

“Friends of South East Queensland” (hereafter FOSEQ) is operating in its 12th year. Its founding principles are based on the Earth Charter and FOSEQ has 6 functions. One of its functions is to be a watchdog for government systems, until a Queensland Sustainability Commissioner is established.

FOSEQ was represented in departmental debates and workshops on DERM actions arising from proposed Greentape Reduction. Robyn Keenan and Terry Templeton met with the then Minister and provided background papers to illustrate concerns about the internal decision making.

The original bill was available for review in December 2011, and submissions were invited. Few were received. The government changed in April, 2012. The revised bill was circulated last week. A public hearing and comments in Parliament are invited on Wed 6 June 2012.

Greentape reduction relates to streamlining approvals for activities that do, or have potential to do “environmental harm”.

Our concerns relate to restricted democracy.

We seek opportunity for community reviews of proposed & amended activities.

Investment in prevention is wiser and more effective than expensive enforcement, remediation, and rehabilitation. Anticipating consequences is fundamental to sustainable development.

This bill interacts with EPA, SPA, (CSG) Petroleum Act and range of mining Acts, Aboriginal and Torres Strait Islanders Cultural Heritage Acts, Coastal Management Acts, and several Water Acts.

Our major issues are:

1. **Community consultation** was originally drafted as only “10 days for comment”. This is unacceptable when most community groups only meet once a month.
2. **Notification** of proposed material change of use has been drafted to minimise public awareness.
3. Amendments have been streamlined so this may mean no **public awareness of major and minor changes** to original proposals. Some changes have significant impacts.
4. Proposals within **State Development Areas**, like Bromelton Industrial Area and ULDA (new cities for Urban Land Development Authority) may not be required to be made available to the public.
5. The micro levels we were involved with previously are not evident in the bill.
6. Cost effective training should include worse-case scenario **hypothetical training** for staff and key stakeholders, so roles can be understood in cases of emergency.
7. **Definitions** in this bill should reflect those in the EPA “environmental harm” and SPA purpose “ecological sustainability”.

The following matrix provides an overview of case studies pertinent to SEQ.

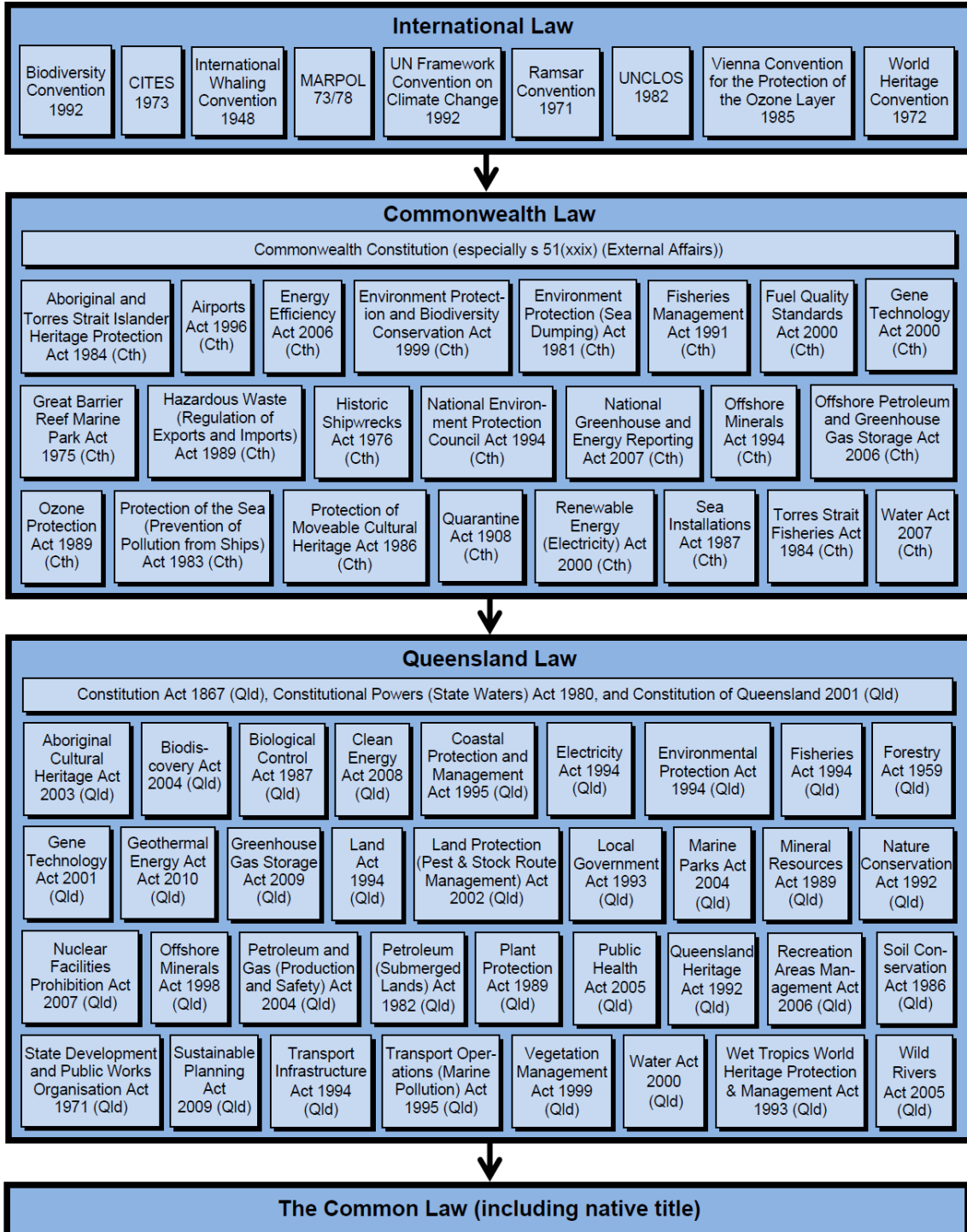
	CSG	Chook sheds with tunnel ventilation	Intensive caravans	High impacts & toxic industry
Risk	Community, air, water, great artesian basin	Community, air, human health, biosecurity, water	future and existing communities	Community, waterways, air
Responsibilities	unsure	Devolved systems	renters	Devolved nobody
Rights	Mining company	The chooks, not people, not contractors	unsure	Land manager
Rewards	Mining company	Parent company	Land owner	Warehouse managers
Rehabilitation	The last one standing			

Parliamentary Researchers advise that, in summary, the 2011 Bill was changed by:

1. Inserting definitions of 'eligible activities' and 'ineligible activities' to tidy up the drafting around the use of eligibility criteria to categorise low-risk ERAs
2. Changing the requirement for a 'statutory declaration' to a 'declaration' to accompany certain documents to facilitate online lodgement
3. Preserving the status quo that that Land Court is not required to make a decision if all objections are withdrawn
4. Changing the appeal time to refer an environmental authority relating to a mining lease to match other appeal timeframes (i.e. 20 business days)
5. Preserving the status quo that allows an environmental authority to be amended for any reason, provided the holder has consented to the amendment in writing
6. Preserving the status quo in the consideration of contaminated land issues in the surrender of environmental authorities
7. Amendments to facilitate online registers
8. Preserving the status quo that allows the anniversary day of the environmental authority to be amended with the consent of the holder in writing
9. Requiring the department to assess registration, cancellation and suspension of suitable operators, rather than having this function split between the department and local governments. This will reduce the regulatory burden on local governments
10. Clarifying the power to make statutory guidelines to refer to specific guidelines for regulatory requirements, and general guidelines to inform people
11. Transitional provisions to facilitate a smooth transition to the new streamlined process
12. Changes to the consequential amendments to the *Mineral Resources Act 1989* to align with other proposed amendments
13. Preserving the status quo for the powers of the Coordinator-General
14. Minor, technical amendments identified by the Office of the Queensland Parliamentary Counsel

References for FOSEQ decision making and scope .(Dr Chris McGrath 2011; England 2011; Environmental Defenders Office 2009)

Figure 1: Major pieces of the Queensland environmental legal system



Appendix 2: Jurisdiction of State and Federal courts & tribunals relevant to environmental law in Queensland

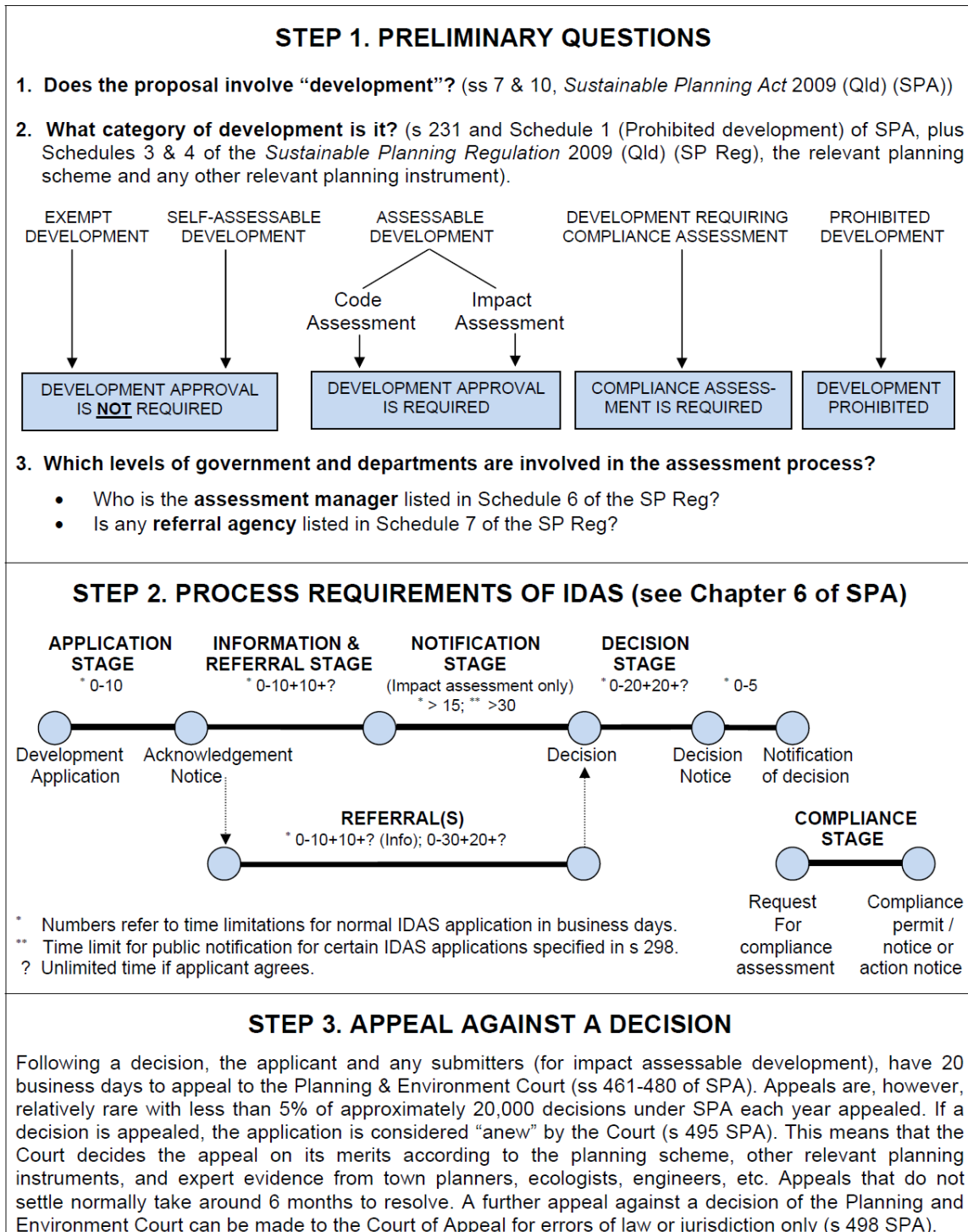
Subject area / Jurisdiction	Relevant court or tribunal
1. Planning appeals, development offences and declarations under the <i>Sustainable Planning Act 2009</i> (Qld) (SPA)	Planning and Environment Court (see Chapter 7 of SPA) **
2. Applications to restrain offences against the <i>Environmental Protection Act 1984</i> (Qld) (EP Act)	Planning and Environment Court (see ss505 & 507 of the EP Act) **
3. Applications for declarations and enforcement orders for offences under the <i>Native Conservation Act 1992</i> (Qld)	Planning and Environment Court (see ss 170B and 173D of the <i>Native Conservation Act 1992</i> (Qld)) **
4. Objections to an environmental authority (mining lease) under the EP Act and a mining lease under the <i>Mineral Resources Act 1989</i> (Qld)	Land Court (see ss 219-228 of the LP Act, ss 26D-28E of the <i>Mineral Resources Act 1989</i> (Qld) and <i>Land Court Act 2000</i> (Qld)) ***
5. Appeals by applicants and, for level 1 petroleum activities, by submitters against environmental authorities for petroleum activities under EP Act.	Land Court (see ss 520-539 of the EP Act and <i>Land Court Act 2000</i> (Qld)) ***
6. Appeals against certain decisions under the <i>Fisheries Act 1994</i> (Qld)	Queensland Civil & Administrative Tribunal (QCAT) (ss 155-156 of the <i>Fisheries Act 1994</i> (Qld)) **
7. Appeals against various decisions under the <i>Water Act 2000</i> (Qld)	Magistrates Court of Queensland, Land Court or Planning and Environment Court (see s 577 of the <i>Water Act 2000</i> (Qld)) **
8. Appeals against permit and licence decisions under the <i>Native Conservation (Administration) Regulation 2006</i> (Qld)	Queensland Civil & Administrative Tribunal (QCAT) (see s 103 of the <i>Native Conservation (Administration) Regulation 2006</i> (Qld))**
9. Applications for an injunction to restrain a public nuisance, private nuisance or interference with riparian use rights of Common Law	District Court of Queensland (if unimproved value of property affected is less than \$250,000) or Supreme Court of Queensland (if greater value) *
10. Judicial review of Queensland government administrative decisions (other than planning decisions under SPA)	Supreme Court of Queensland (see <i>Judicial Review Act 1991</i> (Qld) and s 575 of the SPA) *
11. Applications for injunctions under the EIPBC Act	Federal Court of Australia (s 175 of the EIPBC Act) *
12. Merits appeals against certain decisions under the <i>Goolari Bamber Road Manna Park Act 1975</i> (Cth) and specified other Commonwealth administrative decisions	Administrative Appeals Tribunal ** (jurisdiction provided under various legislation)
13. Judicial review of Commonwealth government administrative decisions	Federal Court of Australia or Federal Magistrates Court (see the <i>Administrative Decisions (Judicial Review) Act 1977</i> (Cth)) *
14. Criminal prosecutions under all Queensland or Commonwealth environmental legislation	Magistrates Court of Queensland (for summary offences) or District Court of Queensland (if prosecuted on indictment) **
15. Appeals from Queensland courts and tribunals	Queensland Court of Appeal * (Civil & Criminal)
16. Appeals from Federal Court	Full Court of the Federal Court **
17. Constitutional issues & final appellate court	High Court of Australia * (Civil appeals & Criminal appeals)

* Normal costs rule applies (i.e. the losing party pays winning party's legal costs).

** Own costs rule applies (i.e. subject to limited exceptions, each party bears their own legal costs).

*** Neither normal costs rule or own rule applies (see *Inson Holdings Pty Ltd v Wallace & Anor* [2019] QLCR 0002).

Appendix 5: Integrated development assessment system (IDAS) flowchart



Dr Chris McGrath, *Synopsis of the Queensland Environmental Legal System*, 2011, Environmental Law Publishing, Brisbane.

England, P 2011, *Sustainable planning in Queensland*, Federation Press.

Environmental Defenders Office 2009, *Community litigants handbook: Using planning law to protect our environment*, Second edn, Environmental Defenders Office (Qld), West End, Queensland.