

*We do a review on all of our water facilities on all our stock facilities every year. We prioritise that into our primary routes, our secondary routes and our minor routes. Basically, as the previous lady said, we do not manage or maintain our minor routes. Some of the landholders that have permits to occupy do that on their own stuff. With regard to the secondary routes and the primary routes, if we prioritised that we need a water facility upgraded we make application through the capital works program and we always tell the state that it is prioritised and we put whether it is for a primary route or a secondary route—we do not go any lower than that—and we have been very lucky and received a lot of benefit from the state in financing the upgrades at our water facilities.*¹²⁰

On the other hand, Central Highlands Regional Council highlighted the issues facing councils with minimal resources:

Council is underresourced to look after the asset on behalf of the state government, which makes it very difficult. We cover an area more or less the size of Tasmania with seven staff, and we have only three to four dedicated to stock routes 50 per cent of the time. We feel that we are probably letting down the landholders.....

It is a bit like water facilities. We more or less have to plan 12 months in advance, go to the department of natural resources and go through our whole asset. Now that it has changed—minor stock routes will more or less become secondary stock routes—budgeting will be even harder. From the landholders' perspective council are not doing our job, but we are hamstrung in doing our job. It makes it very difficult.....

*There are three or four water facilities that we cannot even get to because we are underresourced. To me, that is detrimental because we cannot get water agreements so we cannot get funding. It just flows down the line. Then council is looked upon as not helping landholders because the money is not there for water facilities and the whole network in case it is needed.*¹²¹

Bouli Shire Council recommended that the State's stock water facilities should be renewed before they are handed over to local government and the cost burden of replacement is transferred to local government.¹²² DNRM responded:

- *The State is not handing over the ownership of stock facilities (including water facilities). The existing arrangements, under the Stock Route Management Act 2002, for stock facilities are being maintained i.e. the state owns the asset and local government are required to maintain them in a good working order.*

¹¹⁹ Public hearing transcript, Emerald, 8 February 2017, p 4.

¹²⁰ Public hearing transcript, Emerald, 8 February 2017, p 5.

¹²¹ Public hearing transcript, Emerald, 8 February 2017, p 14.

¹²² Submission 6, p 4.

- *The Minister also indicated in his explanatory speech introducing the Bill that the State annual capital works funding to assist local governments maintain or replace stock facilities across the network will continue.*
- *Currently, local governments are required to maintain stock facilities (including water facilities) on the entire network regardless of the level of use.*
- *The Bill rationalizes this requirement by focusing local government effort on maintaining stock facilities on the primary network.*¹²³

Clauses 25 and 26 of the bill outline matters concerning water facility agreements, including the procedures to register a water facility agreement, where the agreement relates to building a water facility on private land where the State pays all, or part of, the building costs; and the termination of an agreement.¹²⁴

Clause 142 provides that an existing water facility agreement under the repealed Act is taken to be a water facility agreement under the new Act.¹²⁵

In relation to clause 26, the AgForce submission:

- questioned the duration of the water facility agreements
- suggested that where the water facility is granted on a grazing approval they should be one agreement rather than separate ones, and
- requested further information on how the fees associated with water facilities will be set and that the fee setting process should be discussed as part of the Advisory Committee.¹²⁶

The department advised that currently the details of the water facility agreements are negotiated between the local government, the State and the private landholder and that these arrangements will continue.¹²⁷

AgForce also raised a concern that the State might stop providing funding or grants for stock route infrastructure installation and maintenance, in particular, water facilities, leading to a degradation of these assets.¹²⁸

In response, the department referred to the Minister's advice in his speech introducing the Bill that the State intends to continue providing annual capital funding for maintenance of the water infrastructure on the stock route network at this time and that in 2015-2016, \$800,000 was made available to local governments for capital works. DNRM added:

- *To more efficiently assign resources under the new framework, local government will be required to only maintain facilities within the primary network (not the entire network as is the requirement under the existing arrangements). The primary network is the essential and most used part of the network for travelling stock*
- *Local governments will also have the opportunity to seek approval from the State to relocate, remove, or sell stock facilities that are on the secondary network.*
- *Facilities will remain an asset of the State.*¹²⁹

¹²³ DNRM, correspondence dated 16 January 2017, p 27.

¹²⁴ Explanatory notes, pp 24-25.

¹²⁵ Explanatory notes, p 70

¹²⁶ Submission 5, p 4.

¹²⁷ DNRM, correspondence dated 16 January 2017, p 17.

¹²⁸ Submission 5, 8 and public hearing transcript, Brisbane, p 2.

¹²⁹ DNRM, correspondence dated 16 January 2017, pp 13- 14.

In response to a query from the committee at the Brisbane public hearing, DNRM provided a table of statistics on permits and water facilities by local government area. This table can be accessed on the committee's [website](#).¹³⁰

2.7 Approvals to use the stock route network or related roads or reserves

2.7.1 Travel approvals for stock

Chapter 4 of the Bill establishes the application and approval process for use of the stock route network or related roads or reserves. DNRM advised that the bill introduces a revised application and approvals framework and establishes an order of priority in which the network is to be used:

*The highest priority is to be given to travelling stock, with grazing and pasture harvesting only permitted where it does not impact on the ability of travelling stock to utilise the network. It will provide the local governments with greater clarity when making decisions about how the network should be used.*¹³¹

Following a request from the committee at the public briefing the department provided a table of the approvals that apply on the network and their priority in the hierarchy of use, the purpose of each approval, who may apply and the period for each approval type ([see appendix C](#)). DNRM also provided a chart comparing the current and proposed application processes ([see appendix D](#)).¹³²

The committee also asked about the nature of the decision review mechanism. The department advised that, in relation to approval decisions, there is an internal review mechanism through the administering local government and, if required, through the judicial review channels.¹³³ DNRM also advised that while disputes should be resolved by local government wherever possible, the State Government (through the chief executive of DNRM) retains an external review role for certain travel approval and unfit stock approval decisions, as part of the state's oversight role and to ensure the state's interest in maintaining a viable network for travelling stock is achieved.¹³⁴

Stakeholder views

In its submission, AgForce raised a number of general issues regarding the application and approval process including:

- clause 27 states that a 'person' can apply for an approval although many agricultural enterprises are corporations or trusts
- clause 27(5) requires an applicant to pay a fee to the local government before the approval is issued and AgForce believes there should be a degree of consistency across local governments to ensure fees are the same, and
- a suggestion that the seven day timeframe for the provision of additional information commence from the date the applicant receives the notice due to lengthy postal processing times in some areas and that the meaning of the date the 'application is made' needs to be clarified.¹³⁵

In relation to the first issue, DNRM advised that the *Acts Interpretation Act 1954* (section 32D) states that a reference to a person generally includes a reference to a corporation as well as an individual.¹³⁶

¹³⁰ DNRM, correspondence dated 2 February 2017, p 3.

¹³¹ Public briefing transcript, 30 November 2016, p 2.

¹³² DNRM, correspondence dated 16 January 2016 – Clarifying information, pp 4-6.

¹³³ Public briefing transcript, 30 November 2016, p 4.

¹³⁴ DNRM, correspondence dated 16 January 2017, p 7.

¹³⁵ Submission 5, p 4.

¹³⁶ DNRM, correspondence dated 16 January 2017, p 17.

In relation to the application fee:

*The Bill introduces revised fee and revenue arrangements that are designed to provide local governments with the ability to recover their individual costs associated with managing and maintaining the stock route network. These costs will vary across different local governments depending on how much of the stock route network is in their local government area and the level of usage of the network. For this reason, individual local governments will have the flexibility to set fees for grazing and pasture harvesting applications and approvals to recover their costs.*¹³⁷

In relation to a request for additional information, DNRM advised that the bill provides that the timeframe for the applicant to provide the information must not be less than seven days and where the application is made on the approved form, the application made date would be the date it is received by local government.¹³⁸

On the subject of approval periods, AgForce:

- noted that it has historically supported five year periods for long-term grazing approvals on both primary and secondary stock routes, subject to retention of adequate resources
- suggested that all grazing approvals should be conditional on retention of appropriate fodder reserves on primary routes, and
- suggested that an effective compliance regime is more important than permit duration.¹³⁹

In response to AgForce's comments on approval periods, DNRM advised:

- *The Bill provides that long-term grazing approvals may be issued for a period of up to 1 year on primary stock routes, and up to 5 years on secondary stock routes.*
 - *The timeframe of 1 year for long-term grazing on the primary network is considered appropriate to allow local governments to review decisions and manage pasture and condition of the network for the primary purpose of travelling stock.*
 - *The proposed Bill clearly sets out that the primary purpose of the network is for travelling stock, and as such, it must be managed in a manner that maintains a viable, and functioning, network for traveling stock.*
 - *Other uses, such as grazing, and pasture harvesting, may be permitted, so long as they do not affect the useability of the network for traveling stock.*
 - *Local governments have the power under the Bill to suspend or cancel a grazing approval at any time if they believe it is necessary to maintain the condition of the network. They also have powers to immediately suspend a grazing approval (or any other type of approval issued under the Bill) if they reasonably believe there is an immediate and serious risk to the condition of the stock route network.*
-
- *The new fee and revenue arrangements provided for by the Bill will also provide additional funds to local governments to assist with managing the network.*

¹³⁷ DNRM, correspondence dated 16 January 2017, pp 17-18.

¹³⁸ DNRM, correspondence dated 16 January 2017, p 18.

¹³⁹ Submission 5, p 5.

- *Further, to assist with resourcing local governments will have the flexibility to pool resources, and appoint officers from different local government areas, or another entity or third party, to undertake compliance work.*¹⁴⁰

AgForce also suggested that in relation to amending approvals, clause 43(2)(a)(iii) be amended to refer to a percentage increase in head (i.e. 20 per cent) rather than an increase by more than 20 head and suggested that head numbers be calculated in animal equivalent numbers rather than animal numbers.¹⁴¹

Committee comment

The committee is pleased that DNRM has noted this suggestion and committed to investigate the recommendation further.

2.7.2 Unfit stock on the network

Clause 32 of the Bill requires that a local government be satisfied that stock are fit for travel. A local government can 'issue a travel approval if satisfied the stock can travel at a specified minimum speed...'¹⁴²

Clause 33 provides for when a local government may issue an unfit stock approval.¹⁴³ Schedule 1 of the Bill defines 'unfit stock' as meaning animals:

... unable to travel at the speed stated in a travel approval because the stock –

(a) are pregnant or have young stock less than 21 days of age; or

(b) are affected by a disease that is not regulated under the Biosecurity Act 2014; or

*(c) are otherwise sick, injured, malnourished or weakened.*¹⁴⁴

Stakeholder views

AgForce queried what consultation would be undertaken with adjacent landholders when approval for an unfit stock permit is granted due to an illness prescribed by regulation where that illness poses a health/welfare threat to cattle on adjacent land. AgForce suggested the consultation and process implemented in this situation needs to be consistent with the *Biosecurity Act 2014* and existing Department of Agriculture and Fisheries procedures.¹⁴⁵

DNRM advised:

- *An unfit stock approval authorises the holder of a travel approval to:

 - *travel the mob at a slower speed than previously authorised; or*
 - *graze the mob in a particular area.**
- *The approval simply authorises the use of the stock route network by the stock.*
- *The Bill does not affect or diminish any existing biosecurity or animal welfare legislation requirements, and normal notification processes will apply as required under the Biosecurity Act 2014.*¹⁴⁶

¹⁴⁰ DNRM, correspondence dated 16 January 2017, p 18.

¹⁴¹ Submission 5, p 5.

¹⁴² Explanatory notes, p 28.

¹⁴³ Explanatory notes, p 28.

¹⁴⁴ Schedule 1.

¹⁴⁵ Submission 5, p 2

¹⁴⁶ DNRM, correspondence dated 16 January 2017, p 14.

LGAQ reported that local governments experienced challenges with compliance and enforcement in relation to addressing unfit stock on the network, straying stock and disputes about fences. LGAQ's concern was that the bill requires the local governments to take full responsibility for ensuring fit stock on the network but that this is challenging to address on the ground:

Feedback from local governments indicates that during increasing drought, some landholders knowingly deceived councils about their stock's fitness to travel. ... [T]here is a difference between placing the responsibility only on local government and placing the responsibility on both parties. While the Bill provide penalties for wilfully misrepresenting the condition of stock, it would be preferable for all parties, including the stock, if the Bill a) established the responsibility of the stock owner for demonstrating fitness to travel; and b) provided for a set of minimum acceptable standards such as the 'National guide to the selection of animals fit for transport', 2012, MLA.¹⁴⁷

LGAQ made two recommendations in relation to addressing the issue of unfit stock on the network:

Recommendation 4: The Bill be amended to place a responsibility on the applicant to demonstrate the stock's fitness to travel.

Recommendation 5: The Bill be amended to provide for the establishment of a set of minimum acceptable standards.¹⁴⁸

These recommendations were echoed in the Longreach regional hearing by McKinlay Shire Council.¹⁴⁹

DNRM noted that it is important that travelling stock travel at particular speeds to prevent overgrazing on the network and advised that, under the Bill:

- local governments may require certain information or evidence from an applicant to be satisfied that the stock are fit to travel at specified speeds prior to issuing a travel approval or unfit stock approval
- if a local government is not satisfied of the stock's fitness to travel, they can refuse to issue a travel approval
- if a local government becomes aware that an approval holder obtained a travel approval by providing incorrect or misleading information, the local government can immediately suspend or cancel the approval (clause 47), and
- it is also an offence for a person to provide false or misleading information (clause 127).¹⁵⁰

DNRM stated that it:

... will work closely with local governments, LGAQ and other relevant stakeholders, to prepare for the transition to the new arrangements, which will include consultation on the regulation and implementation materials.

Consideration of the suitability of minimum acceptable standards and the like will occur during this transitional period.¹⁵¹

¹⁴⁷ Local Government Association of Queensland, submission 2, p 5.

¹⁴⁸ Submission 2, p 5.

¹⁴⁹ Public Hearing Transcript, Longreach, 8 February 2017, pp 2-3.

¹⁵⁰ DNRM, correspondence dated 16 January 2017, pp 4-5.

¹⁵¹ DNRM, correspondence dated 16 January 2017, p 5.

2.7.3 Straying stock

Stakeholder views

LGAQ expressed concern regarding straying stock, particularly permitted stock on the network that stray onto adjoining properties:

The Bill adequately addresses requirements on landholders to prevent unpermitted stock from straying onto the network and allows for restitution for any damages to assets such as fences resulting from such straying. However, the Bill does not contain similar clauses to prevent permitted stock on the network from straying onto adjoining properties, nor requirements for restitution for any damage caused by straying stock to the landholder's assets.

Wandering stock not only reduce pasture for a landholder's stock, but can also damage private facilities, crops and spread weeds into previously clean pasture.¹⁵²

For this reason, LGAQ recommended:

Recommendation 5: The Bill be amended to include additional clauses in sections 70, 71 and 77 to include the requirement for permit holders to prevent permitted stock on the network straying onto private landholdings and to provide for the ability to seek remedy or restitution for any damages caused.¹⁵³

In response, DNRM noted that the Bill:

- requires travelling stock to be directly supervised and it may also be a condition of a grazing approval that stock are supervised, and
- it is an offence if these requirement are not met, and a penalty may be imposed.¹⁵⁴

DNRM further advised:

- *These supervision requirements are designed to ensure that stock travel, or graze, within the permitted route, or area, to which the approval applies.*
- *Stock that stray from the approved route or area would be in breach of the conditions of their approval.*
- *Property damage disputes are currently provided for by other legislative frameworks. For example, where an approval holder (or their insurance company) do not pay for property damage, then the landholder is entitled to apply to the Queensland Civil and Administrative Tribunal or the Courts to settle the property damage dispute.¹⁵⁵*

In response to a question from the committee about liability protection for damage caused by animals straying on roads (including stock routes) and whether there would be any change to common law protection if the bill was passed, DNRM advised:

The answer is no. There is no change to those, as you say, longstanding common law arrangements. I did note one of the submitters earlier saying it will become illegal. It is illegal now. On the legality of accessing those areas, currently you need a permit to access the state land or the stock route. That does not changes under this bill. The legality, in terms of where you have stock, whether they are travelling and whether they are short-term or long-term grazing, does not change.¹⁵⁶

¹⁵² Local Government Association of Queensland, submission 2, p 5.

¹⁵³ Submission 2, p 5.

¹⁵⁴ DNRM, correspondence dated 16 January 2017, p 5.

¹⁵⁵ DNRM, correspondence dated 16 January 2017, p 5.

¹⁵⁶ Public hearing transcript, Brisbane, 6 February 2017, p 17.

2.7.4 Fencing along the stock route

Clauses 35 and 36 of the Bill provide considerations for local government when issuing short and long term grazing approvals. Under both clauses, the local government must be satisfied that the grazing approval applicant has a fencing maintenance agreement with the owner or occupier of the private land where there is a boundary fence between a proposed approval area and the private land.

Clause 60 makes it an offence for the owner of private land not to maintain an existing fence in stock-proof condition, unless the owner has a reasonable excuse.

If a person has not complied with a directions notice to build or restore a fence on a boundary of the stock route network to a stock-proof condition,¹⁵⁷ clause 77 gives an authorised person, or a person acting for an authorised person, power to enter private land to undertake the work and the local government is able to recover reasonable costs from the owner of the land.

The explanatory notes detailed why fencing is considered important as follows:

Fencing is important for effective management of the network. It ensures that travelling stock do not wander onto adjacent properties or that stock from adjacent properties do not stray onto the network to illegally graze.

*It is also important for the public and road safety given the unpredictable nature of stock interacting with motor vehicle and other forms of transport.*¹⁵⁸

Stakeholder views

LGAQ advised that during consultation local governments raised the following two issues regarding fencing maintenance agreements and that both matters have the potential to cause unnecessary challenges for the landholders, applicants and local governments:

- the possibility of the landowner refusing to enter into the fencing maintenance agreement with the applicant, and
- the absence of a requirement for the establishment of a fence (or other suitable barrier) by the applicant and fencing maintenance agreement between the applicant and landholder where there is no boundary fence in place.¹⁵⁹

The committee heard from numerous stakeholders that it would be impractical to require a fence to be built before an application could be approved.¹⁶⁰ For example, the Boullia Shire Council provided the following evidence.

We are in the heart of the Channel Country here. Most of the stock routes follow those networks down. There were man-made watering points on those stock routes which follow the river systems. You are talking about fencing that and hoping you get a good wet season every two years. I have not seen a fence yet that Mother Nature likes to wash down. The Georgina is a fine example. From Alexandra all the way down past Marian it is unworkable. You would not be able to fence it. It would cost millions of dollars. It is now \$2,000 a kilometre to buy the materials and \$2,000 to put it up. That is \$4,000. Get a map out and measure the

¹⁵⁷ See clause 76(1)(b).

¹⁵⁸ Explanatory notes, pp 6-7.

¹⁵⁹ Submission 2, p 5.

¹⁶⁰ See for example, Ms Kelsey Nelson, public hearing transcript, Boullia, 7 February 2017 p 12; McKinlay Shire Council, public hearing transcript, Longreach, 8 February 2017, p 2 and Flinders Shire Council, public hearing transcript, Longreach, 8 February 2017, pp 15-16.

*kilometres. I think the ratepayers of Boulia would not be putting their hand up to fence out all the grazing industry. The fence would be worth more than the property is worth.*¹⁶¹

Other stakeholders supported as much fencing as possible. For example, the Drovers Association pointed out that ‘it is easy to control with a fence around it’.¹⁶² They advised:

*Where there are areas of unfenced stock route, if the landholder refuses to comply he should be forced to fence as it is the only way you can enforce and control that area. If I own 10,000 acres and I say to the local government, ‘I am not going to accept a permit for that land,’ and it is unfenced, how else will you stop me from going on there but put up a fence? If the landholder refuses to take a permit or to fence his land, the option should be put to public for someone else to use that land—maybe a tender system or whatever. That system would encourage people to take a permit on the land they have been getting for nothing.*¹⁶³

A landholder from north of Capella pointed to the differences regarding fencing across the network:

*Our area is very different to Boulia and places out there. You are talking big areas out there where it is not economically viable to fence. In here it is a different area, with a lot more farming and better country.*¹⁶⁴

Maranoa Regional Council explained that the issue of fencing is not the same for all stock routes:

*It depends entirely on the proposed usage of that route. I am a big believer that all primary routes should be fenced. It creates all kinds of issues with biosecurity risks and stock mixing with other stock. If you have a primary busy active route and you have strange cattle coming and going all the time, there are issues with that. There are also issues around maintaining adequate pasture for its intended use on a primary route. On those minor unused routes, going back to Kaye’s point, it may well be a case that fencing is not appropriate, because often fencing those out essentially means that someone stops taking responsibility for pests and weeds on that. I think fencing should be more of an indication with relation to its priority on the route as opposed to whether it should or should not.*¹⁶⁵

Property owners north of Clermont described some problems that have arisen regarding fencing of the stock route near their property:

We have what I believe to be a minor stock route and a secondary stock route on an eastern and northern boundary. Both of them have bitumen roads going through them. In the past we have used them as stockfeed in a drought with a grazing permit. Over the years it has changed a bit. There is more farming and cultivation. There are only a few of us left in that area with cattle. The minor stock routes got smaller. Farmers have removed fences in the past. They have actually cleared some land on the stock route recently, slashed it, and in some cases they are farming within a metre of the bitumen so we can no longer use those stock routes. That is on the minor stock route.

We have had a few other issues with them. We got a permit this year and we had cattle on the road. There was a bit of an argument over where they should and should not have been, and the permit was actually revoked through the local council. That is on the minor stock route. On what I believe is the secondary stock route, fences have been removed as well so we have not been able to use it. ...

We have been there for about 35 years. We have used them in the past for grazing in hard times. At the moment it is slashed or it is bare cultivation. Then there are no defined

¹⁶¹ Public hearing transcript, Boulia, 7 February 2017, p 4.

¹⁶² Public hearing transcript, Longreach, 8 February 2017, p 24.

¹⁶³ Public hearing transcript, Longreach, 8 February 2017, p 22.

¹⁶⁴ Public hearing transcript, Emerald, 8 February 2017, p 10.

¹⁶⁵ Public hearing transcript, Emerald, 8 February 2017, p 8.

boundaries or fences in a lot of it. Some of those areas never had fences, but there are fences that have been removed and farmed and are no longer useable. There are no stock routes through property or anything like that. This is just following the road. The minor stock route varies from 100 metres to probably 400 metres in width, and I believe the secondary stock route is probably 400 to 500 metres wide. ...

*In the past, travelling stock has passed through. I was aware that travelling stock were coming down from the Whitsundays this year but they could not use the stock route because there was no grass. They had to take a different way down.*¹⁶⁶

Mr Reinke pointed out that fencing is a difficult issue for local governments:

*... local government will not issue notices to fence to landholders who are arguing over where a fence should or should not be. They just treat it as a hot potato that they do not want to have anything to do with. If they issue a notice to fence to one landholder, they are going to have to enforce it further down the line. Probably in our area there are properties that are tramline farming over a stock route that has not been used in 50-plus years. It is a hot potato that council or local government do not want to touch, because they are going to have all sorts of backlash if they try to enforce a stock route through someone's tramline farming.*¹⁶⁷

The LGAQ submission recommended:

Recommendation 5: That sections 35 and 36 be amended to include additional clauses that:

- a) stipulate a landholder cannot refuse to enter into a fencing maintenance agreement if requested, without reasonable cause; and*
- b) include the requirement for the establishment of a fence (or other suitable barrier) by the applicant and fencing maintenance agreement between the applicant and landholder where there is no boundary fence in place.*¹⁶⁸

DNRM noted the issues raised and has undertaken to investigate the LGAQ recommendations.¹⁶⁹

AgForce noted that the requirement for ongoing maintenance of existing boundary fences is only part of the issue, and that it does nothing to encourage the installation of additional fences.¹⁷⁰

In response, DNRM stated:

The Bill clarifies the current law which provides that it is the responsibility of the adjacent landholders to comply with any fencing obligations. Local governments are responsible for ensuring these fencing obligations are complied with. Local governments can also give a directions notice for a person to build or restore a fence on a boundary of the stock route network to a stock-proof condition.....

*Fencing maintenance agreements are a current requirement for a grazing permit to occupy under the Land Act 1994.*¹⁷¹

The relevant section of the *Land Act 1994* states:

- (1) If an existing fence of a property not owned by an applicant for a permit is to be used as a boundary fence for the permit, a written agreement on conditions about the maintenance of the fence must be given to the chief executive before the permit is issued.*

¹⁶⁶ Andrew Harvey, public hearing transcript, Emerald, 8 February 2017, p 13.

¹⁶⁷ Jonathan Reinke, public hearing transcript, Emerald, 8 February 2017, p 10.

¹⁶⁸ Submission 2, p 5.

¹⁶⁹ DNRM, correspondence dated 16 January 2017, p 5.

¹⁷⁰ Submission 5, pp 5-6.

¹⁷¹ DNRM, correspondence dated 16 January 2017, p 18.

(2) *The agreement must be signed by the owner of the fence and the applicant for the permit.*¹⁷²

Committee comment

The committee notes the department's undertaking to investigate the LGAQ recommendations regarding fencing but considers that the issue of fencing needs to be examined more widely. The committee draws the department's attention to the many issues regarding fencing raised by stakeholders to this inquiry.

Given the vast nature of the stock route network in Queensland and the different geographic areas it traverses, the committee is of the view that a requirement to fence (or provide another suitable barrier) is not practical in all instances.

The committee notes that it is not clear whether it is intended that clauses 76 and 77 relating to the building of fences are intended to apply to landholders in areas such as those in the western Queensland where there are no fences on the stock route network boundaries, it is uneconomic to fence, and the stock routes are seldom used.

2.8 Fees payable to local government

DNRM advised the committee:

*The bill will provide improved opportunities for local government to recover their management and administration costs associated with the network. Local Governments are currently limited in the fees they can charge under the existing arrangements with the state setting all fees.*¹⁷³

Clauses 124 to 126 provide local governments with the power to set certain fees and regulate the use of the funds. Under the framework, the state will set the fee for a travel approval to use the network, 'in recognition of stock travel on the network being a state interest'.¹⁷⁴ Local governments will set the amount of the fees for the following:

- application processing
- harvesting approval
- grazing on the network approval (at or above a minimum fee set by the state under a regulation)
- stock travel and grazing on related roads and reserves approval.¹⁷⁵

A local government has the power to waive fees, such as in cases of hardship.¹⁷⁶

Local governments must use this money on the stock route network:¹⁷⁷

*Where the funds have been derived from the network, the local government must use the funds for the administration, maintenance or improvement of the network and stock facilities in the local government's area.*¹⁷⁸

¹⁷² *Land Act 1994*, s 179.

¹⁷³ Public briefing transcript, 30 November 2016, p 2.

¹⁷⁴ Explanatory notes, p 65.

¹⁷⁵ See explanatory notes, p 5 and Clause 158 of the bill which proposes to amend the *Local Government Act 2009* to fix a cost-recovery fee in relation to a processing fee under the proposed Act.

¹⁷⁶ See *Statutory Instruments Act 1992*, s 30B and explanatory notes, p 5.

¹⁷⁷ Clause 126.

¹⁷⁸ Explanatory notes, p 5.

The bill enables local governments to recover outstanding debts through small claims procedures or as overdue rates (fencing or fixing damage under directions notice¹⁷⁹), depending on the particular debt.¹⁸⁰

In addition, local governments would be entitled to receive fines paid as penalties for offences created by the bill. These penalties, along with application fees, are to be used for the maintenance and improvement of the network within the boundaries of the receiving local government.¹⁸¹

DNRM advised that the state government will continue to set fees for travelling stock approvals, in recognition of the fact that stock travel on the network is a state interest and there is a need for a consistent statewide fee for that purpose:

*It is our minister's intention, as he outlined in his explanatory speech on the bill, that standard travel fees will not increase from their current level other than by annual indexation. This recognises the impact of the drought on rural Queensland and that the network is mainly used to travel stock in such times as drought. Where applicable, the fees will be set through a regulation made by the state under the provisions of the bill.*¹⁸²

DNRM will also continue to set a regulatory minimum for grazing or harvesting fees on the network, though the fees themselves will flow to local governments.¹⁸³

The explanatory notes state that:

*This power is important in supporting local governments, particularly in their role as the day-to-day managers of the network, and will allow them to recover their administration and management costs. It also supports one of the underlying principles for administering the Act outlined in clause 4(d), that is, network users should pay a reasonable amount to help maintain the network and the amount should reflect the benefit users derive from using the network.*¹⁸⁴

DNRM provided the following advice:

To support local governments' existing responsibility for compliance and enforcement on the network, all fines and penalties for offences under the Bill will be paid direct to local governments. Currently, fines and penalties are paid and retained by the State.

*The proposed fee and revenue arrangements also provide local governments with the opportunity to recover, and retain their costs associated with stock routes management and administration.*¹⁸⁵

In response to a question from the committee, DNRM provided the following table of current and potential fee revenue collected by the state and local governments for activities on the stock route network as well current and potential future annual capital works grants funding provided by DNRM to assist local government in the maintenance of water facilities on the stock route network.¹⁸⁶

¹⁷⁹ Clause 77(7).

¹⁸⁰ Explanatory notes, p 5.

¹⁸¹ Clauses 124-126.

¹⁸² Public Briefing Transcript, 30 November 2016, p 2.

¹⁸³ Department of Natural Resources and Mines, *Public Briefing Transcript*, 30 November 2016, p 3.

¹⁸⁴ Explanatory notes, p 65.

¹⁸⁵ DNRM, correspondence dated 16 January 2017, p 3.

¹⁸⁶ DNRM, Response to Questions taken on Notice, 9 February 2017, p 2.

| | Current (\$) | Potential (\$) |
|---|------------------|----------------------------|
| FEE REVENUE | | |
| STATE GOVERNMENT | | |
| Travel and short-term grazing and water facility agreements (stock route network) | 185,000 | - |
| Long-term grazing (on and off the network) | 496,000* | - |
| Total Revenue State Government | \$681,000 | - |
| LOCAL GOVERNMENT | | |
| Travel and short-term grazing and water facility agreements (stock route network) | 185,000 | 370,000** |
| Long-term grazing (on and off the network) | - | 496,000 |
| Administrative fee | - | Cost-recovery (if charged) |
| Total Revenue Local Government | \$185,000 | \$866,000*** |
| GRANTS FUNDING | | |
| Capital works grants funding for maintenance of stock facilities on the stock route network | \$800,000 | \$800,000 (expected) |

Notes:

- * Revenue is currently remitted to the state consolidated revenue fund.
- ** Under the Bill, local governments will be able to keep 100% of revenue received from permits for stock travel/short-term grazing permits and water facility agreements associated with the stock route network (the network). Currently, they remit 50% of these fees to the state government. While the amount received can vary significantly from year-to-year, based on recent average figures, local governments are expected to be collectively \$185,000 better off.
- *** There are a number of measures proposed under the Bill to assist increase revenue for local governments to operate and maintain the network. These include local governments being able to set fees for:
- stock grazing activities on the network, at or above a minimum fee set by the State;
 - for pasture harvesting (this is a new approval type); and
 - for all stock travel, stock grazing and pasture harvesting on roads and reserves not part of the network.

Source: Department of Natural Resources and Mines

DNRM advised that local governments would also be able to charge an application processing fee to cover the costs of administering various applications and they would also now retain all fines and penalties imposed under the bill. Currently, these amounts go to the state consolidated revenue fund to assist with enforcement and compliance.¹⁸⁷ The department further advised:

The state government will:

- *continue to own network facilities and is committed to retaining the current facilities capital funding program available to local governments (for the current financial year, \$800,000 was allocated);*
- *continue to support the Stock Route Management System to be used by local government for issuing and recording approvals, identifying stock on the network, and providing up-to-date network usage and pasture condition. The total cost of this support is currently about \$318,000 per annum; and*
- *provide training and support for local government as part of the Bill's implementation at no cost to local governments.*¹⁸⁸

¹⁸⁷ DNRM, Response to Questions taken on Notice, 9 February 2017, p 2.

¹⁸⁸ DNRM, Response to Questions taken on Notice, 9 February 2017, p 2.

Stakeholder views

AgForce supported penalties and fines going back to local governments to be used for administration, maintenance and improvements of the stock route network or stock facilities but queried how this would be policed noting ‘there has been a long history of local government not being willing to enforce compliance on landholders and drovers’ for a variety of reasons.¹⁸⁹

The AgForce submission made a number of recommendations about setting rent calculations and travelling stock fees and suggested that a portion of the fees recovered from travelling stock permits and grazing approvals be directed back into a fund for compliance ‘given the high cost associated with seeing actions through’. The submission also recommended development of an overall budgetary picture for the stock route network.¹⁹⁰

DNRM responded:

- *Local governments will have different management and maintenance costs, as well as revenue raising ability, depending on the amount of active network in their area. A general state-wide budgetary picture for stock routes management would not adequately reflect these variations among different local governments.*
- *The revised fee and revenue arrangements under the Bill provide improved opportunities for local governments to recover their management and administration costs associated with the network.*
- *The State will set a minimum fee for grazing approvals on the network, above which local governments can decide to charge a higher fee that reflects their individual administration costs.*
- *This reflects one of the principles of the Act that users of the network should pay a reasonable amount which reflects the benefit they derive from using the network.*
- *Under the Bill long-term grazing approvals are only available to landholders adjacent to the network or related roads and reserves.*
- *The state government will continue to set a minimum fee for long-term grazing approvals on the network. AgForce’s views on capping of grazing fees are noted.*
- *Local governments have the option to consider rents and rates of adjacent land in setting a grazing fee above the state set minimum.*
- *Due to the impact of the drought on rural Queensland and in recognition that the network is mainly used to travel stock in times of drought, the Minister for Natural Resources and Mines indicated in his explanatory speech introducing the Bill that no increase in travel fees, above annual indexing, is currently proposed.¹⁹¹*

Bouliia Shire Council advised that the capacity for the landholder to pay fees and rental payments is increasingly restricted in remote areas and that the increased costs for use of the stock route network may lead to land degradation from overgrazing as landholders will increase carrying capacity to cover increased fee requirements.¹⁹²

DNRM provided the following response to these concerns:

¹⁸⁹ Submission 5, p 6.

¹⁹⁰ Submission 5, p 6, p 8 and p 9.

¹⁹¹ DNRM, correspondence dated 16 January 2017, pp 20-21.

¹⁹² Submission 6, p 2.

- *Currently, landholders who seek to use the network for short-term grazing or long-term grazing are required to pay for this use (either under the current Stock Route Management Act 2002 or the Land Act 1994).*
- *One of the key principles of the Bill is that users of the network should pay a reasonable amount which reflects the benefit they derive from using the network.*
- *This principle was included after consultation which identified that local government rate payers are subsidising the cost of managing the network.*

.....

- *Local governments have the power to waive fees (e.g. due to hardship) under the Statutory Instruments Act 1992.*
- *Under the Bill (clause 41(e)), all approval holders will be required to exercise a duty of care for the approval route or area of the network they are authorised to use. This duty of care is a mandatory condition on all approvals and encompasses the expectation that persons authorised to use the network need to do so responsibly and sustainably.*
- *A local government must be satisfied before issuing an approval to use part of the network that the condition of the relevant part of the network can support the use applied for (e.g. grazing) and not interfere with a higher priority use under the Bill (such as stock travel).*
- *The Bill provides local governments with the power to suspend or cancel a grazing approval at any time if they believe it is necessary to maintain the condition of the network.¹⁹³*

Bouliia Shire council also pointed to the fact that no travel permits had been issued in Bouliia for the last seven years and yet the cost of maintaining bores which are not being used was \$490,000 over the same period.¹⁹⁴ The council advised that it costs approximately \$5,000 every year to maintain a man-made watering point.¹⁹⁵

DNRM responded by advising of the provisions in the bill that enable flexible management of the stock route. The department also acknowledged that use by travelling stock of the network does fluctuate, for example due to drought, but that travel is not the only use of the network.¹⁹⁶

Central Highlands Regional Council submitted 'Council is extremely disappointed that the State Government fees for travelling stock have not increased at all and support the Agforce Cattle Board position of fees being set at 30c per head per week when travelling along a stock route'.

DNRM responded:

- *Due to the impact of the drought on rural Queensland and in recognition that the network is mainly used to drive stock in times of drought, the state government is not currently proposing to increase travel fees from the current level other than annual indexation.*
- *Local government will have the flexibility to determine the grazing and pasture harvesting fees to address their management costs. This ensures that the users of the network contribute to the up-keep and management of the network. Local governments will be able to reduce the subsidisation of the management costs currently provided by their general local ratepayers.¹⁹⁷*

¹⁹³ DNRM, correspondence dated 16 January 2017, p 23.

¹⁹⁴ Submission 6, p 3.

¹⁹⁵ Public hearing transcript, Bouliia, 7 February 2017, p 4.

¹⁹⁶ DNRM, correspondence dated 16 January 2017, p 12.

¹⁹⁷ DNRM, correspondence dated 16 January 2017, p 12.

LGAQ advised it was:

*... very pleased to see the government confirm that councils will retain 100 per cent of any of the fees, penalties and fines charged and that local governments will have discretion in determining the upper limits of those fees. Local government is also very supportive of all penalties, fees and all parts of any other fees raised being used for sustainable management of the network. It supports this not only as best practice but by putting a very direct link between the impact and the benefit and also as a key mechanism to provide confidence to network users that funds collected will be returned to the network.*¹⁹⁸

While LGAQ noted the intent of the bill to fully fund local governments' activities to maintain the network, it stated that this may not be feasible in practice:

*While council [sic] may recoup some costs through the proposed application fees and other use fees, it is important to bear in mind that most will not reach full cost recovery and local governments are starting from a negative 96% position. Therefore, the Association recommends the State strongly consider providing short term resources to assist councils to establish their internal cost recovery and compliance and enforcement systems.*¹⁹⁹

LGAQ pointed out that local governments may need to engage additional staff in order to 'identify, assess and document all areas subject to permit applications.' Landholders may also come to expect closer regulation of network activities by local governments, once their receipt of application fees becomes common knowledge. In order to avoid an inflationary effect on fees in at least the short term, the LGAQ has requested State funding over the transition period in order to make up any operational shortfall.²⁰⁰

Evidence from regional local governments shows that a significant shortfall exists between the total amount paid in network access fees and the cost of maintaining the network. For example, the Maranoa Shire Council has estimated that network users pay only 20 per cent of its maintenance costs:

*At the moment it is two cents per 20 head per kilometre. From Mitchell through to Roma there is 90 kilometres. ... [I]f you are sending, say, a thousand head of cattle through to Roma it is two cents per 20 head per kilometre. That is about \$100. They will send that thousand head of cattle from Mitchell through to Roma. That is 90 kilometres at two cents per 20 head. It costs us \$107 a day. It takes them five days to get to Roma so that is about \$500. They are paying \$100 and we are outlaying \$500.*²⁰¹

Maranoa Regional Council also provided the committee with details of its current receipts in relation to travel permits:

*We wrote out 26.6 per cent of the travel permits for the state in 2015-16, I believe that was, and I think we received something like \$9,900. Half of that goes back to the state; half of it stays with us. It costs us \$107 a day when we have cattle or when we have a travel permit issued in our shire for one mob. If we have a number of mobs, it is a lot extra. The fees are not covering the charges. In about 2010-11 the local ratepayer was subsidising to the tune of \$7 a head for stock going through our shire. I do not know about the other shires if they do not have as many stock as we do, but our local ratepayers are subsidising it.*²⁰²

¹⁹⁸ Public hearing transcript, Brisbane, 6 February 2017, p 10.

¹⁹⁹ Submission 2, p 6.

²⁰⁰ Submission 2, p 6.

²⁰¹ Public Hearing Transcript, Emerald, 8 February 2017, p 5.

²⁰² Public hearing transcript, Emerald, 8 February 2017, p 5.

Other local governments have indicated a similar inability to fund their current maintenance activities from fee receipts.²⁰³

In response to the fee concerns raised by local governments in submissions DNRM responded by stating they will be free to increase fees in order to fully fund their maintenance activities:

*The Bill introduces revised fee and revenue arrangements that are designed to provide local governments with the ability to recover their individual costs associated with managing and maintaining the stock route network. These costs will vary across different local governments depending on how much of the stock route network is in their local government area and the level of usage of the network. For this reason, individual local governments will be best placed to determine the level at which they should set fees to recover their costs.*²⁰⁴

More specifically, DNRM advised:

- *Although the state will continue to set travel fees for the network, local governments will have greater autonomy in setting all other fees. The state will continue to set travel fees, which are not currently proposed to be increased from the current level other than annual indexation, due to drought in Queensland.*
- *Local governments will be able to set grazing fees, at or above a state set minimum fee. Pasture harvesting fees on the network and travel, grazing and pasture harvesting fees on other roads and reserves not part of the network will be set by local governments. They will also be able to charge application processing fees for all approval types (on or off the network).*
- *These arrangements will provide local governments with the flexibility to set fees which reflect their individual management costs.*
- *Local governments will also retain 100 per cent of the revenue they receive (compared to 50 per cent currently, with the other 50 per cent remitted to the State under the existing arrangements).*
- *All fines and penalties for offences under the Bill will be paid direct to local governments to support enforcement and compliance efforts. Currently, fines and penalties are paid and retained by the State.*²⁰⁵

Later, at the public briefing, DNRM explained the policy intent behind this position:

*Where local governments are able to set those fees for the off-network activities, particularly for the pasture harvesting, the Bill recognises that they are best placed to assess the cost and the benefits associated with the access that is being provided. Local governments will set those.*²⁰⁶

In response to a request from the committee LGAQ provided the following information about the estimated cost to local government of managing the stock route network:

The LGAQ conducted a survey in 2003 to identify the costs to local government of managing the Stock Route Network. This work has not been repeated as the primary cost influencers (stock route network extent and fees for travelling stock) have not changed.

²⁰³ See for example, Central Highlands Regional Council, Public Hearing Transcript, Emerald, 8 February 2017, p 14 and McKinlay Shire Council, Public Hearing Transcript, Longreach, 8 February 2017, p 2.

²⁰⁴ DNRM, correspondence dated 16 January 2017, p 12.

²⁰⁵ DNRM, correspondence dated 16 January 2017, pp 6-7.

²⁰⁶ DNRM, public briefing transcript, 30 November 2016, p 4.

Therefore, the LGAQ has applied an indexation to the \$3 million per annum cost estimated from the 2003 survey of the 48 Local Governments that manage the State's stock routes.

The direct management costs to Councils of managing the SRN to the same extent would currently be \$4.6 million (applying LGAQ's Council Cost Index).

The LGAQ's Council Cost Index is a composite of the CPI (consumables), the Wages and Roads and Bridge Construction Price Indexes (ABS) to represent the overall cost profile of the Queensland local government sector. (<http://lgaq.asn.au/council-cost-index>).²⁰⁷

The committee also asked LGAQ to provide an estimate of the sort of funding that might be required to cover implementation costs. LGAQ advised:

The LGAQ has not had an opportunity to consult with the 48 local governments primarily affected by the proposed Bill to determine an accurate figure of implementation costs. Therefore the response provided here is a 'ballpark' figure only, based on the primary new requirement of the Bill – establishment and compliance of a new long term grazing permit system – and a rapid assessment of required tasks, processes and the types of resources required to undertake them

The LGAQ suggests the cost could be in the order of \$7.68M for the 48 local governments that have Stock Routes in their area. This cost may be spread over at least 2 years as indicated by DNRM, by focusing on the top 14 local governments in the first year. Further, some of the costs associated with establishing the new long term grazing administration and enforcement regime may be reduced through the innovative development and deployment of technology and tools, for example expanding the capabilities of the Stock Route Management System and the Mobile Assessment Tool.²⁰⁸

Committee comment

The committee notes the concerns of local governments that ratepayer funds have, historically, had to be diverted to stock route maintenance.

While the committee understands that under the proposed legislation local governments will be able to set application and approval fees at the required levels, it notes that a transitional period of up to several years may apply before the appropriate fee levels can be accurately determined and there may nevertheless be a substantial shortfall which needs to be met by ratepayers. During this period, and possibly after it, extra funding may be required or in-kind support from DRNM may be appropriate.

The committee is of the view that extra funding or further assistance from the department for local governments will be required during the transitional period.

2.9 Offences and enforcement

The explanatory notes advised the bill 'provides contemporary enforcement and compliance powers for local governments including the ability to issue caution and direction notices, along with revised offences with contemporary penalties that reflect the seriousness of the offence'.²⁰⁹

The department advised the committee that it had received feedback that some of the tools currently available do not reflect more contemporary arrangements and, similarly, that the penalty levels under the current legislation are not necessarily meeting community expectations:

I will give an example of that: under the current legislation there are offences for taking water from water facilities that are made available for travelling stock on the network. We have

²⁰⁷ LGAQ, correspondence dated 10 February 2017, p 1.

²⁰⁸ LGAQ, correspondence dated 10 February 2017, p 1.

²⁰⁹ Explanatory notes, p 4.

*had feedback that those penalty levels are currently very low, whereas community expectations in the bush are that this is quite a serious thing to do, to take water without approval, so that penalty level has been increased.*²¹⁰

DNRM advised the Bill contains a number of measures that are designed to promote improved compliance and enforcement of the stock routes legislation, including:

- *All fines and penalties for offences under the Bill will be paid direct to local governments to support enforcement and compliance efforts. Currently, fines and penalties are paid and retained by the State.*

.....

- *Further, to assist with resourcing local governments will have the flexibility to pool resources, and appoint officers from different local government areas, or another entity or third party, to undertake compliance work.*
- *The Bill provides for new compliance tools including 'direction notices' and 'caution notices', and penalty levels have been restructured to reflect the seriousness of different offences.*
- *Local governments will also have greater support to monitor and enforce the legislation. The use of the electronic Stock Route Management System to process applications and to store critical data about stock routes usage and network condition, is expected to lead to more informed, and transparent, management of stock routes.*
- *DNRM will provide training to local governments to assist with the implementation of the Bill, including enforcement and compliance.*²¹¹

2.9.1 Direction notices

Clauses 74 to 79 of the bill deal with caution or directions notices.

Stakeholder views

A number of councils raised issues with regards to their capacity to enforce the legislation.²¹² For example, Bouliia Shire Council raised a concern at the Bouliia public hearing about the capacity of the council to police such a vast network:

*We are not talking a two- or three-kilometre network through per property. You are looking at 60 kilometres or 70 kilometres. If you are looking at the large pastoral companies in terms of properties, you are looking at 80- to 120-kilometre corridors going through their property. How are you going to maintain that? The stock routes are in flood country such as the Georgina stock route. It is full. How are you going to police that? If they do not come to the party, how are you going to make them fence it? You have a policy that is virtually unpoliceable and you are expecting the local council to initiate that.*²¹³

AgForce recommended that direction notices requiring someone to fix damage caused by land degradation should only apply where the approval holder has been found to have been responsible for the degradation. In response, DNRM advised:

- *When issuing a direction notice, an authorised person must outline (in the direction notice) the facts and circumstances that form the basis for the authorised person's belief that an*

²¹⁰ Public briefing transcript, 30 November 2016, p 5.

²¹¹ DNRM, correspondence dated 16 January 2017, pp 6-7.

²¹² See for example, Flinders Shire Council, public hearing transcript, Longreach, 8 February 2017, p 17.

²¹³ Public hearing transcript, Bouliia, 7 February 2017, p 3.

offence has, or is, being committed, or why it is necessary for action to be taken to prevent or minimise land degradation.

- *If a person wishes to challenge a direction notice decision, they may apply for both an internal review, and an external review, of the decision.*²¹⁴

Central Highlands Regional Council noted that all are existing appointed authorised persons under the *Local Government Act 2009* and ‘the usual enforcement powers will be retained (i.e. seize and dispose of stock, stopping or moving vehicles etc.) with new compliance tools (i.e. caution notices and directions notices)’.²¹⁵ The Council submission requested clarification on what section of the *Local Government Act 2009* will be amended as a result of the bill to support the authorised person provisions.²¹⁶

In response, DNRM advised:

- *The Bill does not amend the Local Government Act 2009 or the City of Brisbane Act 2010 in relation to authorised persons.*
- *Clause 83 of the Bill provides that an authorised person may exercise a power for the Bill using the powers under the Local Government Act (sections 126, 128 to 132 and 135) and the City of Brisbane Act (sections 115, 117 to 121 and 124) to, for instance:*
 - *Enter a public place that is open without the need for permission*
 - *Enter a private property with, and in accordance with, the occupier’s permission*
 - *Enter private property with, and in accordance with, a warrant*
 - *Make an electronic application for a warrant.*²¹⁷

Overall, in regard to compliance and enforcement of the requirements on local government under the bill, LGAQ recommended:

*Recommendation 7: The State undertakes to continue to work with the LGAQ, Local Government Stock Route Implementation Group and local governments broadly during the drafting of the regulations and implementation materials to resolve current and potential compliance and enforcement issues.*²¹⁸

DNRM responded by advising that if the Bill is passed it will not commence immediately and the Bill provides transitional arrangements to allow sufficient time to transition to, and implement, the new arrangements (expected to take one to two years):

*During this time, DNRM will work closely with local governments, LGAQ and other relevant stakeholders to develop the regulation and implementation materials and develop capacity within local governments to implement the new arrangements. DNEM will also continue to provide secretariat support to the Local Government Stock Route Implementation Group (which comprises of DNRM and local government representatives).*²¹⁹

2.9.2 Seizing and disposing of stock

Clauses 80 to 82 of the bill deal with seizing and disposing of stock.

²¹⁴ DNRM, correspondence dated 16 January 2017, pp 19-20.

²¹⁵ Submission 4, p 6.

²¹⁶ Submission 4, p 6.

²¹⁷ DNRM, correspondence dated 16 January 2017, p 11.

²¹⁸ Submission 2, pp 5-6.

²¹⁹ DNRM, correspondence dated 16 January 2017, p 3.

Stakeholder views

AgForce submitted that the seizing of stock provisions and timeframes need to be consistent with existing Stock and Rural Crime Investigation Squad and Department of Agriculture and Fisheries rules and processes.²²⁰

Committee comment

The committee notes that DNRM has committed to investigating the issue raised by AgForce further.²²¹

2.9.3 Resourcing enforcement and compliance

LGAQ indicated that one of the critical needs for additional resources relates to enforcement and compliance:

*Once the bill comes into force, technically it will be illegal for a grazier to have cattle on that network without a permit. Once again, it is a very large network. As Sarah indicated, there will be an increased expectation by those landholders who are doing the right thing that the councils are cracking down on the people who are not doing the right thing. That is definitely an increased enforcement requirement. I am not sure if you are aware, but most councils have maybe one rural lands officer, or perhaps two if they are a large council, for their entire local government area. They generally perform dual functions. It is an additional resource requirement.*²²²

Flinders Shire Council also pointed out that ‘policing this bill will place a huge burden on local government’.²²³

Resourcing is discussed in detail in other sections of this report.

2.10 Reviewing decisions

Clauses 105 to 112 of the Bill contain provisions for internal and external review.

Stakeholder views

AgForce recommended there be a mechanism for review of all original decisions by an institution outside of local government, preferably State Government.²²⁴

DNRM responded:

- *As local governments have responsibility for making approvals decisions, and are the day-to-day managers of the network, it is considered appropriate that disputes are resolved at the local government level, wherever possible.*
- *Should an applicant not be satisfied with the outcome of the internal review by a local government for a travel or unfit stock approval, they are able to apply for external review by the state (represented by the chief executive of department).*
- *However, where the original decision was made by the chief executive officer of the local government, there is the ability for a request to review the original decision to go straight to an external review.*
- *To provide a streamlined decision review framework, and in consideration of the capacities of the different external review bodies, certain decisions will not be externally reviewable.*

²²⁰ Submission 5, p 5.

²²¹ DNRM, correspondence dated 16 January 2017, p 5.

²²² Public hearing transcript, Brisbane, 6 February 2017, p 12.

²²³ Public hearing transcript, Longreach, 8 February 2017, p 14.

²²⁴ Submission 5, p. 5

- *More specifically, grazing and pasture harvesting decisions may only be reviewed internally by local governments, given that these are lower-priority uses of the stock route network.*
- *The State also has general oversight powers to ensure the network is being managed appropriately, including the ability of the Minister to direct a local government to undertake their functions under the Act and step in and take action if they do not.*
- *Internal review decisions about directions notices may be reviewed by the Queensland Civil and Administrative Tribunal (QCAT) and internal review decisions about the decision to seize things may be externally reviewed by the Magistrates Court.²²⁵*

DNRM also provided the committee with a table detailing whether decisions would be reviewable internally by local government and/or externally.²²⁶

The issue of reviewing decisions is also discussed in the [Compliance with the Legislative Standards Act 1992](#) section of this report.

2.11 Implementation issues raised by stakeholders

2.11.1 Commencement date

DNRM advised the committee that the bill will commence by proclamation and that will allow time for the department to work with key stakeholders in implementing arrangements with the bill.²²⁷

AgForce recommended that commencement of the legislation be at least one year after proclamation to allow for a smooth transition.²²⁸ DNRM responded:

- *If the Bill is passed, it will not commence immediately. The Bill provides transitional arrangements and is to be commenced by proclamation to allow sufficient time to transition to, and implement the new arrangements (expected to take one to two years).*
- *During this time, DNRM will work closely with local governments, LGAQ and other relevant stakeholders, to prepare for the transition to the new arrangements, which will include consultation on the regulation and implementation materials and develop capacity within local government to implement the changes.²²⁹*

Longreach Regional Council pointed out that one of the important things that needs to be done:

is that each individual council needs to sit down with the department and look at the data and the maps to see the scope and complexity of each individual council area for the primary and secondary stock routes, unused water points and all of those sorts of things so that conscious negotiations and decisions can be made in conjunction with the council and the landholders with the support of the department.²³⁰

2.11.2 Transitional provisions

AgForce submitted that all existing approval holders be given the first opportunity to hold the new approval types, when their current approval lapses.²³¹ DNRM responded with the following advice:

²²⁵ DNRM, correspondence dated 16 January 2017, p 20.

²²⁶ DNRM, correspondence dated 16 January 2017 – Clarifying information, pp 7-8.

²²⁷ Public briefing transcript, 30 November 2016, p 3.

²²⁸ Submission 5, p 2.

²²⁹ DNRM, correspondence dated 16 January 2017, pp 14-15.

²³⁰ Public hearing transcript, Longreach, 8 February 2017, p 10.

²³¹ Submission 5, p 6.

- *One of the principles of the Bill is that all prospective approval holders should have a fair opportunity to use the stock route network, subject to the hierarchy of approvals.*
- *Existing approvals will continue to have effect under the new Bill for their stated period as per the transitional arrangements in the Bill*
- *Applications for any new approvals will need to meet the requirements set out in the Act.*
- *Long-term grazing approvals must be for adjacent landholders to the network.*
- *As part of the Bill's implementation (if passed by Parliament), DNRM will communicate with Land Act grazing permit to occupy holders about the new requirements prior to expiry of their existing permit to occupy about the new requirements in the Bill.²³²*

2.11.3 Resourcing implementation of the new legislation

LGAQ argued that additional resources would be required to account for the cost implications for local governments of implementing the new legislation:

Additional resources will be required to identify, assess and document all areas subject to permit applications. Some councils may need to engage new staff to be able to undertake this work. As a result of councils charging fees, there may also be an increased expectation by landholders that councils will regulate activities on the network more closely, thereby increasing the compliance and enforcement resource requirements.

While council may recoup some costs through the proposed application fees and other use fees, it is important to bear in mind that most will not reach full cost recovery and local governments are starting from a negative 96% position. Therefore, the Association recommends the State strongly consider providing short term resources to assist councils to establish their internal cost recovery and compliance and enforcement systems.

The implementation of the new Act will require the development of appropriate guidance materials, training and a public education and awareness program to ensure a positive transition.²³³

At the Brisbane public hearing LGAQ reiterated its concerns and recommended that:

..... in addition to the usual implementation packages of templates and guidelines and training and engagement, the state strongly consider providing short-term resources to assist councils to establish their internal cost recovery and compliance and enforcement systems prior to any commencement of the legislation.²³⁴

Isaac Regional Council urged the State government to ensure there would be adequate resourcing for local government to plan for, and implement, the new legislation:

There will be significant work and resources required by Isaac regional council in the planning and implementation of the new legislation for example the administration of current Permits to Occupy and the transition of these under the new framework.²³⁵

Central Highlands Regional Council noted that the State Government previously supported Stock Route Supervisors being employed to assist with the management of the network and submitted:

Any suggestion that local government will now be able to employ their own officer to undertake these duties due to the "new" revenue they are about to receive with legislative

²³² DNRM, correspondence dated 16 January 2017, p 22.

²³³ Submission 2, p 6.

²³⁴ Public hearing transcript, Brisbane, 6 February 2016, p 11.

²³⁵ Submission 3, p 1.

*changes is disputed, considering the extent of the network (2.6 million hectares) and ongoing responsibilities expected by local governments.*²³⁶

A number of other local governments raised the issue of their capacity to administer the new legislation.²³⁷

LGAQ made two recommendations in relation to resourcing the implementation of the new legislation:

- *Recommendation 8: That the State establish a Transition Support Fund to provide resource support grants to applicant local governments seeking additional resources to assist them to establish permits and undertake compliance and enforcement activities across the network in their local government area.*
- *Recommendation 9: The State commit to working with the LGAQ and local governments in the development of training and transition materials, guidelines, tools and templates.*

DNRM responded to council concerns and advised that it was not considered necessary to establish a transition support fund at this time.²³⁸ However, the department committed to providing training and support to local governments to transition and implement the new arrangements and advised it would work with local governments and other key stakeholder organisation to raise awareness of the new arrangements.²³⁹

At the Brisbane public hearing, DNRM advised that in relation to transition costs:

*... the reality is that we do not have any detailed information on that. That is a key part of the reason for a one- to two- year transition’.*²⁴⁰

The department advised that it had a lot of expertise and would continue to work with local governments in ensuring a smooth transition.²⁴¹

In response to the issues raised in submissions, DNRM advised:

The State government (through DNRM) will continue to provide and maintain a web-based SRMS—a computer software system that local governments will use to issue and record approvals; identify stock on the network; provide up-to-date network usage and pasture condition. A number of local governments are already using the system. Through the system, local governments will be provided with all the necessary application and approval forms and other supporting material to assist with their stock route management responsibilities. Local governments will also be able to use the existing approval processes under the Bill and the SRMS for stock travel, grazing and harvesting approvals off the network, reducing the need for local governments to invest in systems or establish alternative approval processes.

*The Bill provides transitional arrangements and will be commenced by proclamation to allow sufficient time for local governments to implement the new arrangements (expected to take one to two years) and minimise the initial impact on local governments of the new arrangements.*²⁴²

²³⁶ Submission 4, p 8.

²³⁷ See for example, Boulia Shire Council submission 6, p 3 and Longreach Regional Council, public hearing transcript, Longreach, 8 February 2017, pp 9 – 13.

²³⁸ DNRM, correspondence dated 16 January 2017, p 3.

²³⁹ DNRM, correspondence dated 16 January 2017, pp 1-2.

²⁴⁰ Public hearing transcript, Brisbane, 6 February 2017, p 15.

²⁴¹ Public hearing transcript, Brisbane, 6 February 2017, p 15.

²⁴² DNRM, correspondence dated 16 January 2017, p 3.

DNRM also advised:

Under the Bill, local governments will have greater flexibility in how they manage and administer the stock route network and address varying capacity issues across local governments. Local governments will have the ability to enter into partnerships with other local governments or other third parties to manage the network (for example, to undertake monitoring, compliance and enforcement activities).

If the Bill is passed, DNRM will work closely with local governments, LGAQ and other relevant stakeholders to develop training and other implementation materials and develop capacity within local governments to implement the Bill.²⁴³

The submission from Central Highlands Regional Council noted that ‘Government training and support will be critical in the roll-out of this new legislation and regular refresher courses be provided’.²⁴⁴ DNRM responded that it has committed to providing training and support to local governments to transition and implement the new arrangements and it had already provided training to some local governments on the SRMS for processing applications.²⁴⁵

Bouli Shire Council also noted that administration staff for the tasks required by the legislation will be ‘almost impossible to source and the high staff turnover, recruiting and training costs along with the administrative reporting requirements will soon soak up any financial gains (if any)’.²⁴⁶ DNRM acknowledged that it can be difficult to attract and retain suitable staff but noted there are opportunities for local governments to work together and pool resources:

Local governments will be able to enter into more flexible management arrangements such as appointing officers from different local government areas, or another entity or third party, to undertake compliance and monitoring work. This management partnership approach can also be used as a strategy or action to achieve outcomes under the state management plan.²⁴⁷

2.11.4 Advisory panels

Clause 128 of the bill provides for the chief executive to establish advisory panels to advise about matters relating to managing and using the network.

The Wildlife Preservation Society of Queensland acknowledged the provision for the establishment of advisory panels but stated:

.... it is disappointing that the requirement for a Stock Route Assessment Panel with stipulated categories of representation appointed by the chief executive is not mandatory. Wildlife Queensland believes that current legislation drafting conventions have moved away from outlining specific committees et cetera to give more flexibility. However, Wildlife Queensland would prefer to have the requirement for such a panel to be reinstated. Such a panel certainly contributed to transparency in the past.²⁴⁸

AgForce recommended that an advisory panel be established to consider regulations, establish the stock routes register, and oversee implementation during the first two years of the Act and that it includes representatives from local government and the grazing industry.²⁴⁹

²⁴³ DNRM, correspondence dated 16 January 2017, p 3.

²⁴⁴ Submission 4, p 7.

²⁴⁵ DNRM, correspondence dated 16 January 2017, pp 7-8.

²⁴⁶ Submission 6, p 3.

²⁴⁷ DNRM, correspondence dated 16 January 2017, pp 24-25.

²⁴⁸ Public hearing transcript, Brisbane, 6 February 2017, p 8.

²⁴⁹ Submission 5, pp 5-6.

DNRM responded that AgForce's view was noted and while DNRM does not support the recommendation 'it does commit to undertaking consultation with relevant stakeholders'.²⁵⁰

2.11.5 Associated regulations

AgForce recommended that regulations associated with the Act should be tabled with the bill 'given the significant detail (including important aspects such as fee-setting) devolved to the associated regulations'.²⁵¹

DNRM responded that if the bill is passed, it will work closely with local governments and other relevant stakeholders prior to commencement of the bill to transition and implement the new arrangements:

*This will include consultation on the proposed regulation to be drafted (which will set out the fee level for travelling stock and the minimum fee for grazing) and the new State Management Plan.*²⁵²

The issue of devolution of reasonable significant matters to regulations is discussed in detail in the section 3 ([Compliance with the Legislative Standards Act 1992](#)) of this report.

2.12 Other issues raised by stakeholders

2.12.1 Weeds

A number of councils raised a concern about weeds being spread by travelling cattle. For example, the Central Highlands Regional Council submission referred to 'the constant spread of weeds from travelling stock (from outside the Shire) on stock routes which could have impacts on current maintenance and eradication programmes in place'.²⁵³

In response, DNRM advised:

- *Weed and pest issues are regulated under the Biosecurity Act 2014, and the provisions of that Act will continue to apply if the Bill is passed. The Bill specifically provides that it does not affect the operation of the Biosecurity Act 2014 (clause 136).*
- *Under the Biosecurity Act, all Queenslanders have a 'general biosecurity obligation' to manage biosecurity risks. For example, livestock owners are expected to stay informed about pests and diseases that could affect, or be carried by their animals, and to manage them appropriately.*²⁵⁴

Maranoa Regional Council explained how weeds are monitored and managed in its local area:

*That is done collectively between landowners and our staff when they are monitoring the network. We rely on significant reports from landowners and we respond to those different pest plants particularly, basically in accordance with what is in council's pest management plan as to where the priority weed pests are. That is where we focus our actions. If an infestation of a weed occurs on a fenced route, we will deal with it. If an infestation of a weed occurs on an unfenced route, that is part of the privilege the landowner has for using it and they can deal with it.*²⁵⁵

²⁵⁰ DNRM, correspondence dated 16 January 2017, p 20.

²⁵¹ Submission 5, p 12.

²⁵² DNRM, correspondence dated 16 January 2017, p 22.

²⁵³ Submission 4, p 8; see also Boulia Shire Council, public hearing transcript, Boulia, 7 February 2017, pp 1-11.

²⁵⁴ DNRM, correspondence dated 16 January 2017, p 8.

²⁵⁵ Public hearing transcript, Emerald, 8 February 2017, p 8.

The Drivers Association advised the committee that the issue of weeds is not really a concern for DNRM:

Biosecurity, Main Roads and local government are meant to deal with weeds, so I cannot see how that can be written into the act. DNR is not responsible for weeds. As far as travelling stock spreading weeds goes, I am sure that far more weeds would be spread by motor vehicles. If travelling stock do spread weeds, at least there is a permit so you know where they went and they went pretty slowly, so they are not hard to follow. The Flinders shire suggested commercial rates.²⁵⁶

2.12.2 Leasing stock routes

Central Highlands Regional Council made a request in its submission that the State Government produce particular and or regulations that could assist local government in leasing stock routes to adjoining land owners.²⁵⁷

DNRM noted the request from the Council and advised:

- *One of the purposes of the Bill is to manage the stock route network in a way that minimises the impact on other uses of the land that forms the network (e.g. its use by motor vehicles) and to ensure road safety and the operational integrity of the transport network (clause 3). Any action taken under the Bill must be taken in a way that is consistent with certain principles including that road safety and the operational integrity of the transport network should be ensured (clause 4). Stock routes are roads. Leasing of stock routes is likely to interfere with the purpose of the road for broader public access and impact on road safety.*
- *The department will work with affected local governments to ensure local governments have the capacity to administer approvals on the network, which would include guidance on considering and conditioning long-term grazing approvals, which landholders next to the network may apply for.²⁵⁸*

2.12.3 Beekeeping

Queensland Beekeepers' Association Inc. submitted that it would like:

- the permit authorising agency to remain centralised and not split into individual local governments
- the price for an apiary site issues on a stock route to be consistent with fees and charges for apiary sites in State Forest and National Parks, that is, one set fee indexed annually – currently beekeepers pay an application fee, a site fee and may be liable to pay rates, and
- ability to apply to DNRM should an adverse weather event affect apiary sites.²⁵⁹

²⁵⁶ Public hearing transcript, Longreach, 8 February 2017, p 23.

²⁵⁷ Submission 4, p 8.

²⁵⁸ DNRM, correspondence dated 16 January 2017, p 8.

²⁵⁹ Submission 1, p 1.

DNRM responded that the bill only deals with stock travel, grazing and pasture harvesting activities and therefore does not affect current arrangements for the regulation of beekeeping in Queensland:

- *The State will continue to issue permits to occupy (PTOs) for beekeeping on roads and reserves (including the stock route network) under the Land Act 1994.*
- *Approvals, fees and charges for beekeeping are outside the scope of the Bill.*
- *For state land administered by DNRM, a person currently has the ability to apply to DNRM should their permit be affected by adverse weather events.²⁶⁰*

²⁶⁰ DNRM, correspondence dated 16 January 2017, p 1.

3 Compliance with the Legislative Standards Act 1992

3.1 Fundamental legislative principles

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

- the rights and liberties of individuals, and the
- the institution of parliament.

The committee examined the application of FLPs to the bill.

The committee identified potential breaches of fundamental principles in clauses 77, 90, 105 and several clauses which prescribe regulations. The bill also includes 34 offence provisions which are set out below under the ‘Proposed new or amended offence provisions’ section of this Report.

3.1.1 Rights and liberties of individuals

Section 4(2)(a) of the LSA requires that legislation has sufficient regard to the rights and liberties of individuals.

Clause 105(1) - Administrative power

Clause 105(1) provides that a person may apply to a local government for an internal review of an original decision. However, pursuant to clause 105(2), several matters are not reviewable. They include:

- (a) a decision to refuse to issue an approval to use part of the stock route network to which access has been temporarily prevented; or
- (b) a decision to impose a maintenance condition in relation to a State special interest area; or
- (c) a decision to take action mentioned in section 18 because of the local government’s decision to temporarily restrict or temporarily prevent access to a State-controlled road under section 17(2); or
- (d) a travel approval decision or unfit stock approval decision that is made by the person who is the chief executive officer of the local government.

Clause 105(2) provides that certain matters are not reviewable. This potentially breaches section 4(3)(a) of the LSA which provides that an administrative power should be subject to appropriate review.

Legislation should make rights and liberties, or obligations, dependent on administrative power only if subject to appropriate review. The Office of the Queensland Parliamentary Counsel (OQPC) Notebook states:

Depending on the seriousness of a decision and its consequences, it is generally inappropriate to provide for administrative decision-making in legislation without providing for a review process. If individual rights and liberties are in jeopardy, a merits-based review is the most appropriate type of review.²⁶¹

The former Scrutiny Committee (SLC) was opposed to clauses removing the right of review, and took particular care to ensure the principle that there should be a review or appeal against the exercise of administrative power. Where ordinary rights of review were removed, thereby preventing individuals from having access to the courts or a comparable tribunal, the SLC took particular care in assessing

²⁶¹ OQPC, Fundamental Legislative Principles: The OQPC Notebook, p 18.

whether sufficient regard had been afforded to individual rights, noting that such a removal of rights may be justified by the overriding significance of the objectives of the legislation.²⁶²

The SLC has, in particular circumstances, found provisions removing review under the *Judicial Review Act 1991* unobjectionable if it considers that an adequate alternative review mechanism is provided.²⁶³

The explanatory notes acknowledged the potential FLP issue and provided the following justification:

Clause 105 of the Bill provides that internal review by a local government of certain local government decisions is not available under the Act. However, a review of the decisions may still be sought under the Judicial Review Act 1991.

A decision by a local government to refuse to issue an approval to use part of the network to which access is temporarily prevented, is not reviewable. Preventing access to part of the network is necessary in particular situations, such as in the interests of public safety because of a fire or flood, or road works. To allow internal review may compromise the achievement of the management regime for the network as established by the Act.

The imposition of a maintenance condition in relation to a state special interest area is not internally reviewable by a local government. The maintenance condition for a state special interest area is in effect, decided by the state under the Act, and a local government is required to impose the condition on an approval. The local government does not have any discretion as to whether to impose the condition or not. A decision by the state (through the relevant chief executive) to require a local government to impose a condition on an approval to maintain the natural or cultural heritage of a state special interest area is a regulatory tool to ensure the state's interests are protected.

Similarly, a local government decision under clause 18 (to impose a restrictive condition on an approval because network access is temporarily restricted; or not issue, suspend or cancel an approval because network access is temporarily prevented) is not reviewable by a local government where these decisions are because of a notice under clause 17. Under clause 17, the state (through the chief executive of transport) may give a local government a notice requiring the local government to temporarily restrict or prevent access to a State-controlled road that is part of the network. The local government does not have any discretion whether to temporarily restrict or prevent network access in these circumstances. The ability for the chief executive (transport) to require a local government to temporarily restrict or prevent access to the network is to ensure the operational integrity of the state's transport network.

A decision about a travel or unfit stock approval made by the actual chief executive officer of a local government is not internally reviewable. This is because, where the actual chief executive officer has made the decision, there is no more senior local government officer available to review the decision. However, in this situation, the Bill still provides that the decision can be externally reviewed.²⁶⁴

Committee comment

Given the above justification in relation to the removal of certain review rights by section 105(2), including public safety and the ability to seek external review of a decision, and the fact that decisions may still be reviewed under the *Judicial Review Act 1991*, the committee considers that, on balance, the provisions have sufficient regard to fundamental legislative principles.

²⁶² OQPC, Fundamental Legislative Principles: The OQPC Notebook, p 19.

²⁶³ OQPC, Fundamental Legislative Principles: The OQPC Notebook, p 19, citing Alert Digest 2004/8, p 8, paras 21-24; Alert Digest 2003/6, p 6, paras 46-48.

²⁶⁴ Explanatory notes, pp 8-9.

Clauses 75 and 76 - Power to enter premises

Clauses 75 and 76 outline the requirements in relation to a directions notice that may be served on a land owner.

Clause 75(1) provides that the section applies if an authorised person reasonably believes that a person is committing, or has committed, an offence under Part 1 or immediate action is necessary to prevent or minimise land degradation on a stock route network.

Clause 75(2)(a) and (b) provides that an authorised person may give a person a directions notice and a review notice for the decision to give the directions notice.

Pursuant to clause 75(3), a directions notice states:

- (a) the authorised person is giving the notice because of a belief mentioned in subsection (1); and*
- (b) the facts and circumstances that form the basis for the authorised person's belief; and*
- (c) the action the person who is given the notice must take:*
 - (i) to prevent or remedy the offence; or*
 - (ii) to prevent or minimise the land degradation; and*
- (d) if the notice requires the person to remove stock from the stock route network—that if the person does not remove the stock, the stock may be seized under section 80.*

A person must comply with a directions notice pursuant to clause 75(4) unless they have a reasonable excuse. The maximum penalty for non-compliance is 400 penalty units.

Clause 76(1) provides examples as to what a directions notice may require a person to do:

- (a) to apply for an approval; or*
- (b) to build or restore a fence on a boundary of the stock route network to a stock-proof condition; or*
- (c) to fix damage caused by the commission of the offence or by land degradation; or*
- (d) to remove stock from the stock route network and prevent the stock re-entering the network.*

Clause 77 - Power to enter premises

Clause 77(2) provides that an authorised person, or a person acting for the authorised person, may enter private land at any reasonable time to take action under a directions notice. Pursuant to clause 77(3) an authorised person must give an entry notice to a land owner not less than seven days before entry. A local government may recover the reasonable costs of taking action under a directions notice by way of clause 77(4).

Clause 90 - Power to enter premises

Clause 90(1) provides that the section applies if an authorised person enters a place that the authorised person may enter under the Act without the consent of an occupier of the place or a warrant. By way of clause 90(2) the authorised person may seize a thing at the place if the authorised person reasonably believes the thing is evidence of an offence.

Clause 106 - Power to enter premises

Pursuant to clause 105(1) a person may apply to a local government for an internal review of an original decision. However, this does not stay a decision. In order to stay a decision an applicant must apply for external review pursuant to clause 106. By way of clause 106(2), an external reviewer may stay the following types of original decisions:

- (a) a travel approval decision or unfit stock approval decision;*
- (b) a directions notice decision;*
- (c) a seizure decision.*

Clause 106(4) provides that the stay may be given on the conditions that the external reviewer considers appropriate and can be amended or revoked by the external reviewer. Pursuant to clause 106(7) an external reviewer for a directions notice decision is the Queensland Civil and Administrative Tribunal (QCAT) and for a seizure decision, the Magistrates Court.

Authorised person

The definition of 'authorised person' at Schedule 1 provides:

- (a) generally—a person who holds office as an authorised person under a relevant empowering Act; or
- (b) for a provision about a local government—an authorised person for the local government.

Potential FLP issues

Section 77(2) allows an authorised person, or a person acting for an authorised person, to enter private land at any reasonable time to take action under a directions notice. Clause 90 provides that an authorised person may enter private land to seize evidence without a warrant. Both clauses potentially breach section 4(3)(e) of the LSA which provides that the power to enter premises and search for or seize documents or other property, should only occur with a warrant issued by a judge or other judicial officer.

Legislation should confer power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.²⁶⁵ The OQPC handbook provides that this principle supports a long established rule of common law that protects the property of citizens. Power to enter premises should generally be permitted only with the occupier's consent or under a warrant issued by a judge or magistrate. Strict adherence to the principle may not be required if the premises are business premises operating under a licence or premises of a public authority. The SLC's chief concern in this context is the range of additional powers that become exercisable after entry without a warrant or consent.²⁶⁶

THE OQPC Notebook states:

*FLPs are particularly important when powers of inspectors and similar officials are prescribed in legislation because these powers are very likely to interfere directly with the rights and liberties of individuals.*²⁶⁷

Residential premises should not be entered except with consent or under a warrant or in the most exceptional circumstances.²⁶⁸

The explanatory notes provided the following justification in relation to the entry powers provided by clause 77:

Fencing is important for effective management of the network. It ensures that travelling stock do not wander on to adjacent properties or that stock from adjacent properties do not stray onto the network and illegally graze. It is also important for public and road safety given the unpredictable nature of stock interacting with motor vehicle and other forms of transport.

Failing to comply with the directions notice is an offence. Where a person fails to comply, the authorised person is empowered to enter the land and carry out the required action under clause 77. The reasonable costs are payable by the landowner to the local government. Should a landowner not pay the costs, then the debt may be dealt with by the local government as if

²⁶⁵ *Legislative Standards Act 1992*, s 4(3)(e).

²⁶⁶ Alert Digest 2004/5, p 31, paras 30-36; Alert Digest 2004/1, pp 7-8, paras 49-54; Alert Digest 2003/11, pp 20-21, paras 14-19; Alert Digest 2003/9, p 4, para 23 and p 31, paras 21-24; Alert Digest 2003/7, pp 34-35, paras 24-27; cited in OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 45.

²⁶⁷ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 45.

²⁶⁸ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 46.

they were overdue rates and remain a charge on the land or recovered by the local government through a small claims process (e.g. as a minor civil dispute through QCAT).

The decision to issue the directions notice is reviewable firstly by the local government that issued the direction notice. The internal review decision about the directions notice can also then be appealed to the QCAT. However, an authorised person can only issue a directions notice where they reasonably believe a person is committing or has committed an offence (e.g. unauthorised grazing) or immediate action is necessary to prevent or minimise land degradation on the network. If a person fails or refuses to construct the fence, the local government has little option but to have it constructed or repaired to ensure compliance with the Act and to effectively manage access to, and use of, the network.²⁶⁹

Committee consideration

Clause 77 allows an authorised person, or a person acting for an authorised person, entry onto private land after that individual has been provided with a directions notice. The authorised person will be carrying out functions the subject of the directions notice which has previously been provided to the landholder and they have failed to carry out. These requirements may include such things as building or restoring a fence or removing stock. An authorised individual must give a landowner at least 7 days' notice before entering the property. In allowing an authorised person to enter a place and seize evidence without a warrant or the occupier's consent, clause 90 breaches section 4(3)(e) of the LSA.

However, clauses 105 and 106 do provide an appeal process for an occupier. Clause 105 provides for the internal review of an original decision and clause 106 allows for external review of decisions. In particular, clause 106(2) allows the occupier to make an application for a stay of an original decision in relation to a directions notice decision and a seizure decision.

Both clauses give considerable power and discretion to an authorised person or, a person acting for an authorised person. In considering the clauses the committee sought further clarification from the department as to the skills and experience of those persons who will be authorised to enter private property without a warrant or the occupier's consent. This would be consistent with section 4(4)(a) of the LSA which provides that the delegation of legislative power should occur only in appropriate cases and to appropriate persons.

In response to a question from the committee seeking further clarification on this issue DNRM responded:

Clause 77 provides that only an authorised person or a person acting for the authorised person may enter private land. The authorised person would have the power to seize things as evidence of an offence after entering the place, using the provisions of clause 90. Entry under clause 77 is contingent on the authorised person giving the owner of the land an entry notice at least seven days before the entry.

It is important to note that a review notice is required to be issued with a directions notice or when an authorised person decides to seize a thing. The review notice outlines the decision for issuing the directions notice or seizing the thing.

The person receiving the review notice for the directions notice or for the decision to seize the thing has both internal and external avenues of appeal for these decisions. Internal review by local government for either a directions notice decision or seizure decision is provided under clause 105. Should the person not be satisfied by the internal review, then external review by QCAT (the Queensland Civil and Administrative Tribunal) for a directions notice decision is provided under clause 113 or external review by the Magistrates Court for a seizure decision is provided under clause 114.

²⁶⁹ Explanatory notes, pp 6-7.

The Bill is consistent with section 4(4) of the Legislative Standards Act 1992 which provides that the delegation of legislative power should only occur in appropriate cases and to appropriate persons.

With respect to the question of skills and experience of authorised persons, Schedule 1 of the Bill defines who may be an authorised person. This definition points to the definition of authorised person under either the City of Brisbane Act 2010 or the Local Government Act 2009. This is because local governments are responsible for compliance and enforcement under the Bill (as they are under the existing Stock Route Management Act 2002).

The City of Brisbane Act 2010 (Chapter 6, Part 5, section 199) and the Local Government Act 2009 (Chapter 6, Part 6, section 202) provides that for a person to be appointed as an authorised person the person must have the relevant competencies and either be an employee of the council or a person as prescribed under regulation (section 266 of the City of Brisbane Regulation 2012 and section 288 of the Local Government Regulation 2012). The relevant competencies may be determined by the chief executive officer or prescribed under a regulation.²⁷⁰

3.1.2 Institution of Parliament

Section 4(4) and (5) of the LSA requires that legislation has sufficient regard to the institution of Parliament.

Clauses 8, 16, 19, 25, 31 41, 47, 53, 68, 102 - Delegation of legislative power

Several clauses in the bill provide that certain matters may be prescribed by regulation. These include clauses 8, 16, 19, 25, 31 41, 47, 53, 68, 102.

For example, clause 16(3) provides that in determining whether to temporarily restrict, or temporarily prevent access to a part of the stock route network that is in a local government's area, the local government must consider any matters prescribed by regulation.

Clause 19 provides that the Minister must prepare, in the way prescribed by a regulation, a plan (the State management plan) for managing the stock route network.

Another example is provided by clause 102 in relation to the compensation a person may claim from a local government. Clause 102(5) provides that a regulation may prescribe other matters that may, or must, be taken into account by a court when considering whether it is just to order compensation.

Potential FLP issues

Given the importance of the information that will be contained in these regulations to the operation of the stock route network, it may be argued the information should be contained in the primary act and not a regulation. The clauses therefore potentially breach section 4(4)(a) of the LSA provides that a bill should allow the delegation of legislative power only in appropriate cases and to appropriate persons. Further, section 4(5)(c) of the LSA provides that subordinate legislation should contain only matters appropriate to that level of legislation.

As noted in the OQPC FLP Notebook, legislation should be delegated only in appropriate cases. The Notebook says that:

Although an Act may legally empower the making of particular subordinate legislation, there remains the issue of whether the making of particular subordinate legislation under the power is appropriate. For example, an Act's empowering provision may be broadly expressed

²⁷⁰ DNRM, correspondence dated 22 February 2017, pp 1-2.

*so that not every item of subordinate legislation that could be made under it is necessarily appropriate to subordinate legislation in every circumstance that arises.*²⁷¹

*The SLC was of the view that ‘the greater the level of potential interference with individual rights and liberties, or the institution of Parliament, the greater will be the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament’.*²⁷²

In its submission to the committee, AgForce has commented that given the significant detail that is devolved to regulations, it is of the view that the regulations should be tabled with the bill.²⁷³

Committee consideration

The bill contains several clauses which devolve reasonably significant matters to regulations. The committee is aware that all regulations will be subject to disallowance and come before the committee for its consideration. Given their importance to the operation of the bill, the committee sought information from the department as to when it is anticipated the regulations will be tabled.

DNRM advised that should the bill be passed by Parliament, the department will work closely with stakeholders and state agencies to implement arrangements under the bill:

To allow sufficient time to implement the new arrangements provided for in the bill, the bill will be commenced by proclamation. As the Minister for State Development and Minister for Natural Resources and Mines indicated in his explanatory speech introducing the bill, it is intended to have the bill fully operational within two years of commencement and the transitional provisions in the bill support this.

*Should the bill be passed by Parliament, the Department of Natural Resources and Mines will prepare a draft regulation and draft State Management Plan for consultation with key stakeholders, such as the Local Government Association of Queensland, local governments and AgForce. The regulation and State Management Plan will be finalised in time for commencement of the bill.*²⁷⁴

3.2 Proposed new or amended offence provisions

A table with details of the proposed new and amended offence provisions is at appendix D.

3.3 Explanatory notes

Part 4 of the LSA relates to explanatory notes. It requires that an explanatory note be circulated when a bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the bill. The notes are fairly detailed and contain the information required by Part 4 of the LSA and a reasonable level of background information and commentary to facilitate understanding of the bill’s aims and origins.

²⁷¹ Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 165.

²⁷² Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 145.

²⁷³ Submission 5, p 12.

²⁷⁴ DNRM, correspondence dated 22 February 2017, p 2.

4 Appendices

4.1 Appendix A – Submitters

| Sub # | Name |
|-------|--|
| 1 | Queensland Beekeepers' Association Inc. |
| 2 | Local Government Association of Queensland |
| 3 | Isaac Regional Council |
| 4 | Central Highlands Regional Council |
| 5 | Agforce Queensland Industrial Union of Employers |
| 6 | Boulia Shire Council |
| 7 | Barcoo Shire Council (late) |

4.2 Appendix B – Witnesses at the public briefing and public hearings

PUBLIC BRIEFING – 30 NOVEMBER 2016

Department of Natural Resources and Mines

- Mr Lyall Henrichsen, Executive Director, Land and Mines Policy
- Ms Anita Haenfler, Acting Director, Land Policy, Land and Mines Policy

PUBLIC HEARING BRISBANE – 6 FEBRUARY 2017

AgForce

- Mr Peter Hall, Cattle Board Member
- Ms Lauren Hewitt, General Manager Policy
- Mr Steve Taylor, SRAP Member

Wildlife Preservation Society of Queensland

- Mr Des Boyland, Policies and Campaigns Manager and Secretary

Local Government Association of Queensland

- Ms Sarah Buckler, General Manager, Advocate
- Ms Dorean Erhart, Principal Adviser, Climate Change and the Great Barrier Reef

Department of Natural Resources and Mines

- Mr Lyall Henrichsen, Executive Director, Land and Mines Policy
- Ms Anita Haenfler, Acting Director, Land Policy, Land and Mines Policy

PUBLIC HEARING BOULIA – 7 FEBRUARY 2017

Boulia Shire Council

- Mr Rick Britton, Mayor
- Ms Rebecca Britton, Councillor

Private capacity

- Ms Kelsey Neilson
- Mr Dale Neilson
- Mr Graham Smerdon

PUBLIC HEARING EMERALD – 8 FEBRUARY 2017

AgForce

- Ms Sharon, Regional Manager

Maranoa Regional Council

- Ms Kaye Crosby, Manager Environmental Health
- Mr Kent Morris, Coordinator of Land Services

Private capacity

- Mr Jonathan Reinke
- Ms Kerryn Piggott
- Mr Andrew Harvey
- Ms Sonya Harvey

Central Highlands Regional Council

- Mr Stuart Bull, Coordinator, Ranger Services
- Ms Susan Walters, Stock Route Supervisor

PUBLIC HEARING LONGREACH– 8 FEBRUARY 2017

McKinlay Shire Council

- Mr Andrew Boardman, Director, Environment and Regulatory Services
- Mr Philip Curr, Councillor
- Mr Peter Fitchat, Chief Executive Officer

Longreach Regional Council

- Mr Ian Bodill, Chief Executive Officer
- Mr Paul Hockings, Director of Corporate Services/Deputy Chief Executive Officer
- Mr Ed Warren, Mayor

Flinders Shire Council

- Mr Bill Bode, Councillor
- Ms Robyn Young, Rural Services Manager

Desert Channels Queensland

- Mr Dominic Burden, Chair
- Ms Leanne Kohler, Chief Executive Officer
- Mr Simon Wiggins, Acting Operations Manager

Drovers Association

- Mr Bill Little

Private capacity

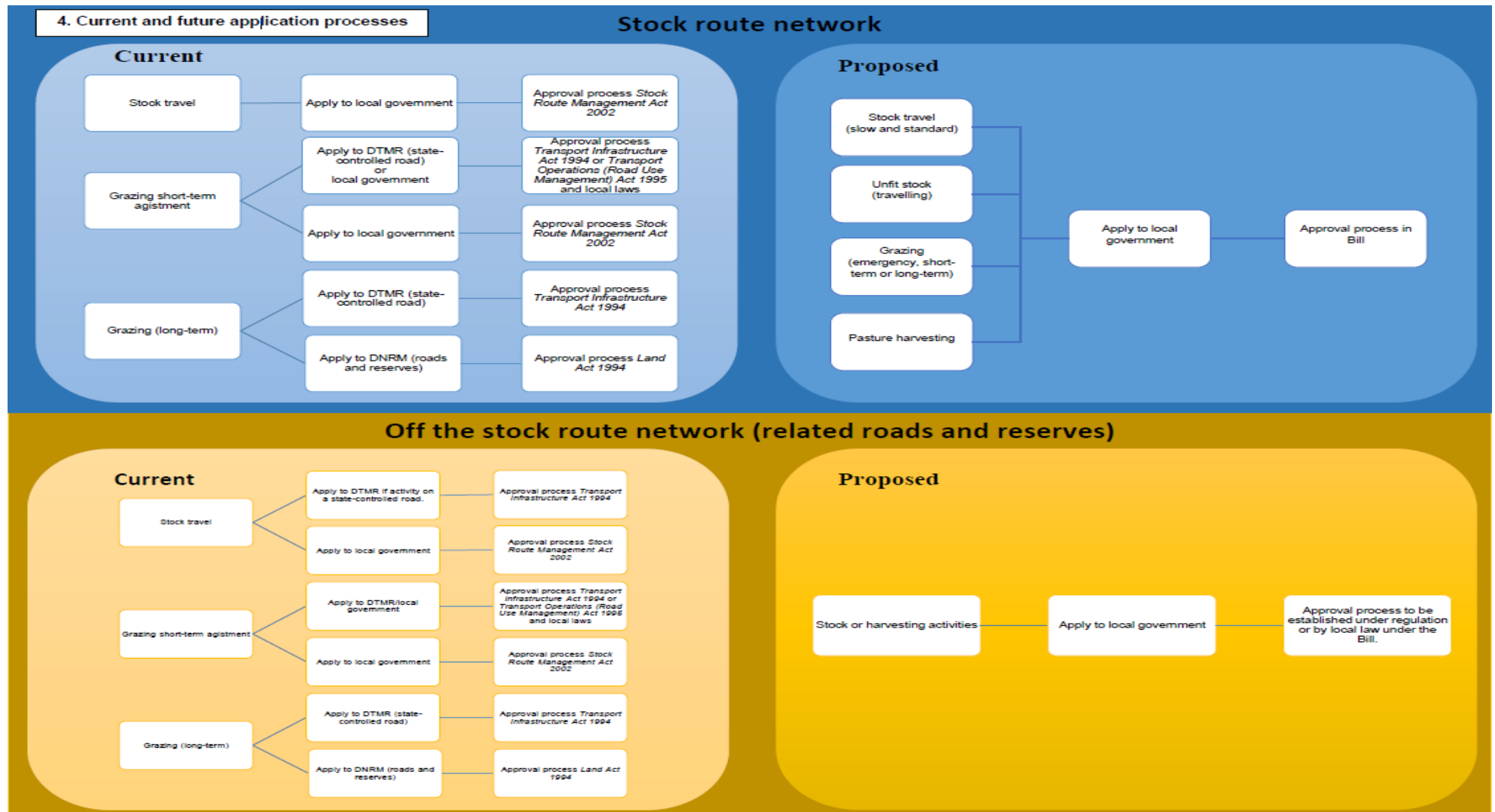
- Mr Peter Doneley

4.3 Appendix C – Proposed network approvals

| Hierarchy priority | Approval type | Purpose | Who may apply | Approval period (up to) |
|--------------------|-------------------|---|--|-----------------------------------|
| 1 | Travel (standard) | <ul style="list-style-type: none"> Allows approval holder to move stock on foot between places along a specific route, e.g. for property management purposes or to dispose of stock. Includes intermittent overnight resting. Travel rate of 10km/day. | <ul style="list-style-type: none"> A person who has not held a travel approval for the same stock over the same route in the last 4 weeks, unless exceptional circumstances. The person must demonstrate the stock are fit to travel at the required rate prior to beginning travel. | Depends on the distance travelled |
| 1 | Travel (slow) | <ul style="list-style-type: none"> Allows approval holder to move stock on foot between places along a specific route, e.g. for property management purposes or to dispose of stock. Includes intermittent overnight resting. Travel rate of 5km/day. | <ul style="list-style-type: none"> A person who has not held a travel approval for the same stock over the same route in the last 4 weeks, unless exceptional circumstances. The person must demonstrate the stock are fit to travel at the required rate prior to beginning travel. | Depends on the distance travelled |
| 2 | Unfit stock (NEW) | <ul style="list-style-type: none"> Allows a holder of a travel approval to either travel the stock at a slower speed or graze the stock, dependent on the condition of the stock. | <ul style="list-style-type: none"> A person who holds a travel approval for the stock. The person must demonstrate that the stock are unable to travel at the stated speed in the travel approval because the stock are pregnant/have young stock less than 3 weeks old; affected by disease (not regulated by Biosecurity Act); or otherwise sick, injured, malnourished or weakened. The person must give local government an unfit stock notice. | 2 weeks |

| Hierarchy priority | Approval type | Purpose | Who may apply | Approval period (up to) |
|--------------------|---------------------------|--|--|---|
| 2 | Grazing (Emergency) | <ul style="list-style-type: none"> Allows approval holder to graze stock on a stated area. | <ul style="list-style-type: none"> A person who demonstrates that the land where the stock are pastured cannot sustain the stock because of an adverse natural event e.g. natural disaster (but does not include drought or events could have been reasonably mitigated or avoided). | Primary = 2 weeks Secondary = 4 weeks |
| 3 | Grazing (Short-term) | <ul style="list-style-type: none"> Allows approval holder to graze stock on a stated area. | <ul style="list-style-type: none"> A person whose land is drought declared <u>or</u> if the local government considers there is excess pasture on the network, then: <ol style="list-style-type: none"> Firstly, the landholder next to the network must be invited by a local government to apply for approval to manage excess pasture; or If the adjoining landholder does not wish to apply, then a person who applies in response to a pasture availability notice published by a local government to manage excess pasture. If the applicant is not the adjacent landholder, they must have a fencing maintenance agreement (for existing fences) with the adjacent landholder. | Primary = 6 weeks Secondary = 12 weeks |
| 3 | Grazing (Long-term) (NEW) | <ul style="list-style-type: none"> Allows approval holder to graze stock on a stated area. | <ul style="list-style-type: none"> A landholder(s) next to the network. | Primary = 1 year Secondary = 5 years |
| 4 | Harvesting (NEW) | <ul style="list-style-type: none"> Allows approval holder to remove pasture (other than by burning or grazing stock) from a state area. | <ul style="list-style-type: none"> A person who applies in response to a pasture availability notice published by a local government to manage excess pasture. | 4 weeks |

4.4 Appendix D – Current and proposed application processes



4.5 Appendix E - Proposed new or amended offence provisions

A table with details of the proposed new and amended offence provisions is set out below.

| Clause | Offence | Proposed maximum penalty |
|------------------|--|---|
| <p>53</p> | <p>Stock on network without approval</p> <p>(1) A person who owns or is in charge of stock must not allow the stock to travel or graze on the stock route network, unless—</p> <p>(a) the stock are on the network under—</p> <p>(i) an approval; or</p> <p>(ii) subsection (2); or</p> <p>(b) the person has a reasonable excuse.</p> <p><i>Example of a reasonable excuse—</i></p> <p>A stock-proof fence between private land and the stock route network is damaged by an event beyond the landowner’s control, including, for example, a natural disaster. The owner has a reasonable excuse if, since the event, the owner has not had a reasonable opportunity to restore the fence to a stock-proof condition.</p> <p>(2) A person may travel stock on the stock route network in a local government’s area without an approval if the person—</p> <p>(a) before travelling the stock—</p> <p>(i) gets adequate public liability insurance covering the proposed travel; and</p> <p>(ii) gives the local government oral or written notice about the proposed travel; and</p> <p>(b) travels the stock—</p> <p>(i) for not more than 1 day; and</p> <p>(ii) in daylight hours; and</p> <p>(iii) for animal husbandry or property management purposes; and</p> <p>(c) ensures the stock are supervised while travelling; and</p> <p>(d) ensures signage that warns members of the public about the presence of the stock, as prescribed by regulation, is displayed while the stock are travelling.</p> <p><i>Note—</i></p> <p>See the <i>Transport Infrastructure Act 1994</i>, section 50 for requirements under that Act about stock movements on State-controlled roads.</p> | <p>(a) for not more than 10 animals—50 penalty units; or</p> <p>(b) for more than 10 animals but not more than 100 animals—100 penalty units; or</p> <p>(c) for more than 100 animals—200 penalty units</p> |

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| <p>54</p> | <p>Stray stock on stock route network</p> <p>A person who owns or is in charge of stock must not allow stray stock on the stock route network, unless the person has a reasonable excuse.</p> | <p>(a) for not more than 10 animals— 50 penalty units; or</p> <p>(b) for more than 10 animals but not more than 50 animals— 100 penalty units; or</p> <p>(c) for more than 50 animals but not more than 100 animals— 200 penalty units; or</p> <p>(d) for more than 100 animals but not more than 200 animals— 300 penalty units; or</p> <p>(e) for more than 200 animals— 400 penalty units</p> |
| <p>55</p> | <p>Using temporarily closed stock route network</p> <p>(1) This section applies to a part of the stock route network to which access has been temporarily prevented under section 16.</p> <p>(2) A person must not allow stock on, or harvest pasture from, that part of the stock route network, unless the person has a reasonable excuse.</p> | <p>100 penalty units</p> |
| <p>56</p> | <p>Obstructing stock route network</p> <p>A person must not obstruct a person who is using the stock route network under an approval, unless—</p> <p>(a) it is necessary to ensure the safety of persons or stock; or</p> <p>(b) the person has a reasonable excuse.</p> <p><i>Examples of obstructing a person—</i> building a fence, locking a gate or using a vehicle to prevent stock moving</p> | <p>100 penalty units</p> |
| <p>57</p> | <p>Placing harmful things on stock route network</p> <p>A person must not place any thing on the stock route network that is likely to harm—</p> <p>(a) a person using the network under an approval, or the person’s equipment; or</p> | <p>50 penalty units</p> |

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| | <p>(b) stock on the network.</p> <p><i>Examples of a thing—</i> an animal carcass, a car body, a rope or a wire</p> | |
| 58 | <p>Harvesting pasture</p> <p>(1) A person must not harvest pasture from the stock route network, unless the person—</p> <p>(a) is harvesting the pasture under a harvesting approval; or</p> <p>(b) has a reasonable excuse.</p> <p>(2) In this section—</p> <p>person does not include—</p> <p>(a) a local government; or</p> <p>(b) an agent or employee of a local government acting under the local government’s directions.</p> | 200 penalty units |
| 59 | <p>Burning pasture</p> <p>(1) A person must not burn pasture on the stock route network in a local government’s area, unless the person has—</p> <p>(a) the local government’s written consent; or</p> <p>(b) a reasonable excuse.</p> <p>(2) In this section—</p> <p>person does not include—</p> <p>(a) a local government; or</p> <p>(b) an agent or employee of a local government acting under the local government’s directions.</p> | 200 penalty units |
| 60 | <p>Fencing</p> <p>If there is a fence on or next to the boundary between private land and the stock route network, the owner of the private land must maintain the fence in a stock-proof condition, unless the owner has a reasonable excuse.</p> | 400 penalty units |
| 61 | <p>Damaging stock facilities</p> <p>A person must not damage a stock facility, unless the person has a reasonable excuse.</p> <p><i>Examples of damage—</i></p> <ul style="list-style-type: none"> • cutting the fence around a water tank • removing solar panels from a water facility | 200 penalty units |
| 62 | <p>Hindering operation of stock facilities</p> <p>(1) A person must not hinder the usual operation of a stock facility, unless the person has a reasonable excuse.</p> | 50 penalty units |

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| <p>62</p> | <p>Hindering operation of stock facilities</p> <p>(2) A person who owns or is in charge of stock must not allow the stock to remain within 300m of a water facility for longer than is necessary to water the stock, unless the person has a reasonable excuse.</p> | <p>50 penalty units</p> |
| <p>62</p> | <p>Hindering operation of stock facilities</p> <p>(3) A person must not camp on the stock route network within 300m of a water facility, unless the person has a reasonable excuse.</p> | <p>50 penalty units</p> |
| <p>63</p> | <p>Taking or releasing water from water facilities</p> <p>(1) A person must not take water from a water facility, unless the person—</p> <p>(a) is authorised under—</p> <p>(i) an approval; or</p> <p>(ii) a water facility agreement; or</p> <p>(iii) a local government’s written consent to take the water for road works; or</p> <p>(b) has a reasonable excuse.</p> | <p>200 penalty units</p> |
| <p>63</p> | <p>Taking or releasing water from water facilities</p> <p>(2) A person must not release water, or allow water to be released, from a water facility, unless the person—</p> <p>(a) is using the water for—</p> <p>(i) watering stock under an approval or a water facility agreement; or</p> <p>(ii) personal use while travelling or grazing stock under an approval or a water facility agreement; or</p> <p><i>Examples—</i> for drinking, cooking or personal hygiene</p> <p>(iii) road works, with the local government’s written consent; or</p> <p>(b) has a reasonable excuse.</p> | <p>200 penalty units</p> |
| <p>64</p> | <p>Polluting water in water facilities</p> <p>A person must not pollute water in a water facility, unless the person has a reasonable excuse.</p> | <p>200 penalty units</p> |
| <p>65</p> | <p>Approval conditions</p> <p>(1) This section does not apply to a condition of an approval about supervising grazing stock.</p> | <p>(a) for a maintenance condition—</p> |

| | | |
|-----------|--|---|
| | <p><i>Note—</i> For a contravention of a condition of an approval about supervising grazing stock, see section 71.</p> <p>(2) A person who holds an approval, or a person in charge of stock under an approval, must not contravene a condition of the approval, unless the person has a reasonable excuse.</p> | <p>200 penalty units; or (b) for a restrictive condition— 100 penalty units; or (c) for another condition— 50 penalty units</p> |
| 66 | <p>Notifying landowner of intended entry under approval</p> <p>(1) This section applies to a person in charge of travelling stock if the person travels the stock on—</p> <p>(a) a reserve that is a part of the stock route network for which there is an owner, other than a local government or the State; or</p> <p>(b) a part of the stock route network fenced in with private land for which there is an owner.</p> <p>(2) Not less than 48 hours before entering the reserve or part of the network, the person must give notice of the intended entry to the owner, unless the person has a reasonable excuse.</p> | <p>50 penalty units</p> |
| 67 | <p>Producing approval for inspection</p> <p>(1) This section applies to—</p> <p>(a) a person in charge of stock on the stock route network under an approval; or</p> <p>(b) a person harvesting pasture on the stock route network under an approval.</p> <p>(2) If an authorised person asks the person to produce the approval for inspection, the person must immediately produce the approval, or a copy of it, to the authorised person, unless the person has a reasonable excuse.</p> | <p>10 penalty units</p> |
| 68 | <p>Correcting particulars of approvals</p> <p>(1) An approval holder must, within 14 days after a prescribed particular of an approval changes, give notice of the correct particular to the issuing local government, unless the approval holder has a reasonable excuse.</p> <p>(2) In this section—</p> <p><i>prescribed particular</i>, of an approval, means—</p> <p>(a) the approval holder’s address or phone number; or</p> <p>(b) the name of the person in charge of stock under the approval; or</p> <p>(c) any other information prescribed by regulation.</p> | <p>20 penalty units</p> |

| | | |
|------------------|---|--|
| <p>69</p> | <p>Returning amended approval</p> <p>(1) This section applies if a local government—</p> <p>(a) amends an approval; and</p> <p>(b) gives the approval holder a notice requiring the approval holder to return the approval to the local government.</p> <p>(2) The approval holder must comply with the notice, unless the approval holder has a reasonable excuse.</p> | <p>20 penalty units</p> |
| <p>70</p> | <p>Travelling stock under approval</p> <p>(1) This section applies to—</p> <p>(a) a person who holds a travel approval or unfit stock approval; or</p> <p>(b) a person in charge of stock travelling under a travel approval or unfit stock approval.</p> <p>(2) The person must directly supervise, or ensure another person is directly supervising, the stock travelling under the approval, unless the person has a reasonable excuse.</p> <p>(3) The person must ensure the stock travel at the speed required under the approval, unless the person has a reasonable excuse.</p> <p>Examples of a reasonable excuse—</p> <ul style="list-style-type: none"> • a fire, flood or adverse weather • another circumstance that is not reasonably foreseeable <p>(4) For subsection (3), it is not a defence for the approval holder to prove the stock were unfit stock.</p> | <p>100 penalty units</p> <p>100 penalty units</p> |
| <p>71</p> | <p>Supervising grazing stock</p> <p>If a condition of a grazing approval requires the approval holder to supervise the stock, the approval holder must not contravene the condition, unless the approval holder has a reasonable excuse.</p> | <p>(a) for not more than 10 animals— 50 penalty units; or</p> <p>(b) for more than 10 animals— 100 penalty units</p> |
| <p>72</p> | <p>Notice about unfit stock</p> <p>(1) This section applies in relation to stock travelling under a travel approval if the approval holder, or a person in charge of the stock, becomes aware that any of the stock are unfit stock.</p> <p>(2) The approval holder or person must give an unfit stock notice to the local government for the area in which the stock are located, unless the approval holder or person has a reasonable excuse.</p> | <p>50 penalty units</p> |

| | | |
|-----------|---|---|
| | <p>(3) An unfit stock notice is an oral notice, or a written notice in the approved form, that states—</p> <p>(a) the number of unfit stock; and</p> <p>(b) the reason the stock are unfit, including, for example, because of a stated disease; and</p> <p>(c) whether the unfit stock have been diagnosed or treated by a veterinary surgeon and, if so, the result of the diagnosis or treatment; and</p> <p>(d) the action proposed to deal with the unfit stock.</p> | |
| 73 | <p>Inspecting and measuring harvested pasture</p> <p>(1) A person who holds a harvest approval must keep a harvest record for 2 years after the pasture is harvested, unless the person has a reasonable excuse.</p> <p>(2) The person must, unless the person has a reasonable excuse, allow an authorised person to inspect and measure the pasture harvested under the approval at the approval area, or the person’s place of business, within—</p> <p>(a) 7 days after the pasture is harvested; or</p> <p>(b) a longer period agreed between the person and the authorised person.</p> <p>(3) The person must comply with a reasonable direction of the authorised person for inspecting or measuring the pasture, unless the person has a reasonable excuse.</p> <p>(4) In this section—</p> <p>harvest record means a written record that states—</p> <p>(a) each day pasture is harvested under a harvest approval; and</p> <p>(b) the amount of pasture harvested under the approval.</p> | <p>10 penalty units</p> <p>50 penalty units</p> <p>50 penalty units</p> |
| 75 | <p>Directions notices</p> <p>(1) This section applies if an authorised person reasonably believes—</p> <p>(a) a person is committing, or has committed, an offence under part 1; or</p> <p>(b) it is necessary for immediate action to be taken to prevent or minimise land degradation on the stock route network.</p> <p>(2) The authorised person may give the person—</p> <p>(a) a directions notice; and</p> <p>(b) a review notice for the decision to give the directions notice.</p> | |

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| | <p>(3) A directions notice is a notice, in the approved form, that states—</p> <ul style="list-style-type: none"> (a) the authorised person is giving the notice because of a belief mentioned in subsection (1); and (b) the facts and circumstances that form the basis for the authorised person’s belief; and (c) the action the person who is given the notice must take— <ul style="list-style-type: none"> (i) to prevent or remedy the offence; or (ii) to prevent or minimise the land degradation; and (d) if the notice requires the person to remove stock from the stock route network—that if the person does not remove the stock, the stock may be seized under section 80. <p>(4) The person must comply with the directions notice, unless the person has a reasonable excuse.</p> <p><i>Note—</i> Also see section 77 for the local government’s powers to remedy a failure to comply with a directions notice.</p> <p>(5) The fact that a person has been given a caution notice, in relation to a matter, does not stop an authorised person giving a directions notice to the person in relation to—</p> <ul style="list-style-type: none"> (a) the matter; or (b) a similar matter. | <p>400 penalty units</p> |
| <p>78</p> | <p>Mustering notices</p> <p>(1) This section applies if an authorised person reasonably believes it is necessary for stock on the stock route network to be mustered—</p> <ul style="list-style-type: none"> (a) to prevent or minimise a risk to public safety; or (b) to monitor compliance with an approval or section 72. <p>(2) The authorised person may decide to give the person who owns, or is in charge of, the stock a notice (a mustering notice) in the approved form that states—</p> <ul style="list-style-type: none"> (a) the authorised person is giving the notice for a reason mentioned in subsection (1) that is stated in the notice; and (b) the person is required to muster the stock to a stated place within— <ul style="list-style-type: none"> (i) a stated period of not less than 24 hours; or | |

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| | <p>(ii) if the stock are to be mustered to prevent or minimise a risk to public safety—an appropriate shorter period.</p> <p>(3) If the mustering notice is given for a reason mentioned in subsection (1)(b), the authorised person must also give the person a review notice for the decision to give the mustering notice.</p> <p>(4) The person must comply with the mustering notice, unless the person has a reasonable excuse.</p> | 100 penalty units |
| 86 | <p>Moving vehicles</p> <p>(1) If the vehicle is moving, an authorised person may direct the person in control of the vehicle—</p> <p>(a) to stop the vehicle; and</p> <p>(b) to move the vehicle to, and keep it at, a convenient place within a reasonable distance to allow the authorised person to exercise the authorised person’s powers.</p> <p>(2) In giving the direction, the authorised person must clearly identify himself or herself as an authorised person exercising the authorised person’s powers, including, for example, by using a sign or loudhailer.</p> <p>(3) When the vehicle stops, the authorised person must immediately produce the authorised person’s identity card for the person in control of the vehicle to inspect.</p> <p>(4) The person in control of the vehicle must comply with a direction under subsection (1), unless the person has a reasonable excuse.</p> <p>(5) It is a reasonable excuse for the person not to comply with the direction if—</p> <p>(a) the authorised person did not comply with subsections (2) and (3); or</p> <p>(b) to comply immediately would have endangered someone or caused loss or damage to property, and the person complies as soon as it is practicable to do so.</p> | 60 penalty units |
| 87 | <p>Stopped vehicles</p> <p>(1) If the vehicle is stopped, an authorised person may direct the person in control of the vehicle—</p> <p>(a) not to move the vehicle until the authorised person has exercised the authorised person’s powers; or</p> | |

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| | <p>(b) to move the vehicle to, and keep it at, a stated reasonable place to allow the authorised person to exercise the authorised person’s powers.</p> <p>(2) When giving the direction, the authorised person must—</p> <p>(a) immediately produce the authorised person’s identity card for the person in control of the vehicle to inspect; and</p> <p>(b) give an offence warning for the direction to the person in control of the vehicle.</p> <p>(3) The person in control of the vehicle must comply with the direction, unless the person has a reasonable excuse.</p> <p>(4) A person does not commit an offence against subsection (3) if the person is not given an offence warning for the direction.</p> | <p>60 penalty units</p> |
| <p>88</p> | <p>Requiring documents to be produced</p> <p>(1) This section applies to a document—</p> <p>(a) issued to a person under this Act; or</p> <p>(b) required to be kept by a person under this Act.</p> <p>(2) An authorised person may require the person to produce the document to an authorised person for inspection, at a reasonable time and place that the authorised person nominates.</p> <p>(3) The authorised person may keep the document to copy it.</p> <p>(4) If the authorised person copies the document, or part of the document, the authorised person may require the person responsible for keeping the document to certify the copy as a true copy of the document or part of the document.</p> <p>(5) The authorised person must return the document to the person as soon as practicable after copying the document.</p> <p>(6) However, if the authorised person makes a requirement of the person under subsection (4), the authorised person may keep the document until the person complies with the requirement.</p> <p>(7) A person must comply with a requirement made of the person under subsection (2) or (4), unless the person has a reasonable excuse.</p> <p>(8) It is not a reasonable excuse for a person to fail to comply with a requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.</p> <p>(9) The authorised person must inform the person, in a way that is reasonable in the circumstances—</p> | <p>40 penalty units</p> |

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| | <p>(a) that the person must comply with the requirement even though complying with the requirement might tend to incriminate the person or expose the person to a penalty; and</p> <p>(b) that, under section 118, there is limited immunity against the use of the document given in accordance with the requirement.</p> <p>(10) If the authorised person fails to comply with subsection (9), the person can not be convicted of the offence against subsection (7).</p> <p>(11) If a court convicts a person of an offence against subsection (7), the court may, as well as imposing a penalty for the offence, order the person to comply with the requirement.</p> <p>(12) In this section—</p> <p>produce, a document that is stored electronically, means produce a clear written reproduction of the document.</p> | |
| <p>89</p> | <p>Requiring information</p> <p>(1) This section applies if an authorised person reasonably believes—</p> <p>(a) an offence against this Act has been committed; and</p> <p>(b) a person may be able to give information about the offence.</p> <p>(2) The authorised person may, by notice given to the person, require the person to give information about the offence to the authorised person, by a stated reasonable time.</p> <p>(3) The person must comply with the requirement, unless the person has a reasonable excuse.</p> <p>(4) It is a reasonable excuse for an individual not to give the information if giving the information might tend to incriminate the individual or expose the individual to a penalty.</p> <p>(5) In this section—</p> <p>give, information that is stored electronically, means produce a clear written reproduction of the information.</p> | <p>40 penalty units</p> |
| <p>94</p> | <p>Securing seized thing</p> <p>(1) After seizing a thing under this subdivision, an authorised person may—</p> <p>(a) move the thing from the place (the place of seizure) where the thing was seized; or</p> <p>(b) leave the thing at the place of seizure and take reasonable action to restrict access to the thing.</p> | |

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| | <p>(2) For subsection (1)(b), the authorised person may, for example—</p> <p>(a) seal the thing, or the entrance to the place of seizure, and mark the thing or place to show access to the thing or place is restricted; or</p> <p>(b) for equipment—make the thing inoperable; or</p> <p><i>Examples of making equipment inoperable—</i> dismantling the equipment or removing a component without which the equipment can not be used</p> <p>(c) require a person the authorised person reasonably believes is in control of the place or thing to do—</p> <p>(i) an act stated in paragraph (a) or (b); or</p> <p>(ii) anything else an authorised person could do under subsection (1)(a).</p> <p>(3) The person must comply with a requirement made of the person under subsection (2)(c), unless the person has a reasonable excuse.</p> <p>(4) If an authorised person restricts access to a seized thing, a person must not tamper with the thing, or with anything used to restrict access to the thing, unless the person has—</p> <p>(a) an authorised person’s approval; or</p> <p>(b) a reasonable excuse.</p> <p>(5) If an authorised person restricts access to a place, a person must not enter the place in contravention of the restriction, or tamper with anything used to restrict access to the place, unless the person has—</p> <p>(a) an authorised person’s approval; or</p> <p>(b) a reasonable excuse.</p> | <p>100 penalty units</p> <p>100 penalty units</p> <p>100 penalty units</p> |
| <p>103</p> | <p>Obstructing authorised person</p> <p>(1) A person must not obstruct an authorised person exercising a power, or someone helping an authorised person exercising a power, unless the person has a reasonable excuse.</p> <p>(2) If a person has obstructed an authorised person, or someone helping an authorised person, and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—</p> <p>(a) it is an offence to cause an obstruction, unless the person has a reasonable excuse; and</p> <p>(b) the authorised person considers the person’s conduct an obstruction.</p> <p>(3) In this section—</p> | <p>60 penalty units</p> |

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| | obstruct includes assault, hinder, resist, attempt to obstruct, and threaten to obstruct. | |
| 104 | Impersonating authorised person A person must not impersonate an authorised person. | 60 penalty units |
| 127 | False or misleading information (1) A person must not, in relation to the administration of this Act, give a local government or an official information the person knows is false or misleading in a material particular. (2) Subsection (1) does not apply to a person if the person, when giving the information in a document— (a) tells the local government or official, to the best of the person’s ability, how the document is false or misleading; and (b) if the person has, or can reasonably obtain, the correct information—gives the correct information. (3) In this section— official means— (a) the chief executive officer of a local government; or (b) an authorised person. | 40 penalty units |

Statement of Reservation



Ann Leahy MP
Member for Warrego

Mary Westcott
 Acting Research Director
 Infrastructure, Planning and Natural Resources Committee
 Parliament House
 George Street
 BRISBANE Q 4000

03 March 2017

Dear Ms Westcott

The LNP Members of the Infrastructure Planning and Natural Resources Committee wish to make the following Statement of Reservations and concerns regarding the Stock Route Network Management Bill 2016.

The LNP Members of the Committee recommend that the bill not be passed as they feel:

- 1 it is an un-costed, cost-shift to Local Government,
- 2 there has not been a proper or updated Regulatory Impact Statement undertaken,
- 3 the statewide Management Plan and draft Regulations have not been produced for consultation with, and scrutiny by stakeholders at the same time as the Bill.

At the outset the LNP Members recognise that the Stock Route Network is valuable to many stakeholders in Queensland and the network's proper management is paramount to the stakeholders and rural and regional Queensland. Since 2002 there has been Government consultation, reports and draft legislation in relation to the Stock Route Network.

The LNP Members recognise there is a need for reform to the Stock Route Network. However the present Bill doesn't deliver the financial rigor, adequate consultation, transparency of being accompanied by draft regulations or a draft Stock Route Management Plan, and is seriously lacking in many other areas.

The LNP Members found very little support was expressed to the Committee for the Bill throughout the submission process and also at the regional hearings.

Cost-shifting to Local Government

The LNP Members are disappointed with this Bill. It represents devolution of responsibilities to Local Governments without first conducting a proper cost-benefit analysis, due diligence or updated Regulatory Impact Statement. The Government also refused to agree to provide transitional funds to assist Local Governments with the new responsibilities.

Agforce in the hearings stated.

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Ms LEAHY: Can AgForce give me their views about whether the state government should have done a due diligence before any devolution of the network to local government?

Mr Taylor: It would have been a big help, yes.

Mr Hall: AgForce understands that no economic analysis has been done to indicate current expenditure and loss of asset value through depreciation, so local governments will be inheriting a management system with an undisclosed cost base and an unknown liability.

The LGAQ stated

Ms Buckler: The LGAQ submission also considers the implementation requirements for councils. Local governments will be required to undertake a substantial amount of work before any revenue is collected such as identifying, assessing and documenting all physical areas subject to permit applications, engaging with all affected landholders and preparing, following up and registering all permits.

It is important to be aware that local governments are starting from a negative resourcing position.

Ms Erhart:

I do not know why a RIS was not undertaken. There was not one undertaken for this one.

Ms Erhart: In terms of the up-front costs in establishing the system, the councils I have spoken to have indicated that they would, at a minimum, need to bring on additional resources to do that establishment work.

Mayor of the Boulia Shire Council Rick Britton said -

You do not give away a cash cow. If you read the policy, it frightens the bejesus out of you because you are bringing in a policy that is unable to be policed. How are you going to police it in such a massive network?

How do you police such a vast network? We are not talking a two- or three-kilometre network through per property. You are looking at 60 kilometres or 70 kilometres.

You have a policy that is virtually unpoliceable and you are expecting the local council to initiate that.

The Longreach Regional Council said -

Mayor Warren: The other thing that needs to be noted is that we need funds to start up. As Paul has said, we already contribute \$150,000 to \$200,000 of ratepayers' money which is not reimbursed at all from the department. That needs to be noted.

Mr Bodill: Thanks for the question. Regarding the bill being passed, I think you realise that local government has been the recipient of a lot of handballing in the past and we are pretty nervous.

Ms LEAHY: The LGAQ talk in their submission about a transition support fund to support grants to applicant local governments seeking resources to assist them with establishing the permit process.

Mayor Warren: Particularly when you are looking at grazing agreements and suchlike, it will need resources to establish. That is where we are saying that we need the start-up funds and the assistance to do that. Yes, it does need assistance.

If implementing the network reform is going to take two years, I am saying that capital, support and funding are needed for that.

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Mr Bodill: If we receive the complete package in 100 per cent working order and then we just have to manage it from then on then the transitioning funds will not be necessary to that extent. If we receive it with 70 per cent of permits outstanding, as I mentioned before, then we will need assistance because the resources that we have are stretched enough as it is. That is where I see the funds and assistance will be required.

Ms LEAHY: I am getting the feeling that if it is devolution with no support it is a no-go zone. Is that right?

Mr Bodill: I think that is everybody's opinion. Do not give us the responsibility if we do not have the resources to do it.

State Management Plan and Regulation lack of scrutiny

Peak agricultural group Agforce raised a number of concerns in relation to not being able to analyse the Regulation and a draft State Management Plan.

Mr Hall of Agforce said: We are yet to see any form of stock route management plan, which we believe should have been tabled with this bill. Such a plan would have given all local governments an opportunity to understand the bill and its implications and the grazing industry would have had an opportunity to understand that if this bill is to deliver a well-maintained stock route network it would mean increased costs to anyone utilising the stock route network for grazing.

Given the significant detail, including fee-setting, devolved to the associated regulations, we at AgForce believe that the regulations should have been tabled with this bill. The fact that there is no increase in travelling stock fees is ludicrous. The 2006 analysis of expenditure by SKM indicated that travelling cattle would need to pay 29 cents per head per day for full cost recovery. The rate then—and still now—is a cent per head per day.

Local government has been asked to fund the stock route network to an appropriate standard but has not been allowed to charge the very group that the stock route network has been maintained from. The word 'ludicrous' is inadequate to describe the situation.

AgForce cannot support the bill as presented because, if it is passed without significant amendment, in the future the stock route network will not be an efficient, well-funded, well-managed system for all to use.

Stock Routes are areas where other activities are sometimes permitted and undertaken in the absence of the Regulations and Statewide Management Plan it is difficult for the users to assess if these permitted uses will continue.

The Committee heard from a Roma Drover

Bill Little: Other uses for the route, particularly the primary route, are power, powerlines, communication—as in towers and underground cables—gas, oil and water pipelines, recreation, car rallies, campers, fundraisers, runs, horse rides, railway and the roads.

Fencing and Un-fenced Stock Routes

The Committee heard there are 72,000 kilometres of stock routes in Queensland which in total cover 2.6 million hectares.

Agfoce advised -

Mr Taylor: We also have to bear in mind that the Crown makes no contribution towards boundary fencing. 72,000 kilometres in Queensland which is 2.6 million hectares. There is going to be one hell

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of a lot of country that is unfenced. The maintenance agreement, in my view, could only pertain to an existing fence.

Further to that, if we look at the fact that the primary stock route, which would be primary fenced, takes another category whereby an adjoining landowner could be forced to fence it and then absolutely lose access to it, he is losing on both fronts. I am not talking about free access; I am talking about under a grazing agreement. We would question it, yes.

Mr Hall: We would in no way support the forced fencing

The situation across Queensland varies with fencing, to no fencing in the far west for example at Boulia, to Primary and Secondary Routes being fenced in the Maranoa Regional Council.

In Boulia the Committee heard

Ms Leahy: What is the area of the stock routes in the Boulia shire?

Mayor Britton: I can only tell you in kilometres. They are all supposedly a mile wide. We have 380 kilometres of primary stock route, 114 kilometres of secondary stock route and 275 kilometres of minor and unused stock route. It is a vast network.

There are no fenced stock routes in the Boulia shire.

I have not seen a fence yet that Mother Nature likes to wash down. The Georgina is a fine example. From Alexandra all the way down past Marian it is unworkable. You would not be able to fence it. It would cost millions of dollars. It is now \$2,000 a kilometre to buy the materials and \$2,000 to put it up. That is \$4,000. Get a map out and measure the kilometres. I think the ratepayers of Boulia would not be putting their hand up to fence out all the grazing industry. The fence would be worth more than the property is worth.

Ms Neilson: My biggest concern with the bill as it stands is that there is no provision in the bill which differentiates between fenced and unfenced stock route. There is no recognition of the difference between fenced stock route and unfenced stock route.

We are concerned that there may be a requirement to fence and to survey the stock route and 100 per cent of those costs would be borne by the landholder.

I would make the point that on our little property, which is small for this area—100,000 acres—we have approximately 33 kilometres of stock route. We do not know because it is not surveyed. If we had to fence that both sides, that would be 66 kilometres we would have to fence at \$4,000 a kilometre. Add to that the survey costs of probably \$20,000 and you are well over a quarter of a million dollars. It is a quarter of a million dollars to put up a fence—and that is without maintaining it; it is all in watershed country, so it will get knocked down often—just in case someone every 10 or 12 years might want to walk down there.

I think it may be a bit of a misunderstanding by the state when they say that landholders are using the state asset for free.

The other qualification I would like to make with regard to that is that there is absolutely no way we are using that land for free because not only have we been paying rates and rental forever, as long as we have known—over 30 years on the land—but also we do manage it. We manage pests; we manage the grass; we manage the waters.

In Longreach the Committee heard

Mr Boardman: The council is concerned about areas of the stock route that have never been fenced. The council is concerned about how local government, applicants and landholders will face the challenges if fencing is required and how we will manage that, especially in areas of the stock route

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that have not been used in recent years. It also should be noted that there is no mention of grids. Some stock routes in our area have grids. We are not sure if this becomes part of the fencing requirements.

Concerns about Roads

Mr Boardman: If we are running the route under the State's Act, we believe that the state should bear the responsibility for a civil liability or loss against the State and not the Council.

Mayor Britton : Regarding the road network, I do not know how people think it is an advantage to have a road network through your property. The cattle will not graze on that outside 300 to 500 metres because it is all covered in dust. It might be different if you had a sealed bitumen road, but if you have a bulldusty road going through there, the last of the feed grazed are those bits there because it has the bulldust. The other impact stated there was about the livestock walking down the road. How is that workable if it is raining? All of our roads are built up, and an animal's instinct is to be up on that high point out of the water. In such a vast network, how can you expect a landowner to tell his 500 or 600 steers, 'Don't you walk on that road because I'm responsible for that and I have to maintain it'? It is unworkable.

Weed Management

Major concerns were raised with the Committee in relation to weed and pest management.

Mr Hall: However, some shires will require significant investment to address failing infrastructure and to deal with rampant weed problems such as prickly acacia.

Mayor Britton: With the droving system today we have a biosecurity woody weed problem right through Queensland. The Channel Country is pretty well clean from that. If the droving keeps going and bringing cattle in from those places where there is an infestation, it is going to increase costs for the graziers and the council to maintain the woody weed program. I have firsthand experience of that because the last lot of cattle that came through here in 2009 came up through Lake Nash. My property was the first call. I have spent 10 years up until now trying to control prickly acacia and every season that we have a decent wet we are still trying to control that prickly acacia, so you are looking at a biosecurity risk as well. There is no regulation. If you buy hay and bring it in now, you can get a certificate that it is weed free.

Mr Boardman: There is no mention of pest and weed management as part of this bill. In our area there are large amounts of prickly acacia. We are concerned about infestation and the costs of management, if directed to by the state. We could not cover it. There is no indication of who would pay for those costs.

Stock wandering from the stock route network have the potential to produce pasture damage to assets and spread weeds. We feel that landholders should be protected.

Special Interest declarations

The Bill enables local government to decide that an area is a local special interest area if it "contains a special feature of natural heritage or cultural heritage that is of local significance." The purpose of Clause 10 would be to enable local government to identify a local special interest area to assist in administering approvals in order to minimise the impact of the use granted under the approval on the special feature of the area.

Councils however expressed concerns about what management conditions may be imposed on local government with respect to special interest areas.

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At Boulia Ms Neilson expressed: I think there is a fair bit of interest from some conservation groups in establishing nature corridors and connectivity between nature corridors. That is a great principle. I would agree with that, but I think it is completely unreasonable to expect that landholders should foot the whole bill for everything, for whatever the goals are of each particular interest group. Why should adjoining landholders be responsible?

The LNP Committee Members hold concerns that there is no clear process outlined for a landowner to appeal against the declaration of a special interest area, nor is there any provision to advise a landowner who might already have a permit or permit to occupy over a stock route of an impending special interest declaration.

Stock Route Infrastructure concerns

There were many concerns raised with the Committee in relation to the amount of infrastructure and the age of the infrastructure on the stock routes.

The Department advised that *the state government has confirmed its intention to continue to provide an annual capital works fund to local governments for maintaining the stock facilities. In 2015-16 some \$800,000 was made available to local governments for those capital works for maintaining water facilities and that funding will continue to be available. Under the bill the local government will have discretion to set fees for stock grazing on the network at or above the minimum fee that is set by the state for pasture harvesting*

For 2014-15 local governments' 50 per cent share was \$185,000 and a similar amount was required to be remitted to the state. Under the bill 100 per cent of that revenue that is generated for those fees from local government will stay with the local government. In addition, they will be also able to retain the revenue associated with long-term grazing. Those long-term grazing approvals on the network and other roads is currently administered by the state and that generates, for the state, approximately \$496,000 per annum—say \$500,000 in round figures.

AgForce has grave concerns that the Bill has no oversight process that will encourage the proper maintenance and upgrading of facilities and leave an appropriate reserve of fodder for travelling stock should the occasion arise.

Mayor Britton: I do not know whether you are aware, but it costs approximately \$5,000 every year to maintain a man-made watering point. If we have 24 watering points, that is a lot of money per year. It has been seven years since we have had a drover come through to recoup any of that. We are better off buying a water tank and hiring that out.

Due to our vast area it is \$20,000 up to \$150,000. It depends whether you are north or east of here. Once you get to Hamilton you have to go down to the artesian, so you are looking at \$100,000 to \$150,000 to go to a bore. Around Boulia it would be about \$20,000. You are looking at between \$20,000 and \$150,000. That is just to drill the hole alone.

To equip it you are probably looking at solar and water supply. You have to have enough supply for 1,500 to 2,000 head. You probably would not get change out of \$80,000. I am just going off our figures. We have just equipped a bore and that is what it cost us to get solar and tanks.

Mr Boardman : We are concerned about the current fees. If received in full, they will not cover the expenses of managing the stock route, much less the additional responsibility of this bill. In this, we would like to be able to set all fees. If the fees were set and there was still a shortfall, there should be some type of compensation by the state to make up the shortfall so that council and the ratepayers are not footing the bill.

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However, we feel that in this section there is no limit to the liability. If council does not have the money to do something and we are forced to carry it out, the minister can go ahead and do the works and charge council anyway. We feel that council should have liability to a limit and the bill does not provide that.

We believe that if our officers carry out everything correctly then the act should protect us and the liability should go back up to the state.

Mr Morris: One-quarter of the permits issued across the state are issued by us for stock route usage. In the most recent past we have had in excess of 18,000 head of cattle on our stock routes, and at one point in time we had one year where we saw nearly 40,000 go through our shire. We are responsible for about 136 water facilities, and Maranoa contains the largest area of primary route of any stock route network in any shire in Queensland. Our primary routes are quite heavily used. We receive constant feedback from stock route users on the condition of our water facilities. We have invested quite a lot of time and effort into bringing those up to standard through the use of departmental capital works and our own resources. However, even given the sheer volume of permits that we issue, the revenue that we receive from stock routes goes nowhere near funding even the maintenance of one of those facilities. We rely heavily on the support of the department and heavily on the support of our ratepayers to do that.

Ms Crosby: We wrote out 26.6 per cent of the travel permits for the state in 2015-16, I believe that was, and I think we received something like \$9,900. Half of that goes back to the state; half of it stays with us. It costs us \$107 a day when we have cattle or when we have a travel permit issued in our shire for one mob. If we have a number of mobs, it is a lot extra. The fees are not covering the charges. In about 2010-11 the local ratepayer was subsidising to the tune of \$7 a head for stock going through our shire. I do not know about the other shires if they do not have as many stock as we do, but our local ratepayers are subsidising it.

Concerns about Mapping inaccuracies

There are concerns about the mapping inaccuracies. The Committee heard there has been re categorisation of stock routes without consultation with the relevant Local Government.

Some areas mapping has never been updated when a change has been made.

The committee also heard that the mapping is inaccurate and this was raised by some submitters as one of the biggest problems that needs to be looked at.

Given the number of issues with the Bill the LNP Members of the Committee cannot support the Bill.

The LNP Members wish to thank the Committee for the opportunity to raise these concerns.

Yours faithfully



Ann Leahy MP
Member for Warrego



Tony Perrett MP
Member for Gympie

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