

I hereby certify that this PUBLIC BILL has finally passed the Legislative Assembly of Queensland.

Legislative Assembly Chamber,
Brisbane,

The Clerk of the Parliament.

28 March 2014

In the name and on behalf of the Queen, I assent to this Bill.

Penelope Wensley
Government House,
Brisbane, 28th March,

2014



Queensland

No. 11 of 2014
A BILL for

An Act to manage the impact of resource activities and other regulated activities on areas of the State that contribute, or are likely to contribute, to Queensland's economic, social and environmental prosperity



Queensland

Regional Planning Interests Bill 2014

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2014

A Bill

for

An Act to manage the impact of resource activities and other regulated activities on areas of the State that contribute, or are likely to contribute, to Queensland's economic, social and environmental prosperity

The Parliament of Queensland enacts—

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Regional Planning Interests Act 2014*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Division 2 Purposes and application of Act

3 Purposes and achievement

- (1) The purposes of this Act are to—
- (a) identify areas of Queensland that are of regional interest because they contribute, or are likely to contribute, to Queensland's economic, social and environmental prosperity; and
 - (b) give effect to the policies about matters of State interest stated in regional plans; and
 - (c) manage, including in ways identified in regional plans—
 - (i) the impact of resource activities and other regulated activities on areas of regional interest; and
 - (ii) the coexistence, in areas of regional interest, of resource activities and other regulated activities

with other activities, including, for example, highly productive agricultural activities.

- (2) To achieve its purposes, this Act provides for a transparent and accountable process for the impact of proposed resource activities and regulated activities on areas of regional interest to be assessed and managed.

4 Act binds all persons

- (1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) However, the Commonwealth or a State can not be prosecuted for an offence against this Act.

5 Relationship with resource Acts and Environmental Protection Act

- (1) This Act applies despite any resource Act, the Environmental Protection Act, the *Sustainable Planning Act 2009* or the *Water Act 2000* (each the *other Act*).
- (2) A restriction or requirement under this Act applies as well as any restriction or requirement under the other Act.

Note—

See also section 59 (Regional interests conditions paramount).

Division 3 Interpretation

Subdivision 1 Dictionary

6 Dictionary

The dictionary in schedule 1 defines particular words used in this Act.

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Note—

For the meanings of some words in particular contexts, see also section 18.

Subdivision 2 Definitions about areas of regional interest

7 *Area of regional interest*

Each of the following is an *area of regional interest*—

- (a) a priority agricultural area;
- (b) a priority living area;
- (c) the strategic cropping area;
- (d) a strategic environmental area.

8 *Priority agricultural area*

- (1) A *priority agricultural area* is an area that—
 - (a) includes 1 or more areas used for a priority agricultural land use, whether it also includes other areas or features, including, for example, a regionally significant water source; and
 - (b) is either—
 - (i) shown on a map in a regional plan as a priority agricultural area; or
 - (ii) prescribed under a regulation.
- (2) A *priority agricultural land use* is highly productive agriculture—
 - (a) of a type identified in a regional plan for an area of regional interest; or
 - (b) of a type prescribed under a regulation for an area of regional interest.

- (3) A *regionally significant water source* is a water source prescribed under a regulation.

9 **Priority living area**

A *priority living area* is an area—

- (a) shown on a map in a regional plan as a priority living area; and
- (b) that includes the existing settled area of a city, town or other community and other areas necessary or desirable—
 - (i) for the future growth of the existing settled area; and
 - (ii) as a buffer between the existing or a future settled area and resource activities.

10 **Strategic cropping area**

- (1) The *strategic cropping area* consists of the areas shown on the SCL trigger map as strategic cropping land.
- (2) In this section—

strategic cropping land means land that is, or is likely to be, highly suitable for cropping because of a combination of the land's soil, climate and landscape features.

11 **Strategic environmental area**

- (1) A *strategic environmental area* is an area that—
 - (a) contains 1 or more environmental attributes for the area; and
 - (b) is either—
 - (i) shown on a map in a regional plan as a strategic environmental area; or
 - (ii) prescribed under a regulation.

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Examples of areas that may be shown or prescribed as strategic environmental areas—

- the Steve Irwin Wildlife Reserve on Cape York Peninsula
- the channel country of western Queensland

(2) In this section—

environmental attribute, for an area, means an attribute of the environment identified as an environmental attribute for the area under a regional plan or regulation.

Subdivision 3 Definitions about Acts and authorities under them

12 *Resource Act and resource activity*

(1) A ***resource Act*** is any of the following—

- (a) *Geothermal Energy Act 2010*;
- (b) *Greenhouse Gas Storage Act 2009*;
- (c) *Mineral Resources Act 1989*;
- (d) *Petroleum Act 1923*;
- (e) *Petroleum and Gas (Production and Safety) Act 2004*.

(2) A ***resource activity*** is—

- (a) an activity for which a resource authority is required to lawfully carry out; or
- (b) for a provision about a resource authority or proposed resource authority—an authorised activity for the authority or proposed authority (if granted) under the relevant resource Act.

(3) In this Act, a reference to a resource activity includes a reference to the carrying out of the activity.

(4) In this section—

relevant resource Act means the resource Act under which the authority is granted, or the proposed authority will, if granted, be granted.

13 **Resource authority**

A *resource authority* is any of the following—

- (a) a geothermal tenure under the *Geothermal Energy Act 2010*;
- (b) a GHG permit or GHG lease under the *Greenhouse Gas Storage Act 2009*;
- (c) each of the following under the *Mineral Resources Act 1989*—
 - (i) a mining tenement other than a prospecting permit;
 - (ii) an approval that grants rights over land;
- (d) a 1923 Act petroleum tenure under the *Petroleum Act 1923*;
- (e) the following petroleum authorities under the *Petroleum and Gas (Production and Safety) Act 2004*—
 - (i) an authority to prospect;
 - (ii) a petroleum lease;
 - (iii) a pipeline licence;
 - (iv) a petroleum facility licence;
- (f) a licence, permit, pipeline licence, primary licence, secondary licence or special prospecting authority granted under the *Petroleum (Submerged Lands) Act 1982*;
- (g) an agreement or lease under or mentioned in any of the following Acts—
 - (i) *Alcan Queensland Pty. Limited Agreement Act 1965*;
 - (ii) *Central Queensland Coal Associates Agreement Act 1968*;

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- (iii) *Central Queensland Coal Associates Agreement and Queensland Coal Trust Act 1984*;
- (iv) *Central Queensland Coal Associates Agreement (Amendment) Act 1986*;
- (v) *Central Queensland Coal Associates Agreement Amendment Act 1989*;
- (vi) *Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957*;
- (vii) *Mount Isa Mines Limited Agreement Act 1985*;
- (viii) *Queensland Nickel Agreement Act 1970*;
- (ix) *Queensland Nickel Agreement Act 1988*;
- (x) *Thiess Peabody Coal Pty. Ltd. Agreement Act 1962*;
- (xi) *Thiess Peabody Mitsui Coal Pty. Ltd. Agreements Act 1965*.

14 Environmental authority

An *environmental authority* is an environmental authority as defined under the Environmental Protection Act, schedule 4.

15 Authority holder

An *authority holder*, for a provision about a resource activity, is the person who holds a resource authority or an environmental authority for the resource activity.

Subdivision 4 Other definitions

16 Regional interests development approval

- (1) A *regional interests development approval* is an approval issued under section 53 that approves the carrying out of a resource activity or regulated activity in an area of regional

interest following an assessment of the extent of the expected impact of the activity on the area.

- (2) A regional interests development approval includes any regional interest conditions of the approval.

17 Regulated activity

- (1) A *regulated activity*, for an area of regional interest, is an activity—
- (a) likely to have a widespread and irreversible impact on the area of regional interest; and
 - (b) prescribed under a regulation for the area.
- (2) In this Act, a reference to a regulated activity includes a reference to the carrying out of the activity.

Subdivision 5 References in provisions

18 References in provisions

- (1) This section applies for any provision of this Act.
- (2) A reference to an application for a resource authority includes a reference to an application for any of the following for an existing resource authority—
- (a) an amendment;
 - (b) a renewal;
 - (c) a re-grant.
- (3) A reference to an application for an environmental authority includes a reference to an application for a major amendment to the environmental authority.
- (4) For a provision about an assessment application—
- (a) a reference to the applicant, or to a person who may make an application, includes a reference to the following—

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- (i) the person who has made or may make the application;
 - (ii) anyone else in whom the benefit of the application vests from time to time; and
 - (b) a reference to the land is a reference to the land the subject of the application; and
 - (c) if the application is about a resource activity or regulated activity—a reference to the activity is a reference to the activity the subject of the application; and
 - (d) a reference to the regional interests development approval is a reference to the approval issued, or that may be issued, as a result of the application.
- (5) For a provision about a decision, a reference to the land is a reference to the land the subject of the decision.
- (6) For a provision about a regional interests development approval, resource authority or environmental authority, a reference to the land is a reference to the land the subject of the approval or authority, or to which it attaches.
- (7) In a provision about a resource activity or a regulated activity in an area of regional interest, or having an impact on an area of regional interest, a reference to an area of regional interest is, for the strategic cropping area, a reference to an area that is in the strategic cropping area.
- (8) In this section—
- major amendment***, for an application to amend an environmental authority, means the amendment proposed in the application if—
- (a) an assessment level decision for the application has been made under the Environmental Protection Act, section 228; and
 - (b) the decision is that the proposed amendment is a major amendment under that Act.

Part 2 Restrictions on resource and regulated activities in areas of regional interest

Division 1 Restrictions

19 Restrictions on carrying out resource activity or regulated activity

- (1) A person must not wilfully carry out, or allow the carrying out of, a resource activity or regulated activity in an area of regional interest unless the person holds, or is acting under, a regional interests development approval for the activity.

Maximum penalty—6250 penalty units or 5 years imprisonment.

- (2) A person must not carry out, or allow the carrying out of, a resource activity or regulated activity in an area of regional interest unless the person holds, or is acting under, a regional interests development approval for the activity.

Maximum penalty—4500 penalty units.

- (3) Subsection (2) is an alternative offence for subsection (1).

Note—

For the effect of subsection (3), see section 84.

- (4) This section does not apply to a resource activity that is an exempt resource activity or exempt regulated activity for the area of regional interest.

20 Failure to comply with conditions

- (1) This section applies to a person who is the holder of, or is acting under, a regional interests development approval.
- (2) The person must not wilfully contravene a condition of the approval.

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Maximum penalty—6250 penalty units or 5 years imprisonment.

- (3) The person must not contravene a condition of the approval.

Maximum penalty—4500 penalty units.

- (4) Subsection (3) is an alternative offence for subsection (2).

Note—

For the effect of subsection (4), see section 84.

21 Emergency activity defence

It is a defence to a proceeding for an offence against this part for the defendant to prove—

- (a) the carrying out of the resource activity or regulated activity was because of an emergency endangering—
- (i) the life or health of a person; or
 - (ii) the structural safety of a building or structure or the safety of infrastructure; and
- (b) the defendant gave the department notice of the activity as soon as practicable after starting it; and
- (c) the defendant took all reasonable steps—
- (i) to ensure the impact of the activity on the regional priority area is restorable; or
 - (ii) if the impact is not restorable—to limit the impact.

Division 2 Exempt resource activities

22 Exemption: agreement of land owner

- (1) This section applies if the authority holder for a resource activity is not the owner of the land (the *land owner*).
- (2) The resource activity is an *exempt resource activity* for a priority agricultural area or area that is in the strategic cropping area if—

-
- (a) either—
 - (i) if a conduct and compensation agreement requirement applies to the authority holder under a resource Act—
 - (A) the land owner and the authority holder are parties to a conduct and compensation agreement under the resource Act, other than because of the order of a court; and
 - (B) the authority holder has complied with the requirement; or
 - (ii) the land owner has voluntarily entered into a written agreement with the authority holder and the carrying out of the activity is consistent with the agreement; and
 - (b) the activity is not likely to have a significant impact on the priority agricultural area or area that is in the strategic cropping area; and
 - (c) the activity is not likely to have an impact on land owned by a person other than the land owner.
- (3) For subsection (2)(c), a resource activity has an impact on land if the activity has an impact on—
- (a) for land in a priority agricultural area—the suitability of the land to be used for a priority agricultural land use for the area; or
 - (b) for land in an area that is in the strategic cropping area—the land’s soil, climate and landscape features that make that area highly suitable, or likely to be highly suitable, for cropping.

23 Exemption: activity carried out for less than 1 year

A resource activity is an *exempt resource activity* for a priority agricultural area or area in the strategic cropping area if the activity is being carried out—

- (a) on a property in the area; and

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- (b) within the period of 1 year starting on the day the first activity under the resource authority started to be carried out on the property.

24 Exemption: pre-existing resource activity

- (1) This section applies if, immediately before land becomes land in an area of regional interest, including on commencement of this section, a resource activity may be carried out lawfully on the land.
- (2) The resource activity is an *exempt resource activity* for the area of regional interest.
- (3) For subsection (1), a resource activity may be carried out lawfully on land if—
 - (a) the activity may be carried out lawfully on the land—
 - (i) under a resource authority or an environmental authority; and
 - (ii) without the need for any further authority or approval relating to the location, nature or extent of the expected surface impacts of the activity to be obtained under an Act or a condition of either authority; and
 - (b) information provided in, with or in support of the application for the resource or environmental authority (or an amendment of the application) identified the location, nature and extent of the expected surface impacts of the activity.

25 Exemption: pre-existing regulated activity

- (1) This section applies if, immediately before land becomes land in an area of regional interest, including on commencement of this section, a regulated activity may be lawfully carried out on the land under the *Sustainable Planning Act 2009*.
- (2) The regulated activity is an *exempt regulated activity* for the area of regional interest.

Part 3 Regional interests development approvals

Division 1 Preliminary

26 Meaning of *assessing agency* and *assessor*

- (1) An *assessing agency* for an assessment application is an entity prescribed under a regulation.

Example—

A local government may be prescribed to be an assessment agency for an assessment application relating to a priority living area in the local government's area.

- (2) Each of the following is an *assessor* for an assessment application—
- (a) the chief executive;
 - (b) if the application is referable—an assessing agency for the application.

27 When does a resource activity or regulated activity *impact* an area of regional interest

In this Act, a resource activity or a regulated activity has an *impact* on an area of regional interest if the impact—

- (a) affects—
 - (i) a feature, quality, characteristic or other attribute of the area; or
 - (ii) the suitability of land in the area to be used for a particular purpose; and
- (b) relates to a matter mentioned in the following—
 - (i) for a priority agricultural area—section 8(1)(a);
 - (ii) for a priority living area—section 9(b);
 - (iii) for the strategic cropping area—section 10(1);

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- (iv) for a strategic environmental area—section 11(1)(a).

Division 2 Applying

28 **Who may apply for regional interests development approval**

- (1) An eligible person (the *applicant*) may apply for a regional interests development approval for a resource activity to be carried out in an area of regional interest (an *assessment application*).
- (2) Also, a person (also the *applicant*) who intends to carry out a regulated activity in an area of regional interest may apply for a regional interests development approval for the activity to be carried out in the area (also an *assessment application*).
- (3) In this section—

eligible person means a person who holds, or has applied or may apply for, an environmental authority or resource authority (the *relevant authorities*) for the resource activity.

29 **Requirements for making assessment application**

An assessment application must be—

- (a) made to the chief executive in the approved form; and
- (b) accompanied by a report—
 - (i) assessing the resource activity or regulated activity's impact on the area of regional interest; and
 - (ii) identifying any constraints on the configuration or operation of the activity; and
- (c) accompanied by the fee prescribed under a regulation.

30 Owner of land given copy of assessment application

- (1) This section applies to an assessment application if—
 - (a) the application is not notifiable; and
 - (b) the applicant is not the owner of the land.
- (2) The applicant must give the owner a copy of the application within the prescribed time frame.

Division 3 Amending or withdrawing application

31 Amending

- (1) The applicant may amend an assessment application to do the following (a *permitted amendment*) if the amended application complies with section 29—
 - (a) make a minor amendment;
 - (b) make an amendment the chief executive is satisfied would not adversely affect the chief executive's ability to decide the amended application.
- (2) A permitted amendment—
 - (a) may be made at any time before the application is decided; and
 - (b) must be made by notice to the chief executive.
- (3) An assessment application can not be amended other than to make a permitted amendment.

32 Withdrawal of application

- (1) The applicant may give the chief executive a notice withdrawing an assessment application at any time before it is decided.
- (2) The withdrawal takes effect when the notice is given.

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- (3) The chief executive may, but need not, refund all or part of any fee paid for the application if it is withdrawn.

33 Owner of land given notice of amendment or withdrawal

- (1) This section applies if—
 - (a) an assessment application is not notifiable; and
 - (b) the applicant is not the owner of the land; and
 - (c) the application is amended under section 31 or withdrawn under section 32.
- (2) The applicant must give the owner notice of the amendment or withdrawal within the prescribed time frame.

Division 4 Public notification of particular applications

34 Application of div 4

- (1) This division applies to a notifiable assessment application.
- (2) An assessment application is *notifiable* if—
 - (a) a regulation prescribes it as notifiable; and
 - (b) an exemption is not granted under subsection (3) by the chief executive within the prescribed time frame.
- (3) The chief executive may, on the written request of the applicant, grant an exemption from notification for an assessment application if satisfied there has been sufficient notification under another Act or law of the resource activity or regulated activity to the public.
- (4) An assessment application is also *notifiable* if the chief executive has given the applicant a requirement notice requiring the applicant to notify the application under this division.

35 Applicant must notify

- (1) The applicant must—
 - (a) publish a notice about the assessment application in the way prescribed under a regulation; and
 - (b) if the applicant is not the owner of the land—give the owner a notice about the application.
- (2) The notice must—
 - (a) be in the approved form; and
 - (b) state the following—
 - (i) that submissions about the assessment application may be made to an assessor for the application;
 - (ii) the day by which submissions about the application must be received (the *closing day*);
 - (iii) that the making of a submission does not give rise to a right of appeal against a decision about the application.
- (3) The approved form must include information about the way in which submissions must be lodged with an assessor for the application, including whether the submissions may be made electronically.
- (4) The closing day must be a day that is after the end of the notification period prescribed under a regulation for the application.

36 Consequence of failure to notify

- (1) This section applies if the applicant has not complied with section 35 within the period that ends—
 - (a) 20 business days after the day the assessment application was made; or
 - (b) on a later day decided by an assessor for the application by notice.
- (2) The chief executive may—

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- (a) if the chief executive considers there is enough information about the relevant matters for the application—decide the application on the basis of that information; or
- (b) refuse to decide the application until the applicant has complied with section 35 to the chief executive's satisfaction; or
- (c) decide the application is lapsed.

37 Properly made submissions

A submission about an assessment application is *properly made* if the submission—

- (a) is in writing; and
- (b) states the name of each person who made the submission; and
- (c) states an address for service for at least 1 of the persons who made the submission; and
- (d) is received by the closing day for making submissions; and
- (e) is made to an assessor for the application in the way stated in the notice about the application.

38 Submissions must be published or available for inspection

- (1) This section applies to each submission about an assessment application that is properly made.
- (2) The assessor for the application must, within the prescribed time frame—
 - (a) publish a copy of the submission on the assessor's website; or
 - (b) make the submission available at the assessor's office for inspection.

-
- (3) If a submission is available for inspection at the assessor's office, a person may—
 - (a) inspect the submission free of charge at any time the office is open for business; and
 - (b) obtain a copy of the submission, or part of the submission, from the assessor.
 - (4) The assessor may charge a person for supplying a copy of the submission, or part of the submission.
 - (5) The charge must not be more than the cost to the assessor of making and supplying the copy.
 - (6) In this section—

office, of an assessor, means—

 - (a) if the assessor is an assessing agency—the assessing agency's office and any other place decided by the assessing agency; or
 - (b) if the assessor is the chief executive—the department's office and any other place approved by the chief executive.

Division 5 Referral to assessing agency

39 Application of div 5

- (1) This division applies to a referable assessment application.
- (2) An assessment application is *referable* if a regulation prescribes the application as referable.

40 Assessing agency's functions

An assessing agency has, for assessing and responding to the part of the application giving rise to the referral, the functions prescribed under a regulation.

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41 Assessing agency's assessment of application

- (1) The chief executive must give the assessing agency for the application a copy of the application within the prescribed time frame.
- (2) The assessing agency must, within the limits of its functions, assess the application and, in doing so, consider all of the following—
 - (a) the extent of the expected impact of the resource activity or regulated activity on the area of regional interest;
 - (b) any criteria for the assessment prescribed under a regulation;
 - (c) if the assessment is for a notifiable assessment application—all properly made submissions received by the assessing agency about the application;
 - (d) if the assessing agency is a local government—any criteria under the local government's planning scheme for assessing the application.

42 Assessing agency's response to application

- (1) The assessing agency may give the chief executive a response to the application.
- (2) The response may, within the limits of the assessing agency's functions—
 - (a) do any or all of the following—
 - (i) recommend conditions (each an ***assessing agency condition***) to form part of any regional interests approval;
Note—
Under section 50(1)(a), a condition may, among other things, limit or restrict the carrying out of a resource activity or regulated activity on the land or part of it.
 - (ii) recommend the refusal of all or part of the application;

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- (iii) provide advice about the application; or
 - (b) tell the chief executive that the assessing agency has no requirements or advice relating to the application.
- (3) However, the response may only be given within the prescribed time frame.
 - (4) If the response includes assessing agency conditions or refusing all or part of an application, it must include reasons for the conditions or the refusal.
 - (5) If the assessment application is notifiable and section 36(2)(a) or (3)(a) does not apply, the assessing agency's response must not be given to the chief executive before the closing day for submissions about the application.
 - (6) The assessing agency must give the applicant a copy of the response within the prescribed time frame.

43 Ministerial directions to assessing agency

- (1) The Minister may, by notice, give a direction to an assessing agency for an assessment application—
 - (a) if the Minister is satisfied its response is not within its functions—to reissue its response in a stated way and within a stated period to ensure the response is within the functions; or
 - (b) if the Minister is satisfied the assessing agency has not assessed the application under this Act—to issue or reissue its response in a stated way and within a stated period to ensure the assessing agency has assessed the application under this Act.
- (2) The Minister may give the direction even if the agency's assessment period for the assessment application has ended under section 42(3).
- (3) The direction must state the reasons for the decision to give it.
- (4) The Minister must give the applicant a copy of the direction.
- (5) The assessing agency must comply with the direction.

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- (6) If the Minister gives the direction, the chief executive can not decide the assessment application until the assessing agency's response is reissued.

Division 6 Additional information etc. for application

44 Requirement notice

- (1) An assessor for an assessment application may, by notice given within the prescribed time frame, require (a *requirement notice*) the applicant to do all or any of the following within a stated reasonable period—
- (a) complete or correct the application if it appears to an assessor to be incorrect, incomplete or defective;
 - (b) give an assessor additional information about, or relevant to, the application;
 - (c) if the assessor is the chief executive—notify the application under division 4;
 - (d) give an assessor an independent report by an appropriately qualified person, or a statutory declaration, verifying all or any of the following—
 - (i) any information included in the application;
 - (ii) any additional information required under paragraph (b).
- (2) The requirement notice may require the statutory declaration—
- (a) to be made by an appropriately qualified independent person or by the applicant; and
 - (b) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant corporation.
- (3) The applicant must bear any costs incurred in complying with the requirement notice.

- (4) An assessor may extend the stated period.

45 Consequence of noncompliance with requirement notice

- (1) This section applies if a requirement notice has, in the opinion of the assessor that gave it, been contravened.
- (2) The chief executive may, if the requirement notice was made by the chief executive or the chief executive receives a notice under subsection (4)—
- (a) if the chief executive considers there is enough information about the relevant matters for the application—decide the application on the basis of that information; or
 - (b) refuse to decide the application until the requirement notice is complied with to the chief executive's satisfaction; or
 - (c) decide the application is lapsed.
- (3) If the assessor was the assessing agency, it may—
- (a) if it considers there is enough information about the relevant matters—give its response to the application; or
 - (b) refuse to assess the application until the requirement notice is complied with to its satisfaction.
- (4) The assessing agency must give the chief executive notice of the refusal.

46 Additional advice or comment about assessment application

- (1) The chief executive must ask the Gasfields Commission for advice about an assessment application if—
- (a) the application relates to a resource activity in a priority agricultural area, the strategic cropping area or a priority living area; and
 - (b) either—

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- (i) the application is notifiable; or
 - (ii) in the chief executive's opinion, the expected surface impacts of the resource activity are significant.
- (2) The chief executive or an assessing agency may ask any other person for advice or comment about an assessment application.

Example—

The chief executive may appoint a panel of experts to provide advice to the chief executive about an assessment application or a particular matter relevant to the application.

Division 7 Deciding application

47 Chief executive must decide application

- (1) The chief executive must, within the prescribed time frame, consider and decide under this division each assessment application.
- (2) If the application is notifiable and section 36(2)(a) does not apply, a decision can not be made about the application before the closing day for submissions.

48 Decision generally

- (1) The chief executive must decide to—
 - (a) approve all or part of the application and grant a regional interests development approval; or
 - (b) refuse the application.
- (2) If the chief executive decides to grant a regional interests development approval, the chief executive may also decide to grant the approval with conditions (each a *regional interests condition*).

- (3) To remove any doubt, it is declared that if the chief executive approves only part of an application, the balance of the application is refused.

49 Criteria for decision

- (1) In deciding an assessment application, the chief executive must consider all of the following—
- (a) the extent of the expected impact of the resource activity or regulated activity on the area of regional interest;
 - (b) any criteria for the decision prescribed under a regulation;
 - (c) if the decision is for a notifiable assessment application—all properly made submissions received by the chief executive about the application;
 - (d) if the decision is for a referable assessment application—any advice about the application included in an assessing agency’s response;
 - (e) any advice about the application given by the Gasfields Commission.
- (2) Also, the chief executive may consider any other matter the chief executive considers relevant.

50 Conditions generally

- (1) A regional interests condition may—
- (a) limit or restrict the carrying out of a resource activity or regulated activity, including, for example, by—
 - (i) requiring the applicant to start or complete the carrying out of the activity by a stated date or within a stated period; or
 - (ii) requiring the applicant to ensure the impact of the activity is limited or restricted to a stated level; or
 - (b) require the applicant to install and operate stated plant or equipment in a stated way within a stated period; or

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- (c) for a resource activity or regulated activity to be carried out in an area that is the strategic cropping area—require the applicant to have mitigation in place before carrying out the activity on land in the area; or
 - (d) require the applicant to do, or refrain from doing, anything else the chief executive considers is necessary or desirable to achieve this Act’s purposes.
- (2) However, a condition must either—
- (a) be relevant to, but not an unreasonable imposition on, the resource activity or regulated activity; or
 - (b) be reasonably required to manage the impact of the activity on an area of regional interest.
- (3) A condition under subsection (1)(c) is an *SCL mitigation condition*.

Division 8 Steps after deciding application

51 Notice about decision

- (1) The chief executive must give the applicant a decision notice about the decision.
- (2) The chief executive must give a copy of the decision notice to—
 - (a) if the applicant is not the owner of the land—the owner of the land; and
 - (b) if the assessment application is referable—each assessing agency for the application; and
 - (c) if the Gasfields Commission gave the chief executive advice about the assessment application—the Gasfields Commission.
- (3) If the applicant has applied for an environmental authority for the resource activity or regulated activity, the decision notice may be included in, or accompany, a notice under the

Environmental Protection Act for the environmental authority application.

- (4) If the chief executive's decision about the assessment application is inconsistent with advice about the application given to the chief executive by either of the following, the decision notice must include reasons for the inconsistency—
 - (a) a local government that was an assessing agency for the application;
 - (b) the Gasfields Commission.
- (5) The decision notice or copy of the decision notice must be given within the prescribed time frame.

52 Public notification of decision

- (1) The chief executive must, within the prescribed time frame, publish a notice about the decision—
 - (a) on the department's website; or
 - (b) in a newspaper circulating generally in the area of the land.
- (2) The notice must—
 - (a) identify the resource activity or regulated activity, the applicant and the land; and
 - (b) briefly describe any conditions imposed on the resource activity or regulated activity by the decision; and
 - (c) state that an affected land owner may appeal against the decision, the period within which an appeal must be started and how the right to appeal is to be exercised.

53 Issuing approval

- (1) As soon as practicable after deciding to grant a regional interests development approval, the chief executive must issue the approval.
- (2) The regional interests development approval must—

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- (a) be in the approved form; and
- (b) state the following—
 - (i) a description of the land;
 - (ii) the resource activity or regulated activity approved;
 - (iii) the area of regional interest for which the activity is approved;
 - (iv) any regional interests conditions on which the approval is granted.

54 When approval takes effect

- (1) A regional interests development approval takes effect on the later of the following—
 - (a) the day after the appeal period for the decision to grant the approval ends;
 - (b) another day stated in the approval.
- (2) A decision notice for the decision to grant the approval must state that the decision takes effect when the appeal period for the decision ends.
- (3) In this section—

appeal period, for a decision to grant a regional interests development approval, means the period ending on the last day on which an appeal against the decision may be started under section 73(1).

Division 9 Amending approval

55 Amending approval

- (1) The holder of a regional interests development approval may, in writing, ask the chief executive to make either of the following amendments (each a *requested amendment*) to the approval—

- (a) a minor amendment;
 - (b) an amendment the chief executive is satisfied would not adversely change the impact of the resource activity or regulated activity on the area of regional interest.
- (2) Before deciding whether to make a requested amendment, the chief executive may give the holder of the approval a notice requiring the holder to notify the application under division 4 within a reasonable stated period.
- (3) If, in the chief executive's opinion, the holder has contravened the notice, the chief executive may refuse to decide whether to make the requested amendment until the notice has been complied with to the chief executive's satisfaction.
- (4) The holder of the approval must bear any costs incurred in complying with the notice.
- (5) In deciding whether to make a requested amendment, the chief executive must consider the matters mentioned in section 49 to the extent the chief executive considers it is appropriate to do so.

56 Notice about decision

- (1) As soon as practicable after deciding whether to make a requested amendment to a regional interests development approval, the chief executive must give the holder of the approval a decision notice about the decision.
- (2) The chief executive must give a copy of the decision notice to—
- (a) if the holder is not the owner of the land—the owner of the land; and
 - (b) if the assessment application for the approval was referable—each assessing agency for the application; and
 - (c) if the Gasfields Commission gave the chief executive advice about the assessment application for the approval—the Gasfields Commission.

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57 Giving effect to amendment

As soon as practicable after deciding to make a requested amendment to a regional interests development approval, the chief executive must—

- (a) amend the approval to give effect to the requested amendment; and
- (b) issue the amended approval to the holder.

Division 10 Miscellaneous

58 Approval attaches to land

While it continues in effect, a regional interests development approval attaches to the land despite any change in the land's ownership or occupation.

59 Regional interests conditions paramount

- (1) This section applies to a regional interests development approval for a priority agricultural area or the strategic cropping area.
- (2) If there is any inconsistency between the conditions of the approval and a condition of the relevant authority, the conditions of the approval prevail to the extent of the inconsistency.
- (3) For subsection (2), it does not matter when the approval, authority or conditions were granted or imposed in relation to each other.

Part 4 Mitigation

Division 1 Provisions for SCL mitigation conditions

60 Application of pt 4

This part applies for the holder of a regional interests development approval if the approval includes an SCL mitigation condition.

61 What is *mitigated SCL land*

Mitigated SCL land is the land to which the SCL mitigation condition applies.

62 What is *mitigation*

- (1) *Mitigation*, for mitigated SCL land, means that either of the following, or a combination of the following, has taken place for the land's mitigation value—
 - (a) a payment to the mitigation fund;
 - (b) the entering into of a mitigation deed.
- (2) The *mitigation value* of mitigated SCL land is the amount prescribed under a regulation.

63 What are *mitigation measures*

- (1) *Mitigation measures* are the carrying out of activities to address the loss of the productive capacity of mitigated SCL land.
- (2) Also, for a mitigation deed, mitigation measures may include a combination of activities mentioned in subsection (1) and a payment to the mitigation fund.

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64 What is a *mitigation deed*

A *mitigation deed* is a deed to which the chief executive and the holder of a regional interests development approval are parties that—

- (a) is about the mitigation value of mitigated SCL land; and
- (b) complies with the requirements prescribed under a regulation.

65 What are the *mitigation criteria*

(1) The *mitigation criteria* are that mitigation measures (under a mitigation deed or under a payment from the mitigation fund) must—

- (a) aim to increase the productivity of cropping in the State; and
 - (b) provide a public, rather than a private, benefit; and
 - (c) aim to provide an enduring effect; and
 - (d) be quantifiable and able to be independently valued; and
 - (e) benefit the largest possible number of cropping agribusinesses; and
 - (f) if a cropping activity or cropping system existed for mitigated SCL land to which the measures relate—provide a benefit to that type of activity or system in the relevant local area.
- (2) In deciding what is a relevant local area for subsection (1)(f), regard must be had to catchments and local government areas.

Division 2 Mitigation fund

66 Mitigation fund continued

The strategic cropping land mitigation fund (the *mitigation fund*) established under the repealed *Strategic Cropping Land Act 2011* is continued in existence under this Act.

67 Purpose and administration

- (1) The mitigation fund's purpose is to record amounts received under a mitigation condition and to pay amounts from it under this part.
- (2) Accounts for the mitigation fund must be kept as part of the department's departmental accounts under the *Financial Accountability Act 2009*, section 69.
- (3) However, amounts received for the mitigation fund may be deposited with other amounts of the department in its departmental financial institution account under the *Financial Accountability Act 2009*, section 83.

68 Payments from fund

- (1) Amounts are payable from the mitigation fund only for—
 - (a) mitigation measures; or
 - (b) expenses incurred by the chief executive in performing functions under this part.
- (2) However, the chief executive may make a payment for mitigation measures only if the chief executive is satisfied the measures comply with the mitigation criteria.

69 Reporting requirement for mitigation measures

A payment from the mitigation fund may be made only on the condition that its recipient must give the chief executive periodic reports about—

- (a) the progress of the mitigation measures funded; and
- (b) amounts spent on the measures.

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Division 3 Miscellaneous provisions

70 Mitigation deed binds holder's successors

A mitigation deed binds each of the successors in law of the holder of each regional interests development approval who is a party to it, including successors for the area of the development approval.

Examples of successors in law—

a personal representative, successor in title, assign

Part 5 Appeals and declarations

71 Definitions for pt 5

In this part—

affected land owner, for a regional interests decision, means an owner of land (***affected land***) that may be adversely affected by the resource activity or regulated activity because of—

- (a) the proximity of the affected land to the land the subject of the decision; and
- (b) the impact the activity may have on an area of regional interest.

court means the Planning and Environment Court under the *Sustainable Planning Act 2009*.

regional interests decision means each of the following decisions—

- (a) a decision to grant a regional interests development approval;
- (b) a decision to impose a condition on a regional interests development approval;

- (c) a decision to refuse all or part of an assessment application;
- (d) a decision to make, or refuse to make, a requested amendment to a regional interests development approval.

72 Appeal to Planning and Environment Court

The following may appeal (an *appeal*) against a regional interests decision to the court—

- (a) the applicant;
- (b) if the applicant is not the owner of the land—the owner of the land;
- (c) an affected land owner.

Note—

See the *Sustainable Planning Act 2009*, chapter 7, part 1 for provisions about the powers, processes and procedures of the court, including, for example—

- section 457 (Costs);
- section 495 (Appeal by way of hearing anew);
- division 12 (Alternative dispute resolution).

73 Appeal period

- (1) An appeal may be started only within 20 business days after—
 - (a) for a person who received a decision notice, or a copy of a decision notice, for the decision—the notice was received; or
 - (b) for an affected land owner for a regional interests decision—notice of the decision was published under section 52.
- (2) However, the court may at any time extend the time for starting the appeal.

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74 Respondent for appeal

- (1) The chief executive is the respondent for the appeal.
- (2) If the appellant is not the applicant for the decision, the applicant is a co-respondent for the appeal.
- (3) If the appellant is not the owner of the land for the decision, the owner of the land may apply to the court to be a co-respondent for the appeal.
- (4) If the appeal is about an assessing agency's response, the assessing agency is a co-respondent for the appeal.
- (5) If the appeal is only about an assessing agency's response, the chief executive may apply to the court to withdraw from the appeal.

75 Notice of appeal to other parties

- (1) An appellant must, within 10 business days after starting an appeal, give notice of the appeal to each of the following—
 - (a) a respondent or co-respondent for the appeal;
 - (b) if the appellant is not the owner of land for the regional interests decision—the owner of the land.
- (2) The notice must state—
 - (a) the grounds of the appeal; and
 - (b) if the person given the notice is the owner of the land—that the person may apply to the court to be a co-respondent for the appeal.

76 Stay of operation of decision

- (1) The starting of an appeal does not stay the operation of the decision appealed against.
- (2) However, the court may stay the operation of the decision to secure the effectiveness of the appeal.
- (3) A stay—

- (a) may be given on reasonable conditions as the court considers appropriate; and
- (b) operates until the first of the following happens—
 - (i) the period fixed by the court ends;
 - (ii) the appeal is decided, withdrawn or dismissed; and
- (c) may be revoked or amended by the court.

77 Who must prove case for appeal

- (1) In an appeal by the applicant for a regional interests decision, it is for the appellant to establish the appeal should be upheld.
- (2) In an appeal by either of the following, it is for the applicant for a regional interests decision to establish the appeal should be dismissed—
 - (a) if the applicant is not the owner of the land—the owner of the land;
 - (b) an affected land owner.

78 Declarations

- (1) Any person may start a proceeding in the court seeking a declaration about any of the following—
 - (a) a matter done, to be done or that should have been done under this Act;
 - (b) the construction of—
 - (i) this Act; or
 - (ii) a regional plan to the extent it relates to this Act;
 - (c) the lawfulness, under this Act, of the carrying out of a resource activity or a regulated activity.
- (2) The *Sustainable Planning Act 2009*, section 456 applies to a proceeding started under this section.

Part 6 Miscellaneous provisions

Division 1 Evidence

79 Evidentiary aids generally

- (1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—
 - (a) a stated document is—
 - (i) a direction or decision, or a copy of a direction or decision, given or made under this Act; or
 - (ii) a notice or other document, or a copy of a notice or other document, given under this Act;
 - (b) on a stated day, or during a stated period, a stated person was or was not the holder of a regional interests development approval for a stated resource activity or regulated activity;
 - (c) on a stated day, or during a stated period, a regional interests development approval—
 - (i) was or was not in force for a stated person, resource activity or regulated activity; or
 - (ii) was or was not subject to a stated condition;
 - (d) on a stated day, a stated person was given a stated notice or direction under this Act;
 - (e) a stated amount is payable under this Act by a stated person and has not been paid.
- (2) A certificate purporting to be signed by the chief executive (environment) stating any of the following matters is evidence of the matter—
 - (a) on a stated day, or during a stated period, a stated person was or was not the holder of an environmental authority for a stated resource activity or regulated activity;

- (b) on a stated day, or during a stated period, an environmental authority—
 - (i) was or was not in force for a stated person, resource activity or regulated activity; or
 - (ii) was or was not subject to a stated condition.
- (3) A certificate purporting to be signed by the chief executive of a department administering a resource Act stating any of the following matters is evidence of the matter—
 - (a) on a stated day, or during a stated period, a stated person was or was not the holder of a resource authority under the resource Act for a stated resource activity;
 - (b) on a stated day, or during a stated period, a resource authority under the resource Act—
 - (i) was or was not in force for a stated person or resource activity; or
 - (ii) was or was not subject to a stated condition.

Division 2 Offence proceedings

80 Division of offences against Act

- (1) An offence against this Act for which the maximum penalty is 500 penalty units or more is an indictable offence, and a crime.
- (2) Any other offence against this Act is a summary offence.

81 Proceedings for indictable offences

- (1) A proceeding for an indictable offence against this Act may, at the prosecution's election, be taken summarily or on indictment.
- (2) A magistrate must not hear an indictable offence summarily if, at any stage of the hearing, the magistrate is satisfied—

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- (a) the defendant, if convicted, may not be adequately punished on summary conviction because of the nature or seriousness of the offence; or
 - (b) on the application of the defendant, the offence should not be heard summarily because of exceptional circumstances.
- (3) If subsection (2) applies—
- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
 - (b) a plea of the person charged at the start of the proceeding must be disregarded; and
 - (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
 - (d) before committing the person for trial or sentence, the magistrate must make a statement to the person under the *Justices Act 1886*, section 104(2)(b).
- (4) The maximum penalty of imprisonment that may be summarily imposed for an indictable offence is 100 penalty units or 3 years imprisonment.

82 Limitation on who may summarily hear indictable offence proceedings

- (1) A proceeding must be before a magistrate if it is a proceeding—
- (a) for the summary conviction of a person on a charge for an indictable offence; or
 - (b) for an examination of witnesses for a charge for an indictable offence.
- (2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order under the

*Justices of the Peace and Commissioners for Declarations Act
1991.*

83 Proceeding for summary offences

- (1) A proceeding for a summary offence against this Act must start within the later of the following periods to end—
 - (a) 1 year after the commission of the offence;
 - (b) within 1 year after the offence comes to the complainant's knowledge, but within 5 years after the offence is committed.
- (2) For subsection (1), an offence under part 2 does not come to the complainant's knowledge merely because the complainant receives a remotely sensed image that may provide evidence of the offence.
- (3) In this section—

remotely sensed image means information acquired about an object or phenomenon without making physical contact with it.

Example—

an image obtained by using aerial sensor technology to detect or classify the object or phenomenon by way of electromagnetic radiation emitted from aircraft or satellites or other propagated signals

84 Alternative offences

- (1) This section applies if—
 - (a) a section of this Act provides that an offence against a subsection of the section (the *smaller offence*) is an alternative offence for an offence against another subsection of the section (the *larger offence*); and
 - (b) in a proceeding for an offence against the larger offence, the trier of fact—
 - (i) is not satisfied the defendant is guilty of the larger offence; but

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- (ii) is satisfied the defendant is guilty of the smaller offence.
- (2) The trier of fact may find the defendant guilty of the smaller offence.
- (3) If the defendant is found guilty of the smaller offence, the defendant is liable to be punished for the smaller offence.
- (4) To remove any doubt, it is declared that—
 - (a) this section applies regardless of whether—
 - (i) the proceeding for the larger offence is summary or on indictment; or
 - (ii) the trier of fact is a judge or a jury; and
 - (b) this section applies even if an indictment for the larger offence does not include the smaller offence.

85 Court may make orders

- (1) A court hearing a proceeding for an offence against this Act may make an order in relation to the defendant as the court considers appropriate.
- (2) The order may be in addition to, or in substitution for, any penalty the court may otherwise impose.
- (3) The order may, for example, require the defendant—
 - (a) to stop carrying out a resource activity or regulated activity; or
 - (b) to demolish or remove from the land stated buildings, structures, plant or equipment related to the carrying out of a resource activity or regulated activity; or
 - (c) to restore, as far as practicable, land to the condition the land was in before the carrying out of a resource activity or regulated activity started; or
 - (d) to do, or not to do, another act to ensure a resource activity or regulated activity complies with a regional interests development approval; or

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- (e) for a resource activity or regulated activity that has started—to apply for a regional interests development approval.
 - (4) The order must state the date by, or period within, which the order must be complied with.
 - (5) A person must comply with the order unless the person has a reasonable excuse.

Maximum penalty—1665 penalty units or imprisonment for 12 months.

Division 3 Investigation and enforcement

86 Authorised persons under the Vegetation Management Act 1999

- (1) This section applies for a priority agricultural area and the strategic cropping area.
- (2) The functions of an authorised person (natural resources) under the *Vegetation Management Act 1999* include to ensure compliance with this Act (the **further function**).
- (3) For the purposes of subsection (2)—
 - (a) an authorised person (natural resources) may exercise the person's powers under the *Vegetation Management Act 1999*, part 3 (other than part 3, division 1, subdivisions 7 and 8) to perform the further function; and
 - (b) an authorised person (natural resources) may enter a place under section 30 of that Act if the place is—
 - (i) the subject of a regional interests development approval; and
 - (ii) entered during daylight hours; and
 - (c) on an application by an authorised person (natural resources), a magistrate may issue a warrant for a place

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under section 33 of that Act only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (i) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
- (ii) the evidence is at the place or, within the next 7 days, may be at the place.

(4) In this section—

authorised person (natural resources) means an authorised officer under the *Vegetation Management Act 1999*.

87 Authorised persons under a Local Government Act

- (1) This section applies for a priority living area.
- (2) The functions of an authorised person (local government) under the *Local Government Act 2009* or the *City of Brisbane Act 2010* include to ensure compliance with this Act (the *further function*).
- (3) For the purposes of subsection (2)—
 - (a) an authorised person under the *Local Government Act 2009* may exercise the person's powers under chapter 5, part 2, division 1 of that Act to perform the further function; and
 - (b) an authorised person under the *City of Brisbane Act 2010* may exercise the person's powers under chapter 5, part 2, division 1 of that Act to perform the further function; and
 - (c) on an application by an authorised person (local government), a magistrate may issue a warrant for a place under section 130 of the *Local Government Act 2009* or section 119 of the *City of Brisbane Act 2010* only if the magistrate is satisfied there are reasonable grounds for suspecting—

-
- (i) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
 - (ii) the evidence is at the place or, within the next 7 days, may be at the place; and
 - (d) a reference in the *Local Government Act 2009* or the *City of Brisbane Act 2010* to the Local Government Acts is taken to include a reference to this Act.
- (4) In this section—
- authorised person (local government)* means an authorised person under the *Local Government Act 2009* or the *City of Brisbane Act 2010*.

88 Authorised persons under the Environmental Protection Act

- (1) This section applies for a strategic environmental area.
- (2) The functions of an authorised person (environment) under the Environmental Protection Act include to ensure compliance with this Act (the *further function*).
- (3) For the purposes of subsection (2)—
 - (a) an authorised person (environment) may exercise the person's powers under the Environmental Protection Act, chapter 9 to perform the further function; and
 - (b) an authorised person (environment) may enter a place under section 452 of that Act if the place is—
 - (i) the subject of a regional interests development approval; and
 - (ii) entered during daylight hours; and
 - (c) on an application by an authorised person (environment), a magistrate may issue a warrant for a place under section 456 of that Act only if the magistrate is satisfied there are reasonable grounds for suspecting—

[s 89]

- (i) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
 - (ii) the evidence is at the place or, within the next 7 days, may be at the place.
- (4) In this section—
- authorised person (environment)* means an authorised person under the Environmental Protection Act.

89 Ministerial direction to investigate

- (1) The Minister may, by notice, direct the relevant chief executive to cause an authorised person to exercise the person's functions under section 86, 87 or 88 in relation to a stated matter related to ensuring compliance with this Act.
- (2) The department's annual report must include details of each direction given under this section during the year.

Division 4 General

90 Guidelines

- (1) The chief executive may make guidelines giving advice about—
 - (a) assessment applications; or
 - (b) prescribed criteria for deciding assessment applications.
- (2) The chief executive must publish any guidelines made under subsection (1) on the department's website.

91 No compensation because of Act

- (1) No compensation is payable by the State or an official—
 - (a) for, or in connection with, the enactment, making or operation of this Act or any statutory instrument under it; or

(b) because the carrying out of an activity is made unlawful, or is conditional or restricted, under this Act.

(2) In this section—

compensation means any amount, whether by way of compensation, reimbursement or otherwise.

92 Delegation by chief executive

The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified public service employee.

93 Protection of officials from liability

(1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability instead attaches to the State.

(3) In this section—

official means any of the following—

- (a) the Minister;
- (b) the chief executive;
- (c) an assessing agency.

94 Approved forms

(1) The chief executive may approve forms for use under this Act.

(2) A form approved for use under this Act may be combined with, or used together with, an approved form under another Act.

[s 95]

95 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may provide—
 - (a) for fees payable under this Act and the matters for which they are payable; and
 - (b) for a maximum penalty of 20 penalty units for contravention of the regulation.

Part 7 Repeal

96 Repeal

The Strategic Cropping Land Act 2011, No. 47 is repealed.

Part 8 Transitional provisions for repeal of Strategic Cropping Land Act 2011

97 Definitions for pt 8

In this part—

commencement means the day on which the provision in which the term is used commences.

mitigation fund see the repealed Act, section 148.

repealed Act means the repealed *Strategic Cropping Land Act 2011*.

SCL protection decision see the repealed Act, section 91(1)(b).

transitioned decision means a decision for which an information notice was given under the repealed Act, section 102 or 105(6).

98 Validation application

- (1) This section applies to a validation application made under the repealed Act, section 40 if, at the commencement, the application had not been decided, withdrawn or lapsed.
- (2) The chief executive (natural resources) must deal with and decide, or continue to deal with and decide, the validation application under the repealed Act as if this Act has not been enacted.
- (3) After making a decision about a validation application, the chief executive (natural resources) must ensure the SCL trigger map under this Act is consistent with the decision by, if necessary, amending the map—
 - (a) if the decision is to record any of the land the subject of the application as SCL—to include the land as an area, or part of an area, in the strategic cropping area shown on the map; and
 - (b) if the decision is to record any of the land as decided non-SCL—to remove the land from the strategic cropping area shown on the map.
- (4) In this section—

decided non-SCL see the repealed Act, section 9(3).

SCL see the repealed Act, section 9(2).

validation application see the repealed Act, section 40(1).

99 Resource activities excluded from repealed Act are exempt resource activities

A resource activity is an *exempt resource activity* for the strategic cropping area under this Act if the environmental authority or resource authority for the activity was issued or granted—

[s 100]

- (a) before 30 January 2012; or
- (b) as a result of an application that was excluded under the repealed Act, chapter 9, part 3, division 2 or 3.

100 Conditions imposed for future environmental authority or mining lease relating to EPC 891

- (1) This section applies for any environmental authority or mining lease granted because of an application for an environmental authority or a mining lease relating to EPC 891.
- (2) It is a condition of the lease that no open cut mining can be carried out under the lease.
- (3) It is a condition of the environmental authority that its holder must use all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining carried out under the lease.
- (4) This section does not limit or otherwise affect a power under this Act, the *Mineral Resources Act 1989* or the Environmental Protection Act to impose other conditions on the lease or authority, or a resource activity for the lease or authority, that are not inconsistent with these conditions.
- (5) In this section—

EPC means an exploration permit for coal under the *Mineral Resources Act 1989*.

mining lease means a mining lease under the *Mineral Resources Act 1989*.

101 Application for SCL protection decision

- (1) This section applies to an application for an SCL protection decision for a resource activity made under the repealed Act, section 95 if—
 - (a) at the commencement, the application had not been decided or withdrawn; and

- (b) the application is for a resource activity in an area that is in the strategic cropping area under this Act.
- (2) The chief executive (natural resources) must deal with and decide, or continue to deal with and decide, the application under the repealed Act as if this Act has not been enacted.

102 SCL protection decision

- (1) This section applies to each of the following SCL protection decisions, to the extent the decision is for a resource activity in an area that is in the strategic cropping area under this Act—
 - (a) one for a resource activity made under the repealed Act;
 - (b) one made as a result of an application mentioned in section 101;
 - (c) one made as a result of an appeal mentioned in section 105 or 106.
- (2) The applicant for the decision is taken to have been issued a regional interests development approval (the *transitioned approval*) for the resource activity in the strategic cropping area.
- (3) To the extent the decision imposed an SCL protection condition prohibiting the carrying out of all or part of the resource activity—
 - (a) subsection (2) does not apply; and
 - (b) the carrying out of the activity, or part of the activity, is taken to have been the subject of an assessment application, or part of an application, refused under section 48.
- (4) An SCL protection condition imposed by the decision, other than an SCL condition mentioned in subsection (3) or a financial assurance condition, is taken to be a regional interests condition imposed on the transitioned authority.

[s 103]

- (5) A condition mentioned in subsection (4) stops being a condition of an environmental authority or a resource authority for the resource activity.

Note—

Under the repealed Act, section 103, an SCL condition is taken to be a condition of a relevant environmental authority or resource authority.

- (6) The chief executive may issue, under section 53, a regional interests development approval to the applicant for the transitioned approval.

- (7) In this section—

applicant means a person who applied for the decision.

financial assurance condition see the repealed Act, section 100(4).

SCL protection conditions—

1 See the repealed Act, section 99(1)(b).

2 ***SCL protections conditions*** includes a condition mentioned in paragraph 1 as imposed or amended as a result of an appeal mentioned in section 105 or 106.

103 SCL compliance certificate

- (1) This section applies to an SCL compliance certificate, to the extent the certificate relates to a resource activity in an area that is in the strategic cropping area under this Act.
- (2) The person who holds the SCL compliance certificate is taken to have been issued a regional interests development approval (the ***transitioned approval***) for the resource activity.
- (3) The conditions under the standard conditions code for carrying out the resource activity are taken to be regional interests conditions imposed on the transitioned authority.
- (4) The chief executive may issue, under section 53, a regional interests development approval to the applicant for the transitioned approval.
- (5) In this section—

SCL compliance certificate see the repealed Act, section 116.

standard conditions code means the standard conditions code in force under the repealed Act immediately before its repeal.

104 Mitigation requirements

- (1) This section applies if, immediately before the commencement, under the repealed Act, section 104(2), it is taken to be a condition of a resource authority that its holder must comply with the mitigation requirement (the *transitioned mitigation requirement*).
- (2) The transitioned mitigation requirement is taken to be an SCL mitigation condition imposed on a regional interests development approval issued to the resource activity holder under section 102.
- (3) For subsection (2)—
 - (a) a payment made to the mitigation fund under the repealed Act for the mitigation requirement is taken to be a payment made to the mitigation fund under part 4 of this Act for the SCL mitigation condition; and
 - (b) a mitigation deed entered into under the repealed Act for the mitigation requirement is taken to be a mitigation deed entered into under part 4 of this Act for the SCL mitigation condition.
- (4) In this section—

mitigation requirement see the repealed Act, section 11(7).

105 Right of appeal on commencement

- (1) This section applies if, on the commencement—
 - (a) a person had a right to appeal against a transitioned decision that relates to the carrying out of a resource activity in an area that is in the strategic cropping area under this Act; and
 - (b) the person had not started the appeal.

[s 106]

- (2) The person may appeal against the decision and the Land Court must hear and decide the appeal as if this Act has not been enacted.

106 Appeals started at commencement

- (1) This section applies if—
 - (a) a person started an SCL appeal before the commencement; and
 - (b) the appeal is against a transitioned decision that relates to the carrying out of a resource activity in an area that is in the strategic cropping area under this Act; and
 - (c) on the commencement the appeal has not been decided or withdrawn.
- (2) The Land Court must hear and decide, or continue to hear and decide, the SCL appeal as if this Act has not been enacted.

- (3) In this section—

SCL appeal means an appeal to the Land Court under the repealed Act, section 109 against a transitioned decision.

107 Stop work notices and restoration notices

- (1) This section applies if, before the commencement, a person was given a stop work notice or a restoration notice for the carrying out of a resource activity in an area that is in the strategic cropping area under this Act.
- (2) The person must comply with the notice.
- (3) For subsection (2), the repealed Act, other than section 171, continues to apply as if this Act has not been enacted.
- (4) In this section—

restoration notice see the repealed Act, section 160(2).

stop work notice see the repealed Act, section 157(2).

Part 9 **Transitional regulation-making power**

108 **Transitional regulation-making power**

- (1) A regulation (a *transitional regulation*) may make provision of a savings or transitional nature to allow or facilitate—
 - (a) the commencement of the operation of this Act; or
 - (b) the change from the operation of the repealed *Strategic Cropping Land Act 2011* to the operation of this Act.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day this section commences.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This part and any transitional regulation expire 1 year after the commencement.

Part 10 **Amendment of Environmental Protection Act 1994**

109 **Act amended**

This part amends the *Environmental Protection Act 1994*.

110 **Amendment of ch 5, hdg (Environmental authorities and environmentally relevant activities)**

Chapter 5, heading, note—
omit.

111 **Insertion of new s 212A**

After section 212—

[s 112]

insert—

212A Amendment of particular environmental authorities to reflect regional interests development approval conditions

- (1) This section applies if an environmental authority for a resource activity or regulated activity is inconsistent with a regional interests development approval for the activity under the *Regional Planning Interests Act 2014*.
- (2) The administering authority may amend the environmental authority to ensure it is consistent with the regional interests development approval.
- (3) The administering authority must give written notice of the amendment to the environmental authority holder.
- (4) A reference in this section to an environmental authority or a regional interests development approval includes a reference to a condition of the authority or approval.
- (5) In this section—
regulated activity see the *Regional Planning Interests Act 2014*, section 17.

112 Amendment of sch 4 (Dictionary)

Schedule 4, definition *small scale mining activity*, ‘or on strategic cropping land or potential SCL under the *Strategic Cropping Land Act 2011*’—

omit.

Part 11 Amendment of Gasfields Commission Act 2013

113 Act amended

This part amends the *Gasfields Commission Act 2013*.

114 Amendment of s 7 (Commission's functions)

Section 7—

insert—

- (ca) in response to requests for advice from the chief executive under the *Regional Planning Interests Act 2014* about assessment applications under that Act, advising that chief executive about the ability of landholders, regional communities and the resources industry to coexist within the area the subject of the application;

115 Amendment of sch 1 (Dictionary)

Schedule 1—

insert—

resources industry—

- (a) means the businesses that carry out a resource activity within the meaning of the *Regional Planning Interests Act 2014*, section 12(2); and
- (b) includes the onshore gas industry.

Schedule 1 Dictionary

section 6

affected land owner, for part 5, see section 71.

appeal see section 72.

applicant, for a provision about an assessment application, see section 28.

approved form means a form approved by the chief executive under section 94.

area of regional interest see section 7.

assessing agency, for an assessment application, see section 26(1).

assessing agency condition see section 42(2)(a)(i).

assessment application see section 28.

assessor, for an assessment application, see section 26(2).

authority holder see section 15.

chief executive (environment) means the chief executive of the department administering the Environmental Protection Act.

chief executive (natural resources) means the chief executive of the natural resources department.

closing day, for submissions about an assessment application, see section 35(2)(b)(ii).

court, for part 5, see section 71.

cropping includes the following—

- (a) the yield of any form of cultivated crop for any purpose, including, for example, for food, fibre, fodder or medicinal purposes;
- (b) the growing of trees to produce, or as a component for, food, fibre or a medicinal product;

(c) harvesting a timber plantation.

decision notice, for a decision, means a notice stating the following—

- (a) the decision and the reasons for it;
- (b) the rights of appeal under part 5 against the decision;
- (c) the period in which any appeal under part 5 must be started;
- (d) how rights of appeal under part 5 are to be exercised.

environmental authority see section 14.

Environmental Protection Act means the *Environmental Protection Act 1994*.

exempt regulated activity, for an area of regional interest, see section 25(2).

exempt resource activity, for an area of regional interest, see section 22(2), 23, 24(2) or 99.

expected surface impacts, of a resource activity, means the expected impacts of carrying out the activity on the surface of the land where the activity is to be carried out.

Gasfields Commission means the commission under the *Gasfields Commission Act 2013*.

impact, for a resource activity or regulated activity on an area of regional interest, see section 27.

information includes a document.

lot means—

- (a) a lot under the *Land Title Act 1994*; or
- (b) a separate, distinct parcel of land for which an interest is recorded in a register under the *Land Act 1994*.

mitigated SCL land see section 61.

mitigation see section 62(1).

mitigation criteria see section 65(1).

mitigation deed see section 64.

mitigation fund see section 66.

mitigation measures see section 63(1).

mitigation value, of mitigated SCL land, see section 62(2).

natural resources department means the department that administers the *Land Act 1994*.

notice means written notice.

notifiable, for an assessment application, see section 34(2) and (4).

owner, of land, means—

- (a) the person for the time being entitled to receive the rent for the land or who would be entitled to receive the rent for it if it were let to a tenant at a rent; or
- (b) the lessee of a lease issued under the *Land Act 1994* for agricultural, grazing or pastoral purposes.

party, to an appeal, means the applicant and each respondent or co-respondent for the appeal.

prescribed time frame, for a matter, means the time frame prescribed under a regulation for the matter.

priority agricultural area see section 8(1).

priority agricultural land use see section 8(2).

priority living area see section 9.

properly made, for a submission about an assessment application, see section 37.

property means—

- (a) if an area managed as a single agricultural enterprise consists of 1 lot—the lot; or
- (b) otherwise—all the lots that—
 - (i) are owned by the same person or have 1 or more common owners; and
 - (ii) are managed as a single agricultural enterprise; and

- (iii) form a single discrete area because 1 lot is adjacent, in whole or part, to another lot in that single discrete area (other than for any road or watercourse between any of the lots).

referable, for an assessment application, see section 39(2).

regional interests condition see section 48(2).

regional interests decision, for part 5, see section 71.

regional interests development approval see section 16.

regional plan see the *Sustainable Planning Act 2009*, section 33.

regulated activity see section 17(1).

relevant authorities see section 28(3), definition *eligible person*.

relevant matters, for an assessment application, means—

- (a) for deciding the application—the matters mentioned in section 49(1); or
- (b) for giving an assessing agency's response—the matters mentioned in section 41(2).

requested amendment see section 55(1).

requirement notice see section 44(1).

resource Act see section 12(1).

resource activity see section 12(2).

resource authority see section 13.

road see the *Sustainable Planning Act 2009*, schedule 3.

SCL mitigation condition see section 50(3).

SCL trigger map means the electronic map called 'Trigger Map for Strategic Cropping Land in Queensland' approved by the chief executive (natural resources) and published on the website of the natural resources department.

strategic cropping area see section 10(1).

strategic environmental area see section 11(1).

watercourse see the *Water Act 2000*, section 5.

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