ENVIRONMENT, AGRICULTURE, RESOURCES AND ENERGY COMMITTEE

Members present:

Mrs C.E. Sullivan (Chair)
Mr A.P. Cripps MP
Mr J.M. Dempsey MP
Ms D.E. Farmer MP
Mr P.J. Lawlor MP

Staff present:

Mr R. Hansen (Research Director)
Ms S. McCallan (Principal Research Officer)
Ms R. Moore (Principal Research Officer)

BRIEFING BY OFFICERS OF DERM ON THE STRATEGIC CROPPING LAND BILL

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 10 NOVEMBER 2011

Brisbane

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Committee met at 10.01 am

CHAIR: Welcome, ladies and gentlemen. I declare this meeting of the Environment, Agriculture, Resources and Energy Committee open. Before I start I would like to acknowledge the traditional owners on whose land we meet. My name is Carryn Sullivan. I am the state member for Pumicestone. I am also chair of this committee. Could I introduce the other members of the committee to you? To my left is our deputy chair and member for Hinchinbrook, Andrew Cripps; and Mr Jack Dempsey, the member for Bundaberg. Absent today is Mr Andrew Powell, the member for Glass House, who sends his apologies. To my right is Di Farmer, the member for Bulimba, and Peter Lawlor, the member for Southport.

The purpose of this meeting is to receive a briefing from officers of the Department of Environment and Resource Management on the Strategic Cropping Land Bill. The bill was introduced by the Hon. Rachel Nolan MP, Minister for Finance, Natural Resources and the Arts, on 25 October and subsequently was referred to this committee for consideration and report. The committee is required by the parliament to report back to the parliament by 21 November.

We hope that the briefing today will give everyone here a better understanding of the practical implications of the policies being given effect by this bill. The bill proposes a range of legislative amendments which aim to (1) protect land that is highly suitable for cropping, (2) manage the impacts of development on that land and (3) preserve the productive capacity of that land for future generations. We have received 56 written submissions on the bill and I want to thank everyone who has made that effort to contribute those written submissions.

Joining us today from DERM are Mr Chris Robson, Assistant Director-General, Land and Indigenous Services; Mr Peter Burton, General Manager, Land Management and Use; Ms Anita Haenfler, Director of Land Planning; Ms Carly Waide, Manager, Land Planning; Ms Sarah Bill, Principal Policy Adviser, Land Planning; and Ms Shannon Jimmieson, Principal Adviser, Land Management and Use. Please remember that these officers have given their time to be here today to provide factual information. They are not here to give opinions about the merits or otherwise of the policy behind the bill or alternative approaches. Any questions about the policy of the government that the bill seeks to implement should be directed to the minister, not these officers. Before we start, I remind everybody to either switch off their phone or to put it on silent.

BILL, Ms Sarah, Principal Policy Officer, Land Planning, Department of Environment and Resource Management

BURTON, Mr Peter, General Manager, Land Management and Use, Department of Environment and Resource Management

HAENFLER, Ms Anita, Director, Land Planning, Department of Environment and Resource Management

JIMMIESON, Ms Shannon, Principal Adviser, Land Management and Use, Department of Environment and Resource Management

ROBSON, Mr Chris, Assistant Director-General, Land and Indigenous Services, Department of Environment and Resource Management

WAIDE, Ms Carly, Manager, Land Planning, Department of Environment and Resource Management

Mr Robson: Good morning, Madam Chair and committee members. I would like to thank you for the opportunity to appear before this committee to brief members on the Strategic Cropping Land Bill. If you do not mind, I would like to first introduce again my colleagues to whom I may refer later in responding to other questions. In particular, there is Mr Peter Burton on my right and Ms Anita Haenfler on my left and the other members in my party, whom you have already introduced, are behind me.

I note that the committee has been provided with a written briefing on the Strategic Cropping Land Bill and also a separate brief that details the consultation that was undertaken in its development. To further assist the committee today and in its consideration of this bill, I have with me a number of photos of strategic cropping land which, with your approval, I would like to table for committee members. There is one each for committee members.

CHAIR: Is the committee happy with that?

Mr Robson: The photos in that folder show examples of the various land uses on strategic cropping land and may help the committee visualise the issues that underlie the policy and the types of land uses that do occur. There are also a number of maps in the folder which relate to what we call the protection and management areas, which I will refer to later in my presentation, and I will draw you back to those when we get there. I would like to commence by giving some background on the importance of strategic cropping land resources and related industries to Queensland and also the importance of the resources sector. I will outline the issues and processes that led to the introduction of the bill before then finally proceeding to identify the key parts of the bill and the rationale for those.

In recent times Queensland's cropping land resources have been subject to increasing land use competition across some of the state's most important economic sectors: the agriculture and resources sectors and the urban development sectors. This competition is driven by increasing global demand for energy, food and fibre as well as Queensland's population growth. Development of the resources sector does generate significant economic benefits for Queensland. The mining, petroleum and gas industries continue to be major contributors to Queensland's prosperity. Queensland also benefits from the royalties to the state which are used to assist funding essential services and infrastructure throughout Queensland.

Cropping land resources and related industries are also key components of the Queensland economy. Availability of the land resource is critical in the land and agricultural sector and associated regional and rural communities to adapt and respond to shifts in markets and economic conditions. Queensland does have a longstanding intention and intent to protect cropping land. The State Planning Policy 1/92 (Development and the Conservation of Agricultural Land) Order, or SPP 1/92 as it is commonly referred to, provides protection for agricultural land through local government planning schemes where the land has been identified as good-quality agricultural land. This occurs through the Sustainable Planning Act. I will refer to this particular planning policy later. I will say initially that a 2009 review of SPP 1/92 identified that urban development and mining are continued threats to good-quality agricultural land. Urban threats including the physical encroachment of urban uses such as subdivisions and the community effects of urban influences in the form of rural lifestyle have continued. SPP 1/92 only applies to development assessed under the Sustainable Planning Act and so does not apply to the resources sector, exploration or production proposals or developments.

The development of the resources sector is primarily regulated through a number of pieces of legislation including the Mineral Resources Act 1989, the Petroleum and Gas (Production and Safety) Act 2004, the Petroleum Act 1923, the Greenhouse Gas Storage Act 2009, the Geothermal Energy Act 2010, the Geothermal Exploration Act 2004, the State Development and Public Works Organisation Act 1971 and the Environmental Protection Act 1994. These acts currently provide for requirements for carrying out environmental impact assessments, grant of tenure and the issuing of environmental authorities for resource related industries. They are separate from the Sustainable Planning Act.

I would like to now outline the reasons and processes that led to the introduction of this bill. As I have mentioned, strategic cropping land in Queensland has, particularly in recent times, been subject to an increasing range of competing land uses including resource developments like mining and coal seam gas projects and urban expansion. The pressure to use strategic cropping land areas for non-agricultural uses has escalated as the economics of the resources sector have changed and urban growth continues.

Public concern over land-use conflict has increased markedly in recent years, with the rapid expansion of exploration for resources, as I have mentioned, such as coal, coal seam gas and liquefied natural gas. The need to consider a new policy response has become evident also from recent statistics of resources activities across the state. By way of demonstration and using information available to the Department of Environment and Resource Management, I note that the area of Queensland covered by various forms of authorities to explore for resource sector developments including coal, mineral, gas and petroleum was some 59.6 million hectares of granted exploration tenures, or 34 per cent, in 2007. In 2011 there is now 73.3 million hectares of granted exploration tenures, or 43.3 per cent of the state. In addition to these granted exploration tenures, there is a further 50.6 million hectares subject to exploration applications. This equates in total to 123 million hectares, or 70 per cent of the state, which currently either have a granted exploration tenure or application for granted tenure for exploration.

In February 2010 the Department of Local Government and Planning released a discussion paper in relation to protecting the most valuable cropping land resources for the future. This discussion paper identified that the government's overarching policy response to the increasing pressures on the state's cropping land resources was that the best cropping land, defined as strategic cropping land, is a finite resource that must be conserved and managed for the longer term. As a general aim, planning and approval powers should be used to protect such land from those developments that lead to its permanent alienation or diminished productivity. That was the government's policy statement in that paper released in February 2010. This policy intended to protect the best cropping land resources in the state so that they are able to be used for cropping and support a robust agricultural sector into the future.

Community information sessions on the discussion paper were held in a number of centres in Queensland including Dalby, Roma, Emerald, Bundaberg, Mackay, Rockhampton, Townsville, Cairns, Toowoomba, Ipswich and Nambour. Submissions on the discussion paper closed in March 2010 and some 389 submissions were received by the Department of Local Government and Planning. A consultation

report analysing the results of the public submissions received was produced and published in July 2010 on the Department of Local Government and Planning's website. I would like to table the discussion paper and the consultation report for committee members.

Mr Burton: There are a number of materials that will be tabled during his opening statement.

CHAIR: Are committee members happy with that? Yes.

Mr Robson: In February 2010, the government established a Stakeholder Advisory Committee to help further develop the policy. The committee included representatives from AgForce; the Queensland Farmers Federation; FutureFood Qld; the Local Government Association of Queensland; the Queensland Resources Council; the Australian Petroleum Production and Exploration Association; the Queensland Regional NRM Groups Collective, which was represented by the Fitzroy Basin Association and the Queensland Murray-Darling Committee; the Urban Development Institute of Australia; the Planning Institute; and the SEQ Council of Mayors. The Stakeholder Advisory Committee has been extensively consulted in the development of the policy framework and has provided advice on the policy development as we have moved forward leading to the preparation of this bill. The committee has met on 12 occasions between February 2010 and September 2011.

Following consideration of the submissions on the February 2010 discussion paper, on 23 August 2010, the government, through the Department of Environment and Resource Management, released a policy framework document titled *Protecting Queensland's strategic cropping land: A policy framework*. I would like to table a copy of that document, which is in that same folder. This document restated the government's overarching policy, which I have mentioned before, and outlined the proposed approach to protecting the state's best cropping land resources. The policy framework included the intention to introduce a specific act of parliament and a new state planning policy under the Sustainable Planning Act and to incorporate strategic cropping land considerations for resource sector development proposals.

Public comment and feedback on the August 2010 policy framework document was sought, and the Department of Environment and Resource Management officers discussed the policy framework document at nine community forums held around south-west Queensland in particular. Submissions on the policy framework closed on 30 September 2010 and some 143 submissions were received. There was general support for the policy framework from the rural agricultural industry representatives and stakeholders.

On 14 April 2011, the proposed criteria to be used for identifying and protecting strategic cropping land in Queensland were released, along with a technical assessment report and an independent expert review report. The proposed criteria were to be used in the drafting of this bill. I would like to table the proposed criteria document and the two reports for committee members.

The strategic cropping land criteria were developed and refined by Queensland government's soil scientists, including regional soils and agronomy staff from the Department of Environment and Resource Management and the Department of Employment, Economic Development and Innovation, and independent soil science consultants from Land Resource and Assessment Management Pty Ltd who have extensive soil science experience.

A rigorous process was undertaken to develop the criteria including extensive consultation with public and stakeholders through an open and transparent process. Public feedback was received on how the strategic cropping land should be identified and the criteria through both the February 2010 discussion paper and the August 2010 policy framework.

Following the release in April this year of the technical assessment report and the independent expert review report, further public feedback was received on the criteria. Consultation with stakeholders was undertaken through both the Stakeholder Advisory Committee and meetings with individual stakeholders including the Australian Society of Soil Science, the Queensland Farmers Federation, FutureFood Qld, the Queensland Resources Council and the Fitzroy Basin Association.

In April and May 2011, several meetings were held between the department's technical experts and the Queensland Resources Council's technical experts on the criteria. The Queensland Resources Council provided the department with a draft review report which they subsequently released in amended form on the strategic cropping land criteria, and the department did provide feedback to the Queensland Resources Council on their draft review report.

A further document for public comment was released on 31 May 2011, the Regulatory Assessment Statement. The purpose of the Regulatory Assessment Statement was to evaluate the cost recovery options for implementing the policy in terms of the impacts on business, communities and the government and to identify the most efficient and fair way to recover the costs. Submissions on the Regulatory Assessment Statement closed on 1 August 2011 and the department received 29 submissions. The submissions are currently being analysed and will inform the final fees and charges to apply which will be legislated through a regulation upon and when this bill passes. This regulation will commence at the proposed time of commencement of the act, which is 30 January 2012, as provided for in the bill, assuming of course it passes the House. I would like to table the Regulatory Assessment Statement for committee members.

Finally, a draft State Planning Policy was released for public comment on 5 August 2011. The draft State Planning Policy was released to seek public feedback on the Queensland government's planning policy and development assessment framework for protecting strategic cropping land under the

Sustainable Planning Act. The new State Planning Policy will operate in tandem with State Planning Policy 1/92, which I mentioned before. State Planning Policy 1/92 applies to a broader range of agricultural lands. Submissions on the State Planning Policy closed on 30 September 2011 and 67 submissions were received by the department. The draft State Planning Policy is being reviewed on the basis of feedback received during the consultation period. It is intended that the State Planning Policy will be finalised and will commence at the same time as the legislation. I would like to table the draft State Planning Policy for committee members.

I would also highlight that, in addition to the public consultation documents and papers, a number of key announcements were made this year during the development of the strategic cropping land policy. These were: on 31 May 2011 this year, the government announced the implementation of the policy through protection and management areas and its intention to include transitional arrangements for resource development projects, to have effect from 31 May 2011, in the new legislation and mitigation policy.

On 24 August 2011, the government announced that a Science and Technical Implementation Committee will be formed to provide independent scrutiny of the soil science central to the new legislation. On 8 September 2011, guidelines for applying the proposed criteria for identifying strategic cropping land and an online mapping tool were released. I would like to table the guidelines for committee members. On 27 September 2011, the government announced that the new legislation would be introduced into parliament in late October—the bill that is now before the committee. Further information was also released on the mitigation arrangements that will apply to development assessment.

The department has kept stakeholders and the public informed as it has progressed the strategic cropping land policy, in addition, through an e-alert subscription service, with 265 people registered for updates on the strategic cropping land policy, and an online mapping function to generate property level maps of strategic cropping land. Members may like to refer to map 1 in the folder that I provided to you at the start. Map 1 is an example of a map that will be produced from the online mapping tool. We have integration with other Queensland government mapping services to make GIS mapping available publicly, including through DEEDI's interactive resource and tenure mapping services. We have fact sheets about transitional arrangements, protection and management areas and mitigation. We have frequently asked questions available online, and we have guidelines to help understand both the criteria and assessing strategic cropping land on ground.

I would now like to talk about the key provisions in the bill. The bill seeks to provide a legislative framework that recognises the state's strategic cropping land as a finite resource, as I have mentioned, that needs to be protected from the impacts of development and preserved for future generations. Accordingly, the bill's purposes are to (1) protect land that is highly suitable for cropping; (2) manage the impacts of developments on that land; and (3) preserve the productive capacity of the land for future generations. As Queensland grows, this bill is designed to strike a balance between the competing land uses that I have mentioned such that there is no overall loss of agricultural productivity associated with the state's strategic cropping land resources in the long term.

The bill's provisions were developed specifically to link with existing legislation, including the Sustainable Planning Act and resource tenure legislation, to assess proposed development activities that could impact on strategic cropping land resources. These activities, as I have mentioned, include coal and mineral mining, coal seam gas, underground coal, urbanisation and permanent plantations in the context of carbon farming. The bill provides a consistent process for assessing and deciding whether developments are able to proceed on strategic cropping land and provides clarity and certainty for investment decisions by the agriculture, resources and urban development sectors.

As I have mentioned, the policy framework outlining the proposed approach to protecting the state's best cropping land resources was released in August 2010. As a result of the ongoing consultation since then, a number of—and four in particular—key important changes were made to that policy document of August 2010. In particular, these four are: firstly, the policy now defines protection areas and management areas, as shown in the maps—which are maps 2, 3 and 4 in the folder that I provided to you at the start of the presentation. The two protection areas apply to a total of 4.8 million hectares, which is 2.8 per cent of the state. Of this area, 1.8 million hectares is identified on the trigger map for strategic cropping land—which is map 5—as areas where strategic cropping land may exist.

The two protection areas were identified as the Southern Protection Area, which includes the Darling Downs, the Lockyer Valley, the Granite Belt and the South Burnett—map 4; and the Central Protection Area, which includes the 'golden triangle' region of Central Queensland near Emerald—map 3 in your folder. These areas were chosen as protection areas as they are areas of the state that are under intense and imminent development pressure and contain large aggregations of the state's best cropping land. The boundaries of the protection areas are based on defining large contiguous areas of valuable cropping land. Where possible, the boundaries have been aligned to features such as rivers, state forests, local government boundaries and property boundaries.

The management area, not the protection areas, covers some 37.2 million hectares, which is about 22.5 per cent of the state. Of this area, 5.7 million hectares is identified on the trigger map.

Confirmed—and I will explain that term later—strategic cropping land in protection areas will not be able to be permanently impacted by development except in limited exceptional circumstances. If the proposed development is determined to be an exceptional circumstance—which I will talk about later—

development proponents will still be required to make all efforts to avoid and minimise any temporary or permanent impacts on strategic cropping land and mitigate any permanent impacts. I will discuss mitigation later.

Land in the management area will need to meet the criteria and demonstrate a history of cropping, to be confirmed as strategic cropping land. So I am highlighting that, in addition to meeting the criteria to be identified as strategic cropping land as per the April 2011 draft proposed criteria, land in a management area must also meet a cropping history test, which I will refer to later. Proposed developments will be required to avoid and minimise, to the maximum extent possible, any temporary or permanent impacts on strategic cropping land in management areas. Where this is not possible, development proponents will be required to mitigate any permanent impacts.

Secondly, the policy now provides details of the criteria for land to be assessed as strategic cropping land, as I have indicated in terms of the document released in April 2011. The strategic cropping land criteria were developed to reliably and consistently identify Queensland's best cropping land, which is suitable for a range of crops in most seasons. They define the specific soil and landscape features within each zone—being the western cropping zone, the eastern Darling Downs zone, the coastal Queensland zone, the Wet Tropics zone and the Granite Belt zone. A copy of that is in your folder. In the management area, land will also need to be assessed, as I mentioned, for a history of cropping, as well as meeting the strategic cropping land criteria.

The trigger maps indicate where strategic cropping land is expected to exist. However, it is the on-ground assessment against the criteria that will define strategic cropping land at a site level. The criteria are designed for an on-ground property level assessment to confirm whether a particular site is or is not strategic cropping land.

Thirdly, the new legislation will provide transitional arrangements for undecided resource development projects that meet certain milestones in their assessment process. Since the release of the August 2010 framework, feedback from stakeholders indicated that transitional arrangements for some undecided resource projects were needed to provide business certainty and confidence. It can take many years to complete all relevant assessment requirements for major development projects or proposals and receive all final approvals for resource development projects. This process involves significant investment on the part of the proponents.

These transitional arrangements recognise the investment made by the proponents in investigating, assessing and undertaking studies for proposed new resource development projects that are well advanced in the assessment and approval process. The transitional arrangements also continue to meet the government's commitment to protecting strategic cropping land. It is also proposed that projects eligible for transitional arrangements will be able to proceed on strategic cropping land provided that impacts on the strategic cropping are avoided, minimised and mitigated and all other legislative requirements necessary for the development are met.

The bill provides that projects eligible for transitional arrangements which have already obtained their final environmental approvals or conditions by 31 May 2011 will not be required to meet any further conditions under the strategic cropping land legislation. Resource development projects that are not eligible for transitional arrangements will be subject to the full effects of the strategic cropping land legislation.

Of the four significant changes since the August 2010 framework, fourthly, the new legislation will provide more mitigation arrangements for development projects that result in permanent impacts on strategic cropping land. A project that has a permanent impact on strategic cropping land will be required to mitigate that impact to address the loss of productive cropping value.

Development proponents will be able to make a financial contribution to the mitigation fund and/or negotiate mitigation measures through a deed of agreement whereby proponents will be assessed against a number of requirements including a mitigation criteria. To satisfy the mitigation criteria, any mitigation measures must do a number of things. They must aim to increase the productivity of cropping in the state. They must provide a public rather than a private benefit. They must aim to provide an enduring effect. They must be quantifiable and be able to be independently valued. They must provide benefits to the largest possible number of cropping agribusinesses and, if a cropping activity or cropping system that existed for identified permanently impacted land to which the measures relate, they must provide a benefit to that type of activity or system in the relevant area.

These mitigation arrangements will be administered by DEEDI, and the mitigation fund moneys will be allocated to projects and activities that meet the mitigation criteria. DEEDI will seek advice from a community advisory group before making a decision on expenditure from the fund or approval of mitigation measures as provided for in the bill.

I would like to talk briefly about some specific measures in the bill. The Strategic Cropping Land Bill introduces provisions, as I have mentioned, to identify what is strategic cropping land. I would like to talk more about the maps that are to be used by landholders and developers to identify the zones and protection and management areas and land where strategic cropping land is expected to exist. Chapter 2 of the bill provides for identifying strategic cropping land. It establishes maps for the strategic cropping land zones, protection areas and management areas, trigger maps of potential strategic cropping land, the criteria and a process for deciding what land is strategic cropping land. In the folder I provided to you are all those maps. In particular, I would note the trigger maps.

The provisions in this chapter set out the validation process to determine whether potential strategic cropping land identified on the trigger map is in fact strategic cropping land or not. Validation applications can be submitted by the landowner, a tenure holder, a tenure applicant or someone who has written permission of the landowner. When determining whether land is strategic cropping land, the chief executive must be satisfied that the land or parts of the land demonstrate all eight of the zonal criteria specifying that it is strategic cropping land.

Strategic cropping land validation process provided for in the bill provides that where a proponent wants to confirm the land as being either strategic cropping land or not, the land must be analysed through an on-ground assessment against eight scientific soil criteria and where the project is not a management area also to demonstrate whether the land has a defined history of cropping.

The cropping history test for the management area requires that the property has had land within it cultivated at least three times between 1 January 1999 and 31 December 2010 or that perennial crops were established on the property or timber plantations existed on the property for a total collective period of three years within that time frame.

While the chief executive's validation decision will apply to the land identified in the application, invariably a development area or a tenure area or a landowner's property, the cropping history test is determined on a property basis. The bill establishes a process for notifying owners, a public notification process, and for submissions to be made to the chief executive about the validation application. The process includes the following requirements: the applicant must personally notify all of the owners that the validation application has been submitted and provide them with a copy of the application.

The applicant must publish a notice in a newspaper circulating in their local government area. The notice must state the period to lodge submissions on the application which cannot be less than 21 days. The details of the application will be kept on the department's website free of charge. If, however, a person wants a complete copy of the application it will be able to be purchased for a fee to be set by regulation, and the chief executive can accept submissions about the validation application.

After public submissions have been completed, the chief executive can make a decision on the application. Decisions are to be recorded in a decision register established which must be made available for inspection. The provision for this is in clause 241 of the bill. The applicant and people with an interest in the land do have a right of appeal to the Planning and Environment Court on the chief executive's decision.

I would like now to detail the provisions that provide clarity on the assessment of development impacts on land. This is in the sense of assessment on land that has been identified as being strategic cropping land. Chapter 3 of the bill details the development and assessment requirements for, one, development approvals under the state under the Sustainable Planning Act 2009 for development assessment requirements for environmental authorities under the Environmental Protection Act 1994 and for resource authorities under the various resources acts that I have mentioned previously. The development must reasonably avoid and minimise the impacts to the strategic cropping land to the greatest extent practical. The development may be a condition for any temporary impacts to restore the land to its predevelopment condition. Conditions may also be imposed to manage, restrict or prohibit any impacts from the development.

The bill mandates the making of a state planning policy for strategic cropping land under the Sustainable Planning Act and provides for the policy to include codes under the Integrated Development Assessment System for the assessment of development proposals located on strategic cropping land consistent with the act's purpose.

The new state planning policy is being designed to ensure that development assessable under the Sustainable Planning Act, local government planning schemes and regional plans include appropriate considering of strategic cropping land. The state planning policy will not apply to areas already designated for urban development under existing regional plans or existing local government planning schemes. However, strategic cropping land will need to be considered when those existing plans and schemes are re-made or amended or when new plans or schemes are developed.

The draft state planning policy outlined that some development would be exempt and would not require assessment. This includes developments that support food production such as feedlots, cropping and infrastructure required to support cropping such as silos, packing sheds and agricultural storage facilities. Larger scale developments under the draft state planning policy will be assessed using the final state planning policy. We have received numbers of submissions, as I have indicated, on the draft state planning policy and many of them go to the point of what will and what will not require assessment. We are considering those submissions at this point in time and they will be concluded by the time the bill is finalised.

Chapter 10 provides for the amendments of the Sustainable Planning Regulation 2009 to establish concurrent agency roles in relation to strategic cropping land and to establish triggers for referral of applications for assessment. Under this bill, the applicant can make themselves aware of potential or confirmed strategic cropping land over their area of interest. They can access mapping online and check the decision register to do this. They can then choose whether to proceed with an application for a resource authority or a development authority over that area in the knowledge of whether the land is or is not strategic cropping land and in the knowledge of whether the land may or may not have a cropping history test and to the extent to which they believe the development will or will not be able to avoid or

minimise its impact on strategic cropping land. If they choose to make an application over an area of strategic cropping land, then an application and decision under the provisions of this bill will also be required before an environmental authority or a resource authority or a development authority can be granted.

Proponents can choose to avoid having an application over any area of potential strategic cropping land or strategic cropping land or choose to have the impacts of their developed project assessed and for conditions relating to the strategic cropping land attached to their eventual authority or approval. These conditions may affect the way the project is undertaken or may prevent certain actions from impacting on strategic cropping land. There are penalties for carrying out development on strategic cropping land or potential strategic cropping land without getting the appropriate approvals. The bill also provides appeal provisions to the Planning and Environment Court for decisions made on development assessment applications.

I now move on to discuss exceptional circumstances. During the development of the bill based on consultation feedback the bill now contains specific provisions regarding exceptional circumstances—that is, where a project is likely to have permanent impacts on strategic cropping land in a protection area. The project cannot proceed unless it demonstrates exceptional circumstances if it is in a protection area and is on strategic cropping land.

Chapter 4 allows for categories of development to be prescribed as an exceptional circumstance by regulation. This prescription for exceptional circumstance by regulation requires public consultation before a regulation can be made. Major renewable energy projects will be the first prescribed category of exceptional circumstances as set out in clause 285 of the bill. Chapter 4 also provides for individual developments to apply for exceptional circumstances. Any person who can apply for a development approval or resource authority can apply for exceptional circumstances. The bill allows for a decision on exceptional circumstances to be sought upfront if the applicant wishes to do so before they lodge their development application.

I would like to now outline to the committee briefly the mitigation provisions contained in the bill. Development that will have a permanent impact on strategic cropping land is required to address the consequent loss of the productive cropping value of the land by providing mitigation. The mitigation arrangement is designed to ensure no loss of agricultural productive value in the longer term. Chapter 5 of the bill establishes the framework for mitigation requirements where strategic cropping land or potential strategic cropping land is permanently impacted. It is an offence under the bill to carry out development prior to fulfilling the requirement to mitigate. A development approval or resource authority holder may mitigate either by, as I mentioned before, a payment to the strategic cropping land mitigation fund established under the bill or by entering into a mitigation deed with the chief executive of DEEDI. In either case, the mitigation must reflect the lost productive capacity of the identified permanently impacted land and that value is determined by multiplying each hectare of land permanently impacted by a rate that will be prescribed by regulation. The bill sets out the requirements where a development approval or resource authority holder chooses to enter a deed of agreement to meet their mitigation requirement. The deed must provide for mitigation measures and activities to address the loss of the productive capacity of identified permanently impacted land and they must meet the mitigation criteria as listed in section 135 of the bill, which I outlined previously.

The bill also includes provisions in relation to compliance of the legislation and enforcement provisions. Powers are provided for authorised officers in relation to access, compliance, notices and seizure. In particular, the powers enable access to land where consent of the occupier cannot be obtained to allow for necessary functions including investigations of offences, assistance with application assessments and the issuing of notices to prevent offences being continued and to restore impacts from offences.

Chapter 6 of the bill establishes the power for an authorised person to issue a stop-work or restoration notice if necessary. The bill provides for an authorised person to give a person a stop-work notice if the authorised person reasonably believes that the person has committed, is committing or is involved in an activity that is likely to result in the commission of an offence of damaging or impacting upon strategic cropping land. The stop-work notice requires the recipient to stop committing the offence or avoid the likely commissioning of the offence. An authorised person may also give a person a restoration notice to rehabilitate impacts on the land where the authorised person reasonably believes that the person has committed or is committing or is involved in an activity that is likely to result in the commission of a strategic cropping land offence. The notice may state specific actions that must be undertaken to restore the land and to provide for a time or interval when the authorised person will return to monitor compliance with the notice. Enforcement notices transfer with the development approval or the tenure for the project and can be enforced against both the original holder and their successors jointly and separately.

As I have discussed earlier, the bill contains provisions that deal with transitional issues—projects that are well advanced in their development planning and assessment processes. Transitional arrangements are provided for resource projects that have met certain milestones in the assessment and approval processes. Chapter 9 of the bill provides transitional arrangements for resource development projects that had not received their final approvals prior to the commencement of the act. Projects that had achieved identified assessment and approval milestones on or before the identified dates will not be subject to the act or be captured but not subjected to the full strategic cropping land framework and in

particular in protection areas. Projects that have not achieved the milestones will be subject to the full framework established under the act. To give some particular details of those, mining and petroleum lease applications that had received their draft environmental authority under the Environmental Protection Act or had completed the environmental impact statement stage of their application on or before 31 May 2011 are excluded from the application of the strategic cropping land legislation. These developments will be assessed under the Environmental Protection Act 1994 and the relevant resource acts as if the strategic cropping land legislation had not commenced.

Mining and petroleum lease projects that will have a permanent impact on strategic cropping land or potential strategic cropping land may be able to proceed without demonstrating exceptional circumstances where, on or before 31 May 2011, the application for the project had been made, the project had finalised the EIS terms of reference and either a certificate of application was issued for the mining lease application or the petroleum lease application complied with the relevant requirements of the Petroleum Act 1923 or the Petroleum and Gas (Production and Safety) Act. Petroleum lease applications that were not submitted on or before 31 May 2011 may still achieve the milestones for transitional arrangements where a current authority to prospect is in existence and the project has finalised EIS terms of reference for an area which includes the area of the authority to prospect. While these projects will be able to proceed even where they have a permanent impact on land, a strategic cropping land assessment under the act will still be required and strategic cropping land conditions may be imposed. Projects will be required to mitigate any permanent impacts in accordance with chapter 5 of the bill.

The transitional arrangements will also enable some mining lease expansion projects to proceed in a protection area provided there was an exploration permit or a mineral development licence in place on or before 23 August 2010 and the lease application for the expansion project is submitted on or before 23 August 2012. The mining lease area and the areas of the relevant exploration permit or mineral development licence must be contiguous and held by the same person or company at both of the milestone dates.

Whenever a line is drawn in the sand and new regulations introduced there will always be difficult circumstances that have to be assessed on a case-by-case basis. The government allowed Bandanna Energy to progress with its Springsure Creek project as its terms of reference had been assessed by the Department of Environment and Resource Management and were about to be advertised when the transitional arrangements were announced on 31 May 2011. Strict requirements are imposed on this project to minimise the potential impacts it may have. That includes that the project must proceed as an underground coal project and that Bandanna Energy must use all reasonable endeavours, including contouring and laser levelling if necessary, to rehabilitate the effects of any impacts of the underground coal project on strategic cropping land.

I would like to talk briefly about the Science and Technical Implementation Committee, which is provided for in the bill. As a result of consultation, the bill provides for the establishment of a Science and Technical Implementation Committee. The bill provides that the primary functions of the committee are to give the minister responsible for the Strategic Cropping Land Bill independent scientific and technical advice about the administration of the proposed strategic cropping land act relating to soil and land resources, to give the minister independent scientific and technical advice about other matters decided by the minister and to give the minister a report if the minister asks about the administration of the act relating to land and soil resources. The major functions of the committee as outlined in the approved terms of reference and public interest case for this committee are to give the minister, as I have said, independent technical advice, report on technical matters and provide periodic independent and scientific and technical advice on implementation of the policy. The committee will consist of four members appointed by the minister. The committee members can be appointed only if the minister is satisfied that the person has expertise and experience in soil attributes and processes. As has been announced by the government, it is intended that the four members of the committee will be nominated as follows: two representatives nominated by the Australian Society of Soil Science Inc., one representative nominated by the Queensland Resources Council and one representative nominated by the Queensland Farmers' Federation.

The bill also provides for a review of the act's operation. The provisions state that the minister must commence a review of the act's operation after 30 January 2014 but before 30 January 2016, which is two years after its proposed commencement in 30 January 2014. The review will also include a review of the role, functions and requirements of the Science and Technical Implementation Committee.

Thank you for your forbearance. In summary, the bill is the result of extensive consultation since early 2010 involving organisations and the public—organisations such as the Queensland Farmers' Federation, the Queensland Resources Council, AgForce, Future Food Queensland, the Local Government Association of Queensland, the Planning Institute of Australia, the Urban Development Institute of Australia, the Queensland NRM Groups Collective and the SEQ council of mayors. The stakeholder advisory committee will continue to be consulted and act as an advisory body to provide advice on implementation issues and contribute to the two-year review of the new legislation. Extensive consultation and consideration of submissions has been undertaken on a number of discussion and policy papers, as I have outlined. Whilst the bill has been drafted and is currently before this committee for consideration, the department will continue to ask for input from external stakeholders on the implementation of the policy and the necessary planning for that.

The bill provides for the Science and Technical Implementation Committee to advise on the scientific and technical rigour of the soil science assessments that will be carried out to determine if the strategic cropping land exists or not. In addition, the new strategic cropping land state planning policy under the Sustainable Planning Act 2009 is now being finalised having regard to the submissions received. This new state planning policy will also come into effect at the same time as the strategic cropping land legislation—that is, 30 January 2012 as provided for in the bill—subject to its passage through parliament. A guideline is also being developed to help local government understand and implement the state planning policy once it comes into effect.

The impacts of resource exploration, resource development activities, including mining, gas and petroleum developments, are regulated under resources legislation. Under this bill, regulation of resources activities and development activities is carried out using processes that complement and align with existing approval processes as those under the Environmental Protection Act, the various resources acts and the Sustainable Planning Act. This alignment will also support the streamlining amendments proposed under the green tape reduction project and the Department of Employment, Economic Development and Innovation's streamlining initiatives for the resource development sector.

The bill ensures that agricultural land maintains its most precious and scarce resource: its strategic cropping land. To do so, it places a high standard of protection on this resource in relation to competing land uses—protection not currently achieved under any legislative arrangements.

In closing, I would like to table with the committee for their further consideration a complete set of all of the documents made publicly available throughout the development of this bill. This folder contains all of the relevant documents released for consultation, fact sheets, information on policy development processes and information through the department's website. I thank you for providing me with the opportunity to brief you on the Strategic Cropping Land Bill.

CHAIR: Thank you very much, Chris, for that very detailed summary. I also thank you for all of the documents that you have tabled. I know that the committee will find the maps and images very useful. You will understand that there is a lot of interest in this bill. We have had quite a number of submissions. I know that a lot of them are concerned about the time frame of the bill, but I do notice in your submission that you have been working on this for quite a considerable length of time. Nine community forums is quite a lot of community forums. We have not experienced that, although we have only had a couple of bills referred to this committee so far.

We will now go to committee members for questions. If you pass a question on to any other member of your team, could you please ask them to state their name for the sake of Hansard. If you are using acronyms, I remind you that not everybody may be familiar with the term so could you also be mindful of that. I will now hand over to the member for Hinchinbrook, who has a question for you.

Mr CRIPPS: Mr Robson, can I start with discussing some of the issues that arise from the objectives of the bill as they are outlined in the explanatory notes. You are quite right in stating that in recent times Queensland's strategic cropping land has been subject to an increasing range of competing land uses. The explanatory notes identify mining and resource projects and urban expansion in particular as the causes of most of that competition between strategic cropping land and other uses. The objects are particularly to try and avoid that confrontation between mining and resource projects and urban expansion encroaching on strategic cropping land. The explanatory notes also point out—

The Bill will apply to resource developments, including mining—

and also—

to statutory regional plans, local government planning schemes and development applications, outside areas identified for urban purposes, made assessable by Local Governments under the Sustainable Planning Act 2009.

Development applications may come before a planning authority, such as a local council, for a number of reasons outside of a DA for urban development or for mining or resource projects. One of the concerns that has come forward from a few areas is where a DA comes forward for a matter relating to an agricultural industry, for example. The hypothetical reason that has been put in front of me is when a farmer wishes to subdivide his rural land from one lot into two to allow better production outcomes and overall farm management. The application is able to meet the requirements of the local council's planning scheme; it meets the minimum area and frontage provisions of that planning scheme and they are able to be achieved under the details of the DA; and land uses remain unchanged, and therefore the fragmentation issues are not an issue in relation to that particular DA. Yet, if it is a DA going to that planning authority and the area that the DA covers is mapped potentially as strategic cropping land, that applicant could still face the significant costs associated with having that land mapped as SCL or going through that process. There is no change in the land use, it does not threaten potential strategic cropping land in any way, shape or form, and it meets all of the local government's planning schemes. Will that trigger an assessment for strategic cropping land, and will that applicant face those significant costs?

Mr Robson: Can I first comment on it and then I will invite Mr Burton to add to that. The question I think as you expressed it is in regard to a reconfiguration of a lot type of application?

Mr CRIPPS: It could relate to a subdivision of a lot if it meets the local government planning scheme in areas where minimum sizes and other issues are addressed. But it also could relate to the realignment of two property boundaries, I suppose, where no more titles are created—that is, the boundaries of two existing titles are simply reconfigured. So there is no change of use in the land, they are still used for

agricultural purposes, there is no impact, there is no threat from a mining or resource industry project, there is no urban encroachment. It is a simple DA relating to a reconfiguration of a lot or a subdivision of a lot. Why would that trigger an SCL application?

CHAIR: I think they have got it.

Mr Robson: I will ask Mr Burton to respond, but I would note that he will particularly point to clause 290 of the bill which goes into some of the aspects about what we can say in the bill about these SPA related development applications and what the triggers are for that.

Mr Burton: As Chris indicated, I draw your attention to clause 290 on page 164 of the bill. That sets out amendments to the sustainable planning regulation. Those amendments create new triggers for assessment of applications with the department as a concurrence agent for development that is assessed by local government in the circumstances of material change of use and reconfiguration of a lot. The trigger for reconfiguring a lot is limited to those circumstances where the reconfiguration includes a lot that is smaller than 15 hectares and where that lot intersects with strategic cropping land. So for subdivisions in rural areas where the subdivided lots are larger than 15 hectares or do not intersect with strategic cropping land, they will not be triggered, there will be no fees and there will be no consideration of strategic cropping land.

Mr CRIPPS: The other scenario in which a DA may come before, say, a local government authority is where the proposed activity is to do something associated with the farm practices, such as laser levelling of a block or the development of drainage infrastructure to improve the productive capacity of the land in that area. Those types of applications coming before a planning authority also in many cases are associated with the submission of a DA. So if it is not for the reconfiguring of a lot or the subdivision of a lot, if it is a practice requiring the submission of a DA to a planning authority that is associated with an agricultural activity or enhancing the productivity of a block, will that trigger a mapping exercise for the purposes of strategic cropping land and attract a fee for the applicant?

Mr Burton: The triggers for assessment of impacts on strategic cropping land, as I mentioned, are for reconfiguration of a lot and material change of use, so there are no operational works triggers created. So those operations would need to be triggered for assessment by the local government in the first instance. There is an exception built into the triggers for material change of use if it was the case that a council wanted to assess agricultural purposes as a change of use, and that would be extremely uncommon, I think.

The exceptions are in clause 291, which is the creation of a new schedule 13A and the sustainable planning regulation. They include a range of activities that are related to agricultural purposes which except those activities from the trigger. So agricultural purposes will not be triggered for material change of use in the very rare circumstance that a council might be triggering that, though I am not aware of circumstances where that occurs.

CHAIR: Does that answer your question?

Mr CRIPPS: Yes.

CHAIR: I will pass on to the member for Bulimba, who has a question and then a possible follow-up.

Ms FARMER: Probably one of the more contentious issues in the bill relates to clause 280, which gives approval for Bandanna Energy to proceed with their project, and I note your reference to that project in your presentation, Chris. I am interested in the difference between 31 May, or the date by which projects had to have had their terms of reference published to meet transitional status, and 2 June, when Bandanna Energy's terms of reference were published. What steps in their approval process had not been met by 31 May?

Mr Robson: As I indicated, the assessment in terms of finalising the EIS terms of reference for the Bandanna Energy projects, in particular for their Springsure Creek project, was administratively effectively completed by 31 May. But part of the process of finalising EIS terms of reference administratively is to publish them, and that was the step that had not yet been done. They are required to be published and then that is deemed as the finalised terms of reference. So it was a matter of days between having said they were going to publish it and actually publishing it. The department had done its administrative task, had looked at those terms of reference, had had them advertised before for comment in draft terms and had received submissions on them. The department had virtually concluded its business and was simply in the process of moving into that publishing point of the final terms of reference. So it was a matter of two days.

That is when, on consideration, it was accepted that they would fall in the transitional arrangements, but we had to make special provisions because they were clearly outside the clear intent. So they are now obliged (a) to be an underground mine and (b) to take all appropriate necessary steps to the maximum extent possible to rehabilitate any adverse effects they may cause on the strategic cropping land. It is a specific obligation on that proposed development prior to any assessment being done on it should it actually proceed. This is still at the phase of being an exploration investigation. We are yet to formally receive any application in terms of a development proposal so it is actually an obligation they know they have to meet upfront. That is why in that respect it is special. They are already obligated to what they can and cannot do before they even submit an application.

Ms FARMER: So that is why there are transitional arrangements in that?

Mr Robson: There are specific transitional arrangements for that project.

Ms FARMER: Thank you.

Mr DEMPSEY: Before moving on to other questions, I have a supplementary to the member for Bulimba's question. If there were only two days in which the publication was needed and there was an administrative hiccup or delay—well, how would you describe it?

Mr Robson: I will be very clear. Whilst we are in one agency, the part of the agency that deals with impact assessment processes is quite distinct from the part of the agency of mine. We have no relationship with them, and clearly the processes they are undertaking are the processes they normally undertake. It was only brought to our attention that this was an issue very close to time. They were just doing their normal business.

Mr DEMPSEY: Which department looks after that?

Mr Robson: This is still DERM.

Mr DEMPSEY: It is still DERM?

Mr Robson: In this particular case, it was the impact assessment terms of reference set up under the Environmental Protection Act.

Mr DEMPSEY: So it was part of DERM that had not put the ad in the paper?

Mr Robson: As they normally do. If I can be clear, there was no delay; they were doing their normal processes.

Mr DEMPSEY: Considering they were normal processes, then, how long had DERM had this application for?

Mr Robson: That is a bit of detail that I do not know, simply because I do not administer that. My understanding is that they would have had that application for approximately a month, but that is application to finalise the terms of reference. There were previous steps wherein the draft terms of reference were publicly advertised and submissions sought on that. Then the applicant, in that case Bandanna Energy, submitted amended terms of reference for the department's final consideration so there were steps happening all the way back. It was not just in the last month.

Mr DEMPSEY: So how long before that date would this particular company have put an application in to the government? Would it have been a matter of months or years?

Mr Robson: I am sorry. I do not know the answer to that. I can find out for you if that helps you in terms of dates. It would have been a matter of many months.

CHAIR: Are you happy to take that question on notice?

Mr Robson: I am happy to take it on notice.

CHAIR: Are you happy for that, member for Bundaberg? We will get the detail back.

Mr DEMPSEY: Yes. In your opening statement you gave an explanation of tenure, and there was a reference to nearly 70 per cent of the state being under exploration tenure as such.

Mr Robson: I will just repeat what I said. Basically 70 per cent of the state is either under an exploration tenure or under an application for exploration tenure.

Mr DEMPSEY: My question then is what percentage of the identified strategic cropping land that we have in these many maps here is actually under mining lease?

CHAIR: Would you like to take that on notice?

Mr Robson: We will certainly take it on notice and give you a response on that, but that will be information at a point in time, because you will appreciate that the exploration applications and granted applications keep changing.

CHAIR: Do you have a further question?

Mr DEMPSEY: I am happy for you to take it on notice. But if we have a percentage for the exploration applications for the year for the whole of the state—

CHAIR: I think in all fairness Mr Robson is going to take that on notice.

Mr DEMPSEY: Would it be a large percentage? That is what I trying to come to terms with today.

Mr Robson: I will take it on notice. I do not want to say something that may prove to be wrong.

CHAIR: Thank you very much. The member for Bulimba has a further question.

Ms FARMER: I just want to follow up on the line of questioning from the member for Hinchinbrook in relation to non-cropping or farming infrastructure—for instance, if a farmer wants to diversify and run a bed and breakfast on their property.

Mr Robson: I will get Mr Burton to talk a bit more about this, but I will just clarify a few things as per the sections in the bill which provide for the exemptions or the development applications that will be exempt from the SCL requirements—which we did outline also in the draft State Planning Policy. As I said, we have received a number of submissions on that particular issue, so the government is yet to finalise its consideration of the State Planning Policy. But we are giving further thought to what might be, if necessary, other exemptions or considerations in terms of small footprint developments that could be allowed, or could be allowed with conditions, in addition to what is shown in the draft SPP at this point. We are clearly aware of those concerns in the submissions made and in the media, and we are giving some further consideration to that.

Mr Burton: I draw your attention to what is item 27 in the table under clause 290, which sets out the material change of use triggers for assessment by the department. Those triggers are further limited—and I talked about the limitations in schedule 13A—in item 27(b) by only triggering developments that exceed a footprint area of infrastructure and hard surfaces of greater than 750 square metres, which is larger than a suburban house block. So any development at all that has a footprint smaller than that will not be triggered.

Mr CRIPPS: I am glad you mentioned that, Mr Burton, because that was going to be the thrust of my next question. Hopefully the department is giving strong consideration to DAs for proposals that would create value-adding opportunities or the use of by-products from a particular type of crop that could add value and profitability and sustainability to a particular industry or farm business. That is particularly important because it could have a significant contribution towards the ongoing viability of that strategic cropping land in the long term. So some of the infrastructure associated with a value-adding project could be in excess of 750 square metres. Some of those value-adding plants that use the by-products or use the product and add value to it itself can be substantial projects and I would alert you to that. Some of those projects are going to be significant in their footprint.

Mr Burton: Thank you for that. Again, I draw your attention to the exceptions that are established in clause 291 on page 165 of the bill which include exceptions for activities if they were made assessable by local government—cropping, intensive animal industries but only to the extent that they are feedlotting, intensive horticulture which could be quite large and any building structure or activity supporting cropping.

Mr CRIPPS: I turn to the issue of where developments have a permanent impact on strategic cropping land and where an applicant must mitigate for the lost cropping productivity of the land. I note from the notes accompanying the bill that mitigation can be fulfilled through a payment to the mitigation fund or by undertaking other activities or projects that will have an enduring public benefit that addresses the lost productive capacity and the permanency of the impacted land. In view of the fact that what is defined as permanently impacting on the productive capacity of the land can be a long-term process, how can we accurately forecast the impact of what the cost of that permanent productivity loss will be?

Mr Robson: Yes. That is certainly a matter that took a fair bit of consideration on the part of the government agencies to try to, in effect, put a value on this. I think that is what you are asking: how do you value this? There was a lot of work done on options and consideration given to how do you measure the economic value—by locality, by crop type, by land use type—because markets change, as opposed to what is the land value, which is a market representation but it is a value that can be easily identified.

Mr CRIPPS: That is a point-in-time measure as well.

Mr Robson: That is right. So we are proposing now—and I mentioned earlier—a regulation power to put a value on it. The value will be identified as the value of the arable land on a subregional basis. If you think about it we all have unimproved valuations or site value, depending on whether you are rural or non-rural properties. In the case of rural properties, agricultural properties, this is not their unimproved value. This would be the value of the land in its arable form. So it is the market value—take away the buildings, take away the fencing—of the land capable of being farmed. So we will undertake valuations that are established on what that dollar per hectare value is of that arable land on a subregional basis.

So it is in a local area. We are not going to do it by property; otherwise you get into quite significant issues about appeal rights in terms of valuations. This is a fixed number which will be regulated. It gives certainty to the proponents. It gives certainty to everyone that that is the number, which will be a mitigated number. That is a number that we are still finalising with our State Valuation Service people to lock in. It would be a regulation, so it can be changed over time, because clearly market conditions will change as well. But the idea is to give certainty on a number so that when a development proponent comes along they know it is a certain amount of dollars and that, on implementation, they know that they are dealing with a certain amount of dollars.

CHAIR: Thank you very much. You have taken a couple of questions on notice already. Because of the time frame of the bill, could you have those responses back to the committee secretariat by late Monday afternoon, 14 November?

Mr Robson: We will work to that.

CHAIR: I would ask the committee to be mindful of that time frame as well. The member for Hinchinbrook has a further question.

Mr CRIPPS: I have a supplementary question, Mr Robson—and I will use an industry that I am more familiar with. The time frame for the permanent impact measure that DERM is proposing I understand is 50 years. Can I draw your attention in your consideration of developing these regulations to something that has happened to the sugar industry over the last decade and a half. Towards the end of the previous decade we were experiencing prices of around 5c a pound. Now we are experiencing very significantly enhanced prices at this point in time. That is in a time frame of less than 15 years, whereas the permanent impact measure that DERM is proposing is a 50-year time frame. Is DERM giving consideration to the establishment of very, very conservative mitigation values being applied to applications that are approved either in exceptional circumstances in protected areas or in management areas? Is the concept of a bond system, where substantial amounts of capital are placed against a particular approved project and for that to be held until that time frame lapses, the type of conservative approach that DERM intends to take in developing the regulatory structure for its mitigation measures?

Mr Robson: I think it is important in responding that we distinguish between projects that may have a temporary impact—that is less than 50 years—and those projects that will have a permanent impact. The mitigation arrangements are aimed at those that will have a permanent impact. There will be projects, as you would be well aware, that may well have a temporary impact. The obligation in the conditions—and the bill provides for this—is for there to be bonds, basically amounts paid or held for particular temporary projects. The proponent or the state is to hold moneys to ensure that the remediation that will be required for the temporary project occurs. A temporary project means that in fact, whilst you can impact upon the strategic cropping land for a period, when your project or your impact is complete, you have to actually re-establish that land to the condition that it was in before. Yes, it is obviously a business that will require a fair bit of effort and investment. It is not something to be done lightly. Therefore, there will be a financial obligation required on the development proponent, if approved, to pay or hold in security a bond such that restoration occurs. Anita, would you like to add anything to that?

Ms Haenfler: I just reiterate what Chris has said. There are specific clauses in the bill, which I just cannot lay my hand on immediately, which do provide for the provision of a financial assurance. That will be done as part of the assessment process and will be a condition that can be applied on the environmental authority or other development approval. They will only be for those projects that have a temporary impact to ensure that that they do restore the land to the former predevelopment condition.

Mr Robson: Chair, if I can just add the other part of that in terms of permanent impact and the value for that because I think that was part of the question. We certainly are wanting to ensure that the value that will be prescribed represents fair value for the land and represents a number that ensures that the investment to re-establish the productive values is going to occur and is a reasonable amount. So we are taking, my words, a 'conservative approach' to ensure that that number has significance, if I can put it that way.

Mr DEMPSEY: I have a few questions in relation to chapter 5 'Mitigation' for clarification. Before this legislation is enacted we will not know the mitigation rate. Is that right?

Mr Robson: Because it is a matter for regulation, that is correct.

Mr DEMPSEY: Do we know what the times rate will be in relation to that mitigation?

Mr Robson: Sorry. Just to add to my response to your first question: as it is a matter of regulation, it does get tabled before parliament as a standard process. It would be after the bill is debated though, I have to say. But any regulation does get tabled before the parliament. So you would see it before it is finally signed off on. Sorry, you had another question?

Mr DEMPSEY: Do we know at this stage what the times rate is? You mentioned in your opening speech that it is by times—what amount? You said it would be an amount but, depending on the type of mitigation, it would be by so many. Have we got any times amount at all, at this stage?

Mr Robson: No, but that is actually part of the regulation, so it will be a dollar-per-hectare amount, by subregion.

Mr DEMPSEY: The mitigation fund, there are some simple ones there. What is the structure of the mitigation fund?

Ms Haenfler: If I could refer the member for Bundaberg to clauses 141 to 143 of the bill, which provide for the establishment of the strategic cropping land mitigation fund. Essentially, the fund will be held by DEEDI. Under the bill, any payments from that fund can only be made towards projects or other activities that will meet the mitigation criteria that Mr Robson outlined in his earlier presentation to the committee. The only other amounts that can be taken from that fund are for administration costs by the chief executive of DEEDI, which will obviously be of a limited amount. The intention is that, in terms of how those funds will be accounted for, there are reporting arrangements outlined in the bill which will be publicly available.

Mr DEMPSEY: Do you have any other examples in relation to how those funds will be used? I know there is terminology in there, but by way of practical example?

Mr Robson: I will give you some examples, but obviously they are matters that will be ultimately decided upon by the chief executive of the agency basically responsible for implementing the mitigation fund.

CHAIR: A couple of broad examples?

Mr Robson: The sorts of examples that we talk about would be anything such as long-term research projects about improving the agronomy or cropping; it could be projects about weed or pest management that improve productivity; it could be projects such as adding water irrigation to a number of properties. It is a range. It is not restricted. We are not limiting anything. It is basically really as far as the imagination will take you, which would lead to improved productivity.

Ms Haenfler: To add to Mr Robson's comment, there is a community advisory group that is established under the bill in clauses 145 to 147. It will be a requirement on the chief executive of the department administering the strategic cropping land mitigation fund that they must consult with that community advisory group before making any payments from the fund. I guess that is just to ensure we get that appropriate community input that the funds will be paid towards—sorry?

Mr DEMPSEY: Just to clarify, who would be in that community consultation group?

CHAIR: I think Mr Robson outlined that in his summary. He gave a list.

Mr DEMPSEY: Do you have anything, perhaps in addition to that list?

Mr Robson: I will answer very briefly, Madam Chair, if you like. Basically the bill, under part 4 sections 145 to 147, provides for the establishment, functions and membership of the committee. The committee membership is effectively people who are best able to advise on those sorts of matters.

Ms FARMER: There has been a fair bit of talk about irrigation being able to increase the productivity of agriculture on land. Some stakeholders talk about the ability of irrigation to effectively create strategic cropping land. How do the eight technical criteria account for the presence of irrigation?

Mr Robson: This certainly was a matter considered when we were developing the criteria over the period, as I described in my earlier statements. The eight criteria are about the natural resource. The natural resource is the land and the soil. Water added is not in itself the natural resource. Water is a natural resource, but in this bill we are protecting strategic cropping land as a natural resource. It is not about protecting land that is irrigated per se. Strategic cropping land itself may be irrigated, but it may be also dry land. One of the key factors, and we have had this question numerous times and I will say it again, is that for strategic cropping land the eight criteria are criteria related to the characteristics and attributes of a natural resource that will grow a number of crops in good seasons. It is not about irrigation.

Ms Haenfler: To add a further comment to Mr Robson's comment there, that issue is specifically dealt with in the technical assessment report that has been tabled before the committee today. I refer the members to page 12 where there is a specific discussion of why irrigation was not addressed.

Mr CRIPPS: Mr Robson, my question flows on well from the previous question. I wanted to have a discussion with you about the robustness of the eight soil criteria that were chosen by DERM for the basis of mapping strategic cropping land. Particularly, I want to discuss their robustness in conjunction with the other two non-soil criteria issues that will determine whether or not strategic cropping land is protected. They are the minimum size requirements and the cropping history test. Your previous answer to the member for Bulimba's question very clearly outlined that the eight soil criteria established under this legislation is the test for determining strategic cropping land. How can we then introduce the minimum size and the cropping history tests and still maintain the application of the eight criteria in the legislation?

Mr Robson: Do you want me to talk about the cropping history tests or come back to that one afterwards? I will come back to that in a second. In terms of your first question, certainly the criteria, as I said, relates to the natural resource. The idea of a minimum area came about because there will be small patches of that type of land attribute scattered in a field anywhere. That is just going to happen. In effect, you end up with a mosaic of good and bad, good and bad. We are trying to get reasonable aggregations of that land that will be in itself land that then is representative of good productivity for cropping purposes. Certainly we all know bits of good land that is scattered around piecemeal, bits and pieces. The purpose of what is being sought here is to protect land that is, in effect, good aggregations of cropping land that has highly productive values in a global sense. I am not denying the value of those small areas, but in the overall policy sense they became not the primary purpose. The sizes we adopted are simply based on looking at what cropping and environmental practices in those zones would represent minimum areas below which you start to get outside the scale of reasonably economic farming operations. That is how we came to that arrangement.

Mr CRIPPS: And the cropping history test?

Mr Robson: The cropping history test is certainly one that identifies that in management areas, accepting that the land can be permanently impacted but will need to be mitigated, it is important to know that there was a cropping history with that land so you are actually putting back in place land that has been productively used. If land has been productively used at least for some period, the mitigation is that you have to basically maintain that productivity. Obviously you do not want to maintain productivity on land that has not been cropped, because it does not make much sense, within a reasonable period. The other aspect, of course, is that looking at strategic cropping land and its extent, by and large most of it would have been cropped at some stage in the past 12 years. The reason we picked a fixed period was, firstly, there is a history so it can be demonstrated if this bill is in operation in 10 or 20 years time. You do not want to be having a creep effect. That then destroys the whole idea that the land was cropped, therefore, it is land that had a value at the start of the bill.

Mr CRIPPS: Thank you for your answers in that regard. The importance of your answers in that regard established that DERM believes that with the eight soil criteria that have been established by the department to map strategic cropping land there are reasonable circumstances where that will not be strictly applied. The two circumstances in which they are will not be strictly applied will be minimum size and cropping history tests. If there are some reasonable circumstances in which the eight criteria will not be applied, as you have outlined, how do we go back to reasonable discussions in individual regions across different types of cropping systems where, if one criteria is not met by a particular type of soil in a location, that that cropping land subsequently fails to be mapped as strategic cropping land?

Mr Robson: Can I play back the question so I have it right? We are focusing on management areas, because the cropping history test does not apply outside. The question as I understand it is, as you rightly say, the tests are for the eight criteria and if you fail one you fail the whole, yet the obligation is that you also have to pass the cropping history test as well. The land does have to have all eight criteria. It is quite rigorous about that, because it is meant to represent the best soil that we have by definition.

Mr CRIPPS: The issue that I am putting to you, Mr Robson, is that we now have established that DERM believes there are reasonable circumstances in which, notwithstanding land meeting the eight criteria, you can still get a situation where that land is not mapped as strategic cropping land. Those two tests are the cropping history test and the minimum size. The proposition being put forward from some stakeholder groups and some people in the community is that the soil criteria is restrictive and that there are some areas in the state of Queensland where an area of land marginally fails the strict eight criteria test and is, therefore, not going to be eligible to be mapped as strategic cropping land. They give as evidence supporting their argument that that land, even though it fails one or two of those eight criteria, is currently producing. It is effectively producing crops on a regular basis and they argue that it can reasonably be included in strategic cropping land maps. They do so because it exists. It is currently happening. They are producing viable and profitable crops for that farm enterprise. If we are going to accept, as DERM is in terms of its minimum size and cropping history tests, that there are some circumstances where soil that meets all the eight criteria will be put to one side, how then can we reasonably reject the assertions coming forward from some stakeholders in the community that, where soil may fail one or two of the eight criteria marginally, that land should be excluded from strategic cropping land maps?

Mr Robson: It is a good question and one we have grappled with. I have to say that in the work we have done to come up with the eight criteria and how to describe them we need to have a simple test. I understand what you are saying. We also need to recognise that it is the best soil we are looking at. We have done, particularly in the technical guideline, a fair bit of work describing—and one of the contentious areas is criterion eight, the soil moisture criterion. The test there is less black and white than can be described. There is a degree of flexibility in test eight in the sense of the method and the analysis. There are a few people in the science world who have been discussing that with us. We have described it in the guideline. We have described it in the criteria, but the actual method of assessment in itself gets quite tricky and we need to be well established on that.

I am not answering your full question yet because it is a good question. In terms of the other part of it, there are certainly some landholders who believe that they should be able to fit within the SCL protection criteria in terms of their land. We are aware of the groups around Kingaroy, for example. We have been there, had a look and done some field tests and the like. The clear analysis of our soil scientists who went up there and looked at this was that in this case it was a slope criterion. Five per cent is the criterion we have. They were seeking it to be eight per cent and for it to be a special zone, if you like. The view of our science people who looked at this for us was that the merits of going from five per cent to eight per cent were marginal in the sense of the total land that would be picked up for protection. The advice that they also gave us was that we are trying to apply a state-wide approach here and if you go down to individual areas you start to lose your state-wide approach. I guess we just had to land on an outcome.

CHAIR: Thank you very much. Just like every other piece of legislation, it is very difficult to—

Mr Robson: Satisfy everyone.

CHAIR:—satisfy every single person; that is correct. The member for Bulimba?

Ms FARMER: The Queensland Resources Council raises the concern that the bill allows for the management and protection areas to be altered by changes to regulation. Presumably, its concern is that in the future government could unilaterally increase the size of the protection area. I guess the converse is true for AgForce, Queensland Farmers Federation and Future Food Queensland. What requirements does the bill put on government if it were to alter strategic cropping land maps?

Mr Robson: The bill requires and prescribes—and I will ask Peter Burton to respond to that when he finds it—a process for the minister if there is a proposal to amend or add a protection area. The minister must actually go through a public notification process, submission making and the like. As a regulation, it has its own parliamentary process as well in terms of laying a regulation on the table. The bill prescribes a process of seeking submissions, comments and the like. It is like any piece of legislation that sets boundaries: you need to have the flexibility to change the boundaries at some future time given that knowledge changes. So the bill prescribes a process. Mr Burton, would you like to add to that?

Mr Burton: I would add to that perhaps only to draw your attention to the clauses that are in chapter 2 of the bill from 25 onwards which establish the various maps and also lay out the processes and powers for amendment of those maps that Chris has alluded to. Minor amendments are defined there. The chief executive has the power to make minor amendments. The definition of what is 'minor' is quite strictly prescribed in the bill. All other amendments are subject to regulation and tabling in the House.

CHAIR: The member for Bulimba has a supplementary question and then we are going to pass to the member for Bundaberg.

Ms FARMER: Could you outline some possible scenarios?

Mr Robson: I do not think I can because I do not have any in mind. Simply, it is a principle in this sort of legislation that sets boundaries that it is important for the responsible minister of the day to be given the opportunity, if need be, to amend those boundaries in light of the situation applying at that time. I would not want to put conjecture into here as to what the circumstances could be. It could be anything from a rapid increase in development pressures in a particular area. It could be that a particular area has been identified as having higher values of SCL than we have information available to us now. There is a range of scenarios but we clearly prescribe a process so that any change that would occur must be publicly consulted on.

CHAIR: Member for Bundaberg?

Mr DEMPSEY: I refer to the chapter 9 transitional provisions. I seek a further clarification of how the time frames were determined.

Mr Robson: Sorry, is it the time frame of 31 May that you are touching on or the time frame for the expansion projects?

Mr DEMPSEY: Both.

Mr Robson: The date of 31 May 2011 is when the minister and the government announced the transitional arrangements and what would apply. So it is as of the date of announcement of the transitional arrangements. Then clearly the ROM proponents knew who potentially came within the transitional arrangements and those who may not. It gave that measure of certainty.

In terms of mine expansion projects, again the August date for both of those was on the basis that the policy framework in August 2010 highlighted that this policy was coming. Because expansion projects take time, people did have the tenure; they did have the opportunity to do work. They were given two years to do more work in terms of applying for the certificate of mining lease. It was deemed to be sufficient time for them to at least lodge a certificate of mining lease. It is not a heavily onerous requirement I have to say. That time frame was discussed and developed in consultation with the Queensland Resources Council.

Mr DEMPSEY: Just to further that, between the cut-off time of 31 May and that date being 23 August 2010 and then going on to this year, were any additional costs incurred by the resources sector as far as those applications are concerned?

Mr Robson: I cannot comment. I do not know any particular projects that may or may not have and their particular impacts. We are saying that any projects that had their finalised terms of reference or other forms of conditions at 31 May were the projects that would then be allowed to proceed in the protection areas in particular and could ultimately, if necessary—if they could not avoid a minimise—permanently impact on SCL but we would then have to mitigate their impacts. Just what the consequences are for individual companies is really dependent on the nature of their development proposals and the nature of what they can avoid and minimise.

CHAIR: Thanks very much. Member for Hinchinbrook?

Mr CRIPPS: If I may I would like to go back to our discussion that we had a little bit earlier. I refer to the previous questions I asked about what approach DERM would take in establishing and forecasting the value of the mitigation measures that would be put in place when a development application is assessed. In your answer you very clearly articulated that DERM would make every effort to ensure that there were sufficient funds made in that mitigation payment to ensure that the productive capacity of the land that was the subject of the project was re-established to the best of your ability.

Mr Robson: We are saying that we are valuing the lost productive capacity by valuing it as the value of the arable land that has been basically permanently alienated.

Mr CRIPPS: And attempting to re-establishing that arability?

Mr Robson: That is a financial measure to give the basis on which to restore that productivity by whatever means.

Mr CRIPPS: I suppose there are other types of financial implications for the failure of those mitigation measures in the long term such as the opportunity costs of not being able to crop once those mitigation measures have been applied to that land.

Mr Robson: They could be considered but, basically, the outcome we have at the moment is we are valuing it on the basis of the loss of the productive land and the value of that productive land in terms of its arable condition.

Mr CRIPPS: But only the market value?

Mr Robson: The market value to the extent that the market respects that future opportunities for the value of that land would take account of those opportunity costs.

Mr CRIPPS: We will never know that until we get to the end of that permanent impact situation. So how are we effectively calibrating the financial contribution for the mitigation measures to reflect those things?

Mr Robson: As I said, it is valued on the loss of productive land and the administrators will be required to report on that on an annual basis in terms of what outcomes are being achieved. I would have to say that over time we will get a better understanding of the effectiveness of that arrangement.

Mr CRIPPS: Building on your answer to a previous question—and it is reflected in the explanatory notes—I also note that mitigation measures could include research and development into cropping systems, techniques and methods or other activities addressing the mitigation criteria. Building on my concerns about this particular part of the bill, investing funds from the mitigation fund that have been paid in by applicants following the success of their application, we are spending mitigation funds on research and development into cropping systems or other types of techniques or methods that are essentially unproven. That is the nature of research and development. Yet money that has been paid into that fund specifically for the purpose of taking mitigation measures in the event that the productivity of that land is impacted by that project is essentially relying on unproven science or methods to address the issues arising from that specific project. Are we able to calibrate our mitigation measure payments based on our existing knowledge of what will be needed to restore that land to productivity?

Mr Robson: I would say that right now we are not in a position to do that. As I said earlier, that is effectively part of what is, firstly, the advisory committee's role to advise on how they see proposed projects or uses of those funds proceeding and, secondly, for the fund's administrator to report on the effectiveness of the outcomes that the investment is achieving. If over time we find that that is not working, then there is the opportunity to look at how that might be done better.

Ms Haenfler: If I could just add to Mr Robson's comment, any payments from that fund towards any activities, whether they are research and development or any other types of activities, have to be consistent with clause 135 of the bill and the mitigation criteria that are outlined there. So a determination will have to be made as to whether it is payment for research and development, which would require that that research and development is considered to have an enduring effect. For example, it has to aim to increase productivity of cropping in the state, benefit the largest possible number of cropping agribusinesses et cetera. So there are specific criteria that have to be met, and that is consistent with the government policy that was announced on 31 May 2011.

CHAIR: We have a final question from the member for Bulimba.

Ms FARMER: The Property Council mentioned in its submission that it is worried the Strategic Cropping Land Bill will erode the urban footprint. Could you comment on that? What effect does the bill have on the size of the urban footprint?

Mr Robson: Basically, as I may have mentioned, the bill provides—and so will the state planning policy—that the SCL legislative framework will not apply within regional plans or approved local government planning schemes. So for land that might otherwise be identified as having the characteristics of cropping land but is within an urban footprint, the bill does not apply. Section 291 inserts schedule 13A, which talks about excluded projects or excluded activities. Under item 6 it states—

An area described as an urban footprint under a regional plan or State planning regulatory provision.

In other words, those areas are excluded from this bill. As I think I said earlier, as those regional plans are amended or new plans are made—and it is the same with local government planning schemes, as new plans are made or amended—the SCL provisions are required to be taken account of. But once that new regional plan or planning scheme is made, then inside that urban footprint SCL does not apply.

CHAIR: Please join me in thanking Chris, Peter, Anita, Carly, Sarah and Shannon for a very useful introduction to this bill. I also thank Hansard. I want to particularly thank Mr Rob Hansen, my committee's research director, and Robyn Moore, the principal research officer, for all the work they have put into the bill. I declare this meeting of the Environment, Agriculture, Resources and Energy Committee closed. We will resume at 12.30 pm for the public hearing.

Committee adjourned at 12.02 pm