AgForce Queensland Industrial Union of Employers
ABN 21 241 679 171

Second Floor, 110 Mary Street, Brisbane, Qld, 4000
PO Box 13186, North Bank Plaza, Brisbane Qld 4003

Ph: (07) 3236 3100
Fax: (07) 3236 3077
Email: agforce@agforceqld.org.au
Web: www.agforceqld.org.au

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Ms Erin Pasley
The Research Director
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Pasley

AgForce Queensland welcomes the opportunity to make a submission to the *Regional Planning Interests Bill 2013*. AgForce is the peak lobby group representing the majority of beef, sheep and wool, and grain producers in Queensland. AgForce exists to ensure the long term growth, viability, competitiveness and profitability of these industries.

As a result of intensifying competition for land and other resources in Queensland, AgForce welcomes the stated intention of the Bill to manage the impacts of resource activities on agricultural and other areas that contribute or are likely to contribute to the state's economic, social or environmental prosperity. However AgForce has identified a range of issues with the current Bill that need to be addressed before we can be confident that such management will be effective. These are outlined in the accompanying submission.

A key outcome needed is the achievement of an equal say for landholders and their agreement about proposed on-farm resource activities to preserve landholder rights and their ability to continue agricultural production on priority agriculture and strategic cropping areas. A detailed proposed framework to do so is included as an added attachment to the submission.

AgForce would welcome the opportunity to address the State Development, Infrastructure and Industry Committee to provide any further information required in support of our views and assist it in its deliberations. If there are any questions about the contents of this submission, please contact Dr Dale Miller, AgForce Senior policy Advisor by telephone (07 32363100) or email (millerd@agforceqld.org.au).

Yours sincerely

I. W. Burnett

Ian Burnett
President AgForce Queensland

Advancing Rural Queensland

Managing the impacts of resource and other regulated activities

Response to the Regional Planning Interests Bill 2013

17 January 2014

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ABN 21 241 679 171
Second Floor, 110 Mary Street, Brisbane, Qld, 4000
PO Box 13186, North Bank Plaza, cnr Ann & George Sts, Brisbane Qld 4003
Ph: (07) 3236 3100.
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Email: agforce@agforceqld.org.au
Web: www.agforceqld.org.au

Executive summary

AgForce is the peak lobby group representing the majority of beef, sheep and wool, and grain producers in Queensland. AgForce exists to ensure the long term growth, viability, competitiveness and profitability of these industries. Our members provide high quality food and fibre products to Australian and overseas consumers, manage a significant proportion of Queensland's natural resources and contribute significantly to the social fabric of rural and remote communities. AgForce welcomes the opportunity to make a submission to the *Regional Planning Interests Bill 2013*.

Since 1980 the area used for agriculture in Queensland has fallen by 17 per cent (to 77pc of the total land area) while the area of mining tenements has increased from around 7pc to more than 50pc of the state, largely underlying land used for agriculture. Coal Seam Gas (CSG) production has doubled within the last decade and the number of wells has quadrupled in the last five years. This trend is expected to continue.

As a result of this intensifying competition for land and other resources AgForce welcomes the stated intention of the *Regional Planning Interests Bill 2013* (the Bill) to manage the impacts of resource activities on agricultural and other areas that contribute or are likely to contribute to the state's economic, social or environmental prosperity. However there are a range of identified issues with the Bill that need to be addressed before there can be confidence such management will be effective. These are outlined in this submission.

A key outcome needed from the framework is an emphasis on the achievement of negotiated agreements for on-farm resource activities between landholders and resource companies that would preserve landholder rights and their ability to continue agricultural production on priority agriculture and strategic cropping areas. A detailed proposed framework to give landholders an equal say is included as an attachment to this submission for further consideration by the Parliamentary Committee. It should be noted that this does not constitute an absolute 'right of veto' but restores a more equitable balance between affected businesses in decision-making.

Primary producer landholders need the same certainty of investment for their businesses as resource sector businesses. It is far preferable for certainty to primary producers for the key elements of protection for agricultural lands to be included in the final Act itself rather than have essential detail included in subordinate regulations. The lack of access to the supporting regulations to this Bill makes providing an informed submission on the Bill very difficult. As a result AgForce reserves the right to update our position as further information becomes available.

AgForce strongly supports the inclusion of water sources and infrastructure that support priority agriculture for strengthened protection and the broadening of agricultural areas eligible for protection under the RI assessment process. Due to the potential to significantly reduce the level of protection available for Strategic Cropping Land in the future, AgForce objects to the proposed repeal of the Strategic Cropping Land Act 2011 or any changes in a transition process that would result in a reduction in protection of SCL.

As a long standing policy AgForce supports the revocation of the Wild Rivers (WR) declarations and their replacement with an alternative framework that acknowledges within its purpose Ecologically Sustainable Development (ESD). It is AgForce's view that to the greatest extent possible broadacre agricultural activities should be exempt from the provisions of the Bill, with any significant, widespread impacts being already regulated through other existing legislation.

AgForce seeks to closely engage with the Government in the development and finalisation of the Regional Planning Interests framework and the supporting regulations.

Introduction

High quality agricultural land is a valuable resource supporting food production for current and future generations – it is the best land we have and it is irreplaceable. Since 1980, the area used for agriculture has fallen by 17 per cent (to 77pc of the total land area - ABS 1980, 2012) with broadacre cropping now covering just 2.06pc of the state's area (DAFFQ Agricultural Land Audit). In the same period there has been a rapid increase in the area of mining tenements (from around 7pc to more than 50pc of the state), the great majority of which underlie land currently being used for agriculture. Coal Seam Gas (CSG) production has doubled within the last decade and the number of wells has quadrupled in the last five years (Land Audit). This trend is expected to continue.

AgForce supports the principle of the protection of valuable strategic resources that support agriculture and its capacity to meet the increased food and fibre needs of current and future generations of Queenslanders and our customers elsewhere in Australia and overseas. To achieve certainty and investor confidence AgForce is looking to the Government to provide a comprehensive and robust framework of protections for these agricultural resources from developments that compromise current or potential productivity.

AgForce does not support any reduction of the current rights of landholders or existing protections for agricultural land, including during the Government's proposed process of transitioning the Strategic Cropping Land Act (SCL Act) provisions to regulations.

The Bill is intended to provide the State with the ability to manage the impacts of resource and other regulated activities in areas of regional interest that contribute, or are likely to contribute, to Queensland's economic, social and environmental prosperity. It will operate as a framework Act that overarches a set of supporting regulations, which are yet to be released for comment. This lack of access to the regulations which contain key details or examples of how they might work in practice represents a significant limitation to understanding the likely effectiveness of the framework and so AgForce's capacity to make informed comment on the Bill.

The following sections within this submission contain AgForce's response to the Bill on the basis of currently available information however AgForce reserves the right to update its position as further information becomes available, such as the supporting regulations. There should be a further opportunity to provide feedback to the Government following the release of those regulations and before finalisation of the Bill provisions.

Purpose and Application (Division 2)

The currently stated purpose of the Bill (s3) is to:

- identify areas of regional interest (RI) that contribute, or are likely to contribute, to Queensland's economic, social or environmental prosperity
- give effect to the policies about matters of State interest stated in the new regional plans
- manage the impacts of resource and other regulated activities on RI areas; and
- manage the co-existence of resource or regulated activities with other activities (like highly productive agriculture, water sources and water infrastructure).

As intended under the SCL Act and in past state planning policies, it is in the Queensland public's interest to protect irreplaceable agricultural land and water resources for future generations and principles delivering on this outcome should be firmly embedded in the enabling legislation.

AgForce supports the inclusion of '*or are likely to contribute'* concerning identification of RI areas so as to accommodate further growth of agricultural intensification, such as new irrigation areas in

northern Queensland, and in acknowledgement that agricultural land uses and requirements are not static over time.

We also support avoiding and limiting resource activity impacts on valuable agricultural land and establishing a legislative framework by which real co-existence and certainty can be achieved. AgForce in conjunction with the Queensland Farmers Federation (QFF) and Cotton Australia (CA) have developed a proposal by which equitable landholder involvement could be included. This is attached as an appendix. The principles and the process within that document by which landholder agreement is secured should be embedded in the final Act. This would involve:

- No loss of existing landholder rights
- No permanent impacts to SCL, or PALU's within a PAA, allowed and limits to temporary impacts applied with full landholder compensation
- No diminishment of current agricultural productivity and no reduction in the capacity of agriculturally relevant resources (soil, water, etc.) to support potential agricultural activities
- Landholder equality with development proponents in decisions about the instigation and operation of concurrent activities on agricultural land, including the right to decline proposed incompatible developments and an inclusive dispute resolution process
- The achievement of mutually-beneficial outcomes for both sectors.

AgForce welcomes the acknowledgement at the public briefing for the Bill of the Department of State Development, Infrastructure and Planning (DSDIP) that there will or could be instances where resource and agricultural activities cannot co-exist for the benefit of both parties and in these cases the priority would go to the preservation of the priority agricultural land use. We support this prioritisation and an equitable process to decide coexistence questions.

Section 6 refers to the Dictionary in Schedule 1 which defines the owner of land as meaning '*the person for the time being entitled to receive the rent for the land or would be entitled to receive the rent for it if it were let to a tenant at a rent*'. This definition would appear to potentially exclude agricultural leaseholders from the provisions of the Bill and should be reworded to clearly include holders of state leasehold land, who also have a recognised interest in the operation of regulated activities on land under their stewardship. This would be consistent with the definition of landholder used in the *Vegetation Management Act 1999* and other natural resource Acts.

Definitions of Areas of Regional Interest – Subdivision 2

An area of Regional Interest (RI) is currently defined in the Bill (s7) to be either a:

- priority agricultural area (PAA)
- priority living area (PLA)
- strategic cropping area (SC area)
- strategic environmental area (SE area).

Priority agricultural area (s8)

In the current Bill draft, a PAA is identified in a regional plan or prescribed in a regulation only if it includes 1 or more of:

- an area of land used for a priority agricultural land use (PALU, to be defined in a RP or prescribed under a regulation);
- an area that contains a source of water or infrastructure supplying water, that is necessary for the ongoing use of a PALU in a PAA;
- an area, if the carrying out of a resource or regulated activity in the area is likely to have a negative impact on one of those PALU water sources or infrastructure.

AgForce requests that, for consistency with s8 (2)(C), s8 (2)(a) include 'an area used for or supporting a priority agricultural land use'.

AgForce strongly supports the inclusion of water sources and infrastructure that support priority agriculture for strengthened protection and the inclusion of additional areas at a regional level where resource or regulated activities are likely to have negative impacts on these intrinsic water resources. All types of aquifers supporting identified priority agriculture should be included not just high priority unconfined aquifers such as the Condamine Alluvium. Agricultural land uses themselves should not be regulated SC areas or PAA-related activities under the Bill as they are already covered under other legislative instruments, including the *Water Act 2000*.

Through the public consultation period for the regional plans, AgForce has consistently raised its concerns about the limited coverage of both PAA and PALU within the Central Queensland and Darling Downs Regional Plans and the Committee is referred to our submission on those plans for further details on these limitations. AgForce considers that the final land area where additional resource activity assessment and conditioning should be applied would include PAA and potential Strategic Cropping Land (SCL), Important Agricultural Areas identified by the Government's own Land Capability Audit, and areas covered by Agricultural Land Classification (ALC) A and B Class land. AgForce strongly supports including dryland continually cropped soils outside of the SCL Protection Area footprint and leucaena plantations.

AgForce supports the inclusion of high value or intensive grazing within the PALU definition. At the public briefing DSDIP indicated that 'grazing is not protected, because the government's direction was that in those instances agriculture and mining have the capacity to work together to resolve how they exist in the landscape'. This resolution can only occur where the grazier, or other primary producer, has an equal say with the resource proponent about what activities are proposed to occur on their land, and to agree or disagree that what is proposed is reasonable. Primary producers do not currently have this capability and the Bill should seek to remove this deficiency.

The requirement for PAA to be defined in regulation or in a regional plan, while providing more flexibility for successive governments, provides less certainty for agricultural and other investors that these protections will be sustained and it is preferred for the PAA and SCL RI identification processes to be embedded in the Bill itself. There should be a regular and transparent process of review included, every 5 years, of RI covering PAA and SCL to enable intensification of agriculture changes over time to be incorporated. This review should include a public consultation process. Intrinsically PAA and SC area identification involves the identification of suitable land and water resources. As such, DNRM and DAFFQ are the appropriate departments to oversee this process and make final determinations, rather than DSDIP, as they have the appropriate expertise and resources for this task.

A priority living area (s9)

In identifying a PLA, PAA and SCL should be protected from urban encroachment as included in past Queensland Government planning instruments, e.g. the GQAL policy. It is unclear from the Bill how such potential conflicts of RI will be resolved. High quality agricultural land is a valuable resource supporting food production for current and future generations – it is the best land we have and it is irreplaceable. Therefore AgForce recommends protection from urban encroachment is included.

A strategic cropping area (s10)

AgForce does not support the proposed repeal of the SCL Act. An SC area (SCL and potential SCL) is land highly suitable for cropping and is identified on the DNRM approved SCL trigger map, as

amended via the SCL decision register. The definition of land highly suitable for cropping will be prescribed in a regulation, not yet available, on the basis of soil, climate and landscape features. This SCL definition should be taken from the SCL Act and included in the Bill. AgForce does not support any changes to the current definition of SCL that would result in a reduction in areas determined to be SCL. AgForce supports the broad definition of cropping included (s10) and an extension of the coverage of the existing SCL Act to the whole of the State. Further information on our views on the SCL protections is contained in our submission to the recent DNRM review of the SCL Act.

A strategic environmental area (s11)

A SE area has strategic environmental value as being a quality or physical characteristic conducive to ecological health or public amenity or safety; or another quality identified under an environmental protection policy or regulation. Example SE areas provided in the Bill included the channel rivers of western Queensland, areas providing important bio-physical function for sensitive plant and animal species, or an ecological corridor and habitat connection. The Bill is not clear about whether areas of regional interest will encompass off-shore areas, such as the Great Barrier Reef Lagoon. The Bill indicates that SE area values will be identified and mapped in a regional plan or regulation. Such SE area identification and mapping should be subject to a mandated public consultation process and periodic public review.

It is inferred that the Bill will also encompass SE areas defined as Matters of National Environmental Significance (MNES) in the Australian Government *Environment Protection and Biodiversity Conservation Act 1999* such as the Great Barrier Reef World Heritage Area, wetlands of national environmental significance, habitats of threatened species, threatened ecological communities and the Wet Tropics World Heritage Area. Thirty per cent of Queensland's coastal zone is within the MNES conservation protection areas.

Chapter 10 of the Great Barrier Reef Strategic Assessment reports refer to development of a 'sophisticated mapping system' as a planning tool to identify MNES including essential habitat for terrestrial threatened species and key roosting and breeding sites for migratory species. The Great Barrier Reef Marine Park Authority has developed the Coastal Ecosystems Assessment Framework 2012 that maps ecosystem services, vulnerability and values (both natural and anthropogenic). If these maps are used within the context of the Bill, confirmation is required that all the categories of RI land uses are captured in the spatial data. The Coastal Ecosystems Assessment Framework uses Queensland Land Use Mapping Program (QLUMP99) spatial data which may not capture potential SCL for trees and timber plantations.

Application to resource activities (s12 to 15, 17) – Subdivision 3

AgForce supports a broad capture of resource-related activities as requiring landholder agreement and potentially triggering a need for a RI authority under the Bill and including those identified in the Explanatory Notes (exploration, production, ancillary, processing and handling). Water pipeline licenses granted under the *Water Act 2000* should also be included. This capture should include all proposed activities involving a risk of permanent or widespread impacts to areas of RI as well as existing activities subject to applications to amend, renew or re-grant tenures for a resource activity, or for applications for major amendments under an Environmental Authority. It should be clarified in s17 (7)(b) who will make the decision as to whether a proposed amendment is a major amendment and what criteria will guide that decision. Such decisions should be transparent.

The Bill, including any restriction or requirement, applies despite any resource Act, the *Environmental Protection Act 1994*, the *Sustainable Planning Act 2009* or the *Water Act 2000*. A condition of a RI authority prevails over any condition of another authority or permit to the extent of

any inconsistency. More information on how any conflicts will be resolved is required and impacts on previous landholder agreements.

Application to other regulated activities (s16)

The Bill should clearly state that agricultural activities are exempt activities under the Act, with any significant, widespread impacts being already regulated through other existing environmental legislation.

In SE areas the protection of environmental values is the priority land use, so development will only be acceptable where it can be demonstrated that ecological integrity is not jeopardised, i.e. activity does not present 'risk of irreversible or widespread impacts to the ecological integrity of the area'. Activities that risk such permanent impacts will not be allowed. As for resource activities on PAA and SCL this should only apply to proposed new regulated activities with such potential significant impacts.

As pointed to by DSDIP at the Public Briefing on the Bill, the draft Cape York RP has some details on natural values and potential regulated activities under this RI. In identified SE Areas regulated activities may potentially include a range of agricultural (horticulture, intensive animal, aquaculture), tourism, residential and industrial and water and other infrastructure related activities. Regulated activities should be clearly identified in the Act. Consideration must be given to the assessment criteria applicable for each RI area and the approach to inconsistencies where overlaps in interests occur, such as for PA area and SC areas, with the greatest level of protection applied.

A regulated activity is one which is likely to have an impact (s28), being those impacts 'affecting' the attributes of the RI area and its ongoing suitability for the identified purpose. This definition in the Bill requires further clarification so that the definition is measurable and objective. For example the draft Cape York Regional Plan provides some indication as to how different agricultural activities in SE areas may be assessed under the RPI Act framework. Broadacre cropping and regional water storages are proposed to be unacceptable land uses however intensive horticulture, industrial activity such as abattoirs and weirs/residential dams would likely be regulated activities subject to RPI assessment. As the RI impacts of some of these activities could potentially be identical, an outcomes-based definition of impacts should be developed and applied, as for the approach taken to resource activities on PAA and SCL.

It is not clear from the Bill if cumulative impacts will also be considered within the definition and scope of this legislation. Cumulative impacts have been identified as an issue and knowledge gap for MNES within the Great Barrier Reef coastal zone. Again, these activities and impacts are intended to be prescribed by regulation which is not yet released for consultation, so it is difficult to comment on this provision.

SE area designation for Wild Rivers areas

As a long standing policy AgForce supports the revocation of the Wild Rivers (WR) declarations and their replacement with an alternative framework that acknowledges within its purpose Ecologically Sustainable Development (ESD), rather than ignoring social and economic outcomes when managing development. To retain the environmental values of Queensland's dynamic ecosystems, these areas need to be managed – this is a task commonly undertaken by landholders at their own expense for both a public and private benefit. The *Wild Rivers Act 2004* (WR Act) introduces constraints on best practice land management, long-term development and future diversification, and ignores alternative means of achieving best practice environmental outcomes. To remain an economically

viable enterprise producers are required to sustainably improve the productive capacity of the land they occupy. This should not be unreasonably impeded.

The WR Act mandates compliance in a further 13 Acts of Queensland legislation and duplicates already existing state legislation that can provide the same environmental outcomes. These include the *Nature Conservation Act 1992*, *Environmental Protection Act 1994,* the *Sustainable Planning Act 2009* and the *Water Act 2000*. While supporting a sustainable approach to riverine management, AgForce does not endorse a regulatory-based framework and prefers the development of voluntary, incentivised mechanisms as an alternative to further regulation. An example of this voluntary, environmental stewardship approach is the Nature Refuges program.

While including broadacre agricultural practices as regulated activities under the Bill is not supported, should the government proceed with a regulated process to managing environmental impacts that includes agricultural activities, and in the absence of the draft regulations, AgForce would highlight the following considerations:

- Regulation should not duplicate existing legislative frameworks or outcomes, e.g. *Water Act 2000*, *Vegetation Management Act 1999*, etc. or apply to pre-existing agricultural activities, water licenses or livestock grazing
- Must recognise voluntary landholder conservation activities, previous good land management practice and other values (e.g. economic, social, scientific, educational, Indigenous) rather than just the environmental values
- Take a negotiated partnership approach and provide positive incentives for adopting improved environmental and biodiversity outcomes and practices
- Not impede development that reduces the overall pressure on significant environmental values while enabling producers to meet the challenges of markets, climate variability, and input costs
- Rely on performance based, objective scientific assessment of potential impacts
- Is streamlined, efficient and affordable for agricultural development proponents including removal of any permit fees and a favouring of self-assessment of low risk activities
- Involve proportionate requirements for consultation and assessment.
- provide investment certainty and clarity about the ultimate treatment of agriculture
- Recognise and protect future land development options that are as yet unexercised, such as those in the current High Preservation Area (HPA), with compensation for any foregone development rights where the proposed future use would be lawful prior to the RI area declaration
- clearly stipulated in the legislation an appropriate public review process regarding the operational efficacy of the framework
- The establishment of new agricultural activities should not be subject to a blanket exclusion approach as under the WR Act but should be examined objectively on a case by case basis for the risk of environmental impacts.

In the CY RP, the new Single Planning Policy strategically sets out the relevant policy approach towards land use impacts prescribed through the WR declarations. *'Using a risk-based approach with key criteria and objectives or outcomes for particular areas it is possible to assess and manage development impacts on the ecological aspects of the region's river areas in a strategic manner, rather than an extensive use of prohibitions'*.

Restrictions on resource activities in areas of RI (Part 2 Division 1)

This Part is headed Restrictions on resource activities in areas of Regional Interest but makes reference to both resource and regulated activities in the sections. For example s18(4) refers to

exempt resource activities but not regulated activities. If agricultural activities are to be regulated, for example in a SCL or SE area, then for clarity the Bill should also clearly state which agricultural activities are exempt activities. It is AgForce's view that to the greatest extent possible broadacre agricultural activities should be exempt from the provisions of the Bill. If agriculture is included then s21 should be expanded to include livestock or agricultural products and associated infrastructure.

Exempt Resource activities (Division 2)

Exemption: agreement of the landowner (s22):

A clear process for landholder agreement as outlined in Appendix 1 should be included in the Bill and apply to all resource activities on agricultural land, at least both PAA and SCL, and not be just a part basis for just one type of exemption. As mentioned previously, the reference to land owner should be reworded as landholder to include primary producer leaseholders as well as owners.

As a preferred outcome, AgForce supports the requirement for exemption to include voluntary, formal landholder agreement and satisfactory achievement of that agreement as well as that the activity will not have a significant or permanent impact on the PAA or supporting water-related resources and that the activity will not have an impact on agricultural land or supporting water-related resources controlled by another landholder. This (agreement plus no significant impacts) was implied during the public briefing on the Bill but the wording of the section should be clarified to ensure that intention is delivered.

As the DSDIP representative indicated at the public hearing, voluntary landholder agreements are 'the whole philosophy of this exemption' to achieve 'ways that are mutually beneficial to both parties [*as*] to the conduct of those activities on that land'. The process in Appendix 1 provides for an exemption where the landholder and resource proponent agree to an activity having limited and temporary impacts on PAA or SCL areas. An exemption under the current Bill should only apply where the specific resource activity is agreed to by the landholder and that agreement was in place at the date of tabling of the Bill in Parliament. This will avoid undue pressure coming on landholders to sign agreements prior to the date of proclamation.

As proposed any ongoing RI exemption needs to be clearly linked to the achievement of the CCA or recognised agreement to the satisfaction of the landholder. This landholder agreement should be auditable and clearly noted in the relevant Resource or Environmental Authority assessment process, as indicated by the DSDIP official at the public hearing.

AgForce support this exemption not being applied where an agreement was because of an order of a court, and such a situation is inconsistent with our understanding of the concept of 'co-existence'.

The definition of a 'significant impact' and the process and criteria by which it will be determined must be clarified in consultation with stakeholders. There is no mention in the Bill of the previously discussed co-existence criteria during the Regional Planning process, and the framework in the appendix contains further development of the co-existence principles and should be referred to. Currently the Bill makes no clear provision for assessment or audit to ensure those self-assessed activities actually qualify as being exempt and this should be included. No permanent impacts are acceptable on PAA or SCL areas.

That the resource activity must not be likely to have an impact on the suitability of land owned by a person other than the owner of the land for which the relevant agreement has been obtained for PALU should be extended to include the use of land suitable for cropping.

The inclusion of landholder agreement as the basis for one type of exemption may motivate resource companies to enter into voluntary agreements with landholders prior to a court determination however the Bill does not yet provide the required equality of say on proposed resource activities or provide a clear, stepwise dispute resolution process. As will be covered below, the Bill also does not yet sufficiently emphasise gaining landholder views in the assessment process.

AgForce supports an exemption (s22(1)) on the requirement to obtain a RI decision not being applied where the authority holder or related entity is the owner or lessee of the land, to be consistent with the overall purpose of the Bill.

Exemption: activity carried out for less than 1 year (s23):

AgForce are not opposed to this exemption where such activity is agreed to by the landholder and where any impact is restored within a 12-month period, including full decommissioning of the activity and the rehabilitation stages. This restoration within the 12 months must be to a pre-existing productive capability of the area for the whole range of potential agricultural land uses, and not a more limited range. Impacts longer than 12 months should be subject to RI assessment and we support the application of criteria (a) through (d) to this exemption and in particular (c), ensuring that there is no risk of any impacts extending beyond 12 months. There should be objective criteria to support this determination. AgForce does not support any permanent resource activity impacts on PAA or SCL lands.

Exemption: pre-existing resource activity (s24):

From the Department's comments at the public briefing on the Bill, AgForce understands s24 (1) to mean that a resource activity will only be exempt under this provision if the activity is physically underway on land within the RI area and carried out in accordance with a property-level resource activity work plan (a submitted property-level works program or Plan of Operations even if an EA has been obtained) that took effect prior to the inclusion of the land in a RI area. Exemption of activities that are approved with a landholder agreement and already underway on a property would seem to be an equitable approach while balancing the need for protection against impacts on a specific property within an area of RI. As those work plans expire or are modified it would be appropriate for a RI assessment to be undertaken.

AgForce supports this exemption not applying to activities likely to have a negative impact on a water source for a PALU in a PAA (e.g. the Condamine Alluvium) or resource activities being carried out under a Cumulative Management Area (CMA) tenure. This offers the opportunity to more closely manage extractive resource sector impacts on vital water resources supporting priority agriculture.

Exemption: small scale mining activity (s25):

A resource activity is proposed to be exempt if it is a small scale mining activity defined under the *Environmental Protection Act 1994*, and clause s22 (2)(b) about not having a significant impact should also be applied to this exemption. AgForce does not support the expansion of small scale mining activity as defined under the Environmental Protection Act to occur on PAA or SCL (s101) due to the potential for permanent and cumulative impacts.

Notice requirement for exempt activities

An authority holder intending to carry out an exempt activity (other than pre-existing activities) is currently required in the Bill to provide the Chief Executive with notice, including how restoration within 12 months will be achieved if that is the basis of the exemption. Such notices will perform an

important role in monitoring the extent of activity in areas of RI over time and it is appropriate that they be required.

The public briefing highlighted that unless there is a landholder complaint these exemptions are not subject to an oversight or audit requirement as the Bill is currently written. Section 26 should also include the requirement for a copy of the notice for an exempt resource activity to be provided to affected landholders, including the plan for restoration, and the inclusion of the capacity for potentially affected landholder's to make a submission to the Chief Executive. As temporary activities of less than 12-month duration do not currently require landholder agreement under s23, at the very least the landholder should have the right of appeal against an exemption where legitimate concerns exist about the holder of the resource authority's capacity to restore than land.

Regional Interests Authority Application and Assessment Process – Part 3

According to s27, the assessing agency for an RI decision will be specified in a regulation and it is currently unclear who will be involved in the assessment of the different RI. The relevant assessing agency for each RI should be specified in the Act.

The Bill as currently written places broad powers in the hands of the Chief Executive of State Development as the sole decision maker on activities with any additional assessing agencies only where an application is determined to be referable and as specified within regulations. In the case of RI decisions related to PAA or SCL the independent panel outlined in the Appendix should be the delegated assessing agency by the decision-maker. As the protection of agricultural resources from resource activities are a resource assessment matter rather than a simple promotion of development matter it is more appropriate for a Government assessor to be the Chief Executive of the Department of Natural Resources and Mines or the Department of Agriculture, Fisheries and Forestry as for the SCL determinations and impact mitigation, rather than State Development. DNRM and DAFF contain the relevant expertise to make these determinations, not DSDIP.

As the interests being considered occur at a regional level it is unclear how recommendations from different Local Governments with a significant stake in the decision (e.g. an activity close to or overlapping a LG boundary) will be resolved when they are incompatible but required to be adopted by the Chief Executive. This should be clarified.

Decision made on impacts on RI area

The decision about whether to grant a RI Authority is based on consideration of the expected impacts of the resource or regulated activity on an area of RI. Impacts are defined in s28 as those relevant to the feature, qualities, characteristics or attributes of the RI area or its ongoing suitability for a particular purpose. In the impact assessment the applicant must be required to consult with any affected landholders on the RI area and report the impacts of the proposed activity. The process outlined in Appendix 1 provides details on how this could be achieved, with an independent panel to make determinations in the event of a disagreement.

The current impact definition is too general and further information is required on objective measures of impact, what intensity or extent of impact will be captured and how cumulative impacts will be managed. Section 83 refers to the Chief Executive providing guidelines that give advice about prescribed criteria for deciding assessment applications. This leaves significant scope for changes to requirements and reduces regulatory certainty over time. Such criteria should be in the enabling Act.

Further, the regional plans make reference to PAA co-existence criteria as protecting PALUs within a PAA from the impacts of incompatible resource activities and yet the Bill makes no reference to

these co-existence criteria as an assessment criterion in making a RI decision. These should be clearly included within the enabling Act.

Again the lack of the supporting regulations describing any further criteria (e.g. s41(2)(b) makes it difficult to judge the likely effectiveness of the assessment process. It will be a necessary requirement for clear supporting guidelines around the impact assessment process referred to in s30 to be developed and provided to applicants seeking to carry out a regulated activity. It is unclear how information on constraints on the configuration or operation of the activity will be used within the assessment process or even if the Chief Executive is required to consider that information (s49 (1)(a)).

Offset Policy

There is no mention of Queensland's offset policy in the Bill as it relates to SE areas. The treatment of offsets for resource or regulated activities should be clarified given the potentially large areas that could be categorised as SE areas.

Requirements for making assessment application

Under the Australian and Queensland bilateral agreement, there is an agreed accredited approval process for activities requiring an environmental impact statement for SE areas identified as MNES. The Bill makes no reference to this agreed bilateral process. Both state and federal government have committed to reducing red tape and removing duplicative processes.

Notification of landowners (s31)

The applicant must give a copy of an assessment application to the owner of the land within 5 business days after making the application and this provision is supported by AgForce with extension to other affected landholders. The Bill should also include an avenue for potentially affected landholders to provide their views on an RI application which the Chief Executive must consider in addition to just for notifiable applications. This provides equity with the resource applicant who has the capacity to highlight any constraints on the configuration or operation of their activity that might affect their capacity to avoid impacts.

The Chief Executive must consider and decide the application. Without the benefit of knowing what the criteria will be, it is hard to determine the rigour with which applications to secure a regional interest authority for a project will be assessed. As stated previously this should be the Chief Executive of DNRM or DAFFQ.

Notifiable applications (s34)

Applications may be notifiable if specified under a regulation, and without seeing the relevant regulation it is hard to comment on the application of that process, and the criteria determining whether an application is notifiable should be included in the Act. AgForce would request that the Act specify RI applications be notifiable when they concern PAA and SCL regional interests and that the affected landholders and any owners of adjoining lands be notified and enabled to make submissions that are required to be considered by the assessor. This notification of adjoining landholders was removed from the initial consultation draft of the Bill and should be restored. It is unclear under what situations the assessor would require an applicant to notify (s 34 (4)) and this should be clarified.

Unless the application is notifiable and a submission is made there is no requirement for an affected landowner's views to be considered, apart from the appeals process (see below), and this is not acceptable. The final Act should include an equitable process by which the views of a landholder must be considered in assessing a RI application.

Referable applications (s39)

The Bill provides for an RI application to be referred to an assessing agency but does not specify the criteria under which this would happen or which agencies would be involved in each assessment or the assessing agency's functions. Again these are in regulations which are not yet publically available and this represents a serious shortfall in this consultation process. For PAA and SCL interests, affected landholders must be able to make a submission to the referral agency and this submission must be required to be considered. Under s42 (6) the assessing agency must also provide a copy of the response to the affected landholders upon request, as originally included in the consultation draft, in the interests of transparency. Likewise, any Ministerial direction must also be provided to affected landholders upon request (s43 (3)).

Section 46 provides the power for a Government decision-maker to obtain advice from an independent panel that can oversee instances where landholders and resource proponents cannot agree on a proposed activity on a priority agricultural area. This process is outlined in Appendix 1.

Deciding applications (s47) – Division 6

In making their decision the chief executive must consider:

- The extent of expected impact
- Any criteria in a regulation.
- If notifiable, all properly made submissions
- any advice in an assessing agency's response
- any other matter considered relevant.

The assessment criteria for decision should be listed in the Act for each RI so development proponents can have certainty and it is very limiting to comment when this information is not yet available for examination. The requirement to give effect to a local government response (s50) opens up issues where more than one local government is affected by the decision and hold divergent views and there is no alternative in the current drafting by which broader regional interests can override local interests. The capacity for the state government to use its discretion in these circumstances should be included. The resourcing of and cost to small rural and remote councils to effectively make these assessments and recommendations is an issue and should be addressed by the state government.

The general RI conditions list in the Bill (s51) has removed the reference in the consultation draft to potentially requiring financial assurance from applicants for ensuring remediation of PAA or SCL land and this should be reintroduced as for the SCL mitigation requirements. The powers given to the Chief Executive under condition 51 (d) as it is currently written are too broad and far-ranging to provide certainty to landholders and require clarification and appropriate limits applied.

AgForce supports the requirement (s52) for a copy of the decision notice to be given to the owner of the land including details of approval, conditions, activation and appeal rights for affected landowners. This should also be required to be given to any other affected landholders. Public notification requirements under s53 (1) should consider the needs of the local audience and so it may be appropriate for both website and newspaper notifications to be used.

Provisions for SCL mitigation conditions

The permanent loss of SCL in management areas, and hence the need for mitigation, must continue to be avoided as a first priority. SCL mitigation conditions must be applied to any SCL that is permanently impacted, with a definition of permanent reduced from longer than 50 years to something more in line with agricultural investment cycles, namely 10 to 15 years. Some AgForce members have also suggested 5 years or less as appropriate. The effectiveness of mitigation measures must be enduring and transparently monitored (s62 (d)), particularly as mitigation payments to date have not been released by the government for productivity improvement. The fund should be held by the DAFF as the department responsible for ongoing agricultural productivity. The current SCL Act requires the Chief Executive to seek a community advisory group's advice about the mitigation measures and this provision with landholder representation should be retained, particularly if the Chief Executive of DSDIP retains responsibility for this function.

Appeals (s68)

The Bill provides for applicants, owners of land and affected land owners to appeal a RI decision to the Planning and Environment Court. An affected land owner is defined as a person who owns land that may be adversely affected by a resource activity because of the proximity of the affected land to the land that is the subject of the decision as well as the impact of the activity. As discussed earlier, agricultural leasees of affected land should also be eligible to appeal, i.e. land owned or leased. AgForce supports appeal rights for all primary producers that may be affected by a resource activity subject to a RI assessment. The Land Court is the appropriate court of appeal to ensure consistency with the existing land access framework.

Due to its cost and time requirement, an appeal process after a RI decision is less desirable than having an adequate requirement for affected landholder's views to be appropriately considered in the RI decision-making process. This would result in a more equitable and cost effective approach and enable issues to be appropriately addressed through conditioning or rejection of the application.

As water resources can be intrinsic to PAA the definition of 'affected land owners' should also incorporate those whose water resources are impacted by resource activities. Proximity or impacts are not clearly defined and this makes interpretation of the extent of appeal rights unclear. This clarification should be in the final Act and encompass landholders who would suffer an impact from the activity regardless of proximity. For example, there may be primary producers whose priority agricultural enterprises rely on water resources that connect over a significant distance from the site of a regulated activity and that may still be affected. So s68 (a) and s68 (b) should operate independently.

If an appeal is started the operation of the RI decision is stayed unless the court decides otherwise or the matter is decided, withdrawn or dismissed (s72). This is understood to mean that the activity could not go ahead while the matter was being determined and AgForce supports such a stay of operation. The Land Court would appear to be a more appropriate forum for dispute resolution for matters related to SCL and PAA.

Investigation and enforcement (s79)

Investigation and enforcement is by authorised DNRM officers under the Vegetation Management Act for PAA and SCL areas. It should be ensured that such officers have the appropriate skills or training to be able to determine impacts on the productive capacity of these lands and associated water resources. This should include soils and agronomic expertise and an understanding of modern agricultural systems so that the extent of impacts can be accurately assessed. This should also apply

to the authorised persons under the EP Act in the event that agricultural activities are captured as regulated activities within a SE area.

Compensation and retrospectivity

The capacity for a RI decision to prevail over any EA or RA to the extent of any inconsistency, regardless of timing, may also have a retrospective impact on existing Conduct and Compensation or other landholder agreements. Any such capacity for retrospectivity is very concerning. The Bill proposes that no compensation is payable as a result of any changes to the existing status quo following the introduction or further amendments of the Bill (s84). This Bill may also possibly impact on existing agricultural activities in newly declared SE areas, where these are not exempt from assessment. AgForce supports appropriate and full compensation for the loss of any pre-existing property right.

Repeal of and transition provisions for the SCL Act (Parts 7 and 8)

Since its inception in concept and then ultimately in policy and legislation in January 2012, AgForce has been a strong supporter of the need to protect our valuable strategic cropping lands, manage the impacts of development on that land and preserve the productive capacity of that land for future generations. AgForce strongly supports protecting this irreplaceable agricultural resource from developments that either permanently alienate or diminish its ongoing productivity.

Under s89, the enactment of the Bill will repeal the *Strategic Cropping Land Act 2011*. AgForce objects to this repeal and the proposal within the Bill to include only part of the SCL Act's provisions as subordinate legislation. This objection is based on the potential to significantly reduce the level of protection available for SCL in the future, and the potential lack of future consultation when amending new regulations, as evidenced by recent changes to the Sustainable Planning Regulation regarding community infrastructure exemptions from SCL assessment. Currently the SCL Act applies despite any resource Act or the Environmental Protection Act (s7). When these 'protections' are embedded in regulation or other forms of subordinate legislation, industry can have no certainty that their interests will be transparently considered. Protections must be enduring, robust and transparent.

For example, s134 and s135 of the SCL Act outline the rigour of the criteria surrounding tests for determining alternative sites and for demonstrating significant community benefit (not solely on the basis of profitability or economic benefit to the state) and should provide a benchmark for making similar determinations about the protections of high value agricultural lands via the RI assessments.

AgForce is opposed to any reduction in the protections currently delivered within the SCL Act framework and where streamlining of the regulatory burden occurs, this should not be accompanied by any reduction in areas that could be identified as potential SCL. AgForce's submission to the review of the SCL framework contains more details about our views on cropping land protection and how it could be improved including:

- Extending the coverage of the SCL Act to the whole area of the state. Only 4.34% of the state is currently included as potential SCL within the SCL trigger map
- Bringing the protection framework surrounding the Management Areas into line with the protections offered in the Protection areas
- Reducing the definition of a permanent impact from longer than 50 years to something more in line with agricultural investment cycles, namely 10 to 15 years.
- Improving the accuracy of the trigger map through an effective government-funded ground truthing process. The Bill does not include a process for reviewing the SCL map.

- Acknowledging that exclusions of potential SCL (particularly where these are already cropped) on the basis of meeting all 8 soil criteria are not appropriate.
- Limiting the SCL exclusions that are applied to non-agricultural developments,
- Greater certainty that non-agricultural developments can actually demonstrate that the impacted SCL can be restored back to pre-development productivity (or greater).

While unclear how it might work in practice, the transition of provisions from the SCL Act to under the RPI Bill includes:

- mitigation provisions, including the Mitigation Fund, and requirements
- applications for SCL protection decisions become RI assessment applications
- SCL Protection decisions and conditions become RI decisions and conditions
- Existing SCL appeals to the Land Court remain
- SCL Compliance certificates become RI authorities
- SCL standard conditions code conditions become RI conditions
- Stop work and restoration notices.

At the public hearing the Department acknowledged that the elements, conditions and appeal rights of the existing SCL Act that will be discontinued in this Bill were not yet available. This makes it impossible to comment on the likely effectiveness of a new SCL framework at this time. The following previously raised issues from the SCL review process will largely depend on the detail in the SC area regulation provisions which are yet to be released:

- exempting 'low impact' resource activities from SCL assessment
- greater Ministerial discretion in applying the exceptional circumstances exemption for significant resource developments that impact on SCL
- a less prescriptive Code which sets out how impacts on SCL are managed and restored. The Bill indicates that the standard conditions code at the time of SCL Act repeal are taken to be regional interests conditions imposed. The protections for SCL under the Code should not be diluted prior to repeal.

AgForce supports the financial assurance requirements of the current SCL Act transitioning to any new framework. This financial assurance provides security motivating a resource company to comply with the conditions on their project and the requirements to protect and rehabilitate this irreplaceable food producing asset for the state. It currently appears that this financial assurance may not be transitioned.

AgForce does not support the expansion of small scale mining activity as defined under the EP Act to occur on SCL (s101) due to the potential for permanent and cumulative impacts.

Summary/conclusions

Desired protection outcomes embedded in the enabling Act
AgForce's preference is for the certainty of complete protection through the exclusion of resource sector activity impacts from high quality agricultural lands, including SCL and PALU within PAA. The principles on which the SCL Act is built should be included in any RI framework, namely:

- protection – to protect valuable lands and that, except in Exceptional Circumstances, doing so takes precedence over all development interests (s11)
- avoidance – as a priority management strategy for these irreplaceable resources
- minimisation – minimise impacts & if impacts are temporary then fully restore lands and supporting water resources back to pre-development condition
- mitigation – permanent impacts must be accompanied by a positive, effective and enduring mitigation to equal or greater than the loss of productive agricultural capacity

- productivity – of these valuable agricultural resources and land uses conserved for future.

Further, agreed principles around co-existence on the PAA should also be written into the enabling legislation including:

- No diminishment of current agricultural productivity
- No interference with current priority agricultural land uses
- No reduction in the capacity of agriculturally-relevant land and water resources to support potential priority agricultural activities
- Equality for landholders with development proponents in decisions about the instigation and operation of concurrent activities on agricultural land, including the right to decline proposed incompatible developments
- An inclusive dispute resolution process.

Supporting regulations currently unavailable

As outlined in this submission there are a range of very important elements of the proposed framework, its implementation and effectiveness that are contained in supporting regulations and powers delegated to the Chief Executive. The Bill should not be considered in isolation from the regulations. It is difficult to be confident about the effectiveness of the RPI Act without seeing these regulations and the Government is requested to consult closely with AgForce in the development of these regulations and prior to the finalisation of the framework. The capacity to alter provisions in regulations without mandated stakeholder consultation remains concerning.

Landholder greater say

A key element to the success of the framework as it relates to PAA and SCL is ensuring a greater say for landholders, both owners and leasees, on what proposed development is reasonable in the context of their land and water, and enterprise structuring and operations. Unless the RI application is defined by the regulation as a notifiable application enabling submissions there is currently no requirement under the Bill for a landholder's views on an application concerning their land to be considered by the chief executive, short of an appeal to the Planning and Environment Court. Appeals represent greater cost to the landholder than providing their views for consideration prior to a RI decision.

The current inclusion of an exemption in the case of a recognised agreement is not sufficient for this equity to be achieved as the landholder can still be bypassed in the assessment process. The Bill does not yet provide an independent dispute resolution process that can uphold a landholder's reasonable objections. The resource activity proponent is not required to have landholder agreement but could undertake a RI assessment without it, going straight to a Government assessment process. The key element to 'co-existence' is to have a process by which the views of landholders have real weight. The Committee is encouraged to consider the process outlined in Appendix 1 in their deliberations on this Bill.

Proposed Framework for Implementation of SCL and Regional Planning Objectives

DISCLAIMER

This document represents the considered thoughts of the cross-agricultural group that commissioned it. It has been provided as a recommended way forward, but prior to incorporation into legislation/regulation it should be subject to a full public consultation process.

This proposed framework is largely at a principle level, and it is recognised that much more work needs to be done to develop mechanisms for implementation and administration.

PURPOSE OF REPORT

The purpose of this report is to present a potential framework for implementation of the objectives of the Darling Downs (DD) and Central Queensland (CQ) Regional Plans as well as identified objectives regarding the protection of Strategic Cropping Land (SCL).

KEY PRINCIPLES ESSENTIAL TO THE PROPOSED FRAMEWORK

The framework proposed in this report relies on adherence to the key principles outlined below. If any of these principles are changed or modified then the proposed framework would need to be reconsidered by those involved in its preparation to ensure it still achieves the required objectives. The proposed framework should not be considered in its current form if any of the principles are modified or removed.

- It is the absolute intention of all those involved in preparing this document that the adoption of the proposed implementation framework cannot lead to any loss of existing landholder rights.
- No permanent impacts to SCL or PALU's within a PAA are allowed
- Landholders should have an equal say in decisions regarding how activities proceed on PALU or SCL on their land and reasonable attempts must always be made to negotiate with landholders in the first instance.
- The proposed framework recognises that for effective co-existence there should be negotiations between landholders and resource companies regarding the amount of SCL or land used for PALU's that can be temporarily impacted by a resource activity.

IDENTIFICATION OF LAND THAT IS TO BE PROTECTED

The proposed framework applies to any land that is either a Priority Agricultural Land Use (PALU) on a property that is located within a Priority Agricultural Area (PAA) or Strategic Cropping Land (SCL) both within or outside a PAA.

It is anticipated that definitions/criteria that allow for the identification and determination of PALU & SCL would require development. It is proposed that no distinction is made in the protection afforded to either PALU within a PAA or SCL that is either within or outside a PAA. That is, both SCL (wherever it occurs) and PALUs (within a PAA) would be considered to be 'Protected Land' and no further differentiation between the two would be necessary. Protected Land would include any areas of SCL, PALUs within a PAA and any land on a property integral to the operation of a PALU.

It is proposed that trigger maps of Protected Land would be developed and used for the purposes of implementing the proposed framework. The process for modifying the trigger maps to either include or exclude land could be based upon a similar process to that which exists for SCL.

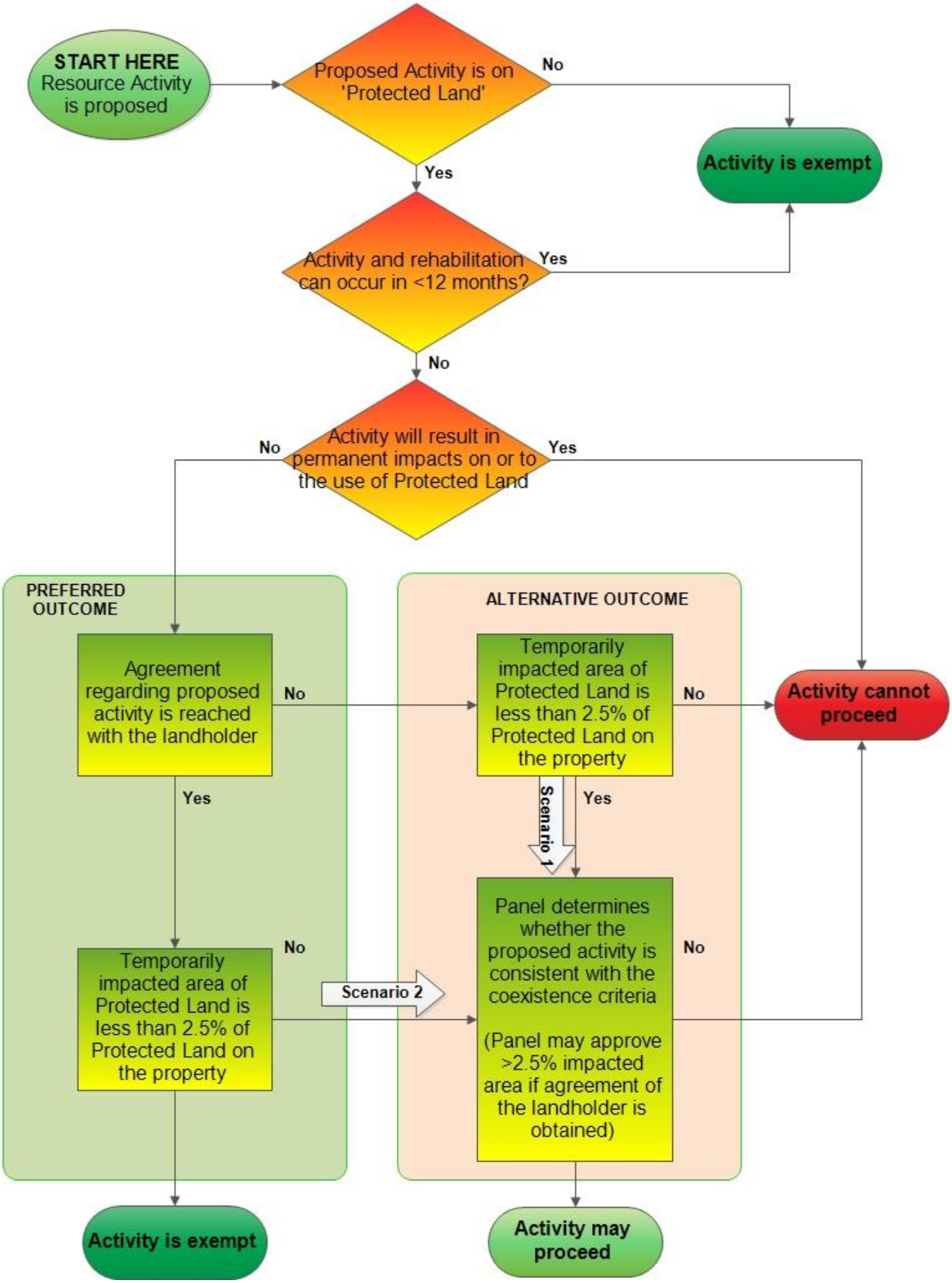
PROPOSED FRAMEWORK

The framework in this report focusses on encouraging landholders and resource companies to reach agreement in relation to any proposed resource development on Protected Land which has a temporary impact of less than 2.5%[1]. If agreement cannot be reached, then application for a Regional Interests Authority could be made to the State government for referral onto an independent panel of suitably qualified[2] people to assess whether the proposed resource development was consistent with a set of co-existence criteria. Further detail is provided in the following flowchart and sections.

[1] This percentage is based on work done on the SCL Standard Conditions Code.

[2] Composition and operation of the panel requires further development in consultation with relevant stakeholder groups, but must be in accordance with principles of equity of representation, and transparency in appointment and decision making.

FLOWCHART FOR CONSIDERATION OF RESOURCE ACTIVITIES UNDER PROPOSED FRAMEWORK



Preferred Outcome – Negotiated Agreement

Landholders and resource companies should be allowed to reach agreement regarding proposed resource developments on Protected Land on a landholder's property where the temporary impact on Protected Land is less than 2.5%. If agreement is reached regarding the proposed resource activities (as well as the extent and placement of any associated infrastructure) then no further action is required and the resource activity can progress in line with the agreement and any existing legislative requirements.

Similar to the land access framework, there should be compulsory mediation required if negotiations to reach an agreement are not successful. It would be mandatory that mediation occurs prior to consideration of the alternative outcome as described in the following section.

Under this preferred outcome, it is considered absolutely essential that a negotiated agreement is in place prior to any resource activity occurring on the property. The form of this agreement would need to be determined and may require further consultation.

It is proposed that no 'permanent impacts' would be allowed on or to the use of Protected Land. Adherence to this principle would be considered a mandatory requirement and would need to apply to any negotiations and subsequent agreements between resource companies and landholders that may occur in accordance with the proposed framework.

If the landholder and resource company were willing to agree to temporary impact greater than 2.5%, then then an application would be required in accordance with the alternative outcome described in the next section.

Alternative Outcome – Application to an Independent Panel for a Regional Interests Authority

It is proposed that this outcome would only be available under the following scenarios:

- ***Scenario 1:*** If negotiations between a landholder and resource company had failed to reach an agreement (including following any mandatory mediation) and the proposed resource activity would result in an 'impacted area' of less than 2.5% of existing Protected Land on the property
- ***Scenario 2:*** If a resource company and landholder were able to otherwise reach an agreement but the agreement related to a proposed development that exceeded the maximum limit of 2.5% 'impacted area' as described in the previous section

Copies of any application would need to be provided to affected landholders and the independent panel would be required to consider any submissions that may be received from these landholders.

The panel would consider whether reasonable efforts had been made to reach agreement with the landholder and whether the proposed development was consistent with the established co-existence criteria and any other relevant considerations. The proposed resource activity would not be allowed to commence until a decision allowing it to do so had been made by the panel.

Parties would retain the right to appeal the decision of the panel through existing legal channels. In line with the *Regional Planning Interests Bill 2013* it is proposed that the decision of the panel is stayed while an appeal is being considered. It is proposed that the Land Court be the appropriate court of appeal to ensure consistency with the existing land access framework.

Co-existence Criteria/Principles

Co-existence criteria are proposed to inform negotiations between landholders and resource companies and to be used for assessing applications made to the independent panel. A summary of proposed co-existence criteria is as follows:

REQUIRED OUTCOME	Co-existence Criteria/Principles
No material loss of Protected Land	• No permanent impacts on or to the use of Protected Land are allowed; and • All planned impacts to Protected Land are able to be rehabilitated to restore the land to the productive capability (or greater) for the Protected Land that existed prior to the resource activity occurring; and • The resource activity is designed and carried out in a way that ensures the total and cumulative areas of protected land impacted by the resource activity are minimised'; and • The landholder agrees with the size and extent of the temporarily 'impacted area' that will result from the proposed resource development; or ○ The temporary 'impacted area' of Protected Land does not exceed 2.5% of existing Protected Land on the property

No material impact on continuation of a PALU	• The landholder agrees with the proposed level of temporary impact of less than 2.5% on the continuation of the PALU, and the resource activity will not result in a level of subsidence that would have a material impact on the continuation of the PALU
	• or:
	  ○ The resource activity must not cause permanent impacts to a PALU that is occurring on Protected Land within a PAA.
	  ○ Where temporary impacts on a PALU are unavoidable, the resource activity must utilise existing infrastructure corridors within the area of PALU where possible; and
	  ○ The resource activity must not unreasonably interrupt or diminish the landholders use of infrastructure corridors; and
	  ○ The resource activity should be located in such a manner as to have the least impact upon the PALU and existing farming systems necessary to conduct the PALU; and
	  ○ The resource activity must not unreasonably impede the adoption of necessary and predictable technology changes supporting the PALU (e.g. adoption of lateral move irrigators); and
	  ○ The placement and use of infrastructure on land within a PAA that is not Protected Land must not unreasonably impact upon the continuation of a PALU; and
	  ○ The resource activity must not result in a level of subsidence that would have a material impact on the continuation of the PALU
	  ○ Other relevant considerations

No material impact on the overland flow of water	• Material alterations to existing overland flow patterns are avoided, including effects on neighbouring or 'downstream' landholders • All reasonable actions are taken to ensure no material disturbance to the overland flow of water or its harvesting for a PALU, including minimising and avoiding the location of infrastructure on flood plains wherever reasonably possible • Linear infrastructure should be buried and the surface reinstated so as not to interfere with overland flow; or the linear infrastructure should be constructed parallel to existing overland flow lines

To assist in application of the co-existence criteria, definitions or guiding material will be required for terms such as 'material', 'reasonable', 'un-reasonable', 'permanent impact' and 'impacted area'. Guidance material will also be required regarding what is required to demonstrate and/or assess that "the resource activity is designed and carried out in a way that ensures the total and cumulative areas of protected land impacted by the resource activity are minimised". Development of these definitions/guidelines would need to occur in consultation with the relevant stakeholders and the agricultural groups involved in this submission.

EXEMPT ACTIVITIES

- Resource activities that do not occur on Protected Land
- Resource activities that will have an impact of less than 12 months on or to the use of Protected Land
- Existing resource activities that may be considered exempt through application of transitionary provisions at the time of implementation of the framework (see next section)

APPLICATION TO EXISTING PROJECTS (TRANSITIONARY PROVISIONS)

It is recognised that transitionary provisions for existing resource projects would need to be developed and this would need to occur in consultation with all affected stakeholders. As a starting point it is considered that the date of tabling of the draft *Regional Planning Interests Bill 2013* would be a logical point from which to consider the application of transitionary provisions.

It is considered essential that regardless of the transitionary provisions adopted, any increase in proposed activity or amendments that are required to any existing agreements or approvals would be subject to the framework proposed in this submission.

ASSETS OF REGIONAL SIGNIFICANCE

It is proposed that important regional sources of water, or infrastructure for supplying water, necessary for the conducting of PALU's on Protected Land within a PAA are able to be identified as regional assets requiring additional levels of protection.

For example, it is considered that the Condamine Alluviums and relevant Sunwater irrigation channels would be identified as regional assets under this proposal.

It is considered that any regulatory regime that ensures protection of the Condamine Alluviums (or other identified aquifers) would be separate to the framework proposed in this report but may include the following:

- Legislated/conditioned requirement to undertake re-injection or substitution to net out the expected volumetric impacts (plus a factor of safety) over the life of the impacts on the Condamine Alluvium as a result of a proponent's activities.
- Reference to the Surat CMA (or other relevant) UWIR in relation to the volumes required to be substituted/injected into the Alluviums over the anticipated life of the project. (i.e. OGIA would identify the volume required to be netted out over the life of the project and this volume could be stipulated in the UWIR)
- The need to submit a plan to an assessing authority demonstrating how the conditions above are going to be achieved.
- The requirement to update the plan every three years or as otherwise required by the Chief Executive to ensure it is updated in accordance with revisions of the Surat CMA UWIR. (This would allow for revision of the volume required to be substituted/injected as the predictions from the model improve over time)

- The need to have an approved plan in place within a specified timeframe or prior to authorised activities occurring on any land within the PAA.

For Sunwater irrigation channels and other regional supporting irrigation infrastructure, it is anticipated that specific conditions or criteria could be mandated at a project or regional level to ensure protection of these regional assets.