Parliamentary Committees

Strategic Cropping Land Bill 2011

Report No. 6
Environment, Agriculture, Resources and Energy Committee
November 2011

Environment, Agriculture, Resources and Energy Committee

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Acknowledgements

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Abbreviations and Glossary

AgForce	AgForce Queensland Industrial Union of Employers
ASSSI	Australian Society of Soil Science Inc.
DERM	Department of Environment and Resource Management
FLPs	Fundamental legislative principles - The principles relating to legislation that underlie a parliamentary democracy based on the rule of law (*Legislative Standards Act 1992*, section 4(1)). The principles include requiring that legislation has sufficient regard to the rights and liberties of individuals and to the institution of Parliament.
Gilgai microrelief	Small depressions in the land caused by wet weather.
QFF	Queensland Farmers' Federation
QMDC	Queensland Murray-Darling Committee Inc.
QRC	Queensland Resources Council
RAS	Regulatory Assessment Statement
SCL	Strategic Cropping Land

Executive summary

This Report presents the findings of the Environment, Agriculture, Resources and Energy Committee's examination of the Strategic Cropping Land Bill referred by the Legislative Assembly to the committee on 25 October 2011.

The Bill seeks to implement a legislative framework that recognises the state's strategic cropping land (SCL) as a finite resource and provides the crucial balance between often competing interests for primary producers, resource developers and urban development.

The policy objectives of the Bill includes providing a process for assessing and deciding whether developments are permitted to proceed on validated strategic cropping land. Accordingly, the Bill will apply to resource developments and urban and industrial development in rural areas, outside of those areas identified for urban purposes.

The Bill seeks to establish the *Strategic Cropping Land Act 2011,* and to amend the *Environmental Protection Act 1994* and Sustainable Planning Regulation 2009.

The aims and policy objectives that have generated the most concern relate to the criteria for identifying land as SCL and validation of SCL, approval of projects in exceptional circumstances, mitigation requirements for developments which impact SCL and the transitional arrangements for resource development projects.

Fifty-five written submissions were received by the committee in response to its call for submissions and evidence from 15 witnesses was heard by the committee at the subsequent public hearing.

The Department of Environment and Resource Management (DERM) assisted the committee during its inquiry by providing a public briefing, responding to issues raised in submissions and providing further clarification and advice.

After consideration of all submissions, advice and evidence given during the course of the committee's examination, the committee focussed on the following key policy issues:

- Purposes and application of the proposed Act
- Definitions
- Identification of SCL
- Validation of SCL
- Assessment of development impacts on the land
- Approval of projects in exceptional circumstances
- Mitigation of impacts on SCL and
- Transitional project arrangements.

The committee raises concerns with a number of matters emanating from the key policy objectives it focussed on. Briefly, these matters include:

- the lack of clarity in the definition of SCL
- the 50 year timeframe for assessment of permanent damage to SCL and lack of clarity concerning baseline assessments
- insufficiency of time for affected parties to make submissions in relation to zonal or Protection Area amendments
- concerns relating to the focus on soils as the criteria for identification of SCL

- the effectiveness of the cropping history test
- the lack of clarity of the criteria to be met in assessing applications for exceptional circumstances
- concerns with the premise that SCL can be restored to its original productive capacity after permanent alienation by developments, such as resource developments
- concerns surrounding the Springsure Creek Coal project, and
- the application of fundamental legislative principles in respect of various Clauses of the Bill.

The committee is satisfied with the advice provided by DERM on the remainder of the concerns raised by submitters.

Recommendations

Recommendation One

The committee recommends that the Bill be passed subject to clarifications and assurances sought by the committee in respect of key Clauses and provisions of the Bill that are discussed in this report.

Recommendation Two

The committee recommends that Chapter 4 Part 2 be redrafted to clarify meaning and remove ambiguity form the application of the exceptional circumstances test.

1 Introduction

Role of the committee

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

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

On 25 October 2011, the Legislative Assembly referred the Strategic Cropping Land Bill 2011, introduced by Hon Rachel Nolan MP, Minister for Finance, Natural Resources and The Arts, to the committee for consideration and report by 21 November 2011. On 17 November, the reporting date was extended by the Committee of the Legislative Assembly to Friday 25 November 2011.

The committee's consideration of the Bill included a public submissions process and a briefing by policy officers from the Department of Environment and Resource Management (DERM) and a public hearing. The committee also considered expert advice on the application of fundamental legislative principles to the Bill.[1]

Public submissions

The committee advertised its inquiry in the Saturday edition of *The Courier Mail* on 29 October 2011. The committee also wrote to stakeholder groups inviting written submissions on the policies that the Bill would give effect to as well as the Bill's conformance with fundamental legislative principles. The committee accepted 55 written submissions (listed at Appendix 1). Appendix 2 provides a summary of the points raised in submissions on the chapters, clauses and schedules of the Bill.

Public briefing and hearing

On 10 November 2011, officers from the Department of Environment and Resource Management (DERM) briefed the committee on the Bill. The committee opened this briefing, held in the Legislative Assembly Chamber in Parliament House, to the general public. The briefing was followed by a public hearing during which the committee questioned submitters about their views on the Bill.

Transcripts of the briefing and hearing are available from the committee's web pages. The briefing officers and hearing witnesses are listed at Appendix 3.

Policy objectives of the Strategic Cropping Land Bill 2011

According to advice provided by the Department of Environment and Resource Management (DERM), the main purpose of the Strategic Cropping Land Bill 2011 is to implement a legislative framework that recognises the state's strategic cropping land (SCL) as a finite resource that must be protected against the impacts of development and preserved for future generations.[2]

[1] Section 4 of the *Legislative Standards Act 1992* (Qld) provides that the fundamental legislative principles are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law. The principles include requiring that legislation has sufficient regard to rights and liberties of individuals.

[2] Department of Environment and Resource Management, *Written briefing on the Strategic Cropping Land Bill 2011*, 3 November 2011, p.2.

DERM also advised the Bill would provide for the protection of SCL by:

- **The identification of SCL** — [trigger] maps are to be used by land holders and developers to identify the zones and protection and management areas and land where SCL is expected to exist
- **Validating whether land is SCL or not** — where a proponent wants to confirm the land as either being SCL or not being SCL, the Bill requires the land to be analysed through an on-ground assessment against eight scientific soil criteria, a minimize size test and, where the project is in a Management Area, to demonstrate whether the land has a defined history of cropping
- **Assessment of the development impacts on the land** — the development must reasonably avoid and minimise the impacts to the SCL to the greatest extent practicable. The development may be conditioned for any temporary impacts, to restore the land to its pre-development condition. Conditions may also be imposed to manage, restrict or prohibit any impacts from the development. The SCL assessment process ties in with the existing assessment processes under the Sustainable Planning Act 2009, Environmental Protection Act 1994) and the various resource Acts
- Projects to be approved in exceptional circumstances — where a project is likely to have permanent impacts on SCL in a Protection Area, the project cannot proceed unless it demonstrates exceptional circumstances
- **Mitigation** — development that will have a permanent impact on SCL is required to address the consequent loss of productive cropping value of the land by providing mitigation. The mitigation arrangement is designed to ensure no loss of agricultural productive value in the local area over the long term
- **Compliance and enforcement** — powers are provided for authorised persons in relation to access, compliance notices and seizure. In particular, the powers enable access to land, where consent of the occupier cannot be obtained, to allow for necessary functions including investigation of offences; assistance with application assessment; and the issuing of notices to prevent offences being continued and to restore impacts from offences
- **Transitional arrangements** —transitional arrangements are provided for resource projects that have met certain milestones in the assessment and approval process
- **Science and Technical Implementation Committee** — the Minister may appoint a committee to provide independent scientific and technical advice about the administration of the Act, in particular relating to soil and land resources matters, and
- **Review of the Act** — the Minister will be required to review the Act's operation two years after commencement.

2 Examination of the Bill

The table at Appendix 2 provides a summary of comments on the chapters and Clauses of the Bill raised by submitters, together with responses to these comments provided to the committee by DERM.

The following section discusses the key policy objectives and particular Clauses that attracted the greatest volume of comment from submitters, as well as other Clauses where the committee believes the Legislative Assembly would benefit from further clarification by the Minister of advice provided by DERM.

For the remaining Clauses, the committee is satisfied with the advice provided by DERM on the points raised by submitters.

Preliminary

Chapter 1 of the Bill defines the purposes, how the purposes will be achieved and application of the proposed Strategic Cropping Land Act (SCL Act).

Clause 4 – How the purposes are achieved.

A number of submissions commented on the change to the description of SCL (..land that is likely to be highly suitable for cropping) compared to the wording ("the best cropping land") used in development drafts that DERM used during consultation with stakeholders. The Queensland Resources Council (QRC) also noted in its submission that this "loosening of the definition" may reopen the case for potential new future cropping land areas in the future. QRC also questioned whether the trigger maps and zones, based on the new definition, need to be redrawn to reflect the new definition.

The QRC also recommended that the wording revert back to "the best cropping land" or preferably the original definition 'best of the best cropping land'.

Xstrata Coal noted in its submission that throughout the policy development, SCL has been described variously and inconsistently by the Government, that the draft State Planning Policy for SCL contained no definition, and that the definition in the Bill is vague and circular. Xstrata recommended a clear and unambiguous definition of SCL, and suggested, for example, "SCL is the best cropping land" is a definition that has been widely used by stakeholders.

Similarly, Origin Energy noted that the wording of the Clause is a significant shift from the Government's stated intent to protect "the best of the best cropping land" when it released its initial discussion paper on the issue in February 2010. Origin noted that the intent to protect Queensland's best cropping land was also mentioned in DERM's proposed criteria for identifying strategic cropping land published in April 2011[3], and Guidelines for applying the proposed strategic cropping land criteria published in September 2011[4].

[3] Department of Environment and Resource Management, *Protecting Queensland's strategic cropping land – Proposed criteria for identifying strategic cropping land – to be used in drafting the new strategic cropping land legislation* (DERM: Brisbane), April 2011.

[4] Department of Environment and Resource Management, *Protecting Queensland's strategic cropping land Guidelines for applying the proposed strategic cropping land criteria* (DERM: Brisbane), September 2011.

Origin further noted that Section 14A of the *Acts Interpretation Act 1954* requires where there is more than one possible interpretation of a provision, the interpretation that best achieves the purpose of the Act to be applied. Given this, Origin requested that sections 3(a) and 4(1)(a) and (b) be amended by deleting the words "land that is highly suitable for cropping", and inserting "land that is the best of Queensland's cropping land."

The Australian Society of Soil Science Inc. (ASSSI) suggested that the definition for land that is highly suitable for cropping should include soil, climate and other factors.

DERM advice

In its advice to the committee, DERM noted that Clauses 3 and 4 (1) (a) and (b) are consistent with the August 2010 SCL Policy Framework[5] released by the Government which referred to strategic cropping land as "a scarce natural resource identified by soil, climatic and landscape features that make it highly suitable for crop production".

In regard to the points raised by ASSSI, DERM commented that climate was considered in setting the boundaries of the five criteria zones to reflect the different cropping systems and climatic variations across the State, and that soil and landscape features were considered when developing the criteria, provided for in Schedule 1 of the Bill.

Committee comment:
The committee remains concerned that the Bill does not provide a clear and unambiguous definition of strategic cropping land, a term that is central to the operation of the Act. The committee seeks assurances from the Minister that the wording of Clause 4 will provide a clear and adequate indication as to what strategic cropping land is.

Clause 14 - When development has a permanent impact or temporary impact

The identification of permanent and temporary impacts on SCL or potential SCL is the heart of this Bill. Twenty-seven submissions raised concerns about Clause 14, particularly about the 50 year timeframe used to define whether development on SCL or potential SCL has a permanent impact. Points noted include:

- Concerns that the definition would not capture the effects of subsidence and other impacts of longwall mining, and the lack of evidence that SCL can be restored or rehabilitated after underground mining
- The definition fails to account for impacts on aquifers
- The lack of justification for the 50 year timeframe –
    - the average age of farmers is 59 years however the average length of land ownership is 15 years and a generation is considered 25 years
    - Most state government planning cycles are 5 years – some for example Water Plans are 10-15 years at the most
    - Delbessie Lease renewals are for a term of 30 years
- The definition has vastly different meaning from the ordinary meaning of words in everyday speech (50 years would be considered by most people to be long term but not permanent) creating confusion

[5] Department of Environment and Resource Management, *Protecting Queensland's strategic cropping land: A policy framework* (DERM: Brisbane), August 2010.

- Why evaluate the permanence of impacts on SCL against a time period longer than 30 years?
- The definition of permanent impact includes a range of activities deemed to be permanent impacts regardless of any actual impact or capacity to restore SCL.

At the public hearing the committee heard further from submitters about the 50 year timeframe.

AgForce and QFF were critical of the 50 year timeframe suggesting it is far too long. As noted by AgForce:

> *….but there is also a very large difference between something that takes 49 years to impact but only one year to remediate versus one year to impact and 49 years to remediate. So time frames of permanent alienation we do not believe at this point in time have been that succinctly or well investigated within this process. (Wagner, Hearing Transcript, p.1)*

And:

> *In relation to the time frame scenario … the reality that we still have, and will always have as far as agricultural production is concerned, is that the impact we are seeing here is from a hit and run industry. It is from an industry that is only operating for what is a short-term time frame to a medium-term time frame depending on what extractive process they are utilising. The agricultural production system across the best of our best cropping lands is there in perpetuity. It has been there for generations now. It will be there for generations to come. To measure it in a time frame of 50 years, when we are seeing industries like the coal seam gas extractive processes only lasting 10 or 15 years per well and an industry in its entirety only lasting 35 to 40 years, how can we accurately at this point in time look 50 years into the future and understand what those impacts are going to be and understand what permanent alienation actually means? (Wagner, Hearing Transcript, p.9)*

AgForce explained their concerns about a 50 year timeframe in simple production terms:

> *To put in a relevant term for a production system or a farm business, which is what we are talking about—providing the food and fibre that we are reliant upon in perpetuity as an economy—there is no way we can jeopardise it to have a 2½ generational time frame to look at what that impact may or may not be. (Wagner, Hearing Transcript, p.10)*

QFF, Canegrowers and Cotton Australia expressed similar concerns. Cotton Australia linked their concerns about the 50 year timeframe with other concerns about the adequacy of the Bill to protect against permanent damage caused by the gas industry:

> *Again, the 50-year time frame makes it very difficult to judge whether there is any way possible that the coal seam gas industry cannot damage the land permanently. That will not be known until a long way down the track so that 50 years is too long. (Transcript, p.3)*

The Queensland Murray Darling Committee (QMDC) commented that there is no justification for the 50 years:

> *That time frame is beyond any current planning process that the state government has across any form of agricultural or resource management, whether it be state government planning processes or local government planning processes. We would obviously see that that needs to be brought back to a more reasonable planning time frame that suits not just agricultural but local government time frames as well. (Penton, Hearing Transcript, p.11)*

Cotton Australia noted:

> *At 50 years nobody will hold any personal responsibility at all in terms of anyone having the corporate knowledge of what went on or say, 'Yes, we made a mistake,' or 'We didn't make a mistake.' It is outside all normal planning. I would suggest something around 20 years. That gives enough time for a reasonable amount of business planning certainty. It is also within a person's natural lifetime in terms of taking action and making management decisions. (Murray, Hearing Transcript, p.9)*

The QMDC noted in their submission that in the 2006 Census for Queensland—certainly in south-west Queensland—the average property ownership period is down to 15 years. In their evidence at the hearing, QMDC told the committee:

> *There is a large number of properties changing hands on a regular basis compared to farms historically being in the one family for generations and generations. That social fabric has changed substantially. So the 50-year time frame is*

certainly not consistent with landholders being able to make management investment decisions on how to best utilise that strategic cropping land. (Penton, Hearing Transcript, p.14)

The committee noted alternative timeframes proposed by submitters and others including 30 years (QMDC) and 20 years (Cotton Australia) as being timeframes that would better reflect the timeframes that landholders encounter in other resource planning areas (eg water resource plans and Delbessie Agreement renewals of leases) and which more realistically reflect the business planning timeframes of farms.

The Australian Society of Soil Science Inc. also echoed the concerns of others about the loss of productivity in the 50 year period, and suggested some baseline assessments at the time the development occurs so that there is a reasonable way of determining whether there has been a loss of productivity, and then for some compensation provisions to be made available for those people where there is a loss. (Briggs, Hearing Transcript, p.13) It is not clear to the committee from the Bill whether there will in fact be some form of base line assessment.

DERM advice

In its advice on points raised in submissions in regard to Clause 14, DERM provided the following information:

Strategic cropping land (SCL) is regarded as a finite resource that cannot be recreated. The purposes of the Bill provided for in Clause 3 are to protect land that is highly suitable for cropping; manage the impacts of development on that land; and preserve the productivity capacity of that land for future generations. Chapter 3 of the Bill sets out the framework for assessing the impacts of development on SCL. Clause 14 defines when development has a permanent or temporary impact.

Clause 14(1) provides that carrying out development on SCL or potential SCL has a permanent impact on the land if –

(a) the carrying out impedes the land from being cropped for at least 50 years; **or**
(b) because of the carrying out, the land can not be restored to its pre-development condition; **or**
(c) the activity is or involves-

(i) open-cut mining; or

(ii) storing hazardous mine wastes, including, for example, tailings dams, overburden or waste rock dumps.

The Bill's provisions in regard to the definition of permanent impact are clear and provide regulatory certainty for proponents and decision-makers. Any of the three components of Clause 14(1) will therefore establish a permanent impact. The reference to 50 years in Clause 14(1)(a)(i) is consistent with the definition of permanent alienation in page 16 of *Protecting Queensland's strategic cropping land: A policy framework,* which was released for public consultation on 23 August 2010. For development that would be permanent under the definition of 14(1)(b) or (c), it does not matter how many years it impedes cropping (ie it could be less than 50 years). Impacts from underground resource developments, like subsidence, will be considered when assessing whether a development will have a temporary or permanent impact on SCL.

Further, 14(2) provides that for subsection (14)(1)(a) it does not matter whether the impediment is legal or physical. This means that under 14(1)(a), even when a development has no physical impact on the land, but prevents cropping for 50 years, it would also be considered to have a permanent impact.

Clause 14(3) allows for a regulation to be prescribed to provide further details of the level or density for a temporary activity that is taken to be a permanent impact. Establishing criteria in Clause 14(3) for determining what may be subject of a regulation, and the process of requiring Governor in Council approval to making a regulation, satisfy the requirements of section 4(4) of the *Legislative Standards Act 1992*. Any activities in the future proposed to be prescribed by regulation are likely to require a RAS and associated public consultation process. Any regulation will also be subject to Parliamentary scrutiny.

Clause 14(3)(a)(ii) specifically provides that a cumulative impact may be prescribed in a regulation to be, in effect, a permanent impact. The Bill specifically provides an example of drilling or wells under a resource Act carried out on the land at a level or density which, or the cumulative effects of which, impede it from being cropped for at least 50 years.

Other legislation is in place to regulate the impacts of development on water supplies including the *Water Act 2000* which addresses access to groundwater supplies and the *Environmental Protection Act 1994* which addresses environmental harm caused to groundwater supplies.

Committee comment:
The committee seeks clarification by the Minister as to the justification for the 50 year timeframe for permanent damage to strategic cropping land provided in Clause 14. The committee also invites the Minister to clarify whether baseline assessments and periodic reviews will be conducted at the commencement of development projects to be used for future assessments of loss of productivity of cropping lands.

The committee also invites the Minister to clarify the extent of protections the Bill would provide for strategic cropping land against alienation or damage caused by drilling and exploration for coal seam gas deposits.

The identification of strategic cropping land

Chapter 2, Part 1 of the Bill provides for identifying SCL. It establishes maps for the zones, protection areas and management area, trigger maps of potential SCL and a process for deciding what land is SCL.

The SCL legislation would apply to approximately 42 million hectares of Queensland, or about one-quarter of the state's landmass. Within this area, the trigger map identifies some 7.57 million hectares (4.36 per cent) of the state as areas where SCL may exist and where developers will need to undertake an on-ground assessment using the proposed criteria. Within this area, the two Protection Areas apply to a total of 4.8 million hectares (2.8 per cent of the state), of which 1.8 million hectares is identified on the trigger map as areas where SCL may exist. The Management Area covers some 37.2 million hectares (22.5 per cent) of the state, 5.7 million hectares of which is identified on the trigger map.[6] Land within management areas must meet the cropping history test.

Minor amendments can be made to all maps by the chief executive and are effective upon publication. The chief executive may also make amendments to the trigger map and take effect by regulation. Amendments to zones and protected areas must be made by the Minister and take effect through regulation. Proposed amendments to zones or protection areas must be advertised and open to public submissions.

[6] Department of Environment and Resource Management, *Strategic cropping land – frequently asked questions*, http://www.derm.qld.gov.au accessed 24.11.11.

Thirty-one submission comments are about the identification of SCL, raising the following issues:

- Only one percent of the State may be protected from open-cut mining
- All SCL should be identified as protected areas
- The management areas are not consistent with the policy intent of the Bill;
- The identification of SCL is confusing
- Potential for new cropping zones and criteria to emerge in the future
- Protection areas have been designated without quantitative assessment, scientific justification and without consideration of social, environmental and economic impacts
- Land removed from trigger maps should be assessed "not SCL" rather than land not highly suitable for cropping
- Proposed new zones should be amendments to the Act and, where zones or protection areas are amended, all landholders and tenure holders should be contacted with appropriate period for submissions, eg 30 business days.

Clause 36 Ministerial notice of proposed amendment

Clause 36 provides for the ministerial notice of a proposed zonal or protection area amendment. Sub Clause (2) (d) provides for a minimum of 21 days for anyone to make a submission to the Minister about the proposed amendment.
The committee notes comments by the QRC and the QMDC that the 21 day period for submission is too short given the likely complexities of changes that could be proposed. Both submissions proposed that the period be extended. QMDC proposed a 28 day submission period while the QRC proposed extending it to 30 business days.

DERM advice

The committee notes advice by DERM on the comments raised by the QRC and the QMDC that:

- The timeframe established in the Bill is consistent with the timeframes established for public notification on IDAS development applications under the Sustainable Planning Act 2009.
- Clause 36 provides that the proposed amendment must be published in a newspaper circulating generally in the area of the amendment and is available on the department's website, and that
- These provisions do not prevent the Minister undertaking a longer or more extensive consultation process.

Committee comment:
The committee is concerned that 21 days provided in Clause 36 may allow insufficient time for an affected party to become aware of a proposed zonal or protection area amendment, to seek expert advice on the proposed amendment and to then lodge a written submission with the Minister should they wish to object to the proposed amendment.
The committee invites the Minister to clarify the justification for providing landholders with such a brief submission period. In our view, a 30 business day submission period, as proposed by the Queensland Resources Council, would be reasonable.

Schedule 1 – Zonal criteria for original zones

Perhaps the most contentious aspects of the Bill relate to the SCL criteria provided in Schedule 1. According to the QFF, of the two years of negotiation over the bill's development, perhaps 18 months of that negotiation was about the criteria. (Galligan Hearing Transcript, p.5.)

Fifteen submissions commented on the schedule. Points noted include:

- The criteria used to identify SCL are being enshrined in legislation before they have been properly field tested
- The criteria are "too basic for identifying SCL"
- Failure to identify some highly productive agricultural soils of cater for the diversity of the production system that remains viable on a variety of soil types across the State
- Slope and drainage criteria exclude a large amount of land already used for cropping. The slope threshold should be increased from five to eight per cent to reflect modern farming and landcare practices such as zero tillage and controlled farming that prevents erosion, and to capture productive cropping areas such as the red soils of the South Burnett area
- Expand the SCL assessment process to include sustainable farming methods and recent recorded productivity
- Dismay at the creation of yet new criteria to identify the most productive cropping land
- Concerns about the accuracy of data included on water holding capacity
- Failure to consider water resources
- The suggestion that the criteria should be in the regulations and easier to amend
- Concerns that the criteria may prevent landholders from making improvements such as laser levelling

At the public hearing the committee heard further from submitters on issues with the schedule.
In their submission, Cotton Australia contended that the focus on soils allows mining companies to circumvent the SCL by moving from open-cut operations to underground operations such as longwall mining, or bord and pillar mining mechanisms. Cotton Australia further told the committee:

> *we are greatly concerned about a couple of particular projects that are out there now, and no doubt there will be more, where the proponents believe that they will be able to still work within strategic cropping land legislation by moving towards underground mining of one form or another. I raised the particular example of mining underneath the Emerald irrigation area. It is quite conceivable, I guess, that that mining operation will not have any impact on soil quality. But certainly if there is any subsidence at all, given that irrigators laser fields within two centimetre accuracy and given that it is a gravity-fed system, subsidence of two to five or 10 centimetres, which is a very small level of subsidence, could have a very significant impact not only on the operation of agriculture in that area but also on the actual physical operation of the SunWater scheme. (Murray, Hearing Transcript, p.7)*

Cotton Australia also raised concerns about focusing heavily on soils at the exclusion of other criteria:

> *I mention the emphasis on soil rather than taking the whole mix. What makes strategic cropping land really valuable is not just soil; it is climate, it is soil and it is water resources, and that needs to be taken into account. (Murray, Hearing Transcript, p.3)*

QFF raised similar concerns:

> *We are very disappointed in some respects with the criteria being solely focused on soils. We represent a number of intensive industries, particularly the irrigation industry. Consideration for the importance of irrigation infrastructure associated with land is one key criteria. We have always felt it important to at least acknowledge in strategic cropping land in that, essentially, it would be crazy for us to be suggesting that we are going to alienate irrigation schemes in Queensland if they want strategic cropping land. So access to water is certainly one of the issues that we will be looking at in the two-year review as well. (Galligan, Hearing Transcript, p.2)*

AgForce raised a number of concerns about the accuracy of the criteria provided in the Bill and the risks that the slope criteria will exclude land already being farmed:

> *We still have a very large concern with the accuracy of some of those areas. Slope, in particular, is one that is of massive concern at this point in time, regardless of what is actually in situ. With the productive value and nature of food security and food and fibre principles coming from these landscapes, you can find a very large tract of area cut out extraordinary quickly just because of slope.*

We heard the example provided this morning in regard to the Kingaroy region and some of the slope concerns up there. That would be a prime example of where you could have some of the best soils and the best applications across the state and yet it would be knocked out succinctly through the failure of one criterion which would mean on a statistical representation that you failed 10 per cent of the criteria. That to me, in my vernacular, is still a high distinction. So they still have 90 per cent capacity to prove that they have strategic cropping lands. That is an issue we still have with the criteria. (Wagner, Hearing Transcript, p.6)

QMDC questioned why criteria already in use in relation to identifying good quality agricultural land were not used for SCL:

….in relation to the best available science, early on in this debate our view was that, if we simply used the class A soils out of the GQAL existing State Planning Policy, that would have gotten us a long way in terms of clearly having an existing framework and well-trodden science to identify strategic cropping land. In fact, if we had stuck with simply saying, 'Class A out of the GQAL existing policy is strategic cropping land compared to class B, C and D in that existing policy,' we would have been able to use much more accurate mapping. So in terms of whether we have used the best available science, there is actually more detailed mapping available for class A soils than has been used in the trigger map. But because class A is not the criterion—there is a wider range of criteria—we have not been able to use that better mapping that does exist in large parts of the state.(Penton, Hearing Transcript p.16)

ASSSI raised a further related issue about the ability of people without appropriate skills to assess the criteria:

Certainly we would like to see better definitions of what is reasonably practical. They are throwaway statements which in fact are subject to a fair bit of executive discretion. What is possible? What can be reasonably avoided? They are terms that for laymen are quite reasonable, but when it comes down to a legal situation it is quite different.

…

We believe that you really need to have, where there is ambiguity, people who are competent. So the view of the soil science society is that people who are deemed competent should be a certified practitioner from one of the appropriate professional bodies, not just the soil science society—otherwise it sounds like we are pushing our own barrow—but also other bodies, like the Australian Institute of Agricultural Science and the Environment Institute of Australia and New Zealand, which have certified practices for making certain that advice is given as a professional and people are prepared to sign off on it and accept responsibility for those outcomes.(Briggs, Hearing Transcript, p.12)

Committee comment:
The committee seeks assurance from the Minister that the focus on soils in the criteria used to establish that land is strategic cropping land will not allow mining companies to circumvent the strategic cropping legislation by moving from open-cut operations to underground operations such as longwall mining, or bord and pillar mining mechanisms.
The committee also invites the Minister to clarify whether officers of DERM who would be responsible for administering SCL are certified practitioners from an appropriate professional body such as the Australian Soil Science Society Inc., the Australian Institute of Agricultural Science or the Environment Institute of Australia and New Zealand that have certified practices for making certain that advice is given as a professional and people are prepared to sign off on it and accept responsibility for those outcomes.

Validating whether land is SCL or not

Chapter 2, Part 2 outlines the process for determining whether potential SCL (as identified on the trigger map) is SCL or not. Validation applications may be submitted by the landowners, tenure holders or leaseholders (with written permission of the owner).

In determining whether land is SCL, the land must demonstrate that all eight of the criteria are met, to the satisfaction of the chief executive. The eight criteria are:

- Slope
- Rockiness
- Gilgai microrelief

- Soil depth
- Soil wetness
- Soil pH
- Salinity and
- Soil water storage.

The minimum requirements for land to be considered SCL against the eight zonal criteria varies across the Queensland's best cropping land within five zones (Western cropping zone, Eastern Darling Downs zone, Coastal Queensland zone, Wet Tropics zone and the Granite Belt zone). These five zones reflect the regional differences in climate, land forms and cropping systems.

There are two Protection Areas (one in Central Queensland and one in Southern Queensland) and a Management Area (which includes many regions of cropping and horticultural importance to Queensland.

The Bill provides that SCL within Protection Areas will not be able to be permanently alienated except in limited exceptional circumstances.
Land in both the Protections Areas and Management Area must also meet the minimum size requirement for validation as SCL.

SCL within the Management Area must also meet the cropping history test specified in the Bill. The "cropping history test" is an assessment of the land's cropping history. For a property to pass the cropping history test, it must contain land that has been cultivated at least three times in the 12 year period between 1 January 1999 and 31 December 2010, or have had perennial crops or timber plantations on the property for three of the twelve years. This cropping history test is determined on an individual property basis.

Submissions

Submitters commented extensively on the validation of SCL, those submissions noted:

- A validation test can be made by an eligible person who do not yet hold a resource approval
- Community benefit should be recognised in the cost recovery for a validation application
- Applying the cropping history at the property level is unclear as properties may be far larger than a parcel of potential SCL
- A minimum area for validation should be stated as Clause 42(d) implies an application can be made over part of a lot
- Distribution of soil types and resource tenures do not recognise real property boundaries
- The zonal criteria and threshold limits are based on flawed science as the threshold limits are too low
- The cropping history test contains poor criteria to identify potential SCL
- Interpretation of the cropping history test will not provide any useful filter
- Focusing on existing land use and a three year cropping history is not acceptable as the land is either SCL or not according to scientific criteria
- The cropping history test should exclude crops grown on properties for the feeding of livestock
- All types of fodder should be excluded from the cropping history test
- Public notice and submissions periods may unnecessarily delay development even where land is not SCL

- The Chief Executive's reasons for accepting a submission about a validation application should be recorded and made publicly available
- Minimum land area requirement for determining compliance with "zonal criteria" can be achieved by combining area covered by the validation application with contiguous "potential SCL" is a nonsense if "potential SCL" is shown not to be suitable for inclusion as SCL
- The likely outcome of nominated minimum size thresholds of SCL will be a fragmented landscape
- Minimum size should reflect the land area required for a viable food producing enterprise in the zone, eg. Eastern Darling Downs should be reduced to 10ha in line with the Coastal, Granite Belt and Wet Tropics zones
- No minimum property sizes should be included in the Bill
- Decision timeframes should be reviewed to align with other government decision timeframes
- The three month validation decision period is an inordinately long time and inconsistent with the brief period for submissions
- It is unclear who is entitled and therefore can expect to receive notification of the validation decision and
- Rights to appeal decisions should be extended to submitters.

Clause 48 Additional application requirements

The committee notes comments by Xstrata Coal in their submission on this Clause. According to Xstrata:

The zonal criteria and threshold limits are based on flawed science.

(i) 'The proposed criteria and thresholds are not effective and will not reliably discriminate the best cropping land from other land. The threshold limits are generally too low. This has two broad consequences; viz. (i) their usefulness is restricted to merely identifying land that is not suitable for viable farming, as opposed to distilling the "best cropping land from all other, and (ii) any viable cropping land is generally identified as SCL."

(ii) The Australian Society of Soil Science Inc. (ASSSI) provided a submission to DERM on 21 July 2011 in which they stated there were 'dismayed at the creation of yet new criteria to identify the most productive cropping land" and highlighted "critical errors of fact" in relation to the criteria.

It appears that the recommendations of Palaris and ASSI were not adopted by DERM. Given the grave concerns expressed by Palaris and ASSI it is likely that the criteria and threshold values will need significant amendment post-implementation. This will more easily be achieved is the criteria and threshold values are listed in regulation or guidelines.

Xstrata recommended the removal of the criteria from Part 2 of the Bill and that it be placed in subordinate legislation.

DERM advice

DERM told the committee that a technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet Tropics, Coastal Queensland, Eastern Darling Downs and Western—and an independent expert review was undertaken to ensure the criteria are scientifically robust.

On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee.

Including the criteria and thresholds in the Bill satisfies the requirements of the *Legislative Standards Act 1992*. The criteria are a fundamental part of the Bill and will determine how the Act will affect individuals' rights and liberties.

Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. These matters can include advice on the criteria and the thresholds.

Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016.

The committee notes DERM's advice on the points raised by Xstrata on this Clause.

Committee comments:
The committee invites the Minister to respond specifically to the points raised by Xstrata Coal in relation to Clause 48.

Clause 49 when a property has the required cropping history
Nine submissions commented on the cropping history test prescribed in Clause 49.
Points noted include:

- The cropping history test is extremely weak to the extent that it will prove largely irrelevant, and a poor criteria to identify SCL for the future
- A total of three crops or three cultivations in a 12 year period would hardly indicate the land is of value for food production security
- The criteria for determining "required cropping history" under section 49(1) are expressed in terms of specified uses operating on any of the property. That criteria should be expressed in terms of the majority of the property so as to negate the effect of a tiny incursion triggering a decision that "required cropping history" has been shown.
- The term "timber planation" is used for determining "required cropping history" in section 49(1) (b). That term needs to be defined, especially given the statement in subsection (2)(b) that the materials do not need to be for sale as well as the specific exclusion in section 50 that cropping history does not apply to "domestic purpose" activities.
- an abandoned orchard from which fruit has not been harvested during the last decade and which has gone wild could be treated as having cropping history over the period
- the Clause poses a risk to the protection of SCL because developments are likely to occur within existing and/or future food production areas.
- There are large areas of Queensland where properties consisting of contiguous lots cover significant land areas.

At the public hearing the committee heard further from submitters about the cropping history test:
The QFF told the committee:

> *The cropping history test I will be more scathing of. It is quite ridiculous, to be honest. It is going to impose a bizarre administrative burden—a final hurdle. Really, if you look at the criteria in the bill closely, it would be very rare for anything that was satisfactory cropping land to have not been cropped within that period. It is quite pointless how it has ended up and I never understood the point in the first place. I would also reinforce that by saying that the trigger maps that are referenced in the bill are built on data that includes whether the land that those maps are based on was ever cropped. So validating on the trigger maps that land has been cropped has already been done via the trigger map. What part of this process should be telling us is that as a state we have very poor soil data in some places and excellent soil data in some others, and this should be about improving our data set collectively for the industry and for the public, but cropping history has been mapped and does not need to be one of the criteria. (Galligan, Hearing Transcript, p.6)*

AgForce told the committee:

> *….there are a number of issues that preclude a particular landholder from undertaking those activities for upwards of a generation, regardless of the soil condition or the actual quality of the landscape. The commodity prices at the time and the skill sets and knowledge an individual had may have precluded them from cropping that for upwards of a generation. That would therefore knock it out within a management area to be strategic cropping land. (Wagner, hearing Transcript, p. 6)*

Similarly as noted by QMDC:

> *We should just be relying on the soil criteria alone and not needing to look at cropping history. That has a whole lot of vagaries in terms of previous ownership and the capacity of previous owners—whether they like cattle or do not like cattle. There are all sorts of reasons why people do and do not crop historically. We should be basing this bill on the soil criteria alone. (Penton, Hearing Transcript, p.11)*

Committee comment:
The committee seeks the minister's assurance that the cropping history test will provide an effective and workable filter for identifying land that is strategic cropping land, and will not unduly constrain development applications relating to land that is of dubious strategic cropping value.

Assessment of the development impacts on the land

Chapter 3 of the Bill sets out the development assessment requirements for development approvals under the *Sustainable Planning Act 2009*, environmental authorities under the *Environmental Protection Act 1994* and the resource authorities under the various resource acts**.**

Development must avoid or minimize impacts upon SCL. Conditions may be imposed upon development or resource approvals to restore land to pre-development condition, in the case of temporary impacts and manage, restrict or prohibit any more permanent impacts.

The Bill provides for a State Planning Policy (SPP) in respect of SCL to be made under the *Sustainable Planning Act 2009.* Concurrence agency roles and referral triggers will be provided in the Sustainable Planning Regulation 2011.

Thirty-three submissions commented on the development assessment provisions of the Bill. The points noted include:

- Penalising the productive use of potential SCL, even for temporary purposes is not justified
- Preliminary approvals or the first in a series of contemplated related approvals are not protected in the same way as developments authorised under development approvals
- Proposed resource activities on land to be deemed SCL will not be able to be reinstated or restored to SCL condition
- The requirement for a SPP for SCL is questioned given the existence of SPP 1/92
- Clarification is required in relation to a code for the carrying out of resource activities on SCL
- A regulation and standard conditions code must address construction, operations, products and wastes in relation to resource activities, and
- Development requirements should be included in the Sustainable Planning Act 2009.

Projects to be approved in exceptional circumstances

Chapter 4 of the Bill permits categories of development, likely to have permanent impacts on SCL in a Protection Area, to be prescribed exceptional, by regulation. Major renewable energy projects will be a prescribed category of exceptional circumstances.

Also permitted, are individual projects likely to have permanent impacts on SCL in Protection Areas where exceptional circumstances are demonstrated. In order to demonstrate exceptional circumstances, a project must satisfy the test for exceptional circumstances ie there are no alternative sites where development could reasonably be located and the development has significant community benefit. The Coordinator-General and the Minister can decide exceptional circumstance applications.

Thirty-nine comments in submissions were on the exceptional circumstance provisions. Comments included:

- Section 113 is a complex section and it is difficult to understand a legitimate need for it
- There is no definition for an "overwhelmingly significant opportunity of benefit to the State"
- There is ambiguity about the factors to be taken into account when "benefit" of development is weighed against the need to protect SCL
- There is ambiguity in the policy – what is "over riding public need"
- Exceptional circumstances should not encroach on SCL
- Submission periods should be extended
- More appropriate definitions are required and clarification as to what is reasonably practical so that exceptional circumstances decisions are consistently applied
- Clarification of definition of exceptional circumstances criteria is needed
- No resource development for coal could ever pass the exceptional circumstances test as currently presented
- No criteria for "no alternative site"
- The alternate site test for resource projects seems designed to be unable to be passed whereas the equivalent test for development applications is quite loose
- The significant community benefit provisions go beyond the intent of the policy making it very difficult for any non-community project to satisfy the tests
- "Significant community benefit can not be solely based on the profitability of the carrying out of development or its economic benefit to the state".

At the hearing, ASSSI summarised the concerns of submitters, as follows:

> *…my concerns are, as has been mentioned, the definition of the criteria, because I do not believe they are appropriate, particularly the ability of people without appropriate skills to actually assess them. That is both at the field level and at the government agency level. [Ms Cartwright] already mentioned exceptional circumstances. While the bill does give some information on that, it is more about the process for establishing that rather than what the exceptional circumstances might be and the sorts of conditions that might apply. Certainly we would like to see better definitions of what is reasonably practical. They are throwaway statements which in fact are subject to a fair bit of executive discretion. What is possible? What can be reasonably avoided? They are terms that for laymen are quite reasonable, but when it comes down to a legal situation it is quite different... (Briggs, Hearing Transcript, p.12)*

Committee comment:
The committee requests clarification by the Minister of the criteria she will require to be met in respect of applications for exceptional circumstances, ensuring consistency in decision making and that decisions will not be based solely on profitability and economic benefits of the project. The committee seeks such clarification to allay concerns of benefit to one industry over another or private interests over public. The committee invites the Minister to provide examples of other matters requiring ministerial discretion and community benefit tests and the criteria applied in such cases.

Recommendation 2
The committee recommends that Chapter 4 Part 2 be redrafted to clarify meaning and remove ambiguity from the application of the exceptional circumstances test.

Mitigation

Chapter 5 of the Bill establishes the framework for mitigation requirements where development will permanently impact on SCL. The Bill makes the carrying out of development prior to fulfilling the requirement to mitigate an offence.

Mitigation may occur through entering into a mitigation deed with the chief executive or by payment made to the mitigation fund. The government will administer the mitigation fund and seek advice from a community advisory group before making a decision on expenditure from the fund or entering a deed.

A number of submissions commented on the provisions of the Bill related to mitigation. Points noted included:

- Mitigation should not be seen as a way for mining to proceed on SCL
- It assumes a developer can buy his/her way out of the Act's intention to protect SCL
- Valuation must include present and future losses of productivity, productive efficiencies and land values
- Mitigation may not be a deterrent to miners to avoid having permanent IMPACTS ON scull
- Omitting mitigation value from the Act adds further uncertainty to the future viability of resource development in Queensland
- The Act should set down some principles to guide the development of the regulation prescribing the mitigation value
- There can be no sensible discussion on the impact of the mitigation provisions until it is understood what rate will be prescribed in the regulations
- Funds in the Strategic Cropping Mitigation Fund must be used exclusively for activities that will benefit cropping land – the Bill needs to be amended to include more stringent provisions on the use of the funds and no payment for government administration activities

During the public hearing the committee heard further from submitters on issues affecting the mitigation provisions of the Bill, particularly whether it is possible to restore permanently alienated SCL. QFF noted:

> *I think what Growcom has raised and a number of submissions have raised is that people have seen no evidence that gives them any confidence that restoration can happen, particularly in higher value cropping areas. I guess the risk is borne out in how well the bill portrays the appropriate precautionary principle in terms of making planning decisions, and that is what we are relying on. The uncertainty is there. Once a decision is made to allow resource development to occur, nobody has given me or any of my members any information that demonstrates that rehabilitation would come back to a level that would be satisfactory. (Galligan, Hearing Transcript, p.4)*

As noted by the president of AgForce:

> *To my knowledge, nowhere in the world has land been repatriated back to its original state. (Finlay, Hearing Transcript, p.4)*

QFF also told the committee that no evidence was presented to the advisory committee for the development of the Bill about the science of rehabilitation being successful. (Galligan, Hearing Transcript, p.4) AgForce raised similar concerns:

> *The other difficulty we have is, as was discussed earlier, the unproven nature of research. We could find that a lot of investment is put into a specific area to no eventual outcome, no effect or, indeed, even the possibility of a negative impact because it was a trial by error and it did not succeed. So there are issues not just pertaining to the dollar value that will be provided as what can only be called a buy-off mechanism, because if you have gone down the path of avoidance and minimisation and now you are writing out a big cheque to mitigate, there are vagaries and virtues*

around the ethics of that to start with as far as AgForce believes. What you are paying for, the value of what you are paying and what that will deliver are still concerns. (Wagner, Hearing Transcript, p.5)

In their evidence, the QRC also raised doubts about the ability to restore strategic cropping land as distinct from grazing land:

What was missing in the discussions earlier around this question was people saying that in Queensland the industry has only rehabilitated back to grazing land, but largely industry has only operated in grazing land, so the rehabilitation has been in accordance with what was the land use before the industries operated. If you asked me if I could put my hand on my heart and say that I could categorically guarantee that it would be absolutely 100 per cent schmick if you went into the best, most productive acre of Queensland and dug it up and whether in 50 years it would it be back to where it is, I would say that I do not know. But I think it is important that the bill should create the ability for new technologies and new approaches to demonstrate that capacity. (Barger, Hearing Transcript, p.22)

The Golden Triangle Community Group also told the committee there is no evidence that cropping land of the type found in the triangle can be or ever has been successfully rehabilitated:

Subsidence of up to one metre is not manageable, as suggested by Bandanna Energy. (Bradford, Hearing Transcript, p.26)

ASSSI told the committee that rehabilitation of Queensland's predominantly clay soils may be particularly problematic:

Certainly from our experience the clay soils which form the bulk of our productive soils in Queensland are not amenable to reclamation because of their particular physical and chemical properties. We have looked at work over the states. We have members who are also members of the mining industry who believe that evidence of reclamation of mined soils in the state have been for lighter textured soils, which are less appropriate. (Briggs, Hearing Transcript, p.13)

QFF also raised concerns about the lack of clarity in the bill as to the standard of rehabilitation that will be required under mitigation. They told the committee:

In relation to a technical point on the bill in terms of mitigation, the bill does not actually outline what standard of rehabilitation will be required so there has always been quite a bit of debate—and it is still not cleared up in the drafting of the bill—as to whether or not rehabilitation or restoration would be required back to any level of SCL. Does that land just have to get back to be able to meet the SCL criteria, or does it have to get back to the productive state given loss of productivity is now one of the effects under the bill? Will there need to be a measure of the productivity of the land before it is alienated and therefore it needs to be brought back to that productive state? Or is it just a matter of getting the soil back to a status that would meet the criteria under any assessment or the level at which it met the assessment prior to development? None of those questions are clear to be honest, let alone the uncertainty over whether or not it could be restored at all. (Galligan, Hearing Transcript, p.4)

In their evidence, FutureFoods Queensland recommended that, given that the Bill would permit underground mining of SCL, an arrangement where substantial bonds are required from companies involved in underground mining to as an incentive to ensure that land is rehabilitated:

The legislation gives mining companies the opportunity to underground mine under strategic cropping land. Our experience in the Emerald area shows that, although you do rehabilitate the top, the land there that has been mined underground is now not suitable for cropping; they have gone back to grazing land. We are suggesting that bonds be held and that companies be made liable—substantial bonds. (Wilson, Hearing Transcript, p.26)

Concerns about the rate that mitigation would be charged

The committee noted that the rate at which mitigation costs would be levied is not prescribed in the Bill and would be set by regulation. AgForce raised concerns about the level at which the costs would be levied:

We very much have concerns over that rate, not just for what the valuation of the landscape is as we were saying earlier compared to its production capacity, as was discussed this morning by the committee. There are also the vagaries and issues of not just the economic climate but also the commodity climate. That was one of the issues that was raised this morning. The tertiary point to that is the unknown capacity of what is actually being invested in through those mitigation mechanisms. We have little detail at this time of who the participants will be within those community advisory groups, as they are proposed. There is some discussion of utilising some mechanisms, like regional NRM groups;

we do not believe they actually would have that much proficiency within the area. But there is no discussion, for instance, about the utilisation of the research development corporations specifically pertaining to these fields and these areas and the information they could portray and provide. (Wagner, Hearing Transcript, p.5)

Use of mitigation funds

As noted in submissions, FutureFood Qld called for controls in the Bill to ensure that moneys in the mitigation fund are used exclusively for the benefit of cropping lands:

We would also like to support changes to the legislation ensuring that money that is taken from the mitigation fund is used exclusively for the benefit of cropping lands. In a lot of cases we see that money collected goes straight into general revenue and never goes back to where it was meant to go. (Wilson, Hearing Transcript, p.25)

Committee comments:
The committee notes the strong views expressed in submissions and at the hearing that the premise that strategic cropping land can be restored to its original productive capacity after permanent alienation by developments such as resource extraction. Witnesses who commented on this issue told the committee that there is no scientific basis for claims that strategic cropping land as distinct to grazing land can be rehabilitated.

Transitional project arrangements

Chapter 9 of the Bill provides transitional arrangements for resource development projects that have not received their final approvals prior to the commencement of the Act. Projects that had achieved identified assessment and approval milestones on or before the identified dates, will not be subject to the Act or will be captured, but not subjected to the full SCL framework. Projects that had not achieved the milestones will be subjected to the full framework established under the Act.

Mining and petroleum lease applications that had received their draft environmental authority under the EP Act, or had completed the Environmental Impact Statement (EIS) stage of their application on or before 31 May 2011 are excluded from the application of the SCL Act. These developments will be assessed under the EP Act and the relevant resource act as if the Act had not commenced. Mining and petroleum lease projects that will have a permanent impact on SCL or potential SCL, may be able to proceed without demonstrating exceptional circumstances where, on or before 31 May 2011:

- the application for the project had been made, and
- the project had finalised EIS terms of reference, and
- either a certificate of application was issued for the mining lease application or the petroleum lease application complied with the relevant requirements under the Petroleum Act 1923 or the Petroleum and Gas (Production and Safety) Act 2004.

Petroleum lease applications that were not submitted on or before 31 May 2011 may still achieve the milestones where a current authority to prospect (ATP) is in existence and the project has finalised EIS terms of reference for an area which includes the area of the ATP. While these projects will be able to proceed even where they have a permanent impact on land, an SCL assessment under the Act will still be required and to SCL conditions may be imposed. Projects will be required to mitigate their permanent impacts in accordance with Chapter 5 of the Bill.

A number of submissions commented on the transitional provisions. Points noted include:

- The level of protection offered to projects that fall within the scope of Division 3 of Part 3 of Chapter 9 is far lower than the industry expected on a reasonable interpretation of the policy document released by the government
- The provisions are very complex

- It is not clear that circular cross-referencing delivers on the intent of the policy and a number of QRC members are concerned that they do not have the transitional status they thought they had
- The current operation of the transition provisions creates a significant financial impact to Macarthur Coal Limited that was not anticipated – investment decisions have been made that did not anticipate these additional costs.

Clause 282 Future mining lease relating to EPC 891 & Clause 283 SLC protection conditions imposed

In DERM's briefing for the committee, Deputy Director General, Mr Chris Robson, explained that the introduction of new regulations necessitates the assessment of some issues on a "case-by-case" basis:

> *The government allowed Bandanna Energy to progress with its Springsure Creek project as its terms of reference had been assessed by the Department of Environment and Resource Management and were about to be advertised when the transitional arrangements were announced on 31 May 2011. Strict requirements are imposed on this project to minimise the potential impacts it may have. (Robson, Departmental Briefing Transcript, p.8)*

On questioning from the committee, Mr Robson explained the reasons for the specific transitional arrangements for Bandanna Energy's Springsure Creek exploration:

> *As I indicated, the assessment in terms of finalising the EIS terms of reference for the Bandanna Energy projects, in particular for their Springsure Creek project, was administratively effectively completed by 31 May. But part of the process of finalising EIS terms of reference administratively is to publish them, and that was the step that had not yet been done... So it was a matter of two days. That is when, on consideration, it was accepted that they would fall in the transitional arrangements, but we had to make special provisions because they were clearly outside the clear intent. So they are now obliged (a) to be an underground mine and (b) to take all appropriate necessary steps to the maximum extent possible to rehabilitate any adverse effects they may cause on the strategic cropping land." (Robson, Departmental Briefing Transcript, p.10).*

Clauses 282 & 283 within the transitional provisions attracted 37 comments from submitters. Points noted include:

- Transitional arrangements are exceptional circumstances and the provisions provided are generous to the point of devaluing the enduring impact of the legislation.
- The arrangements are not transparent in that neither the community nor affected industries can observe the status of existing projects or the basis upon which transitional status was based.
- Clauses 282 and 283 should be deleted. Springsure Creek should not be excluded from the SCL Bill.
- Special exemptions in the Bill with benefit to private individuals or companies is against the oath of MPs.
- AgForce is extremely concerned regarding the processes behind which this deal has been undertaken and we seriously question the validity of the SCL policy platform when the first time it is tested it appears to have failed to protect SCL.

At the public hearing the committee heard further from submitters about Clauses 282 and 283.

QFF told the committee:

> *The other area of major concern which I guess underpins people's overall confidence in this bill is the special transitional arrangements that have been granted to the Springsure Creek proposal. I can understand the need for transitional arrangements and I do not like retrospective legislation and people have obviously made investments along the way. But in this particular case the date was set, that date was not met and now special transitional arrangements have been made for that particular project. That really undermines the confidence not only in that particular decision but in the*

whole bill because other people are going to come along and say, 'We've got exceptional circumstances. How is that going to be dealt with?' I think those transitional arrangements do have to be struck out of this bill and the proponents of that particular application need to then work within the requirements of the strategic cropping land legislation. (Galligan, Hearing Transcript, p. p.3)

The Golden Triangle Community Group told the committee the Springsure Creek coal project or EPC 891 makes up more than ten per cent of the total area identified as strategic cropping land in the central protection zone. On this basis, they suggested to the committee that the Clauses 282 and 283 seem to be a contradiction of what the Bill is about: the protection of strategic cropping land. (Bradford, Hearing Transcript, p.26)

It appears that Bandanna Energy is also unhappy about the special transitional arrangements provided for their Springsure Creek Coal Project, but for a different reason. Their representative told the committee the company would like their project to be treated in the same way as other pre project approval 31 May 2011 projects, and consistent with undertakings provided by the Treasurer in a letter to the company head. (Batcheler, Hearing Transcript, p.20)

Committee comments:
The committee invites the Minister to clarify whether the transitional arrangements provided to Banadanna Energy differ from transitional arrangements available to other resource project applicants, the quantity of SCL that will be impacted by the Springsure Creek Coal Project and whether the impact will be permanent or temporary. In respect of permanent impacts, the committee invites the Minister to outline the conditions that Bandanna Energy will be required to comply with to ensure that any SCL affected by the project is restored to its full productive capacity.

3 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that 'fundamental legislative principles' are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

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

The committee sought advice from DERM in relation to possible fundamental legislative principle issues and other issues affecting Clauses 34, 90(2), 99, 118, 137(4), 164(4), 193, 197, 198, 201, 215, 216, 218(2), 225, 227-9, 243, 257, 268 and 281, and Schedule 2 of the Strategic Cropping Land Bill 2001, and the explanatory notes to the Bill. The following sections discuss the issues raised by the committee and the subsequent advice provided by the Director-General of DERM on 17 November 2011.

Right and liberties of individuals

Does the bill have sufficient regard to the rights and liberties of individuals?
- **Clauses 99, 137(4), 164(2)**

Clause 99 provides that an SCL 'protection condition' may, inter alia, prohibit, limit or restrict the carrying out of a resource activity on land or part of it; may require the applicant to install and operate stated plant or equipment in a stated way within a stated period; or may 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.

Issue – this Clause prima facie conflicts with the right of a holder of an estate in fee simple (an owner) to deal with their land as they choose.

Request for advice:
The committee sought assurances from DERM that such derogation from the rights of a property owner is justified in furtherance of this bill's aims.

DERM's advice

The purpose of the Strategic Cropping Land Bill 2011 is inter alia, to protect strategic cropping land and manage the impacts of development on that land. Cardinal to achieving the purposes is the ability for the chief executive to impose suitable conditions on developments occurring on strategic cropping land to ensure impacts are avoided, minimised and restored to the greatest extent possible.

Analogously, these powers reflect the conditioning provision provided under the Environmental Protection Act 1994 (section 305), to ensure Queensland's environment is protected in a fashion consistent with the principles of ecologically sustainable development, and under the Sustainable Planning Act 2009 to ensure that planning instruments can plan for the appropriate use of land and development assessment can regulate uses in the interest of the state and local communities.

Clause 137(4) states that the mitigation requirement applies and continues to apply even where, for land that was potential SCL and identified as permanently impacted land, after that identification, the land is either recorded in the decision register as decided non-SCL or the trigger map is amended under Clause 34 to remove the land as potential SCL. The mitigation requirement is fulfilled by entering a mitigation deed or making a payment to the mitigation fund.

Issue – it is unclear what justification exists for continuing to require that mitigating action be taken by a landowner for land after it has been either removed from the trigger map as potential SCL or it has been recorded in the decision register as decided non-SCL.

Request for advice:
The committee asked DERM to explain the justifications for these requirements.

DERM's advice

The justification is two-fold and relates to:

(1) the risk adopted and accepted by the development proponent, when they elect to be assessed against the SCL trigger map, rather than applying to validate the extent of the SCL on the land; and

(2) the need to avoid placing the mitigation burden on the community and the government where commercial and funding commitments have been made under the mitigation requirements, which could later be abrogated (if the Bill section 137(4) did not exist) should the land be subsequently validated (and potentially by a third party) as non-SCL.

When seeking an SCL assessment, the development proponent may validate the land to confirm the extent of the SCL which may be permanently or temporarily impacted by the development; or they may elect to treat the trigger map as an accurate indication of the SCL to be impacted by their development.

The risk associated with electing to adopt the SCL trigger, is that should a validation ultimately be conducted on that land, including by another party the extent may not be as uniform as demonstrated by the trigger map and therefore some areas assessed as being permanently impacts SCL, may not be SCL at all. This is a risk that is determined by the applicant when they make their application.

Clause 137 (4) merely clarifies the implications of this risk.

A development proponent may fulfil their mitigation requirements by entering into a mitigation deed (a contract with the government) or via a payment into the mitigation fund. Under the mitigation deed, the development proponent may commit to undertake activities, or engage a third party to undertake activities that would meet the development's mitigation requirements. Alternatively where money is paid into the mitigation fund, the government may allocate funds within local communities to undertake activities to, inter alia, improve productivity for the industry and local cropping systems. These arrangements are entered into in good faith that the deed contracts will be fulfilled and that funding will not be withdrawn once it has been granted. It would be a perverse outcome of the mitigation framework if the development proponent has the option of assuming the risk associated with electing to be assessed against the SCL trigger map, but then consequent to the land being identified as non-SCL, the businesses, community and the government were responsible for the remaining debt /costs associated with the incomplete deeds and grant funding.

Clause 164(1) applies where a recipient of a compliance notice contravenes the notice, whether or not a proceeding relating to the contravention has been started.

Clause 164(2) allows compliance action by an authorised person enabling them to use reasonable force and take any other reasonable action to stop the contravention.

Issue – whether it is appropriate to allow an authorised person (who is not a police officer and not subject to a similar disciplinary regime/standards) to use 'reasonable force' to stop a contravention of a compliance notice. 'Reasonable force' is not defined in this statute but what is appropriate/reasonable force has long been the subject of numerous judicial considerations in various contexts and jurisdictions. Authorised (departmental) officers will (likely) lack the training in what is appropriate and reasonable force that is provided to cadet police in their training, and no guidance is offered by this bill as to what constitutes reasonable force to stop such a contravention. Presumably the contravention of a compliance notice would potentially involve actions that create environmental damage, rather than any imminent threat of personal injury.

Request for advice:
The committee DERM to advise the justification for providing departmental officers with authority to use any level of force to stop the contravention of an administrative instrument such as a compliance notice.

The committee sought DERM's advice, and some examples, as to what in the department's view would constitute 'appropriate/reasonable force' by authorised persons under Clause 164(2) to stop the contravention of an administrative instrument such as a compliance notice.

The committee sought DERM's advice as to the department's liabilities arising out of claims by individuals in respect of personal injuries or other damages sustained during actions by authorised officers under **Clause 164(2)**.

DERM's advice

Clause 164 of the Bill only confers authorised persons with the power to use reasonable force or any other reasonable action to stop a contravention with a compliance notice that had previously been issued. It does not confer power on an authorised person to use any level of force, in relation to any functions under the Bill. As the Committee indicates, these notices can only be issued by an authorised person who has been appointed by the chief executive. The chief executive may only appoint persons as authorised officers who have the necessary expertise or experience to undertake the activities required by the authorised person role. The department undertakes training for all authorised persons, generally and in relation to specific powers conferred under legislation.

The reasonableness of the force exerted is to be context by the circumstances to which it is applied. Under the Bill, it would be sound interpretation to determine reasonableness in the context of the functions of the authorised persons, to whom the power is granted. These provisions are necessary to ensure the effective enforcement of the Act.

These powers conferred under Clause 162 are similar to existing provisions under other Acts. An example of comparable provisions being invoked for a compliance activity under an existing Act includes cutting a lock or chain on a gate to gain access to the site the subject of the compliance notice. Additionally, in conjunction with Clause 223 of the Bill an authorised person may take reasonable steps (reasonable to the common person) to prevent the continuation of an ongoing offence for which the stop work and/or restoration notice has been issued. In this context, reasonable force may include disabling equipment; parking a vehicle across access points; physically seizing an implement or tool to prevent further contravention. There may be instances whereby an authorised officer may be required to use reasonable force on another person, but it is likely that where an incident such as this arises the authorised person may liaise with the Queensland Police Service. It is important to reiterate the point made in response 1— the reasonableness of the force exerted is to be context by the circumstances to which it is applied.

Clause 221 provides for a person to claim compensation from the State for loss or damage suffered by a person because of the exercise, or purported exercise of a power by an authorised person. This provision does not preclude loss or damage caused by an authorised person using reasonable force to stop a contravention, pursuant to section 164(2).

Therefore a person injured by an authorised person taking action to stop a contravention of a compliance notice, would have a statutory right of compensation through section 221. The injured person may also have a right to compensation under the Civil Liability Act 2003 and through a common law claim for negligence, apart from section 221. Similar provisions exist in many other Queensland Acts including for example, the Vegetation Management Act 1999 and the Aboriginal Cultural Heritage Act 2003.

Onus of proof
Does the bill reverse the onus of proof in criminal proceedings without adequate justification? – **Clauses 243 & 257**

Clause 243 requires the executive officers of a corporation to ensure the corporation complies with each SCL offence provision of the proposed Act. If a corporation commits an offence against an SCL offence provision, each of the corporation's executive officers also commits an offence (of failing to ensure the corporation's compliance with the provision) - 243(2). Evidence that the corporation has been convicted of an SCL offence is evidence that each of the executive officers committed the

offence of failing to ensure the corporation's compliance with the provision (243(3)). It requires an executive officer to prove, in his or her defence, that he or she, (if in a position to influence the conduct of the corporation in relation to the offence) exercised reasonable diligence to ensure the corporation complied with the provision; or he/she was not in a position to influence the conduct of the corporation in relation to the offence.

Issue - Such a provision may have insufficient regard to the rights and liberties of individuals as it imposes an evidential burden on an accused person. We note the explanatory notes do not address the reversal of onus other than to summarise the operation of the provision, and offer no explanation or justification in respect of it.

Request for advice:
The committee sought DERM's advice as to the justification for the reversal of the onus of proof in Clause 243.

DERM's advice

Clause 243 states that the executive officers of a corporation must ensure the corporation complies with the Act and that if a corporation commits an offence against the Act, each of the corporation's executive officers also commits an offence. The provision for individual responsibility for corporate officers for actions which they have ultimate control is necessary for the effective enforcement of the Act and ensuring the purposes of the Act are achieved.

Defences have been provided in Clause 243(4) where an executive officer can prove that the officer exercised reasonable diligence to ensure the corporation complied with the provision, or that the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Making executive officers potentially personally liable for the actions of the corporation reduces the risk of an SCI, offence being committed which may cause irreversible damage to the strategic cropping land resource. The provision is also aimed to encourage the corporation to establish procedures to ensure that employees, particularly those involved in the development activity are fully aware of the requirements under the Act and environmental and resource authorities regarding strategic cropping land. Similar executive officer liability provisions exist in many other Queensland Acts including for example, the Environmental Protection Act 1994; the Workplace Health and SafetyAct 1995; and the Transport Operations (Road Use Management) Act 1995.

Clause 257 applies to a proceeding for an offence against this Act where a person's state of mind is relevant to the offence. Per Clause 257(2) it is enough to show that the conduct was engaged in by a representative of the person (e.g. employee, agent) within the scope of the representative's actual or apparent authority and the representative had the relevant state of mind. Conduct engaged in for a person by a representative within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person unless the person proves (if they were in a position to influence the representative in relation to the conduct) that they took reasonable steps to prevent it; or, alternatively, that they were not in a position to influence the representative in relation to the conduct.

Issue - This Clause imposes an evidential burden on a person to prove that they could not influence the conduct of their representative/agent/employee. The explanatory notes again do not address this reversal of evidentiary burden.

Request for advice:
The committee sought DERM's advice as to the justification for the reversal of the onus of proof in Clause 257.

DERM's Advice

Clause 257 provides direction on the evidentiary requirements for determining state of mind where the offence has been committed by a person's representative. Situations where this provision is likely to apply include cases where the principal—the person in the superior position in the relationship—is held liable for the actions of their representative.

The provision for a principal's vicarious liability for the actions of their representative that amount to an offence against the Act is necessary for the effective enforcement of the Act and ensuring its purposes are achieved. In these cases the principal is considered to be in a position of responsibility, with ultimate control over the actions of their representatives.

Defences have been provided in Clause 257(3) where the principal can prove that the representative took reasonable steps to prevent the conduct that lead to the offence or that the person was not in a position to influence the conduct of the representative in relation to the offence.

Similar liability provisions exist in other Queensland Acts including for example, the Environmental Protection Act 1994 (section 492).

Power to enter premises

Does the bill confer power to enter premises and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer? – **Clauses 193, 197/198 & 201**

Clause 193 outlines general search powers for authorised persons administering this proposed Act. The conditions on which things and documents may be seized and retained or returned are also specified.

The committee noted the wide general post-entry powers conferred in Clause 193 for searches, and the broad seizure powers conferred under Clauses 197 and 198.

Evidence may also be seized from a place entered with consent or under a warrant. If entry is under a warrant, the officer may seize the evidence for which the warrant was issued (Clause 198(3)), and may also seize anything else at the place if the officer reasonably believes the thing is evidence of an offence against the Act and the seizure is necessary to prevent the thing being hidden, lost or destroyed (Clause 198(4)). Such a thing might reasonably be a laptop or USB containing commercial/private financial documents. Such devices may also contain other non-relevant and potentially personal/confidential information. A thing may also be seized, or powers may be exercised over a thing, despite a lien or other security over it claimed by another person (Clause 200(1)).

Where a thing has been seized under this division, an authorised officer may remove it or leave it where it was seized and take reasonable steps to restrict access to it (Clause 201(1)). In respect of equipment, that can extend to making it inoperable by, for example, dismantling it or removing a component without which the equipment cannot be used (Clause 201(2)(b)). Assuming such thing might be a computer containing documents relevant to an alleged offence against this Act, rendering it inoperable may impact on the rights of the person being investigated in ways not connected to their alleged offence against this Act, or may impact on other members of their household who would ordinarily use that equipment. The committee notes that this provision could in effect remove or disable a key point of communication and/or a key archive of business and personal information for a considerable period of time. This could have particular impacts on people in remote locations.

Request for advice:
Given the breadth of these entry, search and seizure powers, especially as they impact on the rights of property owners, the committee sought DERM's advice as to:
– the justification for such broad general search and seizure powers
– the likelihood that such powers would unfairly impinge on the rights of individuals
– the circumstances where the department envisages that authorised officers would need to remove or disable key equipment such as computers or USB storage devices, rather than copy the information held on the equipment at the time and on site, and
– what safeguards the department would introduce to ensure the rights of individuals affected by these provisions are protected.

DERM's advice

The breadth of the search and seizure powers is necessary to ensure authorised persons have the appropriate powers to conduct investigation and compliance actions under the Act. A large variety of development activities will be regulated by the Bill, requiring flexibility for authorised persons to take appropriate actions pertaining to the activities being undertaken and evidence on hand.

The powers imparted to authorised officers for search and seizure is suitably constrained by the entry power requirements which must be invoked, prior to the search and seizure powers being relied upon. It is considered that entry, search and seizure powers are a suitably proportionate approach to the enforcement provisions of the Bill which aim to prevent or diminish the significant impacts that may arise from non-compliance with the Act and bring responsible persons to bear for the offence. Similar liability provisions exist in other Queensland Acts including for example, the Environmental Protection Act 1994 (section 460) and the Waste Reduction and Recycling Act 2011 (section 211).

The identified provisions are unlikely to unfairly impinge on individuals rights. The powers may only be applied where the authorised person has entered the land under Clause 178 of the Bill, and subsequent procedural provisions. Inter alia, the powers may only be applied where the authorised person is on the land by virtue of the owners or occupiers consent or by warrant issued by a Magistrate. Therefore the Bill provides sufficient safeguards to ensure that the rights of individuals are not unfairly impinged.

As indicated above, a large variety of development activities will be regulated by the Bill, requiring flexibility for authorised persons to take appropriate actions pertaining to the activities being undertaken and evidence on hand. It is difficult to envisage cases where an authorised person would need to seize computers or data storage devices. However, the seizure powers under Clause 201 could plausibly be applied in circumstances where earth moving equipment, for example, is used to impact strategic cropping land without the required development approval or resource authority. A component of the equipment, such as the key, could be removed to render the machine inoperable under Clause 201.

Clauses 204-206 of the Bill provide safeguards for seized things. Inter alia, an authorised person must provide a receipt and an information notice to the owner of an item that is seized under the Act. Additionally the owner of the seized item may access and copy the item, as reasonably practicable. Once the seized item is no longer required, the item must be returned to the owner.

Protection against self-incrimination

Does the bill provide appropriate protection against self-incrimination? – **Clauses 195(3), 215(2), 216,218(2) & 225**

Clause 195(1) requires a person (absent reasonable excuse) to comply with a help requirement made of them. Clause 195(2) provides that it is a reasonable excuse for an individual not to comply with a help requirement if complying might tend to incriminate the person or expose them to a penalty. This protection against self-incrimination is however removed in **Clause 195(3)** which states that the Clause 195(2) protection does not apply if a document/information that is the subject of the help requirement is required to be kept or held by the individual under this Act.

Issue – **Clause 195(3)** removes the protection against self-incrimination (an FLP breach) in respect of documents required to be kept by the individual under this Act.

Clause 215(1) requires a person (absent reasonable excuse) to comply with a document production requirement made of them. **Clause 215(2)** provides that it is not a reasonable excuse for a person to fail to comply with a document production requirement because complying might tend to incriminate the person or expose them to a penalty. The authorised person must advise the person that they need to comply even though so complying might tend to incriminate them/expose them to a penalty and advise them that, under Clause 225, there is a limited immunity against the future use of the information or document given under this requirement (Clause 215(3)).

A mirror provision exists in **Clause 216** in respect of document certification requirements.
In contrast, Clause 218 requires a person (absent reasonable excuse) to comply with an information requirement made of them, however **Clause 218(2)** states that it is a reasonable excuse for an individual not to give the information if doing so might tend to incriminate them or expose them to a penalty.

Clause 225 gives a limited evidential immunity to individuals who produce documents in compliance with particular requirements. If an individual gives information/documents to an authorised person under Clause 194, 214 (but not 214(1)(a)), or 217, evidence of the information or document, and other evidence directly or indirectly derived from it, is not admissible against the individual in any proceeding to the extent it tends to incriminate the individual/expose them to a penalty in that proceeding (225(2)).

This protection against self-incrimination is removed for a proceeding about the false or misleading information of the information/something in the document, or in which the false or misleading nature of the information or document is relevant evidence (Clause 225(3)).

Request for advice:
The committee sought DERM's advice as to the justification for removal of the protection against self-incrimination in Clauses 195(3), 215(2), 216, 218(2) & 225.

DERM's advice

The documents referred to in Clause 195 (3), are the resource authority and development approval documents, or copies of those documents, that must be held at the development site at all times and presented when requested by an authorised person.

Applying the defence under Clause 195 (2) to these documents creates a perverse compliance outcome. The Bill, on one hand, establishes mandatory requirements to produce the documents to assist compliance and investigations to determine whether the development is operating according to the conditions and grant of the development approval or the resource authority. The most plausible instance where providing these mandatory documents would lead to self-incrimination, is where the documents demonstrate that the development is not operating lawfully. Therefore applying the defence to the documents that must be held on site could potentially undermine the entire enforcement framework of the Act and defeat the achievement of the Act's purposes. Clause 225 provides a limited defence such that incriminating documents and evidence gleaned or obtained on the basis of the presented incriminating documents, will not be admissible in any action against the person who presented the documents.

Therefore, there it is not a reasonable excuse under Clauses 215 and 216 to refuse to produce or certify the document as requested. Additionally, the documents referred to in Clause 225 (3), to which the defence is not available, are the false or misleading documents the compliance action is being taken against or is relevant evidence in a prosecution involving the production of false or misleading documents or information. Establishing inadmissibility provisions in relation to those documents would in and of itself, defeat the action taken against the offence and ultimately would undermine the compliance provisions of the Bill. Clause 218 is consistent with the legislative standards.

Rights and liberties

Does the bill adversely affect rights and liberties, or impose obligations, retrospectively? – **Clause 90(2)**

Part 4 allows the chief executive to decide the impact of a resource activity on land, and whether or not to impose conditions on an environmental authority or a resource authority for that resource activity.

Clause 90(2) provides that Part 4 applies to an environmental or resource authority application even if, when the application was made, the land was not SCL or potential SCL, but subsequently became SCL or potential SCL before the authority was granted.

Arguably this provision operates retrospectively.

Request for advice:
The committee sought DERM's advice as to the justification for Clause 90(2) which imposes obligations retrospectively.

DERM's advice

*Clause 90 (2) does not offend section **4** (3) (g) of the Legislative Standards Act 1992. The provision does not apply retrospectively or adversely affect a person's rights or liberties, as by virtue of the application of Clause 90 (2)(b), no rights or liberties are held by the applicant except the right for their application to be decided in accordance with the Act.*

The effect of the Clause is to clarify for applicants that, if during the period when their application is being considered the land the subject of the application, becomes potential SCL or confirmed as SCL, the application will be considered and decided accordingly. The status of the affected land can only be altered by the chief executive making an amendment to the trigger map or if the land is confirmed as SCL through the validation

process in Chapter 2. Prior to the map amendment taking effect, the chief executive must make a draft of the map available and seek the Governor's approval. The validation processes requires a public notification to ensure all interested persons are aware of the process and can make submissions.

Therefore the person who has an application afoot, or makes and application after the public notification process commences, will by virtue of professional due diligence, have constructive, if not actual knowledge, of the potential outcomes and possible affects on their application and development. This framework establishes a balanced position for dealing with competing development and cropping land uses over the same area of land.

In effect Clause 90(2) applies in the same fashion as section 282 of the Sustainable Planning Act 2009.

Immunity from proceedings

Does the bill confer immunity from proceeding or prosecution without adequate justification? – **Clause 268**

Clause 268(1) provides that an official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act. Where subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State (Clause 268(2)).

Request for advice:
The committee sought DERM's assurance that the limited immunity from prosecution given to officials under Clause 268 is reasonable. The committee also sought DERM's assurance that providing that civil liability attaches instead to the State would not unfairly disadvantage aggrieved persons.

DERM's advice

It is reasonable to provide the level of vicarious liability offered by Clause 268, which is afforded to any person in an employer-employee relationship. Clause 268 does not offer an official immunity from prosecution; it offers protection to officials against any civil liability actions that may arise from the official's exercise of their powers and functions under the Act. The same level of immunity is offered to all State government employees in accordance with the Government's Guideline for the grant of indemnities and legal assistance to state employees.

Therefore the department can assure the Committee, that these arrangements would not unfairly disadvantage an aggrieved person. Clause 268 does not affect any action or remedy that would otherwise be available to the aggrieved person. The Clause merely directs that such actions must be made against the State instead of the government official responsible for the act or omission.

Aboriginal tradition and Island custom – Section 4(3)(j) *Legislative Standards Act 1992* - Does the bill have sufficient regard to Aboriginal tradition and Island custom?

This bill does not appear to make reference as to whether the rights of Aboriginal and Torres Strait Islander people, in respect of land held under native title, will be protected/ preserved, should a determination be made that the relevant land is SCL.

Request for advice:
The committee sought DERM's advice as to whether the rights of Aboriginal and Torres Strait Islander people, in respect of land held under native title, will be protected/ preserved, should a determination be made that the relevant land is SCL.

DERM's advice

A determination that the relevant land is strategic cropping land does not affect the rights of Aboriginal and Torres Strait Islander people. This determination influences which activities may be approved and the suitable conditions to be imposed. The SCL framework is an adjunct to the existing development and resource tenure approval processes. The rights of Aboriginal and Torres Strait Islander people are sufficiently regarded within those frameworks and remain unaffected by the Strategic Cropping Land Bill 2011.

Clear and precise – Section 4(3)(k) *Legislative Standards Act 1992*
Is the bill unambiguous and drafted in a sufficiently clear and precise way? – **Clauses 118 & 281, Schedule 2.**

Arguably **Clause 118** is ambiguous as to what might constitute a 'significant community benefit'.

Clause 281 refers to a date of 23 August 2010. Some submissions have stated this is a mistake and that the original policy document/factsheet referred instead to 23 August 2012.

Schedule 2 –definition of tenure – the Queensland Resources Council (sub 43) raises the issue of whether this definition is intended to apply to <u>all</u> tenures or just to production tenures.

Request for advice:
The committee sought DERM's advice as to the meaning of the term 'significant community benefit', who the department envisages would make this determination and how it may be clearly defined for the Bill?
The committee sought clarification from DERM as to whether the date '23 August 2010' specified in Clause 281 is correct, and whether the definition of tenure provided in Schedule 2 applies to <u>all</u> tenures or just to production tenures.

DERM's advice

Under Clause 116, the Minister or the Coordinator-General (for State significant projects) are required to determine that a proposed development has no alternative site and has a significant community benefit, before deciding that the project is an exceptional circumstances development. Clause 128 provides the criterion to be considered by the required decision-maker when determining whether the development will have a significant community benefit.

The reference to '23 August 2010' in sub-Clauses 281(1) (a) and (c) are correct.

The same date reference in sub-Clause 281(1) (b) however is incorrect. The correct date for this sub-provision is '23 August 2012'. This error will be corrected in accordance with the Parliamentary Standing Rules and Orders.

The definition of 'tenure' in Schedule 2 of the Bill refers to an interest held in, or the holding of land, that does not amount to a freehold interest in the land. Therefore the definition applies to all tenure types except free holding or occupation rights under Land Act permit. A definition of 'production tenure' could not be identified within the Bill or any other Queensland enactment.

Delegation of legislative power

Does the bill allow the delegation of legislative power only in appropriate case and to appropriate persons? – **Clause 34**

Clause 34 allows the chief executive, after considering the required criteria, to amend the trigger map to add or remove potential SCL. The amendment does not take effect until it is approved under a regulation (Clause 34(3)).

Issue – is the addition/removal of potential SCL on the trigger map something suitable to be approved by regulation or should it be contained in primary legislation?

Request for advice:
The committee sought DERM's assurance that addition/removal of potential SCL on the trigger map is something suitable to be approved by regulation rather than contained in primary legislation.

DERM's advice

The powers of the chief executive to amend the trigger map are appropriately delegated in accordance with sections 4(4) (a) and (b) of the Legislative Standards Act 1992. Before a trigger map amendment takes effect, the following steps are required by the Bill:

- The chief executive must consider the required criteria in Clause 34 (4);

- A copy of the draft trigger map is to be displayed on the Department's website under Clause 39;

- The chief executive must seek the Governor in Council's approval to make the map amendments as a regulation (Clause 34 (3));

- Under Part 6 of the Statutory Instruments Act 1992, the regulation must be tabled in the Legislative Assembly.

While tabled in the Legislative Assembly, the regulation may be the subject of a disallowance motion passed by the Parliament.

Therefore each of these steps ensure that sufficient regard is given to the institution of Parliament in accordance with sub-sections 4 (4) and (5) of the Legislative Standards Act 1992.

Independence of the Science and Technical Implementation Committee

The committee noted that Clause 227 provides that the Minister may establish a Science and Technical Implementation Committee. The members of this committee are appointed by the Minister under Clause 228(2), and their remuneration is set by the Minister under Clause 228(4(b). Clause 229(a) states that the committee's function is to provide independent scientific and technical advice.

Request for advice:
The committee sought DERM's assurance that the Science and Technical Implementation Committee will be able to function according to the provisions of the Bill and provide independent advice as per Clause 229(a), given that the head and other members of the committee will be appointed and have their remuneration determined by the Minister.

DERM's advice

A Science and Technical Implementation Committee (STIC) may be established by the Minister under Clause 227 to provide independent scientific and technical advice on the matters identified in Clause 29. Fees may be paid to members

the STIC in accordance with Clause 228 (4) and the Remuneration of Part-time Chairs and Members of Government Boards, Committees and Statutory Authorities procedure (the Remuneration procedures) maintained by the Department of Justice and Attorney-General.

The Remuneration procedures state that the remuneration for a committee is to be determined on the basis of its major functions and influence, and the impact of its decisions and activities have on the government, industry and the community. There are eight standardised remuneration categories in the procedures providing consistency, clarity and equity in the payment of daily fees and annual allowances for part-time chairs and members of government committees. The proposed remuneration for this Committee is currently being reviewed and advice will be provided to the Government shortly at what level the Committee members will be remunerated.

The STIC are not conferred with any powers or functions under the Act, other than to provide advice to the Minister in accordance with Clause 229 of the Bill.

In appointing members, the Minister must only appoint persons who the Minister is satisfied has expertise or experience in soil attributes and processes or another area of knowledge prescribed under a regulation. Other areas of knowledge will be subject to the scrutiny of the Legislative Assembly in accordance with Part 6 of the Statutory Instruments Act 1992 and satisfying the requirements of the section 4 of the Legislative Standards Act 1992.

Explanatory Notes to the Bill

Part 4 of the Legislative Standards Act relates to explanatory notes. Subsection 22(1) states that when introducing a bill in the Legislative Assembly, a member must circulate to members an explanatory note for the bill. Section 23 requires an explanatory note for a bill to be in clear and precise language and to include the bill's short title and a brief statement providing certain information.

Explanatory notes were tabled with the introduction of the bill. These notes, while substantially in compliance with the information required by s.23, do not discuss all potential FLP breaches.

Request for advice:
The committee asked DERM to explain why the explanatory notes do not address all potential FLP issues.

DERM's advice

The department was mindful of the fundamental legislative principles (FLPs) stated in section 4 of the Legislative Standards Act 1992. Due to the opposing interests affected by the Bill and the complex nature of the legislative arrangements, the during the drafting of the Bill, the department and Office of Parliamentary Council (OQPC) rigorously ensured that sufficient regard was given to the rights and liberties of persons affected by the proposed legislations and that the same regard was given to the institution of Parliament when establishing powers and procedures under the Bill.

During the development of the Bill, OQPC were consulted, in accordance with section 7 of the Legislative Standards Act 1992, on the potential for provisions of the Bill to breach the FLPs. The Explanatory Notes addressed the FLPs that were identified as potentially being breached by the Bill.

Appendices

Appendix A – List of Submissions

Sub #	Name
1	Charles Nason
2	Householders' Options to Protect the Environment Inc.
3	Robert & Lynette Petersen
4	Fitzroy Basin Association
5	Kingaroy Concerned Citizens Group
6	Central Queensland's Golden Triangle Community
7	GE Energy
8	Arcturus Downs Limited
9	Cassowary Coast Regional Council
10	Rebecca McNicholl
11	Mike & Jackie Wells
12	Sunshine Coast Council
13	Adam Sullivan
14	Paul Murphy
15	Bandanna Energy Limited
16	Friends of Felton
17	Jimbour Action Group
18	QER Pty Ltd.
19	Megan Baker
20	Cotton Australia
21	Xstrata Coal
22	Ian & Janet Cox
23	Property Rights Australia
24	Cement Concrete & Aggregates Australia
25	P. Ross Ingram
26	Australian Society of Soil Science Inc.
27	Megan Lawler, Moreton Bay Regional Council

28	P&E Law
29	Sally Sullivan
30	Haystack Road Coal Committee
31	Marilyn Bidstrup
32	Bendee Farming Pty Ltd.
33	Ipswich City Council
34	Far North Queensland Regional Organisation of Councils
35	Sharon & Mike Wagner
36	Growcom
37	Queensland Farmers' Federation
38	Trevor & Di Berthelsen and Family
39	Canegrowers
40	Lindsay & Avriel Tyson
41	Queensland Law Society
42	Queensland Resources Council
43	Queensland Murray-Darling Committee Inc.
44	AgForce Queensland Industrial Union of Employers
45	Peter Boulot
46	Doug & Tahnee Tyson
47	Ann Hobson
48	FutureFood Queensland
49	Lee G. McNicholl
50	Local Government Association of Queensland Limited
51	Property Council of Australia
52	Environmental Defenders Office
53	Southern Downs Regional Council
54	Origin Energy Limited
55	Macarthur Coal Limited

Appendix B – Summary of Submissions

Cl.	Submitter	Section/Initiative/comment	DERM comments
	Sub 1 **Charles Nason**	General comment - Conflict with the Vegetation Management Act which alienates much potential SCL	Areas mapped as remnant vegetation are excluded from the SCL trigger map. In 2006 the Queensland government phased out broadscale clearing of remnant vegetation across the State. As a result, these areas are unavailable to be developed for cropping, and for this reason have not been included in the SCL trigger map. Regulated regrowth under the Vegetation Management Act in certain circumstances can be cleared and developed for cropping. For this reason, areas of regulated regrowth vegetation are not excluded from the SCL trigger map. The Bill provides for future updates to be made to the SCL trigger map (clause 34). Such updates will take into account any changes to the areas mapped as remnant regional ecosystems.
	Sub 1 **Charles Nason**	General comment - May I suggest its stakeholder consultation was poor	The consultation undertaken in developing the SCL policy and legislation is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee and submitted to the Committee by DERM on 4 November 2011. This consultation has included the following: **February 2010**—The Government released a discussion paper on conserving and managing food-producing land for public consultation. **February 2010**—A Stakeholder Advisory Committee was formed (including representatives from the agriculture, resource and urban development sectors, local government and natural resource management groups) and has meet regularly since its formation. **February–March 2010**—The Government hosted community information sessions on the discussion paper. **23 August 2010**—The Government released Protecting Queensland's strategic cropping land: A policy framework (August 2010 framework) for public consultation. **August–September 2011**—The August 2010 framework was presented at nine community forums on coal seam gas in south-west Queensland. **14 April 2011**—The Government released the proposed criteria for identifying SCL, a technical assessment report and independent expert review report of the proposed criteria. **31 May 2011**—The Government announced implementation of the SCL policy through Protection Areas and a Management Area, released the transitional arrangements, and released a Regulatory Assessment Statement for public consultation. In addition, the Government announced the requirement for mitigation measures. **5 August 2011**—A draft State Planning Policy was released for public consultation. **24 August 2011**—The Government announced there would be a Science and Technical Implementation Committee. **8 September 2011**—Guidelines for applying the proposed criteria at a property level were released, as well as an online mapping tool. **27 September 2011**—The Government announced that legislation would be introduced into Parliament in late October 2011, and released further information on mitigation arrangements. The Bill is consistent with previously announced government policy. The Bill is generally consistent with fundamental legislative principles under the *Legislative Standards Act 1992* and this is further addressed in the explanatory notes for the Bill.
	Sub 11 **Mike & Jackie Wells**	General comment – Mining should not occur under properties that a mining company does not currently own.	Grant of mining tenure is dealt with under the resources Acts and is outside the purposes of the Bill.

Cl.	Submitter	Section/Initiative/comment	DERM comments
	Sub 12 Sunshine Coast Council	Draft SPP- No comments – past submissions have covered concerns and have attached submission on the Draft SPP.	On 5 August 2011, the Government released a draft State Planning Policy for public consultation. The Government is currently considering submissions received and a final SPP will be prepared as required by clause 80 of the Bill.
	Sub 9 Cassowary Coast Regional Council	General Comment- Bill adds additional complex regulation and cost—amendments should simply be made to SPA (amend SP Reg to make development on potential SCL code assessable), EP Act and resources legislation	The February 2010 discussion paper released by the Government for public consultation outlined a proposed planning framework to conserve and manage the strategic cropping land. The framework proposed a state wide approach to ensure the State's strategic cropping land resources would be given the same consideration against all types of development—whether developments assessed under the *Sustainable Planning Act 2009* or resource developments (which are not assessed through the *Sustainable Planning Act 2009*). The feedback received on the discussion paper informed the August 2010 policy framework released by the Government. The August 2010 policy framework proposed that the following legislative and planning instruments would be developed: A new Act specifically for SCL A new State planning policy under the *Sustainable Planning Act 2009* for SCL to address SCL requirements for development assessable under *Sustainable Planning Act 2009*;, and Amendments to existing resources legislation to recognise the requirements of the new SCL Act for resources developments. The Bill fits into existing processes established under the *Sustainable Planning Act 2009* and resources legislation. It specifically amends the Sustainable Planning Regulation 2009 to provide for assessment triggers and a referral agency jurisdiction. Clause 80 of the Bill also requires that a State Planning Policy for SCL must be made and that the SPP may include applicable codes. On May 31 2011, the Government released a Regulatory Assessment Statement for public consultation. The Regulatory Assessment Statement provided an assessment of the costs to business, landholders and government of implementing the SCL policy. This included an assessment of cost recovery options and potential fees that might be charged. The Government is currently considering submissions received and a regulation will be prepared under clause 271 of the Bill to identifying the fees that will be payable under the Act.
	Sub 16 Friends of Felton	Buffer zones - Buffer zones should be established around areas of SCL in proportion to the likely impact of the proposed development. Buffers for mining mentioned.	Clause 80 provides that there must be a State planning policy (SPP) under the Planning Act about SCL. A draft SPP was released on 5 August 2011 for public consultation. Section 3.1 and 3.2 of the draft SPP provide for buffers to be established in regional plans and local government planning schemes by requiring a buffer of at least one kilometre between SCL and areas zoned for urban or other sensitive land uses. On 16 August 2011, as an interim measure under the exploration and urban living policy, Government declared restricted areas under the *Mineral Resources Act 1989* to establish a two kilometre buffer zone around south east Queensland and around other regional cities. While this interim measure is in place, the State Government will not accept applications for any new mineral and coal exploration permit applications within these areas.
	Sub 17 Jimbour Action Group	Consultation (draft SPP)- Resubmitted submission on draft SPP.	On 5 August 2011, the Government released a draft State Planning Policy for public consultation. The Government is currently considering submissions received and a final SPP will be prepared as required by clause 80 of the Bill.
	Sub 17 Jimbour Action Group	Consultation- Due to the short time limit from notification to submission end date for this inquiry, JAG has not been able to review the tabled legislation. It is disappointing after such effort on our part that a four day turnaround is all we get to review this very important bill, especially in the middle of a very	The consultation undertaken in developing the SCL policy and legislation is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee and submitted to the Committee by DERM on 4 November 2011. This consultation has included the following: **February 2010**—The Government released a discussion paper on conserving and managing food-producing

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		busy harvesting & planting season. Not only in the length of turnaround, but also the lack of feedback since the original submission was submitted to know whether changes requested were accepted. Secondly, it came to our notice after the submission period of further information regarding mitigation which we weren't able to comment about.	land for public consultation. **February 2010**—A Stakeholder Advisory Committee was formed (including representatives from the agriculture, resource and urban development sectors, local government and natural resource management groups) and has meet regularly since its formation. **February–March 2010**—The Government hosted community information sessions on the discussion paper. **23 August 2010**—The Government released Protecting Queensland's strategic cropping land: A policy framework (August 2010 framework) for public consultation. **August–September 2011**—The August 2010 framework was presented at nine community forums on coal seam gas in south-west Queensland. **14 April 2011**—The Government released the proposed criteria for identifying SCL, a technical assessment report and independent expert review report of the proposed criteria. **31 May 2011**—The Government announced implementation of the SCL policy through Protection Areas and a Management Area, released the transitional arrangements, and released a Regulatory Assessment Statement for public consultation. In addition, the Government announced the requirement for mitigation. **5 August 2011**—A draft State Planning Policy was released for public consultation. **24 August 2011**—The Government announced there would be a Science and Technical Implementation Committee. **8 September 2011**—Guidelines for applying the proposed criteria at a property level were released, as well as an online mapping tool. **27 September 2011**—The Government announced that legislation would be introduced into Parliament in late October 2011, and released further information on mitigation arrangements. The Bill is consistent with previously announced government policy. The Government is currently considering submissions received on the draft SPP and a final SPP will be prepared as required by clause 80 of the Bill. Government announced initial requirements for mitigation on 31 May 2011 and released further information on 27 September 2011. Mitigation is a requirement under the Bill and does not form part of the SPP.
	Sub 20 **Cotton Australia**	Consultation - Cotton Australia wishes to express its disappointment in the extremely short period of time that the Queensland Government has allowed stakeholder to provide submission to this Inquiry, particularly given the long-term impacts mining and other extractive industries have on our soil resources. (Sub 20, p2)	The consultation undertaken in developing the SCL policy and legislation is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee and submitted to the Committee by DERM on 4 November 2011. This consultation has included the following: **February 2010**—The Government released a discussion paper on conserving and managing food-producing land for public consultation. **February 2010**—A Stakeholder Advisory Committee was formed (including representatives from the agriculture, resource and urban development sectors, local government and natural resource management groups) and has meet regularly since its formation. **February–March 2010**—The Government hosted community information sessions on the discussion paper. **23 August 2010**—The Government released Protecting Queensland's strategic cropping land: A policy framework (August 2010 framework) for public consultation. **August–September 2011**—The August 2010 framework was presented at nine community forums on coal seam gas in south-west Queensland. **14 April 2011**—The Government released the proposed criteria for identifying SCL, a technical assessment report and independent expert review report of the proposed criteria. **31 May 2011**—The Government announced implementation of the SCL policy through Protection Areas and a Management Area, released the transitional arrangements and released a Regulatory Assessment Statement
	Sub 34 **Far North Queensland Regional Organisation of Councils**	Consultation - FNQROC is extremely concerned about the timeframes in which the new Bill has been introduced. Two weeks (25 October – 4 November 2011 is considered a completely inadequate time frame in which to form a comprehensive response to this complicated and significant piece of new legislation.	
	Sub 37 **Queensland Farmers' Federation**	Consultation - QFF is constrained in providing comprehensive comment on this Bill, because: - The text of the Bill was only provided to us immediately following its introduction into Parliament on the 25th October and we have therefore had just 8 business days to develop a submission to this inquiry.	

Cl.	Submitter	Section/Initiative/comment	DERM comments
	Sub 39 Canegrowers	Consultation - CANEGROWERS is supportive of the intent of the SCL Bill; however it is unrealistic to provide a comprehensive submission on the SCL Bill in 8 working days.	for public consultation. In addition, the Government announced the requirement for mitigation measures. **5 August 2011**—A draft State Planning Policy was released for public consultation. **24 August 2011**—The Government announced there would be a Science and Technical Implementation Committee established. **8 September 2011**—Guidelines for applying the proposed criteria at a property level were released, as well as an online mapping tool. **27 September 2011**—The Government announced that legislation would be introduced into Parliament in late October 2011, and released further information on mitigation arrangements. The Bill is consistent with previously announced government policy. The Bill is generally consistent with fundamental legislative principles under the *Legislative Standards Act 1992* and this is further addressed in the explanatory notes for the Bill.
	Sub 41 Queensland Law Society	Consultation - This is a complex and lengthy Bill (195 pages), establishing a novel framework, and in many ways departing from various previous policy announcements and fact sheets. …It is not clear what justifies rushing through this legislation with errors and inconsistencies that could have been resolved with consultation on the Bill's text prior to introduction. QLS would also like to take the opportunity to raise a more general concern about the hazards or rushing legislation for introduction to Parliament, which recently seems to have become the normal approach rather than being an exception to the rule. (Sub 41, p.1)	
	Sub 42 Queensland Resources Council	Consultation - The timeframe to provide the submission to the committee is also very short, given the length, complexity and significance of the legislation. There does not appear to be any sensible justification for rushing through a Bill which is riddled with errors and inconsistencies. This is not a bill to deal with a natural disaster, terrorism or some kind of similar emergency. Given the undue haste, QRC cannot be sure that we have been able to identify every error in the Bill.	
	Sub 42 Queensland Resources Council	Consultation - …we are concerned that, after all this work, the Bill itself has been rushed to the extent that there are a multitude of errors, it does not take into account important developments in soil science and there are numerous issues affecting rights and liberties under the *Legislative Standards Act 1992*, without any sound justification which could in any way be linked to the State's interest in the best cropping land. (Sub 42, p.1) This rush has generated numerous major changes in policy reflected in the Bill, which are inconsistent with the Government's previous announcements, the policy reasoning explained at the discussion paper stage and the information which has been published in factsheets on the DERM website. (Sub 42, p.2)	
	Sub 44 Agforce	Consultation - Agforce is at the timeframe in which this consultation process has been undertaken. One week to disseminate nearly three hundred pages of legislation and explanatory notes is certainly no a long enough timeframe to assess appropriately, or provide this committee with a full and frank submission. (Sub 44, p.2)	
	Sub 50 Property Council of Australia	Consultation - While the Property Council maintains its support for the intent of the policy, the fast-tracked timeframes for its implementation have not allowed for adequate consideration of the issues highlighted during public	

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		consultation.	
	Sub 20 Cotton Australia	Part 2 "Criteria" - Cotton Australia strongly believes that the Strategic Cropping Land Bill is too narrow in its focus, and will fail to preserve some of the land that it has been designed to protect. Of particular concern, is that the criterion focuses almost entirely on soil characteristics and not on a whole range of factors which determine the strategic value of land. Soil while important, is only one factor and an assessment must include climate and water resources. For example, Cotton Australia believes the Bill will provide no protection from Coal Seam Gas (CSG) production on the floodplains that overlay the Condamine Alluvium in the Cecil Plains region. CSG extractors may be able to argue that they will not permanently alienate the soil (although Cotton Australia would strongly argue that this is yet to be proven, and the precautionary principle should apply), but there remains significant concern that CSG extraction will damage the Condamine Alluvium. (Sub 20, p3)	Clause 3 of the Bill provides that the purposes of the Bill are to protect land that is highly suitable for cropping; manage the impacts of development on that land; and preserve the productive capacity of that land for future generations. This is consistent with the Government's policy announced in February 2010 that the best cropping land—strategic cropping land— is a finite resource that must be conserved and managed for the longer term. Climate was considered in setting the boundaries of the five criteria zones to reflect the different cropping systems and climatic variations across the State. However, the Bill does not include irrigation water availability due to its dependence on issues not related to the quality of the soil resource and the potential for perverse outcomes (for example, the sale of water rights affecting which would affect the land's status as strategic cropping land). A technical assessment involving detailed checking of the criteria for 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. The issue of irrigation was considered as part of the technical assessment and concluded (refer to page 12 of the assessment report)- "The capacity for a parcel of land to be irrigated is dependent on many issues, including access to reliable water sources, the locality of the land, the configuration of the land and capacity to alter the land surface (e.g. levelling). This is further complicated by water being a tradeable commodity. Further, not all cropping requires irrigation, which depends on its locality (for example, higher rainfall areas in the Wet Tropics), prevailing weather conditions (i.e. wet seasons) and the type of crop being grown (e.g. dryland grains cropping). For these reasons, the availability (or otherwise) of irrigation water for cropping is not considered within the SCL framework or criteria." Clause 17 of the Bill provides that a resource activity includes activities carried out under an authority issued under the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004*. Therefore, CSG development will be assessable under the Act. Environmental harm caused through contamination of soils is covered under the jurisdiction of the *Environmental Protection Act 1994*. The protection of landholders' groundwater supplies is covered under the Water Act 2000.
	Sub 23 Property Rights Australia	Consultation - PRA believes that too little time was allowed to respond to the Strategic Cropping Land Bill 2011, particularly with the Qantas grounding causing disruption to many people including the preparation of this document. It was also not ideal that the Mitigation Arrangements were not added to the discussion paper for SCL SPP until days before submissions were due. Many small to medium voluntary community groups would have already have had their submission in the final stages.	The consultation undertaken in developing the SCL policy and legislation is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee and submitted to the Committee by DERM on 4 November 2011. This consultation has included the following: **February 2010**—The Government released a discussion paper on conserving and managing food-producing land for public consultation. **February 2010**—A Stakeholder Advisory Committee was formed (including representatives from the agriculture, resource and urban development sectors, local government and natural resource management groups) and has meet regularly since its formation. **February–March 2010**—The Government hosted community information sessions on the discussion paper. **23 August 2010**—The Government released Protecting Queensland's strategic cropping land: A policy framework (August 2010 framework) for public consultation. **August–September 2011**—The August 2010 framework was presented at nine community forums on coal seam gas in south-west Queensland. **14 April 2011**—The Government released the proposed criteria for identifying SCL, a technical assessment report and independent expert review report of the proposed criteria. **31 May 2011**—The Government announced implementation of the SCL policy through Protection Areas and a Management Area, released the transitional arrangements, and released a Regulatory Assessment Statement for public consultation. In addition, the Government announced mitigation requirements.

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			5 August 2011—A draft State Planning Policy was released for public consultation. **24 August 2011**—The Government announced there would be a Science and Technical Implementation Committee. **8 September 2011**—Guidelines for applying the proposed criteria at a property level were released, as well as an online mapping tool. **27 September 2011**—The Government announced that legislation would be introduced into Parliament in late October 2011, and released further information on mitigation arrangements. The Bill is consistent with previously announced government policy. The Government is currently considering submissions received on the draft SPP and a final SPP will be prepared as required by clause 80 of the Bill. Government announced initial requirements for mitigation on 31 May 2011 and released further information on 27 September 2011. Mitigation is a requirement under the Bill and does not form part of the SPP.
	Sub 23 **Property Rights Australia**	Consultation on the draft SPP - SPP restrictions on farm diversification Resubmitted comments on draft SPP.	The Government is currently considering submissions received on the draft SPP and a final SPP will be prepared as required by clause 80 of the Bill.
	Sub 25 **P.R. Ingram**	Moratorium on CSG - There needs to be 'breathing space' or a moratorium placed on CSG developing on SCL.	Clause 17 of the Bill provides that a resource activity includes activities carried out under an authority issued under the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004*. Therefore, CSG development will be assessable under the Act. This is consistent with Government's policy announcements.
	Sub 25 **P.R. Ingram**	General Comment - Any proposed mining operation under or on SCL, should be forced to buy the land holders entire business in a timely way.	The resources Acts deal with the granting of tenure and compensation agreements involving landholders. This issue is outside the purpose of the Bill.
	Sub 26 **ASSSI**	General comment - What can be reasonably avoided so that the principle will be transparent and consistently applied. It is surprising that off-setting is not required in relevant circumstances rather than one of "compensation" as implied.	The Bill does not allow offsetting of SCL. SCL is regarded as a finite resource that cannot be recreated. The Bill does not provide for compensation for permanent impacts to SCL. The Bill is consistent with the Government's policy announcements on 31 May 2011 and 27 September 2011 that mitigation is to be provided for permanently impacted SCL. The policy objective of mitigation is to address the loss of productivity of cropping to the State that may occur where SCL or potential SCL is permanently impacted.
	Sub 26 **ASSSI**	General Comment - That the relevant mineral resource statutes will be appropriately amended to ensure that permits to explore are only made after a planning assessment has been made. This could be achieved by removing the exemption of mining development from regulation under the regional planning provisions of the Sustainable Planning Act 2009. It is not clear that the Sustainable Planning Act 2009 is being amended to provide for resource acts coming under IDAS.	The *Sustainable Planning Act 2009* is not being amended to provide for resources acts. The August 2010 policy framework proposed that the following legislative and planning instruments would be developed: A new Act specifically for SCL A new State planning policy under the *Sustainable Planning Act 2009* for SCL to address SCL requirements for development assessable under *Sustainable Planning Act 2009*;, and Amendments to existing resources legislation to recognise the requirements of the new SCL Act for resources developments.
	Sub 26 **ASSSI**	Draft SPP and SPP1/92 - That there is justification for continuing with two SPPs to protect the most productive cropping land from alienation (the SCL SPP and SPP 1/92). It is not clear how productive agricultural lands that are not cropping lands that are currently being recognised through SPP1/92 are to be handled.	The August 2010 SCL policy framework released by the Government provided that SPP1/92 would continue. Clause 3 of the Bill provides that the purpose of the Bill is to protect land that is highly suitable for cropping. State Planning Policy 1/92 Development and Conservation of Agricultural Land (SPP1/92) continues to apply to a broader range of agricultural land.

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	Sub 27 Moreton Bay Regional Council	General Comment - Throughout the Bill, timing is expressed in "days" rather than "business days". Given the obvious interaction between the proposed Act and SPA, this difference in the way that time is expressed represents an unnecessary potential for misinterpretation.	The Bill applies to not only SPA developments but also developments under the resources Acts in clause 17 of the Bill. Section 38 of the *Acts Interpretation Act 1954*, provides guidance on how to appropriately interpret this section. Each Act should be read in its own context and the timeframes determined by the relevant provision in the separate enactments.
	Sub 27 Moreton Bay Regional Council	When a map amendment is minor The term "minor error" as used in regard to map amendments in section 32 needs to be defined. The following words should be used as a lead-in to section 32 (3): "Notwithstanding subsection (1)," to remove the potential for conflicting provisions within that section.	Section 32A of the *Acts Interpretation Act 1954* provides that words are to be read in the context provided by the Act. Clause 32 of the Bill has the effect of defining the term minor in relation to mapping amendments, for example clause 32(1)(b) describes a minor amendment as one that does not change what is or what is not SCL and it corrects or more accurately shows, the boundary, including, for example, because of the making of a replacement cadastral map. Providing an additional definition would limit the application of the provision unnecessarily.
	Sub 27 Moreton Bay Regional Council	Ministerial decision on whether to amend The "required criteria" for "zonal amendments" used in section 37(2)(a) and (b) is expressed in terms of "...likely to be highly suitable for cropp-ing...". These are "protection area" issues rather than "zone" issues and should be replaced with criteria statements to correspond to the lead-in.	Clause 37(2) (a) and (b) relate to zonal amendments (which can cover both protection areas and/or a management area).
	Sub 32 Bendee Farming Pty Ltd	General Comment - Legislation needs to provide for initial and post mining landscape planning in consultation with NRM groups, community and government.	The Bill integrates with the existing assessment processes under the Sustainable Planning Act 2009, Environmental Protection Act 1994 and resource acts. Regional planning in Queensland is achieved through the Sustainable Planning Act 2009. Clause 80 states that there must be a State planning policy under the Sustainable Planning Act 2009 about SCL. The State planning policy will address statutory regional planning under the Sustainable Planning Act 2009. These regional planning processes do not apply to mining and resources developments. However, the Bill is consistent with Government's announcements on the SCL policy.
	Sub 33 Ipswich City Council	Draft SPP - Section 3.1(iii) of the draft SPP - urban footprint boundary 1km away from land identified as SCL - is unreasonable with no scientific basis. Reasons for this include reducing the current identified capacity for urban development and implications for forward planning for growth areas, investment decisions will have been made on basis of land being included in the urban footprint.	Clause 291 of the Bill provides for the concurrence jurisdiction for SCL. Item 4 excludes urban areas and item 6 excludes existing urban footprints under a regional plan or State planning regulatory provision. On 5 August 2011, the Government released a draft State Planning Policy for public consultation. The Government is currently considering submissions received and a final SPP will be prepared as required by clause 80 of the Bill.
	Sub 33 Ipswich City Council	Draft SPP - Section 3.2(v) of the draft SPP – land within 1km of land identified as SCL is not zoned for sensitive land uses - is unreasonable and no stated scientific basis that it will effectively address land use conflict. The provision for a buffer is not clear.	Clause 291 of the Bill provides for the concurrence jurisdiction for SCL. Item 4 excludes urban areas and item 6 excludes existing urban footprints under a regional plan or State planning regulatory provision. On 5 August 2011, the Government released a draft State Planning Policy for public consultation. The Government is currently considering submissions received and a final SPP will be prepared as required by clause 80 of the Bill.
	Sub 33 Ipswich City Council	Draft SPP - Does the SPP require local government to carry out on ground assessment or demonstrate cropping history for the purpose of preparing or amending a planning scheme. If so, this is onerous, costly and unachievable.	Neither the draft SPP or the Bill require cropping history to be considered when preparing or amending a planning scheme.
	Sub 33 Ipswich City Council	Draft SPP - Clarification as to why 'temporary development' uses identified in Annex 2 of the draft SPP are not consistent with the definition of 'temporary use'	Temporary development is defined in the Bill in clause 14 (4). These definitions apply to both SPA assessable development and resources development captured under the SCL Bill.

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		under the QPP.	
	Sub 34 **Far North Queensland Regional Organisation of Councils**	Possible duplication of other assessment system - FNQROC are concerned the Bill introduces an almost parallel assessment system to what is already provided under the Sustainable Planning Act. It is unclear why this matter could not be dealt with through amendments to the Sustainable Planning Act and other relevant legislation.	The February 2010 discussion paper released by the Government for public consultation outlined a proposed planning framework to conserve and manage the strategic cropping land. The framework proposed a state wide approach to ensure the State's strategic cropping land resources would be given the same consideration against all types of development—whether developments assessed under the *Sustainable Planning Act 2009* or resource developments (which are not assessed through the *Sustainable Planning Act 2009*). The feedback received on the discussion paper informed the August 2010 policy framework released by the Government. The August 2010 policy framework proposed that the following legislative and planning instruments would be developed: A new Act specifically for SCL A new State planning policy under the *Sustainable Planning Act 2009* for SCL to address SCL requirements for development assessable under the *Sustainable Planning Act 2009*; and Amendments to existing resources legislation to recognise the requirements of the new SCL Act for resources developments. The Bill fits into existing processes established under the *Sustainable Planning Act 2009* and resources legislation. It specifically amends the Sustainable Planning Regulation 2009 to provide for assessment triggers and a referral agency jurisdiction. Clause 80 of the Bill also requires that a State Planning Policy for SCL must be made.
	Sub 36 **Growcom**	Mitigation - Reiterates concerns raised by QFF about mitigation. Restoration of cropping to its original productive state is not something that has ever been successfully undertaken, therefore we question the whole concept of mitigation as it is defined in this Bill. The proposed mitigation fund to be administered by the Government is unlikely to have any real effect, since once good quality agriculture land is gone, it cannot be replicated. ..the administration of the fund and its ability to mitigate damaged land is highly questionable.	Mitigation and restoration are two separate concepts and are designed to achieve separate principles under the Bill. The Bill deals with matters relating to restoration in clause 14 and in clauses 98 and 99. Restoration under the Bill relates to whether a development has a permanent or temporary impact on SCL. Clause 14 (1)(b) of the Bill provides that a development will be regarded as having a permanent impact on SCL where the land cannot be restored to its pre-development condition. Where a development is determined under clause 98 to have a temporary impact on SCL (that is, the land can be restored to its pre-development condition), conditions can be imposed on the development to require the SCL to be restored. Clause 99 allows the chief executive to require a financial assurance from the development proponent and in deciding the amount of the financial assurance, can consider the cost of restoring the land. Chapter 5 of the Bill deals with mitigation. Clause 11 (5) clarifies that mitigation is required where SCL is permanently impacted. In management areas, SCL may be permanently impacted and the Bill requires mitigation for the loss of the permanently impacted land's productivity capacity as cropping land. Mitigation measures that may be permitted under Chapter 5 of the Bill do not necessarily have to be undertaken on the land that is permanently impacted. Provided the measures meet the mitigation criteria provided for in clause 135.
	Sub 37 **Queensland Farmers' Federation**	Difficult to judge the legislation without seeing the regs - It is difficult to fully appreciate how the purposes of the Bill will be implemented until the drafting of the regulations, of which there are many, are completed sometime over the coming months.	Clause 2 of the Bill provides that the Act commences on the date of assent or 30 January 2012, whichever is the later. The necessary regulations will be prepared to coincide with commencement of the Act.
	Sub 39 **Canegrowers**	Difficult to judge the legislation without seeing the regs - It is difficult to conclude how the SCL Bill will be implemented until all regulations are drafted which we believe is occurring over the coming months. Will there be further opportunity to comment on the regulations? CANEGROWERS request comprehensive and detailed consultation on	

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		the drafting of these regulations as they occur.	
	Sub 39 Canegrowers	Costs to implement unknown - We have no tangible knowledge about the costs of implementing the SCL framework. There is no market knowledge of costs for on ground validation and there have been no decisions announced on final cost structures for administration of decisions within the Bill.	On 31 May 2011, the Government released a Regulatory Assessment Statement for public consultation. The Regulatory Assessment Statement provided an assessment of the costs to business, landholders and government of implementing the SCL policy. This included an assessment of cost recovery options and potential fees that might be charged. The Government is currently considering submissions received and a regulation will be prepared under clause 271 of the Bill to identifying the fees that will be payable under the Act.
	Sub 39 Canegrowers	Inconsistent with previous policy announcements - The decision of Government to move to a two tiered system of Protection area and Management area (by exclusion) is questionable, as the Protection area delivers policy intent whereas a Management area does not. CANEGROWERS estimate that most if not all cane production area (CPA) will be on land designated as Management area.	On 31 May 2011, the Government announced the implementation of the SCL policy through protection areas and a management area. The Bill is consistent with the Government's announced policy.
	Sub 40 Lindsay & Avriel Tyson	Legislation doesn't appear to assess cumulative impacts of mines and resource development	Clause 14 of the Bill provides for cumulative impacts of development to be considered. Specifically, clause 14 (3)(a) allows for a regulation to prescribe level or density for a temporary activity that is taken to be a permanent impact.
	Sub 40 Lindsay & Avriel Tyson	Transitional arrangements - Do not support	On 31 May 2011, the Government announced transitional arrangements for proposed coal, mineral, gas and petroleum resource development projects that met certain milestones in the approvals process. The announcement provided that those projects eligible for transitional arrangements but which had not already obtained final environmental approvals would still be required to avoid, minimise and mitigate their impacts on strategic cropping land and meet all other legislative requirements necessary for the development. Chapter 9 of the Bill is consistent with the 31 May 2011 announcement.
	Sub 42 Queensland resources Council	Supplementary Submission - QRC in their original submission to the Committee attached a copy of a review of the zonal criteria commissioned by QRC.	**Attached** is a copy of the Department's response provided on 20 May 2011 to QRC.
	Sub 42 Queensland Resources Council	Timing of the regulations - The date of assent is set for 30 January 2012, which provides almost no time for the development of key regulations and other necessary elements to underpin the introduction of the Act.	Clause 2 of the Bill provides that the Act commences on the date of assent or 30 January 2012, whichever is the later. The necessary regulations will be prepared to coincide with commencement of the Act.
	Sub 42 Queensland Resources Council	History of the Bill - …the development of this policy has been a complex and contentious issue. Not only has the issue been constantly in the media, often presented in lamentable emotive terms, but also the administrative responsibility for the policy has been in a state of flux. During the development of the policy, strategic cropping land has been the responsibility of three different departments and four different Ministers. As you would expect these changes have posed a challenge for Departments to maintain the continuity of officials to work on the development of this policy. (Sub 42, p.2)	The Department of Environment and Resource Management have been responsible for the development of the SCL policy since mid-2010.
	Sub 42 Queensland Resources	Inconsistent with previous policy announcements - …QRC is concerned the Bill will have a greater impact on existing, established operations as opposed to future development) than was	The August 2010 policy framework released by the Government provided that the new SCL legislation would apply to all new and undecided resources development applications. It also provided that amendments to resources legislation would-

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	Council	previously disclosed in policy announcements or published factsheets on the DERM website. (Sub 42, p.2)	"*require assessment of the impact on SCL and will condition tenure accordingly. Further conditions for restoration and other environmental matters will continue to be addressed under the Environmental Protection Act 1994*". Clause 22 (1)(b) of the Bill effectively provides that the Bill applies to applications for amendment, renewal or re-grant of a resource authority, environmental authority or development approval. This is consistent with the Government's policy announced in August 2010. However, DERM has recommended amendments to the Explanatory Notes to clarify that the assessment will only relate to the matters applied for in the application. Assessment would not be required where no new or amended Environmental Authority is required under the Environmental Protection Act 1994. For example, if a resource development submits an application for an amendment to the environmental authority to increase the level of discharge into a local waterway, the application will be assessed to determine if the proposed amendments will have any impacts on SCL or potential SCL. If there are no impacts, the chief executive can make a decision to that effect under section 90 of the Act. In this instance, the assessment would not consider the entire resource development activities. Alternatively, where the application relates to a renewal or re-grant of an authority, the application would be assessed in relation to any future impacts that require a new or amended environmental authority. Current or past impacts will not be considered in these assessments.
	Sub 44 **Agforce**	Transitional arrangements - Whilst Agforce accepts that transitional arrangements are required, there is one test case where we believe that the process has failed. Following the public release of the proposed framework on the 31st May 2011, the Stakeholder Advisory Committee subsequently met on the 2nd June 2011 to discuss the details relating to the SCL policy. At this meeting several specific case examples were raised for clarification regarding the impact of SCL policy on the approvals process currently progressing – the transitional arrangement framework. This was to pertain to the timing of all applications, regardless of progression, as at 31 May 2011. The Bandanna Coal resource proposal was raised as a specific example during this meeting, amongst other examples. The SCLAC was briefed at this time that as the proponents had not yet finalised a terms of reference that the government had approved prior to the release of the SCL policy, then the entire approvals process now falls under SCL guidelines, as outlined in the framework. It has since come to AgForce's attention that a "deal" was then done with the Bandanna Coal proponents outside of the framework of the SCL policy position and without the acknowledgement of the Stakeholder Advisory Committee. This deal pertained to the project not being fully captured by the framework (despite the SCLAC being lead to believe the lack of a finalised and Governmentally accepted Terms of Reference for the appropriate environmental approvals would capture this project), and that whilst alternate project stipulations would be placed on the project, the project would still go ahead, despite it being directly alienating SCL. We also wrote to the Minister at the time regarding this issue, but to date have had no formal reply. As such, AgForce is seeking the details of	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.

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		which this deal has been completed. (Sub 44, p.4)	
	Sub 44 Agforce	Strategic Cropping Lands Advisory Committee (SCLAC) - Agforce requests that the SCLAC be retained to ensure that [the usage of scientifically based set of criteria, coupled with regionally specific thresholds] is the case by being provided with data and information as this proposed Bill takes effect. (Sub 44, p.1)	The Strategic Cropping Land Stakeholder Advisory Committee was formed in **February 2010 to** provide advice on the development of the SCL policy. The Committee, which includes representatives from the agriculture, resource and urban development sectors, local government and natural resource management groups, has meet regularly since its formation. The Committee is not established under the Bill. However, the Minister for Finance, Natural Resources and The Arts has indicated that the Committee will continue and will, in future, provide advice on implementation of the Bill.
	Sub 44 Agforce	Extension process - Agforce calls on the Government to outline what he extension process will be to publicly consult on the new framework. This extension is intrinsically important to ensure all stakeholders are aware of their rights and obligations under this proposed policy. (Sub 44, pp.1-2).	The Bill does not make provision for extension activities. However, such activities are a normal part of government arrangements for implementation of new legislation.
	Sub 45 Peter Boulot	Mitigation - Questions how the proposed Act will ensure the preservation of the productive capacity of designated land for future generations given S4(4) allows mitigation for all land in management areas where development impacts are permanent (there is a limited number of possible offsets in this dry continent); S6(1)(f)(ii) allows for approved development schemes under the State development Act when that act approves such large and potentially destructive developments as private rail corridors several hundred kilometres long crisscrossing the State; S11(2) states that the protection principle takes precedence over all development interests while S11(3) states that the avoidance principle means development must avoid SLC only if it is reasonably practicable to do so and S11(4) states minimisation means development must minimize the impacts of SCL whenever possible and S11(5) allows for mitigation offsets when the impacts of development cannot be otherwise reasonably avoided and S113 allows for the executive to declare exceptional circumstances if there is significant economic benefit and that outweighs protection and S118 allows for the same declaration if there is a significant community benefit (ie economic). (Sub 45, p.1)	The Bill does not attempt to establish a moratorium on all development. The principles in clause 11 and the exemptions under clause 6 allow for development in certain circumstances.
	Sub 48 FutureFood Queensland	Chapter 2 - FFQ recommends the committee support the Protection Area section of the legislation (Protected area)	No comment required.
	Sub 48 FutureFood Queensland	Maps – Central Queensland - The Southern Qld map contains in general the main farming areas at risk and will provide for long term protection. The Central Qld map is a good start for that region, however there are many smaller areas in Central Queensland that need better protection than that provided by the "management area" part of the legislation. (Sub 48, p.2)	On 31 May 2011, the Government announced the implementation of the SCL policy through a management area and protection areas. Two protection areas were identified: The Central Protection Area which includes the 'Golden Triangle' region of Central Queensland near Emerald; and The Southern Protection Area which includes the Darling Downs, Lockyer Valley, Granite Belt and South Burnett. The Bill is consistent with the Government's announced policy.
	Sub 48 FutureFood	Planning - FFQ recommend that the legislation provide for the initial landscape	The Bill integrates with the existing assessment processes under the *Sustainable Planning Act 2009, Environmental Protection Act 1994* and resource acts.

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	Queensland	planning in consultation with NRM groups, Community and Governments to provide master planning for the landscape after mining has been completed. (Sub 48, p.4)	Regional planning in Queensland is achieved through the *Sustainable Planning Act 2009*. Clause 80 states that there must be a State planning policy under the *Sustainable Planning Act 2009* about SCL. The State planning policy will address statutory regional planning under the *Sustainable Planning Act* 2009. These regional planning processes do not apply to mining and resources developments. However, the Bill is consistent with Government's announcements on the SCL policy.
	Sub 48 **FutureFood Queensland**	Subsidence - The legislation has to be very clear that if effects of underground mining do occur on the surface of SCL then the companies will be made liable. Substantial bonds must be held in trust to rehabilitate in future years. (Sub 48, p.4)	Clause 14 defines when development has a permanent or temporary impact. Chapter 3 of the Bill sets out the framework for assessing the impacts of development on SCL. Impacts from underground resource developments, like subsidence, will be considered when assessing whether a development will have a temporary or permanent impact on SCL. The Bill (clauses 98 and 99) allows for conditions to be imposed on developments to manage or prevent those impacts. These conditions may include conditions requiring the applicant to restore SCL to its pre-development condition. If these conditions are not complied with, it may be an offence under the Act on which the authority was issued (e.g. *Environmental Protection Act 1994*). Clause 99 allows the chief executive to require a financial assurance from the development proponent as security to cover the costs of non-compliance with the conditions. The chief executive in deciding the amount of the financial assurance can consider factors such as the cost of restoring the land. Clause 104 contains provisions enabling the chief executive to require a change to financial assurance at any time.
	Sub 49 **Lee McNicholl**	A SCL pathway - I further submit that your committee consider developing a SCL pathway that allows farmers with > 5% slope to submit a farm plan which meets acceptable soil erosion criteria. Soil Conservation officers could readily validate or reject such plans. If validated and the farm meets all the other SCL criteria then it should be granted SCL status. (Sub 49, p.2)	The criteria and thresholds are specified in the Bill to provide certainty and transparency to all stakeholders. The Bill does not include consideration of a farm plan as this would introduce considerable uncertainty into SCL validation decisions and the potential for perverse outcomes (eg a farmer ceasing to manage erosion in accordance with the plan affecting the land's status as SCL).
	Sub 50 **Local Government Association of Queensland Ltd**	Cost of validation and development assessment on strategic cropping land - The LGAQ understands that the proposed application fees associated with validation, development assessment and assessment of exceptional circumstances related to strategic cropping land are based on a model of full-cost recovery by the State Government. However, the Association welcomes a review of all of the proposed assessment fees to ensure that local land owners are not disadvantaged. As indicated by Minister Nolan at the Stakeholder Advisory Committee Meeting held on 27 September 2011, at a minimum a review of the $27,000 development assessment fee may occur, which could see the introduction of one or two tiers of lower fees that will better reflect smaller development scales. Similarly, property identified in one of the two Strategic Cropping Protection Areas is considered to be land "under intense and imminent development pressure"; where as land in the Strategic Cropping Management Area is considered "important to Queensland's cropping and horticultural industries". Given this wording, it can be concluded that the Protection Areas are of greater significance and intended for greater protection. Unfortunately, as a result of the determination of application fees for strategic cropping land validation and the way in which the policy has been drafted, it is more expensive and requires more evidence to determine if there is strategic cropping land associated with	On 31 May 2011, the Government released a Regulatory Assessment Statement for public consultation. The Regulatory Assessment Statement provided an assessment of the costs to business, landholders and government of implementing the SCL policy. This included an assessment of cost recovery options and potential fees that might be charged. The Government is currently considering submissions received and a regulation will be prepared under clause 271 of the Bill to identifying the fees that will be payable under the Act. On 31 May 2011, the Government announced the implementation of the SCL policy through protection areas and a management area and in the management area, land must meet the SCL criteria and thresholds for the relevant zone (schedule 1 of the Bill) and have a history of cropping. The Bill is consistent with the Government's announced policy.

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		a property in a Management Area than in a Protection Area. The LGAQ suggests that this is an inconsistent application of policy and requires further consideration in its implementation.(Sub 50, p.3)	
	Sub 51 Property Council of Australia	SPP eroding confidence - Of major concern to the property industry is the way in which State Government SPPs are dramatically eroding urban footprints identified in regional plans. A series of SPPs have been produced by the State without any analysis of this issue. With additional SPPs including the Strategic Cropping land also potentially impacting the urban footprint, it is clear that a failure to holistically analyse the impacts of additional SPPs on the urban footprint must now be seen as a significant policy failure.	While clause 80 requires that there must be an SPP for SCL, clause 291 provides in part, that development is not affected within an urban footprint.
	Sub 51 Property Council of Australia	Fundamental legislative principles - The new Bill does not have '…sufficient regard to rights and liberties of individuals…' as it is not, as required in S4 (3)(k) [of the *Legislative Standards Act 1992*] 'unambiguous and drafted in a sufficiently clear and precise way.' The Property Council's submission of 30 September highlights that the policy and associated trigger mapping lacks the detail required by landholders to determine whether or not their land is classified as 'strategic cropping land'. Ambiguity in the policy means that extreme fees and onerous consultancy work must be paid for by individual landholders – a cost burden regardless of whether the land is ultimately determined to be 'strategic cropping land'. As raised in our submission, ambiguity remains as to what is classified as an 'over-riding public need' and what will constitute 'mitigation'.	Consistency of the Bill with fundamental legislative principles is explained in the Strategic Cropping Land Bill 2011 Explanatory Notes. The Bill is generally consistent with the fundamental legislative principles. Potential breaches are justified in the Explanatory Notes for clause 266 providing that no compensation is payable because of the Act and for various provisions in chapter 7 relating to investigations and enforcement.
	Sub 51 Property Council of Australia	Draft SPP - SPPs (including SCL SPP) are eroding the urban footprint.	Urban expansion is addressed through local government planning schemes and regional planning under the *Sustainable Planning Act 2009.* Clause 80 of the Bill requires a State planning policy (SPP) under the Planning Act about SCL. A draft SPP was released for public consultation on 5 August 2010. The draft SPP stated that it would not apply to areas already designated for urban development under existing regional plans and local government planning schemes. However, SCL will need to be considered when those existing plans and schemes are remade or amended, or when new plans or schemes are developed. The exemptions for urban areas in clause 291 of the Bill are consistent with the policy outlined in the draft SPP.
	Sub 51 Property Council of Australia	Draft SPP - Overlap between the draft SPP and SPP1/92	The August 2010 SCL policy framework released by the Government provided that SPP1/92 would continue. Clause 3 of the Bill provides that the purpose of the Bill is to protect land that is highly suitable for cropping. State Planning Policy 1/92 Development and Conservation of Agricultural Land (SPP1/92) continues to apply to a broader range of agricultural land.
	Sub 51 Property Council of Australia	Consultation - Inadequate time for the new Act to address community concerns raised during consultation.	The consultation undertaken in developing the SCL policy and legislation is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee and submitted to the Committee by DERM on 4 November 2011. This consultation has included the following: **February 2010**—The Government released a discussion paper on conserving and managing food-producing land for public consultation.

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			February 2010—A Stakeholder Advisory Committee was formed (including representatives from the agriculture, resource and urban development sectors, local government and natural resource management groups) and has meet regularly since its formation. **February–March 2010**—The Government hosted community information sessions on the discussion paper. **23 August 2010**—The Government released Protecting Queensland's strategic cropping land: A policy framework (August 2010 framework) for public consultation. **August–September 2011**—The August 2010 framework was presented at nine community forums on coal seam gas in south-west Queensland. **14 April 2011**—The Government released the proposed criteria for identifying SCL, a technical assessment report and independent expert review report of the proposed criteria. **31 May 2011**—The Government announced implementation of the SCL policy through Protection Areas and a Management Area, released the transitional arrangements, and released a Regulatory Assessment Statement for public consultation. In addition, the Government announced mitigation requirements. **5 August 2011**—A draft State Planning Policy was released for public consultation. **24 August 2011**—The Government announced there would be a Science and Technical Implementation Committee. **8 September 2011**—Guidelines for applying the proposed criteria at a property level were released, as well as an online mapping tool. **27 September 2011**—The Government announced that legislation would be introduced into Parliament in late October 2011, and released further information on mitigation arrangements. The Bill is consistent with previously announced government policy.
	Sub 51 Property Council of Australia	Fundamental legislative principles - The FLPs are not adequately addressed, specifically, the Bill does not have sufficient regard to rights and liberties of individuals as it is not unambiguous and drafted in a sufficiently clear and precise way. The SPP submission highlights the policy and associated trigger maps lack detail required by landholders to determine whether their land is classified as SCL.	Fundamental legislative principles are addressed in the explanatory notes to the Bill. The Bill provides the detail for how SCL is identified (chapter 2). This detail was not appropriate for inclusion in the draft SPP released for public consultation in August 2011. The August 2011 policy framework made it clear that the new Act specifically for SCL resources would describe how SCL was identified including indicative maps of where SCL resources may exist.
	Sub 51 Property Council of Australia	General Comment on RAS - The economic impact that the Bill will have on landholders (particularly in areas such as Ayr) needs to be further assessed prior to finalising the Bill.	On May 31 2011, the Government released a Regulatory Assessment Statement for public consultation. The Regulatory Assessment Statement provided an assessment of the costs to business, landholders and government of implementing the SCL policy. This included an assessment of cost recovery options and potential fees that might be charged. The Government is currently considering submissions received and a regulation will be prepared under clause 271 of the Bill to identifying the fees that will be payable under the Act.
	Sub 51 Property Council of Australia	Draft SPP - SPP submission included.	This comment relates to the draft SPP released by the Government on 5 August 2011 for public consultation. The Government is currently considering submissions received and a final SPP will be prepared as required by clause 80 of the Bill.
	Sub 53 Southern Downs Regional Council	Draft SPP - The primary concern in not with the legislation itself, but rather how the Act would be implemented by DERM through the Draft State Planning Policy (SPP). While the purpose and intent of the proposed Act has considerable merit, strong concern is raised on the significant impacts the SPP will have on farming activities and the ability of farmers to diversify so as to ensure that Strategic Cropping Land (SCL) continues to be used	On 5 August 2011, the Government released a draft State Planning Policy for public consultation. The Government is currently considering submissions received and a final SPP will be prepared as required by clause 80 of the Bill. Comments made in this submission mainly relate to the draft SPP which was released for public consultation. The assessment trigger for development applications to be referred to the DERM is that the development "footprint" is greater than 750m2. This is considered to be of sufficient area to allow development, including for economic diversification, such as bed and breakfast operations. Developments with a footprint of up to 3000m2

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		for agricultural purposes rather than have the land become unused with subsequent pressure to use it for non rural purposes. Annex 1 of the draft SPP includes a list of the development and activities that the SPP does not apply to. This list is very short and does not include a wide range of activities that would commonly be seen as a suitable and compatible with rural activity subject to normal planning considerations. Under the SPP all other uses cannot permanently alienate SCL and cannot be located on land mapped as SCL. These provisions are unreasonable and preclude many appropriate activities without any consideration of the size or level of impact of the use. Experience in the Southern Downs Regional Council (SDRC) area has shown that farm diversification is critical for the continued use of rural properties for rural production. Many of the uses prohibited by the SPP are essential parts of rural activity in today's world. As an example the SPP prohibits: o The construction of a second dwelling on land defined as SCL even if the dwelling is needed for farm workers/ managers or family members who are needed to help run the farm. o A rural industry with an area over 750m2, even though this activity may be needed for the rural use of the land. For example in SDRC there are many examples of on farm packing, cold rooms and processing buildings that would be directly associated with the rural production on the land, but exceed the 750 m2 limit. Buildings would include wineries, packing and cold rooms for vegetable growing, processing and packing buildings for stone fruit and citrus orchards, grain storage facilities and the like. o Restaurants and tourist accommodation which are integral parts of the 70 wineries on the Granite Belt. o Buildings for farmers who need to carry on secondary businesses to ensure they are able to remain on the land, e.g. small farm machinery repair workshops, small shops selling farm produced crafts, local produce stores, small scale tourist accommodation in the form of cabins and freestanding B&Bs. SDRC is concerned that the full impact of these restrictions has not been properly considered and will result in strong public opposition to the provisions of the proposed Act and will only become apparent after the Act is implemented. I am concerned that the very important objectives the Act is trying to achieve may be damaged by adverse public opinion resulting from the unreasonable restrictions under the related SPP.	may occur on SCL before required to demonstrate exceptional circumstances. Clause 291 provides exemptions from the *Sustainable Planning Regulation 2009* triggers. In particular, a building, structure or activity supporting cropping, intensive animal industries involving feedlotting, intensive horticulture, on SCL or potential SCL will not be triggered for assessment by the State under the SCL Bill.
	Sub 53 Southern Downs Regional Council	Consultation RAS - Concern is also expressed at the very high application fees proposed by DERM in the SPP Overview for the processing of applications required under the Act for the validation of SCL or to use SCL. These fees are unreasonable and would put a rural landowner into a position that the	On May 31 2011, the Government released a Regulatory Assessment Statement for public consultation. The Regulatory Assessment Statement provided an assessment of the costs to business, landholders and government of implementing the SCL policy. This included an assessment of cost recovery options and potential fees that might be charged.

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		fees payable may preclude applications for otherwise appropriate uses. The fee for validation of SCL is proposed at $3998. If the validation process determines that some part of land is not SCL and the landowner wishes to use the land that is not SCL they must still pay a fee of $27,245 to DERM as part of the application process even though the owner is not using SCL. In the case of SDRC this fee is 10 to 20 times higher than the applicable application fee required by Council if the owner requires a planning approval. DERM's role in the planning process on land that has already been determined by DERM as not being SCL is minor, however the fees proposed are excessive and have no regard to the cost of DERM's involvement in the application process. Similarly the fee proposed by DERM for the use of SCL under "exceptional circumstances" is $46,253. This fees is so high that it will restrict applications for uses that are not permitted under the Act, but may be an integral part of the continued rural use of a particular part of a property. In conclusion, I am concerned that this very important piece of legislation may be subject to strong community concern and criticism, once the unreasonable requirements associated with the on ground implementation of the Act as contained in the draft SPP and associated DERM requirements comes into effect.	The Government is currently considering submissions received and a regulation will be prepared under clause 271 of the Bill to identifying the fees that will be payable under the Act.
003	**Sub 2 Householders' Options to Protect the Environment Inc**	Purposes of Act - Need to preserve all good productive farming and grazing land	Clause 3 of the Bill provides that the purposes of the Bill are to protect land that is highly suitable for cropping; manage the impacts of development on that land; and preserve the productive capacity of that land for future generations. This is consistent with the Government's policy announced in February 2010 that the best cropping land—strategic cropping land— is a finite resource that must be conserved and managed for the longer term. State Planning Policy 1/92 Development and Conservation of Agricultural Land (SPP1/92) continues to apply to a broader range of agricultural land, which includes grazing land.
003	**Sub 22 Ian and Janet Cox**	Purpose of the Bill - We acknowledge that there are benefits associated with the gas industry. However there is a need to ensure that all measures are put in place to retain our food production land for all time as there is no greater benefit than to be able to feed the population. There is also a need to respect the present owners of the land	Clause 3 establishes that the purposes of the Bill are to: protect land that is highly suitable for cropping; and manage the impacts of development on that land; and preserve the productive capacity of that land for future generations. Clause 17 of the Bill provides that a resource activity includes activities carried out under an authority issued under the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004*. Therefore, CSG development will be assessable under the Act. Clause 14(3)(a)(ii) specifically provides that a cumulative impact may be prescribed in a regulation to be, in effect, a permanent impact. The Bill specifically provides an example of drilling or wells under a resource Act carried out on the land at a level or density which, or the cumulative effects of which, impede it from being cropped for at least 50 years.
003	**Sub 26 ASSSI**	Purpose of the Act - Zonal Criteria - dismayed at the creation of yet new criteria to identify the most productive cropping land and the onus being placed on the landholder (or the company wishing to undertake a particular development) to use the proposed criteria to identify SCL when maps have already been produced, for good quality agricultural land (GQAL in many instances but not all mirrors the SCL indicative mapping) under the Queensland Government's State Planning Policy 1/92, Development and Conservation of Agricultural Land.	Clause 3 of the Bill provides that the purposes of the Bill are to protect land that is highly suitable for cropping; manage the impacts of development on that land; and preserve the productive capacity of that land for future generations. This is consistent with the Government's policy announced in February 2010 that the best cropping land—strategic cropping land— is a finite resource that must be conserved and managed for the longer term. A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and

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			Energy Committee. Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016.
003	**Sub 36 Growcom**	Development impacts – Growcom is concerned that the effects of development which will impact people beyond the immediate development areas have not been considered. Water in particular is crucial to successful cropping, and damage caused to underground water supplies can adversely affect cropping in a whole district.	The Bill's purpose provided for in clause 3 is to protect land that is highly suitable for cropping and manage the impacts of development on that land. Other legislation is in place to regulate the impacts of development on water supplies including the Water Act 2000 which addresses access to groundwater supplies and the *Environmental Protection Act 1994* which addresses environmental harm caused to groundwater supplies.
003	**Sub 37 Queensland Farmers' Federation**	Development impacts - The Bill has been unable to clearly capture the fact that SCL alienation and a loss of productivity may result from development practices beyond those that disturb the surface of the land i.e. the soil. QFF submits that the Bill should also provide for the ability to apply conditions to development proposals that may impact on the critical infrastructure that supports validated SCL. By way of example, to deliver on the purposes of the Act, the appropriate consent authority must be tasked to consider impact from underground resource development activities that may result in damage to irrigation infrastructure, eg. Dam or ditch structural impact, or land subsidence, which cannot be restored to a level that maintains productivity potential.	The purposes of the Bill provided for in clause 3 are to protect land that is highly suitable for cropping; manage the impacts of development on that land; and preserve the productivity capacity of that land for future generations. The purposes of the Bill do not extend to protecting infrastructure. However, impacts from underground resource developments, like subsidence, will be considered when assessing whether a development will have a temporary or permanent impact on SCL and the Bill allows for conditions to be imposed on developments to manage or prevent those impacts.
003	**Sub 40 Lindsay & Avriel Tyson**	impact on family farms – Legislation must acknowledge that some family farms have been in the same family for many decades	The purposes of the Bill provided for in clause 3 are to protect land that is highly suitable for cropping; manage the impacts of development on that land; and preserve the productivity capacity of that land for future generations.
003	**Sub 43 Qld Murray - Darling Committee Inc.**	Climate change - Climate change adaptation needs to be identified and protected in all climatic zones as part of the purposes of the Act. This Act will need to be reviewed in the future giving more definition around the impacts of climate change. (Sub 43, p.2)	Clause 3 establishes that the purposes of the Bill are to: protect land that is highly suitable for cropping; manage the impacts of development on that land; and preserve the productive capacity of that land for future generations. These purposes are consistent with the Government's policy framework which was released on 23 August 2010 (Protecting Queensland's strategic cropping land: A policy framework). Clause 269 of the Bill requires the Minister to conduct a review of the Act between 30 January 2014 and 30 January 2016.
003 & 004	**Sub 42 Queensland Resources Council**	Purposes of Act - How the purposes are achieved - Apparent definition change from "the best cropping land" to "land highly suited for cropping". This loosening of the definition may reopen the case for potential new future cropping land areas in the future. QRC also questions whether the trigger maps and zones, based on a different definition, need to be redrawn to reflect the new definition. QRC recommends: revert to "the best cropping land" or preferably the original definition "best of the best cropping land".	Clause 3 is consistent with the August 2010 SCL Policy Framework which referred to strategic cropping land as '*a scarce natural resource identified by soil, climatic and landscape features that make is* ***highly suitable*** *for crop production*'.
003 & 004	**Sub 54 Origin Energy**	Purposes of the Act - How the purposes are achieved -	Clause 3 establishes that the purposes of the Bill are to: protect land that is highly suitable for cropping; and manage the impacts of development on that land; and

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		Section 3(a) and 4(1)(a) and (b) suggest that land that is highly suitable for cropping is strategic cropping land. This is a signficant shift from the Government's stated intent to protect 'the best of the best cropping land' when it released its initial discussion paper on the issue in February 2010. Similarly, the documents *Proposed criteria for identifying strategic cropping land* published in April 2011 and *Guidelines for applying the proposed strategic cropping land criteria* published in September 2011 refer to intent to protect Queensland's best cropping land. Section 14A of the *Acts interpretation Act 1954* requires, where there is more than one possible interpretation of a provision, the interpretation that best achieves the purpose of the Act to be applied. Given this, Origin requests that sections 3(a) and 4(1)(a) and (b) be amended by deleting works "land that is highly suitable for cropping' and inserting the following: 'land that is the best of Queensland's cropping land'.	preserve the productive capacity of that land for future generations. Clause 4 (1) (a) and (b) states that to achieve its purposes, this Act (a) identifies areas in which land that is likely to be highly suitable for cropping may exist (called 'potential SCL'); and (b) has provisions for deciding whether or not land is highly suitable for cropping (called 'strategic cropping land' or 'SCL'). Clauses 3 and 4 (1) (a) and (b) are consistent with the August 2010 SCL Policy Framework released by the Government which referred to strategic cropping land as '*a scarce natural resource identified by soil, climatic and landscape features that make is* ***highly suitable*** *for crop production*'.
004	**Sub 21** **Xstrata Coal**	Definition of SCL - Throughout the Policy development, SCL has been described variously and inconsistently by Government. The draft State Planning Policy for SCL contained no definition at all. The definition in the Bill is vague and circular. Recommendation: Provide a clear and unambiguous definition of SCL. For example, 'SCL is the best cropping land' is a definition that has been widely used by stakeholders.	Clause 4 (1) (a) and (b) states that to achieve its purposes, this Act (a) identifies areas in which land that is likely to be highly suitable for cropping may exist (called 'potential SCL'); and (b) has provisions for deciding whether or not land is highly suitable for cropping (called 'strategic cropping land' or 'SCL'). Clause 4 (1) (a) and (b) is consistent with the August 2010 SCL Policy Framework which referred to strategic cropping land as '*a scarce natural resource identified by soil, climatic and landscape features that make is* ***highly suitable*** *for crop production*'. Clause 9 of the Bill defines SCL. On 5 August 2011, the Government released a draft State Planning Policy for public consultation. The Government is currently considering submissions received and a final SPP will be prepared as required by clause 80 of the Bill. Definitions in the SPP, wherever possible, will be consistent with definitions in the Bill.
004	**Sub 24** **Cement Concrete and Aggregates Australia**	Prescribed exceptional circumstances - CCAA believes that consideration should be given to ensuring that the "exceptional circumstances" provisions allow for the extraction of industrial or building materials (such as sand and gravel) in locations where proponents could demonstrate a local regional need. Such proponents would obviously need to continue to meet other planning, development and assessment approvals from state and local authorities. (Sub. 24, p.2).	Clause 290 amends the Sustainable Planning Regulation 2009. The amendment will trigger material changes of use, other than a use or in an area mentioned in schedule 13A, of a lot of 5ha or larger if the *footprint* for the change of use is- wholly or partly on SCL or potential SCL; and more than 750m^2. Clause 292 defines *footprint* as (a) the proportion of the relevant lot covered by buildings or structures measured to their outermost projection. Sand and gravel extraction is not a building or structure and therefore will not be triggered for SCL assessment. Clause 292 item 7 provides that development in a Key Resources area is not assessable under the SCL framework.
004	**Sub 26** **ASSSI**	Definitions - Definition change for 'land that is highly suitable for cropping' to include soil, climatic and other factors.	Clause 3 is consistent with the August 2010 SCL Policy Framework which referred to strategic cropping land as '*a scarce natural resource identified by soil, climatic and landscape features that make is* ***highly suitable*** *for crop production*'. Climate was considered in setting the boundaries of the five criteria zones to reflect the different cropping systems and climatic variations across the State. Soil and landscape features were considered when developing the criteria, provided for in Schedule 1 of the Bill.
006	**Sub 7** **GE Energy**	Exclusions from this Act - Harmonise the exemptions in the Bill with those provided for in Draft SCL SPP i.e. infrastructure required to deliver essential services to the community where the infrastructure is being developed under the Transport Infrastructure Act and the Electricity Act. Clarify in the Bill, and the SPP, the definition of exempted infrastructure that is "required to deliver essential services to the community where the	Exemptions are provided in clause 6 and clause 291 of the Bill. The exempted infrastructure description referred to in the draft SCL SPP will be amended in the final SPP to be consistent with the clause 6 exemptions. Clause 291 provides exemptions for developments broadly consistent with those previously listed in Annex 1 of the draft SCL SPP and these exemptions are specific to development types assessable under SPA. The SPP is currently being finalised including consideration of public feedback.

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		infrastructure is being developed under the Transport Infrastructure Act 1994 and the Electricity Act 1994" as per the draft SCL SPP, and seek to broaden the exempt to infrastructure providing infrastructure under the Water Act 2000 and State Development and Public Works Organisation Act 1974.	
006	**Sub 26 ASSSI**	Exclusions from the Act - Section 6 reduces the ability to bind the state – state should be accountable eg cases of clear negligence	Clause 5 of the Bill provides that the Act will bind the State. Clause 6 provides for developments to which the Act does not apply. It identifies a range of developments that are critical to provide essential community services and infrastructure of State importance and other government projects that are provided as a community service such as electricity, roads and other transport infrastructure. This clause is consistent with the Government's policy framework which was released on 23 August 2010 (*Protecting Queensland's strategic cropping land: A policy framework)*. The framework stated on page 10 that "*The policy recognises that some developments are critical to deliver essential services to communities. State infrastructure, such as roads under the Transport Infrastructure Act 1994 and powerlines under the Electricity Act 1994, will be exempt from the requirements of the framework."* The Bill is consistent with the Government's policy announcements.
006	**Sub 30 Haystack Road Coal Committee**	Exclusions - Concern about cumulative impacts of exempt developments	Clause 6 provides for developments to which the Act does not apply. It identifies a range of developments that are critical to provide essential community services and infrastructure of State importance and other government projects that are provided as a community service such as electricity, roads and other transport infrastructure. This clause is consistent with the Government's policy framework which was released on 23 August 2010 (*Protecting Queensland's strategic cropping land: A policy framework)*. The framework stated on page 10 that "*The policy recognises that some developments are critical to deliver essential services to communities. State infrastructure, such as roads under the Transport Infrastructure Act 1994 and powerlines under the Electricity Act 1994, will be exempt from the requirements of the framework."* Clause 269 provides for a review of the Act's operation within between 30 January 2014 and 30 January 2016.
006	**Sub 41 Queensland Law Society**	Exclusions from the Act - The listing of exclusions and exemptions appear to be confusingly scattered throughout the Act, rather than being concentrated in one schedule or section, eg in Section 6, Schedule 13A and exceptional circumstances. The list also appears to be somewhat random. A few examples of the apparent inconsistencies and drafting issues include the following: S6(d) – exempts strategic port land, but not either airport land or the Port of Brisbane (which has been privatized. Just like strategic port land, there is normally a wide range oif port-related or airport-related development on this land, not just core infrastructure. This is not covered by the TIA exemption under S6(b). Electricity transmission grids and supply networks are exempt, but not either other critical linear infrastructure such as water pipelines, and not power generation. There are ant-competitive issues imbedded in the exemptions, with the protection of TIA transport infrastructure but not private transport infrastructure or PPPs. We can expect to see an undesirable proliferation of State Development Areas overriding local government planning, because SDAs are exempt,	Clause 6 provides for developments to which the Act does not apply. It identifies a range of developments that are critical to provide essential community services and infrastructure of State importance and other government projects that are provided as a community service such as electricity, roads and other transport infrastructure. This clause is consistent with the Government's policy framework which was released on 23 August 2010 (*Protecting Queensland's strategic cropping land: A policy framework)*. The framework stated on page 10 that "*The policy recognises that some developments are critical to deliver essential services to communities. State infrastructure, such as roads under the Transport Infrastructure Act 1994 and powerlines under the Electricity Act 1994, will be exempt from the requirements of the framework."* The exemptions listed in clause 291 specifically relate to new development assessment triggers included in the Bill as an amendment to the Sustainable Planning Regulation 2009. Clause 80 of the Bill requires a State planning policy (SPP) under the Planning Act about SCL. A draft SPP was released for public consultation on 5 August 2010. The draft SPP stated that it would not apply to areas already designated for urban development under existing regional plans and local government planning schemes. The draft SPP also listed a number of land uses that would be exempt (annex 1 – page 13 of the draft SPP). The exemptions for urban areas in clause 291 of the Bill are consistent with the policy outlined in the draft SPP.

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		but not other methods of delivering similar scale industrial projects. Schedule 13A is also confusingly drafted as some of the items are land uses but some are locations. (Sub 41, p.3)	
006	**Sub 41 Queensland Law Society**	Exclusions from this Act - It is noted that exemptions for existing projects and tenures only apply until the project applies for renewal, amendment etc of any part of the tenure or environmental authority, which puts at risk existing projects an involves an element of retrospectivity contrary to S4(2)(g) of the *Legislative Standards Act 2011*. (Sub 41, p.4)	Clause 22 (1)(b) is consistent with requirements under the *Environmental Protection Act 1994* that allow for an Environmental Authority to be considered when a tenure is amended, renewed or re-granted. More detailed comments are made for similar key points for clause 22 in this table.
006	**Sub 42 Queensland Resources Council**	Errors - 6(1) (e) there are two parts (ii)	Clause 6 (1)(e)(ii) has a minor drafting error (relating to numbering) which will be corrected.
006	**Sub 42 Queensland Resources Council**	Exclusions from the Act - s6(c) excludes electricity transmission but not generation. S285 gives a small exception for some renewable energy projects. QRC recommends that electricity generation is also excluded from the Act and that geothermal energy is included in the definition of renewable energy (s285).	Clause 6 of the Bill excludes a range of activities from the application of the Act. Among these is the construction and maintenance of an electricity grid or supply network under the *Electricity Act 1994*. These activities relate chiefly to power lines and to substations of various classes. Infrastructure for electricity generation is subject to the Act, however, provision is made for major renewable energy projects to be prescribed as an exceptional circumstance under Clause 285. Development under the Geothermal Acts was identified as being subject to the proposed policy framework which was released on 23 August 2010 (*Protecting Queensland's strategic cropping land: A policy framework)*.
006	**Sub 42 Queensland Resources Council**	Exclusions from the Act - QRC notes that some of the exemptions (under Sustainable Planning Act) and not listed here but are listed under s290 Amendment of sch 7 (Referral agencies and their jurisdictions). QRC suggested that a note which sets out the exemptions that will apply under SPA would help make the application of SCI easier to understand. (Sub 42, Att p.1)	Clause 291 provides exemptions from the *Sustainable Planning Regulation 2009* triggers. These parts of chapter 10 of the Bill amend the *Sustainable Planning Regulation 2009*.
006	**Sub 42 Queensland Resources Council**	Exclusions from the Act - S6(e)(ii) – The role of the Coordinator General is excluded (except for where the CG undertakes or directs other Government bodies to undertake works - i.e. traditional public utility and transport works) or facilitates development in a State Development Area. The private sector also undertakes these types of traditional public works for projects declared under the Act to be infrastructure facilities of significance (IFS). QRC argue that an IFS (section 125(1) (f) of the SDPWO Act) needs to be exempt from the policy because they also deal with socially/economically important linear infrastructure traditionally developed to provide public utility type services. An added criteria that the IFS must also be a Significant Project may be appropriate. (Sub 42, Att p.2)	Clause 6(1)(e) provides that the functions of the Coordinator-General under Part 4 of the State Development Act are subject to this Act and functions under all other parts of the State Development Act are excluded. Infrastructure facilities of significance under s125(1)(f) of the State Development Act are within Part 6 of that Act and are excluded under Clause 6(1)(e).
006	**Sub 43 Qld Murray - Darling Committee**	Assessment of projects – QMDC asserts that each and every proposal, whether it be mining, residential, transport, power supply etc should still be assessed on its merits to determine the degree of community advantage. QMDC does not	Clause 6 provides for developments to which the Act does not apply. It identifies a range of developments that are critical to provide essential community services and infrastructure of State importance and other government projects that are provided as a community service such as electricity, roads and other transport infrastructure. This clause is consistent with the Government's policy framework which was released on 23 August 2010

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	Inc.	support "blanket" exclusions as per clause 6. QMDC would expect multiple use of easements to minimise impact.	(*Protecting Queensland's strategic cropping land: A policy framework)*. The framework stated on page 10 that "*The policy recognises that some developments are critical to deliver essential services to communities. State infrastructure, such as roads under the Transport Infrastructure Act 1994 and powerlines under the Electricity Act 1994, will be exempt from the requirements of the framework."*
007	**Sub 43 Qld Murray - Darling Committee Inc.**	Application of SCL to other Acts – It is still unclear how the SCL Act will apply in relation to the EPA and resource Acts if SCL and non SCL are captured within, for example, a single petroleum lease. There needs to be better explanation on how the proposed SCL legislation will operate in these situations.	Chapter 3, part 4 of the Bill provides the framework for SCL protection assessment for environmental resource authorities. Clause 4 (1)(c)(ii) sets out how the purposes of the Act are achieved and makes it clear that the Bill establishes "principles to protect land that is SCL or potential SCL and to manage the impacts of development on it". The Bill does not apply to development on areas that are not SCL or potential SCL.
009	**Sub 21 Xstrata Coal**	Definition of Land - The Bill does not contain a clear, unambiguous definition of the land to which it applies. Recommendation: Provide a clear and unambiguous definition of SCL.	Drafting conventions are established by the *Acts Interpretation Act 1954* and *Statutory Instruments Act 1992*, which are administered by the Office of Queensland Parliamentary Counsel. Clause 23 defines references to "land" under the Act.
009	**Sub 41 Queensland Law Society**	*Strategic cropping land, SCL* and *decided non-SCL* S9(1) – originally there were various policy announcements that the intention was to protect only 'the best' of Queensland's cropping land (eg refer to para 2 of the Policy Framework document). T various times, food security reasons have been identified in support of this policy. However, in S9(1), 'strategic cropping land' is only whatever land is recorded in the decision register as being SCL and similarly, potential 'SCL' is just whatever land happens to be trigger mapped as SCL under s10 (either at the outset or from time to time). (Sub 41, p.2)	Clause 4 (1) (a) and (b) states that to achieve its purposes, this Act - identifies areas in which land that is likely to be highly suitable for cropping may exist (called 'potential SCL'); and - has provisions for deciding whether or not land is highly suitable for cropping (called 'strategic cropping land' or 'SCL'). Clause 4 (1) (a) and (b) is consistent with the August 2010 SCL Policy Framework which referred to strategic cropping land as '*a scarce natural resource identified by soil, climatic and landscape features that make it* ***highly suitable*** *for crop production*'.
009	**Sub 42 Queensland Resources Council**	Strategic cropping land, SCL & decided non-SCL- S9(3) *Decided non-SCL* – QRC state that the new concept of decided non-SCL is an important one and it is defined on the basis of the updating the decision register and not a decision being taken. Depending on the time taken to update the decision register, this lag may trip up some projects. QRC recommend the section be amended so that a decision can be given immediate effect and to make it explicit that a development assessment process cannot impose conditions on areas that are "decided non-SCL". (Sub 42, Att p.2)	Clause 38 (4) of the *Acts interpretation Act 1954* states that if no time is provided, it must be done as soon as possible. Clause 71 states that the decision has effect when the appeal period ends or an appeal ends.
009	**Sub 43 Qld Murray - Darling Committee Inc.**	Definition of SCL - QMDC is concerned by the lack of technical and scientific definition offered by the Bill for SCL and recommends a better definition be articulated in relation to Schedule 1.	Clause 4 (1) (a) and (b) states that to achieve its purposes, this Act (a) identifies areas in which land that is likely to be highly suitable for cropping may exist (called 'potential SCL'); and (b) has provisions for deciding whether or not land is highly suitable for cropping (called 'strategic cropping land' or 'SCL'). Clause 4 (1) (a) and (b) is consistent with the August 2010 SCL Policy Framework which referred to strategic cropping land as '*a scarce natural resource identified by soil, climatic and landscape features that make it* ***highly suitable*** *for crop production*'. Schedule1 of the bill establishes the zonal criteria. A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review.

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009 – 010	**Sub 33 Ipswich City Council**	Strategic Cropping land, SCL and non-SCL Potential SCL - Bill does not include a definition for 'land identified as SCL' as described in the draft SPP. Likewise the draft SPP does not use the term 'strategic cropping land' and 'potential SCL' as used in the Bill. This will result with different interpretations and outcomes in the SPP. Request that local governments are consulted with any amendments to definition of 'SCL' and 'potential SCL'.	Clause 9 and 10 establish the definitions for SCL and potential SCL which are used throughout the Bill. The definition of SCL in clause 9 refers to land recorded in the decision register as being SCL (ie has been decided under chapter 2 of the Bill to be SCL including an assessment of the criteria). The definition of potential SCL in clause 10 refers to land shown on the trigger map as being potential SCL. This is consistent with the definition of 'land identified as SCL' used throughout the draft SPP. Land identified as SCL was defined in the draft SPP as "Land that is defined as SCL in the proposed SCL legislation (eg. land that is confirmed as SCL against the SCL criteria, or land shown on the SCL trigger map). This definition will be updated in line with definitions adopted under the proposed SCL legislation." As outlined in the draft SPP, the final SPP will be updated to use the same terminology as the Bill. This means that for strategic planning, councils will be required to have regard to both SCL and potential SCL (consistent with the draft SPP). Administratively the Department may provide best available spatial information corresponding to SCL and potential SCL so that the land where the SPP applies can be considered in strategic planning.
010	**Sub 21 Xstrata Coal**	Trigger map - The trigger map is grossly inaccurate. DERM themselves have cautioned that due to the broad scale of the spatial datasets used in the creation of the trigger maps, they are not recommended for use below a scale of 1:250,000 and should not be used at a property scale. All SCL assessment will be conducted at a property scale. The effectiveness of the trigger maps in identifying the possible presence of SCL, and reliably initiating on-ground assessment at a property scale, is highly questionable. See report by Palaris (2011), reproduced her as Attachment 1. Recommendation: The trigger maps serve no reliable purpose in the identification of SCL and should be deleted from the bill.	The August 2010 policy framework provided that publically available maps would be the starting point for determining whether an area is SCL. The framework also provided that on-ground assessment would be necessary to confirm if a mapped area was in fact SCL and noted that maps were not a definitive measure of the extent of SCL at a local or property level — rather the maps indicate an area where SCL is expected to exist but it would be the on-ground assessment against the criteria that would define the extent of SCL at site level. The trigger maps are critical to the legislative framework and provide the mechanism for where development proponents will need to validate whether their land is SCL or not. The Bill as drafted is consistent with Government policy.
010	**Sub 27 Moreton Bay Regional Council**	Potential SCL - Section 10 describes "potential SCL" as "...land in an area shown on the trigger map as being potential SCL.". The current trigger maps available on DERM's website actually lists those areas as "area where strategic cropping land may exist".	On a number of occasions, including with the release of the SCL Policy framework on 23 August 2010 and the announcement of protection and management areas on 31 May 2011, the Government has released maps to assist the public to understand the policy framework. Reference within the Bill of maps and map titles refer to the official maps that will be released once the Bill has been passed by Parliament.
011	**Sub 4 Fitzroy Basin Association**	SCL principles - Support the SCL principles, particularly the protection principle	No comment required.
011	**Sub 21 Xstrata Coal**	Impacts to SCL - What is "pre-development condition"? Is this different to achieving "SCL status"? Recommendation: Either define "pre-development" condition and the process for proving it; or change the wording to 'achieving SCL status' or words to that effect.	Schedule 2 provides that *pre-development condition*, for a provision about the carrying out of development on land, means that the land is restored to- (a) its condition before the development started; or (b) if the condition cannot be worked out – a condition consistent with contiguous SCL for the land.
011	**Sub 21 Xstrata Coal**	Mitigation measures - It would be extremely difficult to determine dollar amount for the "lands productive capacity as cropping land' give the uncertainties of: seasonal climate fluctuations; climate change; different farming systems; past, present and future farming practices; macro-economic assumptions Etc. This would require some form of complex exercise in agro-economics	The objective of mitigation is to address the loss of agricultural productive value that occurs where a development results in permanent impacts on SCL. The value of mitigation must be greater than or equal to the lost productive capacity. A per hectare zonal mitigation rate will be prescribed by regulation and will be based on an averaged land value of arable land.

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		with multiple input assumptions on rainfall, climate, commodity pricing etc. Recommendation: Set a fixed fee for mitigation ($/ha) that does not require the uncertainty and vagaries of complex agro-economic modelling. This will limit an re-interpretation or min-interpretation of payment requirements.	Clause 132 defines the term mitigation value which is the dollar value, determined by the total area permanently impacted by the development multiplied by the zonal mitigation rate. This is consistent with the Government's policy announcements of 27 September 2011.
011	**Sub 37 Queensland Farmers' Federation**	General support for the Bill - QFF strongly supports the intent of the SLC Bill. Perhaps its greatest deficiency is that it was not developed years ago and is therefore limited by a lack of retrospective powers.	Clause 11 provides five SCL principles. These principles underpin the application of the Act. The principles are: Protection; Avoidance; Minimisation; Mitigation; and Productivity. The retrospective application of legislation is considered a breach of fundamental legislative principles under section 4 (3)(g) of the *Legislative Standards Act 1992*.
011	**Sub 39 Canegrowers**	General support for the Bill – CANEGROWERS supports the stated SCL Principles as identified in clause 11 of the Act.	Clause 11 provides five SCL principles. These principles underpin the application of the Act. The principles are: Protection; Avoidance; Minimisation; Mitigation; and Productivity.
011	**Sub 42 Queensland Resources Council**	SCL principles - S11(6) – definition of productivity principle. QRC state that this definition seems entirely circular and it is unclear what this principle adds to the focus on productivity under mitigation. QRC recommends the section be deleted. (Sub 42, Att p.4)	Clause 11 (6) establishes the productivity principle which aims to ensure that any dealings involving SCL and mitigation measures in particular, provide for the endurance for the resource for future generations. Productivity is the principle that underpins the application of the powers and functions of this Act in ensuring the purposes are achieved while balancing competing land needs.
011	**Sub 42 Queensland Resources Council**	SCL principles - QRC notes that aspects of these SCL principles are new and it is unclear what effect they will have. They are considered in developing the protection conditions S100(2), but no guidance is provided to the chief executive as to how they are to be considered. This principle needs to be clarified as, for example, it does not recognise the key differences in considerations for protection areas and management areas. The minimisation and mitigation principles could be interpreted to mean that potential project footprint area changes in a SCL management area that are prohibitively costly (e.g. in financial or environmental impacts) are reasonably practical because they result in small (or even negligible) positive SCL impacts. (Sub 42, Att p.3)	Each principle is to be read in conjunction with the others and applied having regard to the Act's purposes and the context of the part of the Act being applied. Clause 100 (2) provides that in imposing SCL protection conditions, the chief executive must consider the SCL principles. The wording of clause 100 ensures the chief executive can impose conditions based on the merits of the application. Other clauses also require consideration of the principles – eg clause 138(1)(b) – a mitigation deed must be consistent with the mitigation and productivity principles.
011	**Sub 42 Queensland Resources Council**	SCL principles - S11(2) QRC state the protection principle sees SCL "take precedence over all development interests". This principle, which excepts only exceptional circumstances, seems very broadly stated. Does SCL take precedent over Regional Ecosystems, Wild Rivers, remnant vegetation or habitat for protected species? QRC suggests that this principle should be covered by S(3) purpose of the Act (once the definition of SCL is addressed). (Sub 42, Att p.3)	Clause 11 is consistent with the government policy announced in February 2010 that *"the best cropping land, defined as strategic cropping land, is a finite resource that must be conserved and managed for the longer term. As a general aim, planning and approval powers should be used to protect such land from those developments that lead to its permanent alienation or diminished productivity"*. Clause 11 (2) provides that the protection principle is to protect SCL and that, except in exceptional circumstances, doing so takes precedence over all development interests. Each principle is to be read in conjunction with the others and applied having regard to the Act's purposes and the context of the part of the Act being applied.
011	**Sub 42 Queensland Resources Council**	SCL principles - S11(4)(b) QRC state that this definition of the minimisation principle is important as it requires restoration back to "pre-development condition" and not to SCL status. This may require doing some upfront	Schedule 2 provides that *pre-development condition*, for a provision about the carrying out of development on land, means that the land is restored to- (a) its condition before the development started; or (b) if the condition can not be worked out – a condition consistent with contiguous SCL for the land.

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		benchmarking on what constitutes the pre-development condition and making sure the regulator is comfortable with that target before any disturbance to SCL occurs. The draft SPP (5 August 2011) was inconsistent in using both "back to SCL status" and "pre-development condition". The drafters seem to have chosen the more administratively complex threshold. (Sub 42, Att p.3)	Part (b) of this definition would allow restoration to be benchmarked against areas of SCL contiguous with the impacted land.
011	**Sub 43 Qld Murray - Darling Committee Inc.**	Lack of certainty in wording - S11(3) - QMDC asserts that the term "reasonably practicable" does not provide certainty as is necessary. Case law abounds where Courts have endeavoured to decide what "reasonable" and "practicable" mean in a given situation. In QMDC"s opinion, applying this condition to the avoidance principle causes ambiguity and serves to undermine the responsibility to avoid development on SCL. This absolutely waters down the avoidance principle. A precautionary approach means there should not be development unless it is assessed not to be SCL particularly in the trigger map area. QMDC recommends that clause 11(3) be rewritten to read: *(3) The avoidance principle is that development must avoid SCL.*	The Bill provides for principles for strategic cropping land. The avoidance principle is to be read in conjunction with the other principles and not in isolation. If avoidance was applied as a principle without the qualification, the principle would then be, in effect, a prohibition. The Bill provides instead that there are consequences for failing to avoid. That is that where development cannot avoid SCL it must minimise its impact and the temporary impacts must be rehabilitated and the permanent impacts must be mitigated. Further in a protection area, a permanent impact can only be approved in an exceptional circumstance determined in Chapter 4.
011	**Sub 43 Qld Murray - Darling Committee Inc.**	Need to clarify role of mitigation - S11(5) - The Bill must be worded to ensure impacts on SCL are minimised and managed through appropriate and effective mitigation measures to achieve a net environmental gain. Mitigation offsets must deliver 'like for like' SCL in context of the agricultural system it exists within including the functional landscapes and ecological systems associated with that SCL whilst also providing greater agricultural quality and quantity for the affected region. The size of the offset area should for example be larger than the area to be alienated for development. The offset area must also include the opportunity of increasing the capacity of agricultural systems including associated functional landscapes and ecological systems. QMDC as a last resort supports mitigation offsets where it can be proven that at an absolute minimum there will be no net losses. QMDC recommends that clause 11(5)(a) be rewritten to include: *(5) The mitigation principles are that –* *(a) for identified permanently impacted land -* *(i)…* *(ii)…* *(iii)…if the mitigation requirement can be relied on, mitigation measures must result in no net loss to a region; and* What assessment will be undertaken to determine whether mitigation measures proposed will have a "positive and enduring effect", when will this be done and by whom?	Clause 11 (5) (a) (ii) provides that mitigation measures must have a value at least equal to the loss of the land's productive capacity as cropping land. Mitigation criteria are further identified in clause 135 and include outcomes of: increasing productivity of cropping in the State; provide public benefit; have an enduring effect; be quantifiable and able to be valued; benefit the largest number of agribusinesses; be related to the cropping activity that was impacted, including the location it was being undertaken in. Clause 146 provides for an advisory group to advise the chief executive about mitigation measures under mitigation deeds or payments from the mitigation fund. Clause 138, 139 and 143 provide that the chief executive must seek advice from the advisory group and be satisfied the mitigation measure complies with the mitigation criteria and is consistent with the mitigation principles and productivity principles under the SCL principles. Clause 148 provides that the Chief Executive must publish information about the measures on the department's website.
011	**Sub 54 Origin Energy**	SCL principles - The explanatory notes (p.14) state that where development cannot avoid	Both the Bill and the explanatory notes state that development must minimise impacts on SCL where ever possible.

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		SCL, alternative methods such as directional drilling could be adopted to access a resource and minimise impacts. Origin requests that the explanatory notes be amended to acknowledge that directional drilling may not be technically appropriate in some areas due geological limitations.	
012	**Sub 27 Moreton Bay Regional Council**	Identified permanently impacted land - Section 12 describes "identified permanently impacted land" as "...land decided under section 98(1)(a)(ii) or the Planning Act as being land on which development will have a permanent impact on SCL or potential SCL.". SPA doesn't do that at this point in time. Are consequential amendments to SPA proposed or this a round about way of referring to the draft SPP?	Consequential amendments to the Sustainable Planning Regulation 2010, for the purpose of the *Sustainable Planning Act 2009* are provided for in Chapter 10 part 2 of the Bill.
013	**Sub 27 Moreton Bay Regional Council**	Development - Section 13 has a definition for "development" which differs from that in SPA. Given the obvious interaction between the two pieces of legislation, this difference in meaning for a critical term could create unnecessary confusion.	Development is defined in the Bill to include both SPA and resource developments. Section 38 of the *Acts Interpretation Act 1954*, provides guidance on how to appropriately interpret this section. Each Act should be read in its own context.
014	**Sub 10 Rebecca McNicholl**	When development has a permanent impact or temporary impact – Definition of permanent impact fails to consider the contribution of human and social capital to the productivity equation eg CSG wells may impede ability of farmers to crop for 30-40 years and no incentive for farmers to stick around. Soil alone will not grow crops. Remove words 'for at least 50 years' from definition of permanent to provide protection for human and social capital.	The purposes of the Bill provided for in clause 3 are to protect land that is highly suitable for cropping; manage the impacts of development on that land; and preserve the productivity capacity of that land for future generations. Clause 14 (1) provides that carrying out development on SCL or potential SCL has a permanent impact on the land if – - the carrying out impedes the land from being cropped for at least 50 years; **or** - because of the carrying out, the land can not be restored to its pre-development condition; **or** - the activity is or involves- o open-cut mining; or o storing hazardous mine wastes, including, for example, tailings dams, overburden or waste rock dumps. Any of the three components of clause 14 (1) will therefore establish a permanent impact. For development that would be permanent under the definition of 14 (1) (b) or (c) it does not matter how many years it impedes cropping (ie it could be less than 50 years). Further, 14 (2) provides that for subsection (14) (1) (a) it does not matter whether the impediment is legal or physical. This means that under 14 (1) (a), even when a development has no physical impact on the land, but prevents cropping for 50 years, would also be considered to have a permanent impact. The reference to 50 years in Clause 14 (1) (a) (i) is consistent with the definition of permanent alienation, page 16 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010. Clause 14(3)(a)(ii) specifically provides that a cumulative impact may be prescribed in a regulation to be, in effect, a permanent impact. The Bill specifically provides an example of drilling or wells under a resource Act carried out on the land at a level or density which, or the cumulative effects of which, impede it from being cropped for at least 50 years.
014	**Sub 14 Paul Murphy**	Permanent impact or temporary impact - No evidence that longwall mining does not permanently impact SCL	Clause 14 defines when development has a permanent or temporary impact. Chapter 3 of the Bill sets out the framework for assessing the impacts of development on SCL. Impacts from underground resource developments, like subsidence, will be considered when assessing whether a development will have a temporary or permanent impact on SCL. The Bill (clauses 98 and 99) allows for conditions to be imposed on developments to manage or prevent those impacts. If these conditions are not complied with, it may be an

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			offence under the Act on which the authority was issued (e.g. *Environmental Protection Act 1994*). Clause 99 allows the chief executive to require a financial assurance from the development proponent as security to cover the costs of non-compliance with the conditions. The chief executive in deciding the amount of the financial assurance can consider factors such as the cost of restoring the land.
014	**Sub 17 Jimbour Action Group**	When a development has permanent impact or temporary impact - Longwall mining creates subsidence and subsidence is unacceptable on a floodplain. Against the intent of the Bill as most of Protection area is on floodplain.	Clause 14 defines when development has a permanent or temporary impact. Chapter 3 of the Bill sets out the framework for assessing the impacts of development on SCL. Impacts from underground resource developments, like subsidence, will be considered when assessing whether a development will have a temporary or permanent impact on SCL. The Bill (clauses 98 and 99) allows for conditions to be imposed on developments to manage or prevent those impacts. These conditions may include conditions requiring the applicant to restore SCL to its pre-development condition. If these conditions are not complied with, it may be an offence under the Act on which the authority was issued (e.g. *Environmental Protection Act 1994*). Clause 99 allows the chief executive to require a financial assurance from the development proponent as security to cover the costs of non-compliance with the conditions. The chief executive in deciding the amount of the financial assurance can consider factors such as the cost of restoring the land.
014	**Sub 18 QER Pty Ltd.**	When development has a permanent or temporary impact - Remove open cut mining as an automatic permanent impact. Claim that can restore using back filling and careful restoration of top soil.	Clause 14 (1) (c) is consistent with page 9 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010 which stated that "*examples of high-impact developments that may permanently affect SCL include open-cut, long-wall mining, underground coal gasification and large water storage ponds. These activities can result in long-lasting changes to the soil caused by new construction, extensive excavation, subsidence or contamination of land."* The Bill's provisions in regard to the definition of permanent impact are clear and provide regulatory certainty for proponents and decision-makers.
014	**Sub 21 Xstrata Coal**	Definition of permanent impact - To exclude a land use, eg. Open-cut mining, without regard to potential or actual impacts is: contradictory to the Precautionary Principle; inconsistent with current approaches to impact assessment under the Environmental Protection Act 1994; at best, based on anecdotal evidence of current open-cut mine rehabilitation practices and outcomes; a disincentive to improve current rehabilitation practices and outcomes. Recommendation: Delete this section.	Clause 14 (1) (c) is consistent with page 9 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010 which stated that "*examples of high-impact developments that may permanently affect SCL include open-cut, long-wall mining, underground coal gasification and large water storage ponds. These activities can result in long-lasting changes to the soil caused by new construction, extensive excavation, subsidence or contamination of land."* The Bill's provisions in regard to the definition of permanent impact are clear and provide regulatory certainty for proponents and decision-makers.
014	**Sub 23 Property Rights Australia**	Permanent or temporary impacts - Supports permanent and temporary impacts to be defined in legislation. Suggests addition of impacts to aquifers	Other legislation is in place to regulate the impacts of development on water supplies including the *Water Act 2000* which addresses access to groundwater supplies and the *Environmental Protection Act 1994* which addresses environmental harm caused to groundwater supplies.
014	**Sub 25 P.R. Ingram**	When development has a permanent impact or temporary impact - Underground mining cannot reasonably guarantee that subsidence will not impact on this land at some stage in the future.	Clause 14 defines when development has a permanent or temporary impact. Chapter 3 of the Bill sets out the framework for assessing the impacts of development on SCL. Impacts from underground resource developments, like subsidence, will be considered when assessing whether a development will have a temporary or permanent impact on SCL. The Bill (clauses 98 and 99) allows for conditions to be imposed on developments to manage or prevent those impacts. These conditions may include conditions requiring the applicant to restore SCL to its pre-development condition. If these conditions are not complied with, it may be an offence under the Act on which the authority was issued (e.g. *Environmental Protection Act 1994*). Clause 99 allows the chief executive to require a financial assurance from the development proponent as security to cover the costs of non-compliance with the conditions. The chief executive in deciding the amount of the financial assurance can consider factors such as the cost of

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			restoring the land.
014	**Sub 27 Moreton Bay Regional Council**	When development has a permanent impact or temporary impact - Section 14 draws a distinction between what is a "permanent impact" and what, by default, is merely temporary. The 50 year trigger is extraordinarily long for an impact to be considered temporary. The definition of "permanent impact" in section 14 also lists in the trigger criteria that development has a permanent impact if "...because of the carrying out, the land cannot be restored to its pre-development condition;". There should be a reference in this trigger criteria being "reasonably able to be restored" as restoration in this context will always be possible, at a price (can't rely on subsection (3)(b) to provide that clarity due to the use of the word "may" in the lead-in to subsection (3) and the potential for any clarifying Regulation to be "inclusive" rather than "exclusive" in its description). Yet another of the criteria in section 14 refers to storage of overburden or waste rock dumps. A threshold needs to be set for such activities in that trigger. The following words should be used as a lead-in to section 14 (4): "Notwithstanding subsection (1)," to remove the potential for conflicting provisions within that section	SCL is regarded as a finite resource that cannot be recreated. Clause 14 (1) provides that carrying out development on SCL or potential SCL has a permanent impact on the land if – - the carrying out impedes the land from being cropped for at least 50 years; **or** - because of the carrying out, the land can not be restored to its pre-development condition; **or** - the activity is or involves- o open-cut mining; or o storing hazardous mine wastes, including, for example, tailings dams, overburden or waste rock dumps. Further, 14 (2) provides that for subsection (14) (1) (a) it does not matter whether the impediment is legal or physical. This means that under 14 (1) (a), even when a development has no physical impact on the land, but prevents cropping for 50 years, would also be considered to have a permanent impact. The reference to 50 years in Clause 14 (1) (a) (i) is consistent with the definition of permanent alienation, page 16 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010. Clause 14(3)(a)(ii) specifically provides that a cumulative impact may be prescribed in a regulation to be, in effect, a permanent impact. Drafting conventions are established by the *Acts Interpretation Act 1954* and *Statutory Instruments Act 1992*, which are administered by the Office of Queensland Parliamentary Counsel.
014	**Sub 29 Sally Sullivan**	When development has a permanent impact or temporary impact - Concerns about impacts of subsidence	Clause 14 defines when development has a permanent or temporary impact. Chapter 3 of the Bill sets out the framework for assessing the impacts of development on SCL. Impacts from underground resource developments, like subsidence, will be considered when assessing whether a development will have a temporary or permanent impact on SCL. The Bill (clauses 98 and 99) allows for conditions to be imposed on developments to manage or prevent those impacts. These conditions may include conditions requiring the applicant to restore SCL to its pre-development condition. If these conditions are not complied with, it may be an offence under the Act on which the authority was issued (e.g. *Environmental Protection Act 1994*). Clause 99 allows the chief executive to require a financial assurance from the development proponent as security to cover the costs of non-compliance with the conditions. The chief executive in deciding the amount of the financial assurance can consider factors such as the cost of restoring the land.
014	**Sub 32 Bendee Farming Pty Ltd.**	When development has a permanent impact or temporary impact - No Australian examples of where subsidence has been rehabilitated. Gordon Downs cited as an example of where rehabilitation of underground mining has failed. Commercial viability must be considered when looking at rehabilitation options. Longwall mining should not occur on SCL until it is proven that it can be rehabilitated. Companies made liable for effects of underground mining on the surface. Bonds must be held to rehabilitate in the future.How will the risk of subsidence be dealt with tens of years after the activity?	Clause 14 defines when development has a permanent or temporary impact. Chapter 3 of the Bill sets out the framework for assessing the impacts of development on SCL. Impacts from underground resource developments, like subsidence, will be considered when assessing whether a development will have a temporary or permanent impact on SCL. The Bill (clauses 98 and 99) allows for conditions to be imposed on developments to manage or prevent those impacts. These conditions may include conditions requiring the applicant to restore SCL to its pre-development condition. If these conditions are not complied with, it may be an offence under the Act on which the authority was issued (e.g. Environmental Protection Act 1994). Clause 99 allows the chief executive to require a financial assurance from the development proponent as security to cover the costs of non-compliance with the conditions. The chief executive in deciding the amount of the financial assurance can consider factors such as the cost of restoring the land.

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014	**Sub 37 Queensland Farmers' Federation**	Limitations on the delivery of the purposes of the Bill - The definition of permanent impact outlined in clause 14 is stated as - impeding the land from being cropped for 50 years. This time frame is far and seems without any justification. QFF has previously submitted that a more reasonable timeframe would be one generation (22 - 25years). S14(1) - Cumulative impact is referenced in the Bill (Clause 14 1) a) but the way in which it will be implemented as the policy framework intends is unclear. The Governments 2010 policy framework clearly highlighted that a loss in productivity of SCL would also be a trigger for planning decisions or development conditions to be applied. It is QFF's recommendation that this principle be specifically included in Clause 14 of the Bill.	Clause 14 (1) provides that carrying out development on SCL or potential SCL has a permanent impact on the land if – - the carrying out impedes the land from being cropped for at least 50 years; **or** - because of the carrying out, the land can not be restored to its pre-development condition; **or** - the activity is or involves- o open-cut mining; or o storing hazardous mine wastes, including, for example, tailings dams, overburden or waste rock dumps. Any of the three components of clause 14 (1) will therefore establish a permanent impact. For development that would be permanent under the definition of 14 (1) (b) or (c) it does not matter how many years it impedes cropping (ie it could be less than 50 years). Further, 14 (2) provides that for subsection (14) (1) (a) it does not matter whether the impediment is legal or physical. This means that under 14 (1) (a), even when a development has no physical impact on the land, but prevents cropping for 50 years, would also be considered to have a permanent impact. The reference to 50 years in Clause 14 (1) (a) (i) is consistent with the definition of permanent alienation, page 16 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010. Clause 14(3)(a)(ii) specifically provides that a cumulative impact may be prescribed in a regulation to be, in effect, a permanent impact.
014	**Sub 39 Canegrowers**	50 year timeframe – The definition of permanent impact outlined in clause 14 as - impeding the land from being cropped for 50 years - is too long a time frame. This should be reduced to a generational timeframe.	
014	**Sub 41 Queensland Law Society**	When development has a *permanent impact* or *temporary impact* - In general the QLS is opposed to definitions which have a vastly different meaning from the ordinary meaning of the words in everyday speech as this tends to create confusion and is misleading. For example in the definition of 'permanent impact', some of the legal fictions which are likely to be confusing are: The definition of 50 years as 'permanent'. Fifty years would be considered by most people to ne 'long-term' but not 'permanent'. The confusion between merely 'impeding' cropping and actually stopping it. In normal speech, an impediment can be a surmountable obstacle. Deferring the further definition of this issue to a future regulation is of concern under S4(4) of the *Legislative Standards Act 2011*, as it would appear to be a fundamental concept in the Bill. It is questionable whether open-cut mining is necessarily either a permanent or 50 year impact on the future ability to undertake cropping, given recent developments in rehabilitation science. (Sub 41, p.3)	The Bill's provisions in regard to the definition of permanent impact are clear and provide regulatory certainty for proponents and decision-makers. The reference to 50 years in Clause 14 (1) (a) (i) is consistent with the definition of permanent alienation on page 16 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010. Establishing criteria in clause 14 (3) for determining what may be subject of a regulation, and the process of requiring Governor in Council approval to making a regulation, satisfy the requirements of section 4(4) of the Legislative Standards Act 1992. Any activities in the future proposed to be prescribed by regulation are likely to require a RAS and associated public consultation process. Any regulation will also be subject to Parliamentary scrutiny. Clause 14 (1) (c) is consistent with page 9 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010 which stated that "*examples of high-impact developments that may permanently affect SCL include open-cut, long-wall mining, underground coal gasification and large water storage ponds. These activities can result in long-lasting changes to the soil caused by new construction, extensive excavation, subsidence or contamination of land."*
014	**Sub 42 Queensland Resources Council**	When development has a permanent impact or temporary impact - S14(1) – the definition of permanent impact (preventing the land from being cropped for at least 50 years) includes an example which calls out both the (a) density of drilling or wells and (b) cumulative impacts. Both of these will suggest approaches for farmers to argue that their land is permanently impacted. QRC is concerned that the section gives the	Clause 14 (3) allows for a regulation to be prescribed to provide further detail of what level or density for a temporary activity is taken to be a permanent impact. Establishing criteria in clause 14 (3) for determining what may be subject of a regulation, and the process of requiring Governor in Council approval to making a regulation, satisfy the requirements of section 4(4) of the Legislative Standards Act 1992. Any activities in the future proposed to be prescribed by regulation are likely to require a RAS and associated public consultation process. Any regulation will also be subject to Parliamentary scrutiny. Clause 14 (1) (a) is consistent with the

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		regulator broad powers to apply SCL without the benefit of definitions or thresholds. It is not clear where in the Act the cumulative impact mentioned example is given effect. (Sub 42, Att p.4)	definition of permanent alienation on page 16 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010.
014	**Sub 42 Queensland Resources Council**	When development has a permanent impact or temporary impact - S14(1) (c) (i) - the definition of permanent impact includes a range of activities "deemed" to be permanent impacts – regardless of any actual impact or capacity to restore SCL. For a process based on science to hardwire in an assumption based on existing practice suggests a lack of faith in the science or the process of SCL. QRC recommends the section be deleted. (Sub 42, Att p.4)	Clause 14 (1) (c) is consistent with page 9 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010 which stated that "*examples of high-impact developments that may permanently affect SCL include open-cut, long-wall mining, underground coal gasification and large water storage ponds. These activities can result in long-lasting changes to the soil caused by new construction, extensive excavation, subsidence or contamination of land."* The Bill's provisions in regard to the definition of permanent impact are clear and provide regulatory certainty for proponents and decision-makers.
014	**Sub 42 Queensland Resources Council**	When development has a permanent impact or temporary impact - S14(1) (c) (ii) - the definition of permanent impact includes storing any mine waste, "including for example tailings dams, overburden or waste rock dams". This would seem to preclude any effort at rehabilitation – for example sorting and storing topsoil. The section doesn't specify that the impact is on the SCL, for example if a conveyor belt is used to remove overburden for storage on a non-SCL site, is this intended as a permanent impact? QRC recommends the section be deleted. (Sub 42, Att p.4)	Clause 14 (1) (c) is consistent with page 9 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010 which stated that "*examples of high-impact developments that may permanently affect SCL include open-cut, long-wall mining, underground coal gasification and large water storage ponds. These activities can result in long-lasting changes to the soil caused by new construction, extensive excavation, subsidence or contamination of land."* This clause relates to carrying out development on SCL or potential SCL, and would not apply if the activity was located on land other than SCL or potential SCL. That is, a storage dam would not be a permanent impact under clause 14 if it is located on land other than SCL or potential SCL.
014	**Sub 42 Queensland Resources Council**	When development has a permanent impact or temporary impact - S14(3) A regulation can prescribe an activity or development that is deemed to cause a permanent impact. This allows the introduction of arbitrary rules regarding the impact on SCL by certain developments or activities regardless of their actual impact. QRC recommends the section be deleted. (Sub 42, Att p.4)	Establishing criteria in clause 14 (3) for determining what may be subject of a regulation, and the process of requiring Governor in Council approval to making a regulation, satisfy the requirements of section 4(4) of the Legislative Standards Act 1992. Any activities in the future proposed to be prescribed by regulation are likely to require a RAS and associated public consultation process. Any regulation will also be subject to Parliamentary scrutiny.
014	**Sub 42 Queensland Resources Council**	When development has a permanent impact or temporary impact - S14(3)(a) - this section gives very broad powers to subsequent regulations, which may follow the lead of S14(1)(c)(i) and (ii) in prescribing activities based on assumptions not science. QRC recommends that this section should be deleted. The ability to prescribe categories of activity should at the least require legislative change, not by regulation. "Permanent impacts" should in any case be determined on the basis of whether individual developments will in fact have a permanent impact on SCL or whether SCL can in fact be restored – not deemed impacts across broad categories of activity. (Sub 42, Att p.6)	Establishing criteria in clause 14 (3) for determining what may be subject of a regulation, and the process of requiring Governor in Council approval to making a regulation, satisfy the requirements of section 4(4) of the Legislative Standards Act 1992. Any activities in the future proposed to be prescribed by regulation are likely to require a RAS and associated public consultation process. Any regulation will also be subject to Parliamentary scrutiny. Clause 100 (1) (b) provides for case by case assessment where in making an SCL protection decision, the chief executive must consider whether the carrying out of the resource activity will have a permanent impact or a temporary impact on the land.
014	**Sub 42 Queensland Resources Council**	When development has a permanent impact or temporary impact - S14(4)(a)(i) The definition of permanent impact includes not just SCL, but also potential SCL. This change in the definition introduces significant ambiguity into the application of the Act, which introduces administrative risks for proponents. QRC states that the definition of permanent impact should be made at a point in time and not be subject to later changes in the scope of the land covered. QRC recommends that all references to potential SCL in this section should be deleted.	Clause 14 includes both SCL and potential SCL to allow for the Bill to provide flexibility to developers under clause 84. Clause 84 provides that the application must state – that the land is SCL and include, or be accompanied by a copy of a relevant information notice about a validation decision or a registry record (SCL); or if the land is potential SCL – that the applicant has elected to treat this part as applying to the applicant as if the land were SCL. This provides applicants with an option to accept the trigger map as SCL (rather than incurring expense of validation on-ground) for the purposes of assessing the proposed development under Chapters 3 and 4 of the

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014	**Sub 42 Queensland Resources Council**	When development has a permanent impact or temporary impact - S14(4)(a)(ii) - this allows the introduction of arbitrary rules regarding the impact on SCL by certain developments or activities regardless of their actual impact. QRC recommends the section be deleted. (Sub 42, Att p.4)	Establishing criteria in clause 14 (3) for determining what may be subject of a regulation, and the process of requiring Governor in Council approval to making a regulation, satisfy the requirements of section 4(4) of the Legislative Standards Act 1992. Any activities in the future proposed to be prescribed by regulation are likely to require a RAS and associated public consultation process. Any regulation will also be subject to Parliamentary scrutiny.
014	**Sub 42 Qld Murray - Darling Committee Inc.**	50 year timeframe – QMDC has repeatedly suggested a 50 year timeframe is too long and is therefore not an appropriate measure of time for the following reasons: The average age of landholders is 59 years however average length of land ownership (as per 2006 census) is 15 years. A generation is considered 25 years. Most State Government planning cycles are 5 years – some for example Water Plans are 10 -15 years at the most Delbessie Lease renewals are done to 30 years. A 50 year timeframe therefore does not mirror key factors that address land use impacts and restoration of SCL.	Clause 14 (1) provides that carrying out development on SCL or potential SCL has a permanent impact on the land if – - the carrying out impedes the land from being cropped for at least 50 years; **or** - because of the carrying out, the land can not be restored to its pre-development condition; **or** - the activity is or involves- o open-cut mining; or o storing hazardous mine wastes, including, for example, tailings dams, overburden or waste rock dumps. Any of the three components of clause 14 (1) will therefore establish a permanent impact. For development that would be permanent under the definition of 14 (1) (b) or (c) it does not matter how many years it impedes cropping (ie it could be less than 50 years). Further, 14 (2) provides that for subsection (14) (1) (a) it does not matter whether the impediment is legal or physical. This means that under 14 (1) (a), even when a development has no physical impact on the land, but prevents cropping for 50 years, would also be considered to have a permanent impact. The reference to 50 years in Clause 14 (1) (a) (i) is consistent with the definition of permanent alienation, page 16 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010.
014	**Sub 50 Local Government Association of Queensland Ltd.**	This section identifies the meaning of development which is considered to have a temporary impact on land. Specifically in section 14(4)(b) of the Bill, it is development prescribed under a regulation. The Association assumes underground pipelines will be identified in any associated regulations as having a temporary impact on Strategic Cropping Land, based on the information previously provided through the Strategic Cropping Land Stakeholder Advisory Committee. However, the LGAQ considers this type of development not to be temporary in nature as pipelines are not considered to have an asset life less than fifty years nor are they considered to be able to be constructed without "permanently alienating" the soil in which they are built. The LGAQ supports a conservative approach taken by the State when pipelines are proposed until such time as clear evidence is available to demonstrate the full scope of their impacts. Further, it is suggested that where ever possible, existing pipelines and their associated easements should be utilised for the transport of gas and petroleum as opposed to the construction of new pipelines. (Sub 50, p.2)	For conditioning of temporary activities, Clause 81 provides that a regulation may make a code about how resource activities may be carried out on SCL or potential SCL. However, the standard conditions code can not permit a resource activity to be carried out on the SCL or potential SCL in a protection area if the carrying out has a permanent impact on the land. If the carrying out impedes the land from being cropped for at least 50 years; **or** because of the carrying out, the land can not be restored to its pre-development condition, clause 81 provides that the carrying out of the development has a permanent impact.
014	**Sub 52 Environmental Defenders**	When development has permanent impact or temporary impact - Time limit in clause 14(1)(a) be amended to the length of tenure for the resource activity that is first applied for or, in the alternative, no more than	Clause 14 (1) provides that carrying out development on SCL or potential SCL has a permanent impact on the land if – - the carrying out impedes the land from being cropped for at least 50 years; **or**

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	Office	30 years. The identification of permanent and temporary impacts on SCL or potential SCL is the heart of this Bill. We support the definition of permanent impact on SCL or potential SCL in clause 14(1)(b) and (c). We are concerned by the 50 year time period in clause 14(1)(a). We recommend that the time limit here be amended to the length of tenure for the resource activity that is first applied for or, in the alternative, no more than 30 years. The Committee will be aware that it is highly unusual for resource tenures to extend beyond 30 years. Why evaluate the permanence of impacts on SCL against some longer time period? Further, we note that resource tenures may be extended by the applicant at some unknown time in the future. If the 50 year period has been det-ermined to account for post-operation efforts to rehabilitate SCL, as clause 14(1)(a) is currently drafted there is an unacceptable risk that what began as a temporary impact (with conditions requiring rehabilitation) becomes permanent following a successful application to extend the tenure. We cannot know the future business dec-isions of resource companies. We can only eval-uate the impacts on SCL against a timeframe fixed to the length of the resource tenure first applied for or, as an alternative, no more than 30 years	- because of the carrying out, the land can not be restored to its pre-development condition; **or** - the activity is or involves- o open-cut mining; or o storing hazardous mine wastes, including, for example, tailings dams, overburden or waste rock dumps. Any of the three components of clause 14 (1) will therefore establish a permanent impact. For development that would be permanent under the definition of 14 (1) (b) or (c) it does not matter how many years it impedes cropping (ie it could be less than 50 years). Further, 14 (2) provides that for subsection (14) (1) (a) it does not matter whether the impediment is legal or physical. This means that under 14 (1) (a), even when a development has no physical impact on the land, but prevents cropping for 50 years, would also be considered to have a permanent impact. The reference to 50 years in Clause 14 (1) (a) (i) is consistent with the definition of permanent alienation, page 16 of *Protecting Queensland's strategic cropping land: A policy framework* which was released for public consultation on 23 August 2010. Clause 14(3)(a)(ii) specifically provides that a cumulative impact may be prescribed in a regulation to be, in effect, a permanent impact.
014	**Sub 54** **Origin Energy**	When development has a permanent or temporary impact - In relation to what constitutes *permanent impact* s.14(1)(a) gives an example of 'drilling or wells under a resource Act carried out on the land at a level or density which, or the cumulative effects of which, impede it from being cropped for at least 50 years.' Origin is unsure what is meant by 'level or density' and how such an example applies to CSG activities as the average life-span of a CSG well is 30 years. Origin requests clarification of what is meant by this example. Section 14 contains a regulation-making provision which allows for activities to be deemed as having permanent impacts. If utilised, this power could have signficant ramifications. Origin submits that this regulation-making provision should be removed. If the Government wishes in the future to prescribe / deem certain activities as having permanent impacts, this should be dealt with by way of a proposed amendment of the Act which would be subject to full legislative scrutiny. Alternatively, there should be a legislative process that provides for review and appeal rights, and a provision limiting the exercise of the power to instances where the proposed prescribed activity will in fact impede the land from being cropped for at least 50 years.	Clause 14 (3) allows for a regulation to be prescribed to provide further detail of what level or density for a temporary activity is taken to be a permanent impact. Establishing criteria in clause 14 (3) for determining what may be subject of a regulation, and the process of requiring Governor in Council approval to making a regulation, satisfy the requirements of section 4(4) of the *Legislative Standards Act 1992*. Any activities proposed to be prescribed by regulation are likely to require a RAS and associated public consultation process. Any regulation will also be subject to Parliamentary scrutiny.
014 & 017	**Sub 16** **Friends of Felton**	When development has a permanent impact or temporary impact – Resource Act and resource Act activity It appears Coal Seam Gas development will be allowed everywhere, as a	Clause 17 of the Bill provides that a resource activity includes activities carried out under an authority issued under the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004*. Therefore, CSG development will be assessable under the Act.

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		result of the definition of 'permanent alienation' of the land.	Clause 14(3)(a)(ii) specifically provides that a cumulative impact may be prescribed in a regulation to be, in effect, a permanent impact. The Bill specifically provides an example of drilling or wells under a resource Act carried out on the land at a level or density which, or the cumulative effects of which, impede it from being cropped for at least 50 years.
014 & 078	**Sub 28 P&E Law**	Drafting - Interaction between clauses 14 and 78 exempts a resource activity for a resource authority as being a permanent or temporary impact – outcome that the Bill does not protect land from resource activity	Section 14 (c)(ii) provides that an open cut mine is an activity that will have a permanent impact to the land. The effects throughout the Act of this provision are: Any activity that is considered or involves open cut mining will always be considered to have a permanent impact on SCL, irrespective or any evidence to the contrary or contrary arguments that may be posed. The activity cannot be regulated under a standard condition code. The activity will need to demonstrate exceptional circumstances before it can be undertaken on land that is SCL or potential SCL in a Protection Area. Otherwise this provision has no significant effect on the activity and any applications for these developments will still need to meet the requirements of the Act. Section 78 provides an exemption to the offence provisions in sections 76 and 77. Section 76 and 77 make it an offence to conduct any activity on SCL or potential SCL that will have either a permanent or temporary impact. Reading section 76 with section 14 (c)(ii) in effect states that you cannot conduct open-cut mining on SCL or potential SCL. If you do you will be penalised accordingly. Therefore the effect of section 78 (1)(b) is to provide an exemption from the offence, not the requirements of the Act. Reading the provision together has the effect that a developer carrying out a resource activity (s17 (2)) that is approved under a resource authority (s18), will not be committing an offence. Therefore reading section 78 with section 14 (c)(ii) has the effect of saying that where an open cut mine has a mining tenement, it may permanently impact SCL or potential SCL, without committing an offence provided it is done in accordance with the mining tenement.
016 (2)	**Sub 27 Moreton Bay Regional Council**	Planning Act, IDAS and development approvals - The definition of IDAS in section 16(2) refers to approval processes for "development". Since the term "development" has a different meaning in this Bill to that in SPA, which meaning to be used in this context is unclear.	Legislative provisions need to be read in the context of the entire framework. As clause 16 refers to Chapter 6 of the Planning Act, legislative interpretation requires the user to refer to the Planning Act to define the term referenced.
017	**Sub 10 Rebecca McNicholl**	Resource Act and Resource Act activity - Protection of productive capacity requires the protection of water resources. CSG impacts on ground water resources uncertain and could cause significant decline in SCL productivity. Amend Bill to prevent CSG development's in Qld's most productive agricultural zones.	Other legislation is in place to regulate the impacts of development on water supplies including the Water Act 2000 which addresses access to groundwater supplies and the *Environmental Protection Act 1994* which addresses environmental harm caused to groundwater supplies. CSG development will be assessable under the Act. Clause 17 of the Bill provides that a resource activity includes activities carried out under an authority issued under the *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004*. The Bill's purpose provided for in clause 3 is to protect land that is highly suitable for cropping and manage the impacts of development on that land.
017	**Sub 32 Bendee Farming Pty Ltd**	Resource Act and resource activity - CSG should be assessed under the SCL legislation due to the risks to groundwater and soil toxicity.	CSG development will be assessable under the Act. Clause 17 of the Bill provides that a resource activity includes activities carried out under an authority issued under the Petroleum Act 1923 and Petroleum and Gas (Production and Safety) Act 2004. The Bill's purpose provided for in clause 3 is to protect land that is highly suitable for cropping and manage the impacts of development on that land. Other legislation is in place to regulate the impacts of development on water supplies including the Water Act 2000 which addresses access to groundwater supplies and the Environmental Protection Act 1994 which addresses environmental harm caused to groundwater supplies.
017	**Sub 37 Toowoomba Regional Council**	Resource Act and resource activity - Will the resource Acts detailed in s17 be updated to reflect the Bill and that the public be notified and consulted.	Clause 17 of the Bill outlines existing resource Acts including the *Mineral Resources Act 1989*, *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004*, the *Geothermal Energy Act 2010* and the *Geothermal Exploration Act 2004* and the *Greenhouse Gas Storage Act 2009*. The August 2010 policy framework proposed that the following legislative and planning instruments would be developed: a new Act

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			specifically for SCL; a new State planning policy under the *Sustainable Planning Act 2009* for SCL to address SCL requirements for development assessable under *Sustainable Planning Act 2009*; and amendments to existing resources legislation to recognise the requirements of the new SCL Act for resources developments. Chapter 10 of the Bill makes the necessary amendments to other legislation.
017	**Sub 40 Lindsay & Avriel Tyson**	Underground mining and coal seam gas should be included in the strategic cropping land policy	Clause 17 of the Bill includes activities carried out under an authority issued under the *Mineral Resources Act 1989*, *Petroleum Act 1923* and *Petroleum and Gas (Production and Safety) Act 2004*. Therefore, underground mining and coal seam gas developments are assessable under the Bill.
017	**Sub 42 Queensland Resources Council**	Resource Act and resource activity - S17(2)(b) - giving the SCL Act the ability to regulate activities on an exploration tenure which has not yet been granted will complicate the administration of the Act and may well have unintended consequences. QRC is concerned that the proponent may be required to undertake SCL testing or benchmarking on exploration tenure that has not been granted – so that the land access provisions do not apply. (Sub 42, Att p.6)	Clause 17 provides definitions of the terms "Resource Act" and "resource activity". These terms are used throughout the Act.
018	**Sub 42 Queensland Resources Council**	Resource authority - S18(c), (d), and (e) - it is unclear if the definition is intended to apply to all tenures or just production tenures. QRC suggest that the Act should specify the specific tenures that apply – eg ML, PL. (Sub 42, Att p.6)	Clause 18 defines 'resource authority'—applies to all tenures under the resource acts listed in clause 18.
020	**Sub 42 Queensland Resources Council**	Source authority - S20(b) and (c) - this drafting, when read in concert with how conditions are to be applied, could see tenures or EAS conditioned (or both). The combination with S22(b) will have unintended consequences. QRA state the Act should apply only to the EA and that S20(b) should be deleted. (Sub 42, Att p.7)	Clause 20 is consistent with Chapter 3, Part 4 which provides for the chief executive to decide whether or not to impose conditions on either or both of the environmental authority or resource authority for the resource activity. These clauses are consistent with the August 2010 framework which stated that conditions would be on tenure eg page 7 "*amendments will require assessment of the impact on SCL and will condition tenure accordingly. Further conditions for restoration and other environmental matters will continue to be addressed under the EP Act 1994*".
020	**Sub 44 Agforce**	Source authority - Agforce is concerned about the definition of the "source authority" in reference t the resource authority, as well as development approvals and environmental authorities. In regard to this reference of the resource authority, and the assessment of the strategic cropping lands criteria for determination, and the assessment of the strategic cropping lands criteria for determination, there appears to be some confusion regarding timing and access legislation. Post the legislative amendments from October 2010, the resource authority is bound to negotiate a Conduct and Compensation Agreement with the landholder to undertake exploratory works pertaining to their resource authority. These agreements cover off on the conditions on which their access will be governed, and the operation constructs regarding timing, biosecurity and the application of the ongoing farming practice in regards to the resource tenure holder accessing the property, amongst other criteria. It appears that access to the land to assess against the strategic cropping land criteria can be granted prior to the finalization of this authority, and therefore comes before the negotiation of this agreement has been undertaken. As the SCL criteria is governed by this Bill through the Department of Environment and resource management, and the land Access legislation	Access to land by applicants for, or holders of resource authorities is a matter relevant to the Resources Acts.

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		is governed by the Department of Employment, Economic Development and Innovation, there appears to be some confusion regarding the timing of these requirements. Agforce has raised this with both Departments for further clarification, but to date has received no reply. (Sub 44, p.3).	
020, 022 & 272	**Sub 54 Origin Energy**	Transitional provisions - Origin supports the Government's intent to provide transitional arrangements for projects which are well advanced such as the APLNG Project. However, Origin is concerned that the transitional arrangements may be short-lived given that S.20, when read in conjunction with S.22(b) indicates an application for an amendment of an Environmental Authority can trigger the SCL assessment criteria in relation to the project. For example, APLNG is seeking to amend the EA which was issued on 10 June 2011 for its Condabri development which forms part of the Project. If Origin is interpreting these clauses correctly, the SCL criteria will apply to the Condabri development. This combined with the weaker test of what constitutes a cropping history, increases the regulatory burden on project activities. It also undermines the Minister's statement when introducing the Bill on 25 October 2011 that 'these arrangements manage sovereign risk.' Origin submits that, at a minimum, there should be an exemption for applications to amend an existing environmental authority where the proposed amendment / change will not result in a material increase in adverse impacts on strategic cropping land above those already permitted under the existing environmental authority.	The August 2010 policy framework released by the Government provided that the new SCL legislation would apply to all new and undecided resources development applications. It also provided that amendments to resources legislation would- "*require assessment of the impact on SCL and will condition tenure accordingly. Further conditions for restoration and other environmental matters will continue to be addressed under the Environmental Protection Act 1994*". Clause 22 (1)(b) of the Bill effectively provides that the Bill applies to applications for amendment, renewal or re-grant of a resource authority, environmental authority or development approval. This is consistent with the Government's policy announced in August 2010. However, DERM has recommended amendments to the Explanatory Notes to clarify that the assessment will only relate to the matters applied for in the application. Assessment would not be required where no new or amended Environmental Authority is required under the *Environmental Protection Act 1994*. For example, if a resource development submits an application for an amendment to the environmental authority to increase the level of discharge into a local waterway, the application will be assessed to determine if the proposed amendments will have any impacts on SCL or potential SCL. If there are no impacts, the chief executive can make a decision to that effect under section 90 of the Act. In this instance, the assessment would not consider the entire resource development activities.
022	**Sub 21 Xstrata Coal**	Triggers for SCL – 'an amendment, a renewal and a re-grant' - This is greatly concerning as any amendment to an Environmental Authority of a resource tenure, which occurs frequently, would allow repeated application of the SCL Act. Potential ramifications include retrospective conditioning, never-ending assessment, and lack of certainty for Authority holders. Recommendation: Delete this section.	The August 2010 policy framework released by the Government provided that the new SCL legislation would apply to all new and undecided resources development applications. It also provided that amendments to resources legislation would- "*require assessment of the impact on SCL and will condition tenure accordingly. Further conditions for restoration and other environmental matters will continue to be addressed under the Environmental Protection Act 1994*". Clause 22 (1)(b) of the Bill effectively provides that the Bill applies to applications for amendment, renewal or re-grant of a resource authority, environmental authority or development approval. This is consistent with the Government's policy announced in August 2010. However, DERM has recommended amendments to the Explanatory Notes to clarify that the assessment will only relate to the matters applied for in the application. Assessment would not be required where no new or amended Environmental Authority is required under the *Environmental Protection Act 1994*. For example, if a resource development submits an application for an amendment to the environmental authority to increase the level of discharge into a local waterway, the application will be assessed to determine if the proposed amendments will have any impacts on SCL or potential SCL. If there are no impacts, the chief executive can make a decision to that effect under section 90 of the Act. In this instance, the assessment would not consider the entire resource development activities.
022	**Sub 42 Queensland Resources Council**	References for applications and applicants - S22(b) - the interaction of the broad definitions in S20 and S22 could mean that any minor amendment to EA conditions could trigger a full review of SCL status with subsequent conditioning of tenure and EA. The intent of the policy was that SCL assessment occurs at the time of	The August 2010 policy framework released by the Government provided that the new SCL legislation would apply to all new and undecided resources development applications. It also provided that amendments to resources legislation would- "*require assessment of the impact on SCL and will condition tenure accordingly. Further conditions for restoration and other environmental matters will continue to be addressed under the Environmental Protection*

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		application. It's not clear why DERM have sought to revisit these SCL applications so regularly. This will introduce a large and unacceptable regulatory risk for proponents. (Sub 42, Att p.7)	*Act 1994*". Clause 22 (1)(b) of the Bill effectively provides that the Bill applies to applications for amendment, renewal or re-grant of a resource authority, environmental authority or development approval. This is consistent with the Government's policy announced in August 2010. However, DERM has recommended amendments to the Explanatory Notes to clarify that the assessment will only relate to the matters applied for in the application. Assessment would not be required where no new or amended Environmental Authority is required under the *Environmental Protection Act 1994*. For example, if a resource development submits an application for an amendment to the environmental authority to increase the level of discharge into a local waterway, the application will be assessed to determine if the proposed amendments will have any impacts on SCL or potential SCL. If there are no impacts, the chief executive can make a decision to that effect under section 90 of the Act. In this instance, the assessment would not consider the entire resource development activities.
025	**Sub 16 Friends of Felton**	Trigger Map - While the trigger maps showing where Strategic Cropping Land (SCL) exist cover around 4% of the State, the convoluted process outlined in this bill to identify SCL may only protect 1% of the State from open-cut mining.	The August 2010 policy framework released by the Government included draft trigger maps which covered approximately 4% of the State. On 31 May 2011, the Government announced implementation of the SCL policy through Protection Areas and a Management Area. Confirmed and potential SCL in protection areas will not be able to be permanently impacted by development except in limited exceptional circumstances. For the two protection areas approximately 1% of the State is identified as potential SCL. Clause 14 of the Bill provides that open-cut mining is a permanent impact on SCL or potential SCL. For the management area the Bill provides new development assessment obligations compared to current arrangements. Open-cut mining will be assessable in the management area and will be required to avoid SCL and wherever possible minimise its impacts on SCL. Any temporary impacts on SCL will need to be fully restored to its pre-development condition and any permanent impacts on SCL will need to be mitigated. The Bill is consistent with announced Government policy.
025, 026 & 028	**Sub 27 Moreton Bay Regional Council**	Trigger Map - Zone Map and zone Protection Area map and Protection Area - The map names used in sections 25, 26 and 28 do not match those on the maps currently available on DERM's website.	On a number of occasions, including with the release of the SCL Policy framework on 23 August 2010 and the announcement of protection and management areas on 31 May 2011, the Government has released maps to assist the public to understand the policy framework. Reference within the Bill of maps and map titles refer to the official maps that will be released once the Bill has been passed by Parliament.
025 – 039	**Sub 20 Cotton Australia**	Chapter 2, Part 1 "Maps, zones, criteria and areas"- Cotton Australia contends that the focus on the soil, allows mining companies to attempt to circumvent the SCL legislation by moving from open cut operations to underground operations such as long-wall mining or bord and pillar. (Sub 20, p3)	Impacts from underground resource developments, like subsidence, will be considered when assessing whether a development will have a temporary or permanent impact on SCL and the Bill allows for conditions to be imposed on developments to manage or prevent those impacts. The Bill is consistent with the Government's announced policy.
025 – 039	**Sub 20 Cotton Australia**	Chapter 2, Part 1 "Maps, zones, criteria and areas"- Cotton Australia is opposed to the segregation of Protected and Management Zones. Cotton Australia strongly argues that all land that has been identified SCL should be within the Protected Zone. (Sub 20, p4)	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. Land within the Protection Areas that meets the SCL criteria will be afforded the highest protection by the new legislation. The Management Area includes many regions that are important to Queensland's cropping and horticultural industries and so will have new development assessment obligations compared to current arrangements. The Bill is consistent with this announced policy.
025 – 075	**Sub 9 Cassowary Coast Regional Council**	Identifying Strategic Cropping Land - The legislation requires a range SCL decisions to be made by the department in relation to the land's SCL status. The decision process and the process applying to the range of sub-decisions are confusing and hard to follow.	The decision making framework provided in the bill is consistent with previous government announcements.

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026	**Sub 42 Queensland Resources Council**	Zone map and zone - S26(1) - While QRC supports the updating of the trigger map (and protection/management maps in S28), the maps should apply at the time of application and the extent of these maps at that time should be captured. The Act should anticipate a process of tracking changes to these key maps so that applications are not subject to retrospective assessments. S38(2) needs to be more explicit if this was the intent. (Sub 42, Att p.8)	Clause 26 defines the terms zone map and zone that are used throughout the Act. Clause 90(2) relates to applications and changes to the SCL status of an area.
027	**Sub 42 Queensland Resources Council**	*Zonal criteria and zonal-criteria compliant* land - S(27)(1)(b) - QRC is concerned at the risk of new cropping zones and criteria emerging in the future without the rigours of legislative scrutiny. QRC argue that New zones should be established by legislative amendment. (Sub 42, Att p.8)	Clause 35 provides for the Minister to make an amendment, including to add a new zone, through a regulation. Establishing criteria in clause 37 for determining what amendment may be made to a zone, and the process of requiring Governor in Council approval to making a regulation, satisfy the requirements of section 4(4) of the Legislative Standards Act 1992. Any activities in the future proposed to be prescribed by regulation are likely to require a RAS and associated public consultation process. Any regulation will also be subject to Parliamentary scrutiny.
028	**Sub 21 Xstrata Coal**	Protection Areas - The 'protection area' were decreed without: any quantitative assessment of the subject land; scientific justification; agro-economic justification; stakeholder consultation; consideration of the Standard Criteria for Ecologically Sustainable Development as prescribed in the EP Act 1994; or due consideration to the potential and real social, environment and economic impacts. Recommendation: Delete this section.	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. Land within the Protection Areas that meets the SCL criteria will be afforded the highest protection by the new legislation. The Management Area includes many regions that are important to Queensland's cropping and horticultural industries and so will have new development assessment obligations compared to current arrangements. The Bill is consistent with this announced policy.
028	**Sub 37 Queensland Farmers' Federation**	The Protection area delivers policy intent, the management area does not. The decision of Government to move to a two tiered system of a Protection area and a Management area (by exclusion) is not supported by QFF. The policy intent of this Bill is not delivered in those areas that will fall within the Management Areas, these being simply defined as that area of validated SCL that does not fall within the Protection areas. The definition of the protection area, as simply that area which is mapped as so, (Clause 28) provides no industry or community understanding as to the reasoning behind these areas being afforded the protection that was envisaged would be applied to all validated SCL. To this extent QFF submits that the concept of the Protection area and the Management area should be struck out of the Bill. With this done, all other provisions relating to the SCL principles of protection, avoidance, minimisation, mitigation and productivity along with the multiple exemptions, transitional arrangements and community benefit tests would provide more than sufficient capacity for the policy to avoid onerous limitations on economic or community development.	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. Land within the Protection Areas that meets the SCL criteria will be afforded the highest protection by the new legislation. The Management Area includes many regions that are important to Queensland's cropping and horticultural industries and so will have new development assessment obligations compared to current arrangements. The Bill is consistent with this announced policy.
028 & 029	**Sub 48 FutureFood Queensland**	We believe that the protected area should be expanded to cover the whole State and over time the "management areas" would be phased out. This would require department officers to map areas now outside the mapped protection area. We believe this would give a higher degree of	The August 2010 SCL policy framework provided trigger maps that clearly indicated that SCL was restricted to the eastern areas of Queensland. On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection

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		security to the areas described now as in the management areas. The Policy states:- *The Government considers that the best cropping land defined as Strategic Cropping* *Land is a finite resource that must be conserved and managed for the longer term. As a general aim, Planning and approval powers should be used to protect such lands from those developments that lead to its permanent alienation or diminished productivity.* We believe the protection area complies with the policy intent (above) however the management areas do not comply. FFQ believe the management areas should be phased out as soon as possible. It contains provisions that allow proponents opportunities to proceed with their developments destroying SCL while paying for offsets and mitigation measures. Why should the management areas be treated differently to the protected areas? If the soils are considered as SCL then they should be offered the same strong legislative security as offered in the protected area (Sub 48, p.2) FFQ recommends the committee supports a change to the legislation that phases out the Management area. When mapping is completed, all SCL should be included in the Protection area. (Sub49, p.3) FFQ recommends the committee supports a proposal to strengthen the protection of lands in the management area by making conditions the same as the protection areas. (Sub 48, p.3)	and Management Areas. Land within the Protection Areas that meets the SCL criteria will be afforded the highest protection by the new legislation. The Management Area includes many regions that are important to Queensland's cropping and horticultural industries and will have new development assessment obligations compared to current arrangements. The Bill is consistent with the announced policy.
029	**Sub 43 Qld Murray - Darling Committee Inc.**	This definition is confusing and requires rewriting to provide legal clarity.	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. Clauses 26 provides for a map to show zone boundaries. Clause 28 provides for a map to show protection area boundaries. Clause 29 provides that the management area is that part of the combined area of all zones that is not a protection area.
032	**Sub 42 Queensland Resources Council**	When a map amendment is *minor* - S32(1)(c)(ii) - QRC is concerned that subsequent lot amendments should not automatically result in an amendment to the map. QRC recommend amending the drafting to clarify that the section does not apply to changes in lot boundaries. (Sub 42, Att p.8)	SCL zone and protection area boundaries as released on 31 May 2011 were based chiefly on cadastral boundaries to provide clarity to stakeholders on whether the SCL framework applies to a particular lot or not. The provision allows for the boundaries to be updated when lots are reconfigured to ensure that the boundary remains cadastrally based.
032	**Sub 43 Qld Murray - Darling Committee Inc.**	S32(3) - is not supported because QMDC does not believe the exclusions listed in clause 6 are acceptable.	Clause 32(3) provides that it is a minor amendment to remove from the trigger map an area of potential SCL if the area is also an area to which the Act does not apply.
032	**Sub 43 Qld Murray - Darling Committee Inc.**	Amendments should be reflective of wider landscape values so that fragmentation is avoided. QMDC asserts that all SCL should be protected. QMDC is concerned that what is deemed as a "minor" amendment may undermine the total protection for SCL that should be promoted by the Bill. If the intent of the amendment is to protect SCL and future food production, any amendment that compromises a lot being included in a zone or protection area map because it consists of both	Clause 32 generally provides that an amendment is not minor if it is changes what is or is not potential SCL.

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		SCL and non-SCL is unacceptable (See clause 32(1)(c)(ii)).	
033	**Sub 42 Queensland Resources Council**	Minor amendments - S33 - Suggest that when the Chief Executive amends maps that they are also responsible for contacting affected landholders and resource tenures holders. (Sub 42, Att p.8)	Under clause 33 of the Bill, the chief executive must publish a notice of any minor amendments on the department's website. This approach is consistent with similar provisions in other legislation involving map amendments (e.g. *Vegetation Management Act 1999*).
033	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC supports the notice being published on DERM's website and would suggest it be published at same time using other public media.	Clause 33(2) provides that a minor amendment does not take effect unit a notice is published on the department's website. Other amendments to the trigger map (clause 34) must be made under a regulation, which provides for public scrutiny. The provisions in the Bill do not prevent the Government from more widely advertising an amendment where appropriate.
034	**Sub 42 Queensland Resources Council**	Trigger map amendments - The ability to have new potential SCL springing up near existing projects is a real concern. QRC suggests that references to potential SCL should be deleted. And recommends that existing projects and tenures need to be grandfathered when new areas are included in the trigger maps. (Sub 42, Att p.8)	Note 1 under Clause 34 clarifies that an amendment to add land as potential SCL does not affect existing source authorities for the land.
034	**Sub 42 Queensland Resources Council**	Trigger map amendments - S34(3) - this clause requiring regulation needs to exempt the regular process of updating the trigger maps to reflect registered decisions – otherwise the decision register and maps will be out of step. QRC recommends that the section is amended to allow validation decisions on SCL to be updated on all maps immediately ie no need for a new regulation to update in this case. (Sub 42, Att p.8)	Clause 10 of the Bill specifies that areas which are validated as SCL and decided non-SCL override the 'potential SCL' on the trigger map. This does not prevent the chief executive from making available a map layer showing SCL and decided non SCL that overrides the trigger map, to show stakeholders the validated status of land.
034	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC suggest the required criteria needs to refer Schedule 1.	Clause 34(1) allows the chief executive to amend the trigger map to add or remove potential SCL. Clause 34(4) provides that areas can be added to the map if the chief executive considers the land is likely to have land that is highly suitable for cropping. Alternatively, the chief executive must be satisfied that the land to be removed is not expected to be suitable for cropping. Assessment of land against the criteria in Schedule 1 is provided for in a validation application from which land is confirmed as SCL or decided non SCL (Chapter 2, Part 2, Clauses 40-75).
035	**Sub 42 Queensland Resources Council**	Power to amend by regulation - Given the consequences of these amendments, QRC believes that such changes should require legislative amendments. The amendment of a protection zone should require the approval of Governor in Council. QRC recommends the section be deleted. (Sub 42, Att p.9)	Clause 35 provides for the amendment of an existing zone or protection area through a regulation. Clause 36 provides that these amendments can only be done by the Minister where the Minister goes through a public notification and submission process. Clause 37 provides that approval of the regulation will require Governor-in-Council approval and will also be subject to Parliamentary scrutiny under the *Statutory Instruments Act 1992*.
035	**Sub 54 Origin Energy**	Zonal and protection area amendments - Origin is concerned that the provisions for new zones S.35(1) to establish new zonal criteria and the ability of the Minister to amend any zone or protection are by regulation will allow the expansion of SCL areas without adequate legislative scrutiny. Origin submits that the establishment of any new zones should be dealt with by way of proposed amendments of the Act and that amendments to	Clause 35 provides for the amendment of an existing zone or protection area through a regulation. Clause 36 provides that these amendments can only be done by the Minister where the Minister goes through a public notification and submission process. Clause 37 provides that approval of the regulation will require Governor-in-Council approval and will also be subject to Parliamentary scrutiny under the *Statutory Instruments Act 1992*.

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		a protection zone should require the approval of Governor-in-Council.	
036	**Sub 42 Queensland Resources Council**	Ministerial notice of proposed amendment - If these zones or protection areas are to be amended, QRC believes the Minister should be required to contact all tenures holders and land holders in the affected area. QRC recommends the section be reworded. (Sub 42, Att p.9)	Clause 36 provides that the proposed amendment must be published in a newspaper circulating generally in the area of the amendment and is available on the department's website. This approach is consistent with similar provisions in other legislation involving map amendments (e.g. *Vegetation Management Act 1999*).
036	**Sub 42 Queensland Resources Council**	Ministerial notice of proposed amendment - S36(2)(d) - QRC suggests that the 21 day period for submissions is too short given the likely complexity of changes that could be proposed. QRC suggests a period of a 30 business days after the landholder/tenure holder has been contacted. (Sub 42, Att p.9)	Clause 36 provides for the Ministerial notice of a proposed zonal or protection area amendment. Sub clause (2) (d) provides for a minimum of 21 days for anyone to make a submission to the Minister about the proposed amendment. The timeframe established in the Bill is consistent with the timeframes established for public notification on IDAS development applications under the *Sustainable Planning Act 2009*.
036	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC recommends the submission period should be extended to 28 days to allow for better community engagement and real public time to make a submission (See clause 36(2)(d)).	Clause 36 provides for the Ministerial notice of a proposed zonal or protection area amendment. Sub clause (2) (d) provides for a minimum of 21 days for anyone to make a submission to the Minister about the proposed amendment. The timeframe established in the Bill is consistent with the timeframes established for public notification on IDAS development applications under the *Sustainable Planning Act 2009*.
037	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC recommends the submission period should be extended to 28 days to allow for better community engagement and real public time to make a submission (See clause 36(2)(d)). QMDC also recommends the notice being published on DERM's website and would suggest it be published at same time using other public media as per recommendation for clause 33.	Clause 36 provides for the Ministerial notice of a proposed zonal or protection area amendment. Sub clause (2) (d) provides for a minimum of 21 days for anyone to make a submission to the Minister about the proposed amendment. The timeframe established in the Bill is consistent with the timeframes established for public notification on IDAS development applications under the *Sustainable Planning Act 2009*. Clause 36 provides that the proposed amendment must be published in a newspaper circulating generally in the area of the amendment and is available on the department's website. These provisions do not prevent the Minister undertaking a longer or more extensive consultation process.
038	**Sub 27 Moreton Bay Regional Council**	Record-keeping obligations for maps - The word "boundaries" is used in a number of places within section 38. However, it is unclear as to precisely which boundaries are intended to be covered by those provisions. Clarification is required.	Section 32A of the *Acts Interpretation Act 1954* provides that words are to be read in the context provided by the Act. Therefore where a word is not defined the ordinary meaning of the word must be relied upon in the context of the legislative provision. The term "boundary" therefore takes on the ordinary meaning of the word as understood when applied to maps, land and special data. Providing an additional definition would limit the application of the provision unnecessarily.
038	**Sub 43 Qld Murray - Darling Committee Inc**	The SCL Bill does not articulate whether the maps denote a fuzzy or binary membership, although it is assumed that by requiring the identification of the "exact location of the boundaries" on each map to be shown a binary membership is intended. QMDC recognises that this type of membership will pose challenges to the outcome sought. It is important to design the Bill so that all SCL is protected. If a binary membership is intended as a definitive layer, QMDC would suggest there is a need to clearly document the process used to update the SCL register with new or improved data such as more refined mapping, including the metadata relied on.	Clause 33 and 34 relate to the updating of trigger maps. Technical metadata is included in the digital trigger map layer that was publically released on 31 May 2011.

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039	**Sub 27 Moreton Bay Regional Council**	Public access to maps and draft amendments - The effect of section 39(5) is unclear, especially the phrase "...or no disallowance motion is passed." Use of common English in this instance would be preferred.	This provision means that if the regulation approving the map amendment is not disallowed by Parliament, the draft map on the website becomes the map as amended. It references the terms stated in the *Statutory Instruments Act 1992*, to ensure the correct legal application of the provision is adopted.
040	**Sub 21 Xstrata Coal**	An application is prohibited of a "Cropping History decision has already been made: This circumvents the on-ground assessment process to determine is the land meets the SCL criteria and thresholds. It is commonly accepted that much cultivated land in Queensland, as elsewhere, is marginal with respect to sustainability of cropping production. Recommendation: Delete this section.	Clause 40 (2)(c) does not circumvent the on-ground assessment process. In management areas, land must have both a cropping history and meet the criteria to be validated as SCL. Clause 40 (2)(c) simply provides that where a cropping history decision has already been made for the property, a further application cannot be made for cropping history for that property. Similarly clause 40 (2)(d) provides that where a criteria decision has been made, for the property a further criteria application cannot be made for that property.
040	**Sub 42 Queensland Resources Council**	Who may apply - S40(2)(c)(i) - it is not clear why an application is prohibited if a cropping history decisions had already been made for the property. QRC recommend that the section is reworded to clarify the intention, otherwise this risks perverse results for gaming applications. (Sub 42, Att p.9)	Clause 40 provides that an eligible person can submit a validation application to the chief executive to make a validation decision for the application and that the decision is a final decision. Further, the clause prevents further applications being made once a decision or an initial application is made.
040	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC supports any third party making an application to validate or prohibit SCL.	Clause 41 defines an eligible person who can make a validation application under Clause 40. The validation process may be undertaken by a person other than the land's owner and includes a person who has made an application under a resource Act. Therefore, this provision identifies the range of people who may apply to have the land validated. Any person can make a submission about the application (clause 55(2)) which the chief executive must consider in making a validation decision (clause 69).
041	**Sub 27 Moreton Bay Regional Council**	Who is an eligible person - It is unclear why section 41(e) relates solely to a "management area" rather than both Management areas" and "protection areas".	The cropping history test applies only in the management area.
041	**Sub 30 Haystack Road Coal Committee**	Who is an eligible person - Landholders should have the right to have validation done prior to resource company if they wish.	Clause 40 of the Bill provides that an eligible person may apply to the chief executive to decide whether to record any of the land in the decision register as SCL or as decided non-SCL. Clause 41 defines who is an eligible person as: the owner of the land, or, if it has more than 1 owner, any of its owners; anyone else holding a legal or equitable interest in the land; a person who has the written consent to make the application from the owner of the land, or, if it has more than 1 owner, any of its owners; a person who, under a resource Act, has made an application or a tender for a tenure; if the land is in the management area and forms part of a property—someone who, under any of paragraphs (a) to (d), is an eligible person for a part of the land. Therefore, landholders will have an opportunity to make an SCL validation application provided it is not a prohibited application as provided for under clause 40(2).
041	**Sub 37 Queensland Farmers' Federation**	QFF notes that under Clause 41 of the Bill a person other than a land owner may wish to apply for SCL validation of the land. This poses a very difficult and untenable situation. The SCL validation process will require access to the land and this would require landowner consent. If the application was made by a resource company then they would not have	Clause 41 describes who is an eligible person for land for the purposes of making an application on deciding what is strategic cropping land (making a validation application). Subclauses 41 (a) to (c) provide for land owners, a person with a legal interest in the land or a person with written land owners consent. Subclause 41 (d) provides for a person who under a resource Act has made an application or a tender for tenure. Access to land in these instances falls under the jurisdiction of the relevant resource Act.

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		legal access to the land unless they already hold tenure rights over the land and they have therefore negotiated a land access and compensation agreement. This bill specifically states a validation request can be made by an eligible person who does not yet have any source approval. This would generate an unacceptable situation and must be amended to avoid such outcomes.	
041	**Sub 39 Canegrowers**	CANEGROWERS consider that under Clause 41 - where a person other than a land owner may wish to apply for SCL validation of the land - is fundamentally flawed. The Bill specifically states a validation request can be made by an eligible person who does not yet have any source approvals. This would generate an unacceptable situation and must be amended.	Clause 41 describes who is an eligible person for land for the purposes of making an application on deciding what is strategic cropping land (making a validation application). Subclauses 41 (a) to (c) provide for land owners, a person with a legal interest in the land or a person with written land owners consent. Subclause 41 (d) provides for a person who under a resource Act has made an application or a tender for tenure. Access to land in these instances falls under the jurisdiction of the relevant resource Act.
041	**Sub 42 Queensland Resources Council**	Who is an *eligible person* - S41(d) - Conducting an SCL assessment may require access to the land, but the land access provisions assume a granted tenure. Further the definition of tenure in schedule 2 is unusual, it is not clear if it applies to all tenures or just production tenures. The explanatory memorandum provides some greater detail in defining which applicants may be eligible (but this does not seem explicit in the Act). QRC recommend that definition of tenure must be clarified. (Sub 42, Att p.10)	Clause 41 describes who is an eligible person for land the purposes of making an application on deciding what is strategic cropping land (making a validation application). Subclauses 41 (a) to (c) provide for land owners, a person with a legal interest in the land or a person with written land owners consent. Subclause 41 (d) provides for a person who under a resource Act has made an application or a tender for tenure. Access to land in these instances falls under the jurisdiction of the relevant resource Act. DERM has recommended clarifying amendments for Schedule 2 – Tenure.
042	**Sub 27 Moreton Bay Regional Council**	General application requirements - Section 42(f) requires that "...any other information prescribed under a Regulation..." be included in a "validation application". That required should be expressed as "...all other information prescribed under a Regulation which is relevant to the context."	Drafting conventions are established by the *Acts Interpretation Act 1954* and *Statutory Instruments Act 1992*, which are administered by the Office of Queensland Parliamentary Counsel.
042	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC believes that some community benefit should be recognised in the cost recovery for a validation application. The fee prescribed under a regulation therefore should not require the individual landholder to shoulder the total cost. DERM needs to illustrate in the regulation the actual staff cost to administer the applications and not be based on a generic multiplier.	On May 31 2011 the government released a regulatory assessment statement which assessed a number of fee structures. Feedback received is currently being reviewed.
045	**Sub 42 Queensland Resources Council**	Application must be property-based - The reason for applying the cropping history at the property level is unclear, especially as the property may be far larger than the parcel of potential SCL. Some properties may consist of thousands or tens of thousands of hectares while potential SCL may be a much smaller parcel of say 100ha within the property. If the potential SCL area within the property has not been cropped within the test period, then it should not pass the test. This approach would seem to weaken the link between the specific plot of potential SCL and the ability to demonstrate a history of cropping. QRC recommends deleting this section. (Sub 42, Att p.10)	Clause 45 states that the application must be made on a property basis.
045 & 046	**Sub 21 Xstrata Coal**	Applications relation 'properties' consisting of lots owned or managed by common parties. The distribution of soil types and resource tenure do not recognise real property title boundaries. These sections would require a	Clause 45 provides that an application can only be made for one whole property or for two or more whole properties.

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		resource proponent with a tenure application across multiple real property titles to make multiple applications. Recommendation: Delete this section.	Clause 46 provides that a property can consist of lots that are owned by the same person; or that one or more common owners; or are managed as a single agricultural unit.
045 & 046	**Sub 27 Moreton Bay Regional Council**	Application must be property-based - What is a property - It is unclear why sections 45 and 46 require validation applications for land within a "management area" to be over an entire property (lot or lots) if only part of it is shown as "potential SCL". If the size of the property is the issue, then a minimum area for validation should be stated instead (Section 42(d) implies that an application can be over part of a lot).	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. This announcement identified that for land to be validated as SCL in a management area a history of cropping must be demonstrated. Clauses 45 and 46 are consistent with this announcement. Application of the Bill is such that the cropping history must be applied to entire properties, not just the area otherwise subject to the applicant.
048	**Sub 21 Xstrata Coal**	Zonal criteria compliance - The zonal criteria and threshold limits are based on flawed science. 'The proposed criteria and thresholds are not effective and will not reliably discriminate the best cropping land from other land. The threshold limits are generally too low. This has two broad consequences; viz. (i) their usefulness is restricted to merely identifying land that is not suitable for viable farming, as opposed to distilling the :best" cropping land from all other, and (ii) any viable cropping land is generally identified as SCL." Palaris (2011), reproduced at Attachment 1. The Australian Society of Soil Science Inc. (ASSSI) provided a submission to DERM on 21 July 2011 (reproduced her as Attachment 2), in which they stated there were 'dismayed at the creation of yet new criteria to identify the most productive cropping land" and highlighted "critical errors of fact" in relation to the criteria. It appears that the ecommendations of Palaris and ASSI were not adopted by DERM. Recommendation: Remove the criteria from the Act (part 2) and place in subordinate regulation or similar. Given the grave concerns expressed by Palaris and ASSI it is likely that the criteria and threshold values will need significant amendment post-implementation. This will more easily be achieved is the criteria and threshold values are listed in regulation or guidelines.	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee. Including the criteria and thresholds in the Bill satisfies the requirements of the *Legislative Standards Act 1992*. The criteria are a fundamental part of the Bill and will determine how the Act will affect individuals' rights and liberties. Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. These matters can include advice on the criteria and the thresholds. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016.
049	**Sub 1 Charles Nason**	When a property has a cropping history - Cropping history test poor criteria to identify SCL for the future	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. Land within the Protection Areas will be afforded the highest protection by the new legislation as these areas are under imminent development pressure. For land to be validated as SCL in a protection area, land must meet the SCL criteria and thresholds for the relevant zone (schedule 1 of the Bill). The Management Area includes many regions that are important to Queensland's cropping and horticultural industries and so will have new development assessment obligations compared to current arrangements. For land to be validated as SCL in a management area, land must meet the SCL criteria and thresholds for the relevant zone (schedule 1 of the Bill) and have a history of cropping. Clause 49 and 50 set out the requirements of demonstrating cropping history. The Bill is consistent with this announced policy.

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049	**Sub 21 Xstrata Coal**	Cropping History Test - The test for cropping history is extremely week, to the extent that it will prove largely irrelevant. A total of 3 crops or, worse yet, 3 cultivations, in a 12 year period would hardly indicate the land is of value for food production security. Recommendation: Substantially re-write this section o require a cropping frequency of a least 6 crops in 12 years. Delete frequency to cultivation only, as this would only serve to reward poor farming practice.	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. This announcement identified that for land to be validated as SCL in a management area a history of cropping must be demonstrated. Clause 49 is consistent with this announcement and sets out the requirements of demonstrating cropping history.
049	**Sub 27 Moreton Bay Regional Council**	When a property has the required cropping history - The criteria for determining "required cropping history" under section 49(1) is expressed in terms of specified uses operating on any of the property. That criteria should be expressed in terms of the majority of the property so as to negate the effect of a tiny incursion triggering a decision that "required cropping history" has been shown. The term "timber plantation" is used for determining "required cropping history" in section 49(1)(b). That term needs to be defined, especially given the statement in subsection (2)(b) that the materials do not need to be for sale as well as the specific exclusion in section 50 that cropping history does not apply to "domestic purpose" activities. (Note that the term "domestic purpose" in this context also needs to be defined/quantified.	The provision as drafted is consistent with government policy. Section 32A of the *Acts Interpretation Act 1954* provides that words are to be read in the context provided by the Act. Therefore where a word is not defined the ordinary meaning of the word must be relied upon in the context of the legislative provision.
049	**Sub 36 Growcom**	The requirement for a property to have been cropped three times in the last 12 years is concerning. Growcom is aware of land which was formerly cropped that is now grazed due to changed rain patterns. Were irrigation to be introduced in this area, it could again be cropped.	Clause 49 of the Bill provides that the 12 year period in which a property must have been cropped is between 1 January 1999 and 31 December 2010. This period, which is static, was specifically chosen because it includes at least two periods of above average rainfall for most areas of the State in which cropping occurs. Climate was considered in setting the boundaries of the five criteria zones to reflect the different cropping systems and climatic variations across the State. However, the Bill does not include irrigation water availability due to its dependence on issues not related to the quality of the soil resource and the potential for perverse outcomes (for example, the sale of water rights which would affect the land's status as strategic cropping land).
049	**Sub 42 Queensland Resources Council**	When a property has the *required cropping history* - The interpretation of the test has been dramatically watered down, to the point where it is difficult to imagine that the test will provide any useful filter at all. Specifically: (1)(b) perennial crops existed on the property. (2)(a) the use of the rest of the property is not considered. (2)(b) the crops do not need to be for sale. It is ridiculous that an abandoned orchard, from which fruit has not been harvested during the last decade, and which has gone wild, could be treated as having a 'cropping history' over that period. While the drafting does not contradict the original policy of 3 or more crops, the very loose definition of crops over the entire property mean that the test is unlikely to filter out any land. QRC recommends deleting 2(a) and (b) and substantially rewriting 1(b). (Sub 42, Att p.11)	Section 49 provides that a property has a required cropping history if the criteria are met on parts of the property. Further, the cropping history decision is applied in conjunction with the zonal criteria decision before a validation decision is made to record an area as decided SCL or decided non-SCL.
049	**Sub 43 Qld Murray - Darling**	QMDC is concerned that this clause poses a risk to the protection of SCL because developments are likely to occur within existing and/or future food production areas. Failure to protect "agricultural areas" will impact on	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. This announcement identified that for land to be validated as SCL in a management area a history of cropping must be demonstrated.

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	Committee Inc.	landscape features that support agricultural systems, resulting in either complete losses of agricultural uses on affected lands or diminished productivity and future cropping opportunities. QMDC argues that by focusing on existing land use and a 3 year cropping history is not acceptable. It is either SCL or not according to scientific criteria. The opportunity to secure strategic cropping areas that will prove invaluable as climate refugia for cropping in the future is being overlooked.	Clause 49 is consistent with this announcement and sets out the requirements of demonstrating cropping history.
049	**Sub 52 Environmental Defenders Office**	When a property has the required cropping history - Potential for future cropping activities must be a relevant consideration in classifying land in the Management Area as SCL. The Committee will note that the failure to demonstrate the required cropping history, as it is defined in clause 49, requires a validation decision that the land is non-SCL.	On 31 May 2011, the Government announced the implementation of the SCL policy through a management area and protection areas and maps of these areas were released. Two protection areas were identified: The Central Protection Area which includes the 'Golden Triangle' region of Central Queensland near Emerald; and The Southern Protection Area which includes the Darling Downs, Lockyer Valley, Granite Belt and South Burnett. The Bill is consistent with the Government's announced policy.
049	**Sub 54 Origin Energy**	When a property has the required cropping history - The Government has previously stated that in order for land in the management area to be classified as SCL, the land would need to have a history of crop-ping in addition to meeting the SCL criteria. Origin has understood, from its reading of consult-ation material and guidelines that the history would apply to individual parcels of land (ie. individual lots). S.49 of the legislation applies to the requirement to a property instead of land. The term 'property' is defined in section 46 as a contiguous area consisting of a lot or lots that are owned by the same person, or have one or more common owners, or are managed as a single architectural unit. Origin is concerned such a blanket requirement does not sufficiently identify areas which truly are suitable for cropping but instead allows for larger areas of land to be sterilised from future resource development. It should be noted that there are large areas of Queensland where properties consisting of contiguous lots covers significant land areas. Origin requests that Bill be amended to require that cropping for the harvesting of grain has to have physically occurred on individual parcels of land for a period of more than three years.	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. This announcement identified that for land to be validated as SCL in a management area a history of cropping must be demonstrated. Clause 49 is consistent with this announcement and sets out the requirements of demonstrating cropping history. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. On 8 September 2011, guidelines for applying the proposed criteria at a property level were released as well as an online mapping tool. No guidelines have yet been released for demonstrating cropping history.
049 and 50	**Sub 41 Queensland Law Society**	When a property has the *required cropping history* - Things that are not crops for required cropping history The historic cropping test in S49 an S50 is quite different from what was previously set out in the factsheet published on the DERM website. In particular there are new provisions that even if a tiny part of a large property was used for cropping, 'it does not matter to what use the rest of the property was put during the relevant period'. Why does it not matter? It is pleasing to note that some items for domestic purposes are no longer included, but there is still a question about items such as orchards which have not been harvested commercially or otherwise for more than a decade and have simply been abandoned. (Sub 41, p.3)	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. This announcement identified that for land to be validated as SCL in a management area a history of cropping must be shown. Clause 49 and 50 set out the requirements of demonstrating cropping history and provides for things that are not crops when demonstrating required cropping history.

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050	**Sub 42 Queensland Resources Council**	Things that are not crops for required cropping history - Section should explicitly exclude crops grown on the property for the purpose feeding of livestock on the property. The previous policy statements have not indicated that the legislation would have such a broad coverage (i.e. to include fodder). The schedule 2 dictionary also refers to any form of cultivated crop for any purpose including for example, fodder. QRC recommends that, as a minimum, it should be made clear in section 50 and the dictionary that crops for the purpose of livestock food which they forage for themselves is excluded. Preferably, all types of fodder should be excluded. (Sub 42, Att p.11)	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. This announcement identified that for land to be validated as SCL in a management area a history of cropping must be demonstrated. Clause 50 provides for things that are not crops when demonstrating required cropping history.
050	**Sub 43 Qld Murray - Darling Committee Inc.**	This clause is not supported as per above comments.	On 31 May 2011, the Queensland Government announced the implementation of the policy through Protection and Management Areas. This announcement identified that for land to be validated as SCL in a management area a history of cropping must be demonstrated. Clause 50 provides for things that are not crops when demonstrating required cropping history.
053	**Sub 42 Queensland Resources Council**	Application of div 2 - This [14 days] seems a very generous allocation of time [for the chief executive to decide whether to accept an application]. QRC suggests that it should be done within 3 business days. (Sub 42, Att p.11)	Clause 53 refers to the time period (14 days) after which the applicant can commence the public notice process under clause 55. The 14 day time period to assess and request a requisition is consistent with similar provisions in other legislation e.g., the SPA provides an assessment manager 10 business days to give the applicant an acknowledgement notice for a development application.
054	**Sub 25 P.R. Ingram**	Notification - Consultation and disclosure for project that will impact on landholders private and business lives, must be better managed.	Clause 54 provides that the applicant must give a copy of the application to owners of the land being validated. Clause 55 of the Bill provides that an applicant seeking to validate land as SCL or not SCL must publish a notice in a newspaper circulating in each local government area that includes the land. Public submissions may be made to the chief executive who must consider these submissions (clause 69) when deciding whether the land is SCL or not SCL. Similar public notice requirements apply to an applicant for exceptional circumstances (clause 121). Developments will still be subject to existing public notification requirements under other legislation, for example, the environmental impact statement requirements under the *Environmental Protection Act 1994* or *State Development and Public Works Organisation Act 1971.* The Bill does not impact on the existing public notification requirements.
054	**Sub 42 Queensland Resources Council**	Notice to owners - -S54(2) - It could be difficult to ascertain whether someone is negotiating to purchase land from the State – item 1(c) of the definition of 'owner'. Also, for item (h), this could include unregistered tenants (ie, for leases under 3 years) and various other unregistered interests. QRC suggests that this section be amended to be "make best endeavours to contact the owners". This should be satisfied by writing to persons named in publicly searchable land and resource tenure registers, at the addresses provided in such registers. (Sub 42, Att p.12)	Clause 54 ensures that all owners are made aware of applications being made by parties other than themselves.
055	**Sub 27 Moreton Bay Regional Council**	Public notice of application - Section 55 requires that public notification of a "validation application" be made as soon as practicable "after making the validation application". This is contrary to the time stated in section 53. (20) Section 55(2)(h)(ii) also requires that submissions address "...the	The effect of section 53 is to prevent an applicant publishing a public notice under section 55 until the requirements stated in clause 53 have come to pass. Drafting errors and other minor errors may be amended prior to the Bill being passed by the Parliament.

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		matters mentioned in section 44..." There are no specific matters mentioned in that section.	
055	**Sub 42 Queensland Resources Council**	Public notice of application - S55(3) - This section requires the applicant to take responsibility for the comprehension ability of the public – some examples would help reduce this risk. QRC suggests that Some examples in notes would help reduce the uncertainty about what level of information is required. (Sub 42, Att p.12)	Clause 55(3) provides a description of the land is sufficient only if it allows members of the public to identify the land's location without conducting a land registry search. This requirement is to ensure an interested person can readily identify the land on which the application is being made.
055	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC recommends that a set timeframe should be stipulated for the publishing of an application notice (See clause 55(1)). QMDC recommends the submission period should be extended to 28 days to allow for better community engagement and real public time to make a submission (See clause 55(4)).	Clause 55(1) provides that, as soon as practicable after making the validation application, the applicant must publish a notice about the application in a newspaper for public notification. Clause 55 (4) provides for public notice for submissions about a validation application. It provides for a submission period of not less than 21 days. This does not prevent a longer time period being provided for the submission period. The timeframe established in the Bill is consistent with the timeframes established for public notification on IDAS development applications under the *Sustainable Planning Act 2009*.
055 and 56	**Sub 42 Queensland Resources Council**	Public notice of application - Acceptance of submissions - [requiring public notice and submissions period in all situations] may unnecessarily delay development even if the land is clearly not SCL (e.g. has already been permanently alienated or not cropped for a long period of time). QRC recommend that the Chief Executive of DERM should have discretion to decide to not publicly notify if evidence that land doesn't pass cropping history test is satisfactory to the Chief Executive and the applicant is also the landowner. In this case the Chief Executive should be able to go straight to the decision. (Sub 42, Att p.12)	Clause 55 provides for a consistent approach to validation applications in all circumstances which gives the public an opportunity to make a submission against an application.
056	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC recommends that the reasons for the Chief Executive to accept a submission about a validation application be recorded and made publically available (See clause 56(2)).	Clause 56(1) provides for when the chief executive must accept a submission and Clause 56(2) provides that the chief executive may, but need not, accept a late submission made about a validation application.
057	**Sub 27 Moreton Bay Regional Council**	Amending application - Section 57 prevents certain types of amendments being made to validation applications after they are advertised for public submissions. This should be revised to allow the amendments to be made on the condition that the application is then readvertised.	The Bill does not prevent an application being re-advertised.
060	**Sub 21 Xstrata Coal**	Zonal criteria - Refer to response above	No response required.
061	**Sub 27 Moreton Bay Regional Council**	Validation Decision if any of the land is zonal criteria compliant - Section 61(2)(b)(ii) indicates that the minimum land area requirement for determining compliance with "zonal criteria" can be achieved by combining the area of the land covered by the "validation application" with contiguous "potential SCL". This becomes a nonsense if that "potential SCL" is subsequently shown not to be suitable for inclusion as SCL.	The provisions allow the chief executive to consider adjoining areas not subject to an application for validation decision.
061	**Sub 42 Queensland**	Validation decision if any of the land is zonal criteria compliant - S61(2)(b) - The drafting of this clause would seem to completely	Clause 61 (2) (b) provides for a validation decision to be made on the soil resource boundaries.

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	Resources Council	undermine the policy intention of having a minimum land size as part of the assessment. QRC recommend deleting application to 'potential' SCL. It seems to introduce a new SCL principle of contiguity by stealth, which has never been discussed in any of the policy documents. (Sub 42, Att p.12)	*Protecting Queensland's strategic cropping land: Guidelines for applying the proposed strategic cropping land criteria* released in September 2011 provides the approach for estimating the size of a SCL map unit, including considering areas adjoining the validation application area.
061	**Sub 42 Queensland Resources Council**	Validation decision if any of the land is zonal criteria compliant - S61(2)(b)(iii) - This clause references the definition of SCL in S4, but ignores the fact that this land is defined as potential SCL and hence covered under (ii). As drafted (iii) would seem to give extraordinary discretion to the chief executive. QRC recommend that S61(2)(b)(iii) must be deleted, and that the references to "any of the land" S61 and 2b must be deleted.	Subclause 61 (2) (iii) provides for the chief executive to make a decision about whether or not the land is decided land using the best available information. The chief executive may consider the soil resources on adjacent lots in order to determine the size of the soil resource irrespective of property lot or tenure boundaries.
061	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC asserts that the nominated minimum sizes may well result in loss of SCL through material change of use in development sites less than 100, 50, or 5 hectares or the minimum size prescribed under clause 35(1). These areas are likely to be significant in quantity and the overall impact on SCL and adjoining uses. A likely outcome is a fragmented landscape.	The specified minimum sizes were identified in the proposed criteria that were publicly released on 14 April 2011 and *Protecting Queensland's strategic cropping land: Guidelines for applying the proposed strategic cropping land criteria* released in September 2011.
061, 065, 066 & 068	**Sub 27 Moreton Bay Regional Council**	What has to be decided for a Protection Area What has to be decided for the Management Area The meaning of the term "decided land" as it appears in sections 61, 65, 66 and 68 needs to be expanded to make it clear that it only applies to the part of the land that is shown to be "zonal compliant", rather than all of the land covered by the application.	Drafting errors and other minor errors may be amended prior to the Bill being passed by the Parliament.
062	**Sub 16 Friends of Felton**	What is the minimum size - Minimum size should reflect the land area required for a viable food producing enterprise in the zone. Minimum size is too large for Eastern Darling Downs. Recommend it be reduced to 10 hectares as per Coastal, Granite Belt and wet tropics zones.	The minimum sizes were determined by agronomists and land resource specialists, to identify areas of high quality cropping land that is suitable for a broad range of crops (for example, by excluding small or poorly configured areas that are not suitable for standard cropping systems). The specified minimum sizes were identified in the proposed criteria that were publicly released on 14 April 2011 and *Protecting Queensland's strategic cropping land: Guidelines for applying the proposed strategic cropping land criteria* released in September 2011.
062	**Sub 21 Xstrata Coal**	Minimum land requirements - It is unclear to what land these minimum land area requirements will apply, ie. will they apply to the real property lot area, the criteria compliance SCL area or other land? The policy intent has always been that the minimum land area requirements apply to areas demonstrated to be SCL only. Recommendation: Amend the wording o this section as follows - "the ***minimum size***, for SCL, is the following size for the following Zones-…"	Clause 62 of the Bill provides for a minimum size for land that will be considered SCL when applying the SCL criteria. The criteria are focused on the soil resource and are not assessed at property of paddock level. The minimum size requirements apply to the minimum size of the soil resource that may be identified as SCL. The minimum sizes were determined by agronomists and land resource specialists, to identifying areas of high quality cropping land that is suitable for a broad range of crops (for example, by excluding small or poorly configured areas that are not suitable for standard cropping systems). The specified minimum sizes were identified in the proposed criteria that were publicly released on 14 April 2011 and *Protecting Queensland's strategic cropping land: Guidelines for applying the proposed strategic cropping land criteria* released in September 2011.
062	**Sub 36 Growcom**	Recommend no minimum property size be included in the Bill.	This comment appears to relate to clause 62 of the Bill which provides for a minimum size for land that will be considered SCL when applying the SCL criteria. The criteria are focused on the soil resource and are not assessed at property or paddock level. The minimum size requirements apply to the minimum size of the soil resource that may be identified as SCL, not a property. The minimum sizes were determined by agronomists and land resource specialists, to identifying areas of high quality cropping land that is suitable for a broad range

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			of crops (for example, by excluding small or poorly configured areas that are not suitable for standard cropping systems). The specified minimum sizes were identified in the proposed criteria that were publicly released on 14 April 2011 and *Protecting Queensland's strategic cropping land: Guidelines for applying the proposed strategic cropping land criteria* released in September 2011.
062	**Sub 42 Queensland Resources Council**	What is the *minimum size* - These minimums, which perform as a de facto SCL criteria, do not need to be set out in legislation. If the legislation was less rushed, they would be in a regulation. QRC recommend that this clause be removed from the Bill. (Sub 42, Att p.13)	The specified minimum sizes were identified in the proposed criteria that were publicly released on 14 April 2011 and *Protecting Queensland's strategic cropping land: Guidelines for applying the proposed strategic cropping land criteria* released in September 2011. OQPC have advised that the legislation is the appropriate location for the criteria.
062	**Sub 42 Queensland Resources Council**	What is the *minimum size* - S62(d) - Given the far-reaching consequences of establishing new zones, QRC believes that they should be established under legislation (after a genuine consultation process and full RAS). QRC recommends deleting this section. (Sub 42, Att p.13)	Clauses 35 to 37 provide for the Minister to make a zonal or protection area amendment. Clause 35 provides that the Minister must undertake public consultation on changes to zonal or protection area amendments.
062	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC is concerned by the references to minimum land or part of land sizes and recommends that the legislation should be reflective of wider landscape values so that fragmentation is avoided. All SCL should be protected and there should be no minimum area assigned to that protection. These requirements remain controversial. QMDC is of the view that 100 hectares for the Western Cropping Zone is too large. Our basis for this concern is that properties across this zone cover a wide range in terms of size and crop type. In the Eastern Darling Downs Zone, many properties supporting horticultural crops are less than 50 hectares. Parts of the Eastern Darling Downs zone are being promoted as a horticulture precinct by DEEDI which will result in high value, highly intensive horticulture in the near future. The risk of the proposed framework is that development (mining, residential or other non-agricultural uses) is likely to occur within existing and/or proposed food production areas resulting in a fragmented landscape with inadequate buffers.	The minimum sizes were determined by agronomists and land resource specialists, to identify areas of high quality cropping land that is suitable for a broad range of crops (for example, by excluding small or poorly configured areas that are not suitable for standard cropping systems). The specified minimum sizes were identified in the proposed criteria that were publicly released on 14 April 2011 and *Protecting Queensland's strategic cropping land: Guidelines for applying the proposed strategic cropping land criteria* released in September 2011.
065	**Sub 42 Queensland Resources Council**	Decision if application only addresses required cropping history - S65(2) - See comments regarding S45 above. There will be many cases where only a small part of a property will have a cropping history. It is therefore inappropriate to decide that a cropping history applies to the whole property. QRC recommend that the clause be amended to enable cropping history decisions to be made for sub-property areas. (Sub#, Att p.113)	The Bill provides that all of a property has a required cropping history if the criteria are met on parts of the property (s49). Further, the cropping history decision is applied in conjunction with the zonal criteria decision before a validation decision is made to record an area as decided SCL or decided non-SCL. Clauses 65 to 68 provide for how various combinations of applications for cropping history and zonal criteria decisions can occur over time.
065	**Sub 42 Queensland Resources Council**	Decision if application only addresses required cropping history - S65(6)(b) - The drafting of this clause would seem to completely undermine the policy intention of having a minimum land size as part of the assessment. QRC recommend that this section be deleted. Delete this section. It seems to introduce a new SCL principle of contiguity by stealth, which has never been discussed in any of the policy documents.	Subclause 65 (6) (b) provides for SCL assessment based on soil resource boundaries rather than property or tenure boundaries. This is consistent with *Protecting Queensland's strategic cropping land: Guidelines for applying the proposed strategic cropping land criteria*. Released in September 2011.

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		(Sub#, Att p.113)	
066	**Sub 27 Moreton Bay Regional Council**	Decision if application only addresses zonal criteria-Section 66(3) stipulates that "if the applicant is only an eligible person for part of the property, a criteria decision can not be made for the rest of the property." It is unclear how that restriction is to be applied to an area of land that is under joint ownership as opposed to different parts owned by different persons. It is also unclear why this same provision has not been applied to land within a "protection area".	The Clause relates to the circumstance where a cropping history decision has been made following an application by a person who is an eligible person for the property and subsequently a person applies for a zonal criteria decision. The sub-clause ensures that the validation decision is only made for the area for which the subsequent applicant is an eligible person.
070	**Sub 42 Queensland Resources Council**	Decision period - This [3 months for the chief executive to make a validation decision] seems like an inordinately long time and inconsistent with the brief period allowed for submissions. QRC suggests that 15 business days should be sufficient. (Sub 42, Att p.14)	Clause 70 provides for a period in which the decision on validation must be made by the chief-executive, which is generally 3 months or 3 months after the applicant has responded to an application requisition. This is a *maximum* timeframe for the chief-executive to make a decision.
071	**Sub 42 Queensland Resources Council**	Noting and taking effect of decision - S.71(1)(b) – the chief executive should be responsible for contacting all tenure interests affected by the decision. QRC suggests that the section be reworded so the Chief Executive contacts all affected tenure interests. (Sub 42, Att p.14)	Subclause 71 (1) (b) provides that the chief executive must give the applicant and any other eligible person for the land an information notice about the validation decision as soon as practicable after it is made. Clause 41 defines an eligible person and includes someone who has applied for tenure.
071	**Sub 52 Environmental Defenders Office**	Notice and taking effect of decision - Clause 71(b), which deals with validation decisions, requires a decision notice to be given to "any other eligible person the Chief Executive ought reasonably to be aware of". While it goes further than clause 129, it is unclear who is entitled – and can therefore expect – to receive notification of the decision. Clauses 129 and 71(b) should be amended to clearly state that copies of decisions be given to, at a minimum: the applicant; the owner or owners of the land; the owner or owners of all adjoining land; the relevant local government authority; and any person or persons that made a submission during the public notification period.	Clause 71 (1) provides an example of "any other eligible person the Chief Executive ought reasonably to be aware of" being a person with an interest in the land recorded in a land registry. Clause 241 provides that the chief executive must keep a register showing the outcome of validation decisions, SCL protection decisions and exceptional circumstances decisions. Clause 242 provides that the chief executive may keep the decisions register published on the department's website and must make the register available for inspection and purchase.
072	**Sub 42 Queensland Resources Council**	Effect of validation decision - S72(3)(a) – S55(30 requires applicants to provide a sufficient description of the land – such that a member of the public can identify the land's location without conducting a land registry search. QRC recommends amending the section to require the chief executive to also provide a sufficient description of the land. (Sub 42, Att p.14)	This comment relates to clause 74 (3) (a) which relates to how to record a note on title about SCL for a particular lot plan once it is validated. This is different to s55 (3) which is about identifying the land in a public advertisement – per the ex notes, the description must allow an interested person to identify the land to decide whether to make a submission.
073	**Sub 42 Queensland Resources Council**	Appeal to Planning and Environment Court - For resource projects, the Land Court would seem to be the appropriate body. QRC recommend that the section is amended to allow resource projects to appeal to the Land Court. (Sub 42, Att p.14)	The provision provides for a single jurisdiction in relation to validation decisions. The Bill provides in Clause 108 that decisions under Chapter 3 Part 4 **Strategic cropping land protection assessment for environmental and resource authorities** may be appealed to the Land Court.
073	**Sub 52 Environmental Defenders Office**	Appeal to Planning and Environment Court - Rights to appeal decisions, such as validation or exceptional circumstance decisions, in the Queensland Planning and Environment Court and Land Court of Queensland should be extended to submitters. This approach is consistent with third party rights under the *Sustainable Planning Act 2009*, and, to a degree, in Queensland's resource laws.	Submitters to have an appeal avenue under Judicial Review where they can demonstrate standing.

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		There is no evidence that submitter appeal rights open the floodgates in terms of litigation. Costs provisions in those Courts already exist to minimise frivolous or vexatious conduct.	
076	**Sub 42 Queensland Resources Council**	Development with a permanent impact - It would seem odd to treat the protection of SCL and potential SCL as equivalent, particularly given the ability to generate new potential SCL via regulatory amendments. QRC recommends rewording of the section. A maximum penalty should be stated for a corporation. If it is the same for an individual then it should be clarified. (Sub 42, Att p.15)	Potential SCL is land for which the validation decision has not yet been made to confirm SCL. A range of matters including the SCL status of the land would inform a court's consideration of penalties in relation to an offence.
077	**Sub 41 Queensland Law Society**	Development with a temporary impact - In contrast [to providing a framework for offsets and legal mechanisms for the management of offsets] , penalising the productive use of 'potential SCL' even for temporary purposes (under s77), where the landowner does not want to use the land for cropping purposes, does not appear to have any possible justification, on the face of it. On the other hand, if 'potential SCL' had been mapped only from the perspective of creating a 'pool' of land for offset purposes, this would have increased the value of that land and created a commercial incentive for the land to be actively managed for actual cropping purposes. (Sub 41, p.2)	Chapter 2 part 1 of the Bill outlines the purposes of the trigger maps. The purpose of the trigger map is to identify land that is potential SCL and must be validated or elected to be treated as SCL, prior to a development undergoing an assessment to determine its impacts on SCL and what conditions, if any, the Chief Executive may place on the development.
078	**Sub 24 Cement Concrete and Aggregates Australia**	Exemptions - Sand and gravel resources are becoming more difficult to source, and are often located often under cropping land. In addition, hard rock deposits, such as basalt, may also occur in cropping land areas. This has been recognised by the Government through the provisions of the Bill which exempt Key Resource Areas from Strategic Cropping Land provisions. We are very supportive of these provisions, and acknowledge the Government's willingness to address industry's earlier concerns on this matter. (Sub. 24, p. 1).	Key Resource Areas identified under State Planning Policy 2/07: Protection of Extractive Resources are made exempt from the development assessment triggers under clause 291.
078	**Sub 41 Queensland Law Society**	Exemptions - S78 protects developments authorised under a development approval, but this would not assist if the existing approval is a preliminary approval, or the first in a series of approvals which contemplated related approvals (such as a material change of use approval contemplating operational works and building works). There are obvious concerns about this impact on the rights And liberties of individuals under S4 of the *Legislative Standards Act 2011*, including retrospective impacts under S4(3)(g). (Sub 41, p.3)	Clause 78 provides for an exemption of carrying out of development that is authorised under a development approval – this includes development approvals issued for MCUs and preliminary approvals. The Bill does not provide for operational works triggers. On 23 August 2010, government announced its strategic cropping land framework. On 31 May 2011, the government that resource projects not well advanced in the approvals process would be subject to the full effect of the legislation to be introduced. Chapter 9 of the Bill provides for transitional arrangements for eligible developments. The Bill is generally consistent with the fundamental legislative principles.
078	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC is concerned that because of the number of resource activities proposed in EIS and EA applications that either involve major soil movement, long term storage dams or facilities or have inherent contamination risks then should the land associated with these projects be deemed strategic cropping land it will not be able to be reinstated or fully restored to strategic cropping land condition. The development would	This clause provides exemptions to offences of causing temporary or permanent impacts on SCL, where the impacts of a development have been permitted through a development approval or resource authority.

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		therefore permanently alienate rather than temporarily diminish productivity. QMDC recommends the removal of clause 78(1)(b). QMDC submits that thorough and detailed rehabilitation research programmes have not yet demonstrated that mining prime agricultural land is only a temporary cessation to agricultural production and that disturbed landscapes and soils can be reconstructed to pre-mine capability and productivity. In order to return the soil close to its original state (and cropping potential), entire soil profiles would have to be cut into layers and then stockpiled separately and replaced, in order, after mining. Mixing of the soil profile is likely to result in depression of crop yields due to the increased salinity and exchangeable sodium percentage in the upper layers. Additionally, the stockpiling of soil, which would be necessitated because of the restraints of the mining process, would result in organic matter breakdown in the surface layer and in the dispersion and erosion of the subsoil layers. If the projects stockpiled a pile of topsoil for 10 years, most of it would be anaerobic. It would lose its biology and structure. Another consideration is that if any proposed facilities are to be situated in flood prone areas this will mean that flooding poses the risk of further damage to stockpiles. The potential impacts of the Project on the cropping soils could include a reduction in the yield potential of the reinstated soil, loss or reduction of underground water supplies and dust impacts on surrounding crops.	
080	**Sub 28** **P&E Law**	SPP for SCL - Questions the need for another SPP given SPP1/92 already in place	The August 2010 SCL policy framework released by the Government provided that SPP1/92 would continue. Clause 3 of the Bill provides that the purpose of the Bill is to protect land that is highly suitable for cropping. State Planning Policy 1/92 Development and Conservation of Agricultural Land (SPP1/92) continues to apply to a broader range of agricultural land.
081	**Sub 42** **Queensland Resources Council**	Standard conditions code - S81(1) – This will be very important for exploration and other low-impact activities. QRC suggest some examples would help clarify the intent of the section. (Sub 42, Att p.15)	Clause 81 provides for a regulation to make a code about how resource activities may be carried out on SCL or potential SCL. It cannot permit a resource activity that has a permanent impact to be carried out on SCL or potential SCL in a protection area. Any resource activities that cannot meet the code must be assessed and conditioned in accordance with Chapter 3, Part 4.
081	**Sub 43** **Qld Murray - Darling Committee Inc.**	QMDC asserts that the regulation and standard conditions code must address construction, operations, products and wastes in context of resource activities. This includes: best environmental practices; the cumulative impacts of the resource activity in relation to numbers of wells, mines, infrastructure and waste produced on SCL etc; whether an impact on water supporting SCL will have a permanent impact on SCL. Protecting SCL and associated soils requires addressing the need to protect water. If land achieves the versatile cropping land classification it is because of access to groundwater as well as cropping reliability etc; what area of land or size of footprint triggers the indicator that productivity has been temporarily diminished or permanently impacted on; at what point does volume and configuration impact on productivity; whether	Clause 81 provides for a regulation to make a code about how resource activities may be carried out on SCL or potential SCL. It cannot permit a resource activity that has a permanent impact to be carried out on SCL or potential SCL in a protection area. Any resource activities that cannot meet the code must be assessed and conditioned in accordance with Chapter 3, Part 4. Environmental impacts, for example protection of water, products and waste, are addressed in the Environmental Authority issued under the Environmental Protection Act 1994.

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		creating a buffer zone will protect cropping capacity from a resource activity etc; whether the site can be "fully restored" back to the parameters in the original land suitability assessment and demonstrate how this is possible based on peer reviewed scientific evidence; and that there are no alternative sites.	
082 – 088	**Sub 9 Cassowary Coast Regional Council**	Development approvals - If these provisions are necessary, they should be in the SPA.	The February 2010 discussion paper released by the Government for public consultation outlined a proposed planning framework to conserve and manage the strategic cropping land. The framework proposed a state wide approach to ensure the State's strategic cropping land resources would be given the same consideration against all types of development—whether developments assessed under the *Sustainable Planning Act 2009* or resource developments (which are not assessed through the *Sustainable Planning Act 2009*). The feedback received on the discussion paper informed the August 2010 policy framework released by the Government. The August 2010 policy framework proposed that the following legislative and planning instruments would be developed: A new Act specifically for SCL A new State planning policy under the *Sustainable Planning Act 2009* for SCL to address SCL requirements for development assessable under *Sustainable Planning Act 2009*;, and Amendments to existing resources legislation to recognise the requirements of the new SCL Act for resources developments. The Bill fits into existing processes established under the *Sustainable Planning Act 2009* and resources legislation. Clauses 83 – 88 of the Bill, setting out the requirements for development applications, apply not just to developments assessable under *Sustainable Planning Act 2009* but also to development applications under the resources Acts.
083 – 088	**Sub 9 Cassowary Coast Regional Council**	Requirements for development applications - The need to comply with provisions of this division otherwise application is not properly made is onerous and will increase applications costs.	Clauses 83 – 88 of the Bill set out the requirements for development applications. These clauses provide that a development application must include information about matters such as the development's location, the development footprint and how it relates to SCL or potential SCL, and an assessment of the impacts of the development on SCL or potential SCL. These requirements are necessary for the chief executive to conduct an assessment and make a decision.
084	**Sub 9 Cassowary Coast Regional Council**	Requirement that land be, or elected to be treated as, SCL - Requirement for an applicant to either obtain a validation decision or elect to treat land as SCL is onerous – nearly all applications outside urban footprint in Cassowary Coast region will be affected. It means that an applicant either has to accept the consequences of having their land classified as actual SCL, or instead go through a costly and complicated process to seek a determination on the SCL status of their land before being able to make an application.	Clause 84 requires that applications must state that land is SCL and include, or be accompanied by a copy of a relevant information decision about a validation decision or a registry record (SCL), or if the land is potential SCL - that the applicant has elected to treat this part as applying to the application as if the land were SCL. Clause 82 requires that this applies for development under IDAS on SCL or potential SCL. However this should be read in the context of the Integrated Development Assessment System (IDAS) under the Sustainable Planning Act 2009 and clauses 290-292 of the Bill. Clauses 290 – 292 of the Bill create triggers and exemptions for the concurrence agency jurisdiction for assessing SCL. Therefore the requirements under clause 84 to validate or elect to accept the trigger map will only apply to developments triggered under clause 290 (eg material changes of use, other than a use or in an area mentioned in schedule 13A, of a lot of 5ha or larger if the footprint for the change of use is wholly or partly on SCL or potential SCL and more than 750m2).
084	**Sub 42 Queensland Resources Council**	Requirement that land be, or elected to be treated as, SCL - While the section falls under a heading of Development Approvals, DERM indicated that this path is also open to resource projects. QRC suggest that it is difficult to see any benefits from this approach. (Sub 42, Att p.15)	Clause 96 provides the application requirements for development applications in Part 3 Division 2 apply for environment and resources authorities. This provides for consistent application requirements and avoids duplication of drafting.

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085	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC support the identification and description of all the "footprint of the development" - QMDC however recommends the inclusion of pipelines, communication towers, power lines and poles, and telemetry infrastructure in the footprint (See clause 85 (2)(b)).	Clause 85 (2)(a) does not exclude the types of infrastructure mentioned .
090	**Sub 42 Queensland Resources Council**	Application and operation of pt 4 - S90(2) – the status of SCL should be as at the time of an application, not moving the goal posts after the investment in an EIS has already been made. QRC suggest that rather than flirting with retrospectivity, an application should be assessed under the rules that applied at the time of application. Should not apply to 'potential' SCL. (Sub 42, Att p.15)	Tenure applicants are able to validate the area of their development under Chapter 2 s40-41 to provide certainty or elect to accept the map for the purposes of their project assessment. There is no retrospectivity associated with this provision.
092	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC supports this clause.	No response required
092	**Sub 45 Peter Boulot**	Given that S92 requires a SCL protection decision before EIS approval for the resource activity, how will this act provide any meaningful legal protection with no definition of protection nor any entrenched limitations to its demise for the current and for future generations' food security? (Sub 45, p.1)	Clause 92 of the SCL Bill requires that the SCL protection decision must be made prior to the granting of an environmental authority.
093	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC would expect the Act to provide a definition on what is deemed an 'exceptional circumstance' and not [rely] solely on a regulation yet to be written.	Chapter 4 of the SCL Bill outlines the sole criterion to be considered for the elements of an exceptional circumstances decision for a proposed development. Clauses 113 and 114 provide for a regulation to prescribe a type of development to be in exceptional circumstances and set out the necessary considerations and public submission processes required before the regulation can be made.
096	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC support the identification and description of all the "footprint of the development" as per clause 85 (2)(b). QMDC however recommends the inclusion of pipelines, communication towers, power lines and poles, and telemetry infrastructure in the footprint (See clause 96(b)).	Clause 96(b) includes infrastructure or proposed infrastructure relating to the resource activity.
098	**Sub 42 Queensland Resources Council**	What must be decided - S98(1)(b) - The definition in S20 of either the tenure or the EA as the source authority means that the regulator can attach conditions to either – without reference to which was being considered. This clause is particularly alarming when read in conjunction with S22(b) which means an application for an amendment, renewal or re-grant can trigger the assessment. QRC feels there is a lack of understanding of mining tenure in this provision or an opportunity to capture further developments that otherwise would be exempt. QRC recommends that the conditions are attached to the EA and not the tenure. (Sub 42, Att p.16)	This is consistent with the August 2010 framework which stated that conditions would be on tenure — page 7 "amendments will require assessment of the impact on SCL and will condition tenure accordingly. Further conditions for restoration and other environmental matters will continue to be addressed under the EP Act 1994".
098 – 099	**Sub 25 P.R. Ingram**	Restoration - Rehabilitation of subsidence and other impacts needs stronger oversight e.g. an ombudsman	The Bill (clauses 98 and 99) allows for conditions to be imposed on developments to manage or prevent impacts on SCL. These conditions may include conditions requiring the applicant to restore SCL to its pre-development condition. If these conditions are not complied with, it may be an offence under the Act on which the authority

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			was issued (e.g. *Environmental Protection Act 1994*). Clause 99 allows the chief executive to require a financial assurance from the development proponent as security to cover the costs of non-compliance with the conditions. The chief executive in deciding the amount of the financial assurance can consider factors such as the cost of restoring the land.The Bill provides for appropriate enforcement powers (chapter 7).
098 – 099	**Sub 26 ASSSI**	Restoration - Collection of baseline data for returning to pre-development condition	Schedule 2 provides that *pre-development condition*, for a provision about the carrying out of development on land, means that the land is restored to - its condition before the development started; or if the condition cannot be worked out – a condition consistent with contiguous SCL for the land. Part (b) of this definition would allow restoration to be benchmarked against areas of SCL contiguous with the impacted land.
099	**Sub 26 ASSSI**	Restoration - Within the Bill compensation relates to losses due to actions by an authorised (State person). There appears to be no provision nor definition of compensation, in particular the loss in the productive capacity of land while it is impacted upon by mining or subsequent to rehabilitation after mining. Further clarification is recommend on who would be liable to pay compensation considering the State granted the approval to develop. Section 99 provides an example of a protection condition "An SCL protection condition requires the land to be restored to its pre-development condition". ASSSI recommends that this protection condition be applied to the development of any SCL land for mining purposes.	The Bill does not provide for compensation for permanent impacts to SCL. The Bill is consistent with the Government's policy announcements on 31 May 2011 and 27 September 2011 that mitigation is to be provided for permanently impacted SCL. The policy objective of mitigation is to address the loss of productivity of cropping to the State that may occur where SCL or potential SCL is permanently impacted. The Bill deals with matters relating to restoration in clause 14 and in clauses 98 and 99. Restoration under the Bill relates to whether a development has a permanent or temporary impact on SCL. Clause 14 (1)(b) of the Bill provides that a development will be regarded as having a permanent impact on SCL where the land cannot be restored to its pre-development condition. Where a development is determined under clause 98 to have a temporary impact on SCL (that is, the land can be restored to its pre-development condition), conditions can be imposed on the development to require the SCL to be restored. Clause 99 allows the chief executive to require a financial assurance from the development proponent and in deciding the amount of the financial assurance, can consider the cost of restoring the land. Chapter 5 of the Bill deals with mitigation. Clause 11 (5) clarifies that mitigation is required where SCL is permanently impacted. In management areas, SCL may be permanently impacted and the Bill requires mitigation for the loss of the permanently impacted land's productivity capacity as cropping land. Mitigation measures that may be permitted under chapter 5 of the Bill do not necessarily have to be undertaken on the land that is permanently impacted. Provided the measures meet the mitigation criteria provided for in clause 135.
099	**Sub 42 Queensland Resources Council**	SCL protection conditions generally - Defining the scope of SCL protection conditions including 99(1)(c) "require the applicant to do, or refrain from doing, anything else the chief executive considers is necessary". It is difficult to see the reason for such broad powers. QRC recommends that the section be deleted. (Sub 42, Att p.16)	The reason is to avoid restraining the nature of conditions for example, if an innovative solution is possible. The intended use of these powers is outlined in the explanatory notes. The example given is to require directional drilling. The Chief Executive is still bound by the general administrative law requirement that conditions are reasonable. Conditions are able to be appealed under s108.
099	**Sub 42 Queensland Resources Council**	SCL protection conditions generally - S99(2) - allows the chief executive to decide the form and amount of financial assurance limited only by S99(3) the total amount the State may incur because of any possible noncompliance. These assurances can be changed under S104(2) with 28 days notice. It is difficult to see the reason for such broad powers. QRC recommends that the powers be defined more carefully so that they are consistent with the financial assurance process for all rehabilitation conditions. (Sub 42, Att p.16)	These provisions are consistent with the financial assurances under other legislation including tenure acts (eg Geothermal, P&G and the EP Act 1994). They have been defined to ensure that they can be implemented consistent with the range of existing financial security regimes under the other legislation.
099	**Sub 43 Qld Murray - Darling Committee**	QMDC supports the requirement for financial assurance. QMDC is not confident that this can be accurately assessed at the time of deciding an application, especially if a resource activity is expected to continue over a 50 year timeframe. QMDC recommends that it be more clearly articulated	Clause 104 contains provisions enabling the chief executive to require a change to financial assurance at any time.

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	Inc.	than clause 105(2)(b) that the amount set at the time of the application will be reviewed at regular intervals and be increased if necessary to reflect the real costs of restoration/rehabilitation or possible non - compliance. QMDC asserts that the Queensland Government needs to secure a significant bond or proportion of financial assurance to safeguard against risk associated with the collapse/abandonment of companies and/or the resource industry. This security must consider the loss of rates, and increase of costs to local governments for management of infrastructure, resources and services as a direct result of the resource activity or development. The security must also be considerate of the unique issues of smaller rural and residential holdings and the compounded impact to communities and natural resource values of the area. Additionally a pre-determined percentage of the financial assurance received from the applicant should be invested in natural resource management within the SCL area in order to provide future opportunities to establish new or improved cropping land that is supported and maintained by healthy and viable natural resources.	
102	**Sub 42 Queensland Resources Council**	SCL protection conditions apply to issued authority- S102(3) – Given The lack of clarity about what the SCL protection provisions might be, this seems like a very broad power to grant the chief executive. QRC recommend that this section be deleted. (Sub 42, Att p.16)	This is a standard drafting convention where multiple decision makers may impose conditions on a permit. Without the provision there is uncertainty about interpreting the effect of the conditions and the tenure holder may be uncertain of their responsibilities.
104	**Sub 30 Haystack Road Coal Committee**	Condition empowering financial assurance changes Financial assurances are currently extremely low and should be lifted significantly, audited and automatically increase with CPI	Clause 99 allows the chief executive to require a financial assurance from the development proponent as security to cover the costs of non-compliance with the conditions. The chief executive in deciding the amount of the financial assurance can consider factors such as the cost of restoring the land. Clause 104 contains provisions enabling the chief executive to require a change to financial assurance at any time.
113	**Sub 42 Queensland Resources Council**	Power to prescribe a type of development - This is an odd clause in that it limits itself S113(3) from applying to mineral or petroleum projects by defining them as excluded from being prescribed. QRC recommends states that this is a very complex section, and it's hard to understand a legitimate need for it. (Sub 42, Att p.17)	Clause 113 of the Bill provides for the Minister to apply to the Governor in Council to make a regulation prescribing a type of development to be in exceptional circumstances. The affect of the provision, precludes a prescribed exceptional circumstances development from needing to submit an individual application. Therefore prescribed developments that will have a permanent impact on SCL or potential SCL in a protection area, may apply directly for an SCL assessment. Subclause 113(3), however, prevents the Minister from seeking approval to make a regulation about any resource activities. Activities under the Geothermal Energy Act 2010, Geothermal Exploration Act 2004 or the Greenhouse Gas Storage Act 2009 can be prescribed by a regulation when meeting exceptional circumstances. The restriction ensures that the objectives of the Act are not defeated by the perverse application of the regulation making power, whereby developments that would not ordinarily meet the exceptional circumstances criteria under clause 117, would be permitted under a regulation. Clause 115 of the Bill, however, provides that any development that will have a permanent impact on SCL or potential SCL in a protection area may apply for a decision that exceptional circumstances apply to the development. Therefore a mineral or petroleum project believed to demonstrate exceptional circumstances can submit an application for a decision under clause 126 of the Bill.
113	**Sub 43 Qld Murray - Darling**	S113(2)(b)(i) - QMDC asserts that this clause does not offer clarity in terms of what parameters the Minister's power must be exercised within but rather creates ambiguity. No definition is offered as to what "an	Clause 113 provides for the Minister to make a regulation to identify classes of development that are considered to provide an overwhelmingly significant benefit to Queensland. The Bills' explanatory notes further provide that it is not intended that developments that would not otherwise meet the exceptional circumstances criteria, are to

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	Committee Inc.	overwhelmingly significant opportunity of benefit to the State" is. QMDC recommends that this term and clause must be defined within the Act.	be prescribed by regulation under this provision. In making a decision on exceptional circumstances, clause 127 provides criterion for deciding no alternative site and clause 128 provides criterion for determining whether there will be a significant community benefit.
113	**Sub 43 Qld Murray - Darling Committee Inc.**	113(2)(b)(ii) - QMDC is similarly concerned this clause creates ambiguity. QMDC seeks clearer legislation that outlines what factors must be taken into account when the "benefit" of development is weighed against the need to protect SCL. What is needed to tip the scales in favour of the development?	Clause 113 provides for the Minister to make a regulation to identify classes of development that are considered to provide an overwhelmingly significant benefit to Queensland. The Bills' explanatory notes further provide that it is not intended that developments that would not otherwise meet the exceptional circumstances criteria, are to be prescribed by regulation under this provision. Clause 127 provides criterion for deciding no alternative site and Clause 128 provides criterion for determining whether there will be a significant community benefit.
113	**Sub 51 Property Council of Australia**	Power to prescribe a type of development - Ambiguity in the policy – what is classified as 'over riding public need'	This comment appears to relate to the draft SPP released by the Government on 5 August 2011 for public consultation. The Government is currently considering submissions received and a final SPP will be prepared as required by clause 80 of the Bill.
113 – 130	**Sub 4 Fitzroy Basin Association**	Exceptional circumstances - Support the exclusion of the majority of resource activities from being eligible for exceptional circumstance status	Clause 113 of the Bill provides for the Minister to apply to the Governor in Council to make a regulation prescribing a type of development to be in exceptional circumstances. The effect of the provision precludes a prescribed exceptional circumstances development from needing to submit an individual application. Therefore prescribed developments that will have a permanent impact on SCL or potential SCL in a protection area, may apply directly for an SCL assessment. Subclause 113(3), however, prevents the Minister from seeking approval to make a regulation about any resource activities, except those under the *Geothermal Energy Act 2010*, *Geothermal Exploration Act 2004* or the *Greenhouse Gas Storage Act 2009*. The restriction ensures that the objectives of the Bill are not defeated by the perverse application of the regulation making power, whereby developments that would not ordinarily meet the exceptional circumstances criteria under clause 117, would be permitted under a regulation. Clause 115 of the Bill, however, provides that any development that will have a permanent impact on SCL or potential SCL in a protection area may apply for a decision that exceptional circumstances apply to the development. Therefore a mineral or petroleum project believed to demonstrate exceptional circumstances can submit an application for a decision under clause 126 of the Bill.
113 – 130	**Sub 22 Ian and Janet Cox**	Exceptional circumstances - Exceptional circumstances should not be allowed to encroach on SCL.	The Government announced in *Protecting Queensland's strategic cropping land: A policy framework*, released on 23 August 2010 that: *In the rare and unlikely event, where a proponent can demonstrate that: for development under the resources legislation, the resource exists nowhere else; or, for development assessed under the SPA, it cannot occur anywhere else other than on strategic cropping land, the Minister may designate the project as a Excepted Development (with conditions), provided there is a significant community benefit.* (page 13) Chapter 4 of the Bill provides the framework for deciding whether a project has exceptional circumstances. Projects that would have a permanent impact on SCL or potential SCL in a protection area may apply for exceptional circumstances under clause 115 of the Bill. A development can only be decided to be in exceptional circumstances where it meets the criteria under clauses 127 and 128 (no alternative site and significant community benefit).
113 – 130	**Sub 30 Haystack Road Coal Committee**	Exceptional circumstances - Exceptional circumstances to be rigorously defended	The Government announced in *Protecting Queensland's strategic cropping land: A policy framework*, released on 23 August 2010 that: *In the rare and unlikely event, where a proponent can demonstrate that: for development under the resources legislation, the resource exists nowhere else; or, for development assessed under the SPA, it cannot occur anywhere else other than on strategic cropping land, the Minister may designate the project as a Excepted Development (with conditions), provided there is a significant community benefit.* (page 13) Chapter 4 of the Bill provides the framework for deciding whether a project has exceptional circumstances.

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			Projects that would have a permanent impact on SCL or potential SCL in a protection area may apply for exceptional circumstances under clause 115 of the Bill. A development can only be decided to be in exceptional circumstances where it meets the criteria under clauses 127 and 128 (no alternative site and significant community benefit).
114	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC recommends the submission period should be extended to 28 days to allow for better community engagement and real public time to make a submission (See clause 114(3)).	Clause 114 provides that a 'public notice" must be published for submissions about a proposal to prescribe a type of development to be exceptional circumstances. It provides for a submission period of not less than 21 days. This does not prevent a longer time period being provided for the submission period. The timeframes established in the Bill are consistent with the timeframes established for public notification on IDAS development applications under the *Sustainable Planning Act 2009*.
115	**Sub 26 ASSSI**	Exceptional circumstances - More appropriate definitions of exceptional circumstances for a development and clarification as to what is what is reasonably practical (under avoidance principle) so as to have exceptional circumstances consistently applied and to explain why alternatives sites for the development cannot be utilised.	Part 4 of the Bill provides the framework for deciding whether a project has exceptional circumstances. Projects that would have a permanent impact on SCL or potential SCL in a protection area may apply for exceptional circumstances under clause 115 of the Bill. A development can only be decided to be in exceptional circumstances where it meets the criteria under clauses 127 and 128 (no alternative site and significant community benefit). Clause 11 (3) of the Bill provides that if it is reasonably practicable to do so, development must avoid SCL. This principle is applied in decision making throughout different parts of the Bill and does not necessarily relate to exceptional circumstances. The concept of reasonably practicable is a well understood common law concept.
115 – 119	**Sub 54 Origin Energy**	Exceptional circumstances - The explanatory notes to the Bill (p.49) state that 'if the resource can be located elsewhere in the State, the decision-maker must decide that the "no alternative site" criteria cannot be met and therefore exceptional circumstances do not exist. The notes explicitly state in the case of coal seam gas, ownership of the resource is irrelevant as the fact that it could be legally obtained from the alternative site means that the 'no alternative site' criteria does not apply. Such a ruling takes no account of the quality of resources which may be considered alternative, the lack of infrastructure to enable the resource to be transported to market or other market factors such as contractual obligations may impede proponents from purchasing gas from another source. It also displays a misunderstanding of the way in which reserves and resources area assessed and the basis on which commercial arrangements for CSG to LNG projects have been entered into. This issue needs further consideration.	Clause 127 is consistent with the August 2010 SCL Policy Framework released by the Government which defines "alternative site" as "*Land, other than strategic cropping land, on which development can reasonably be located. There is an alternative site for resource development when the resource can reasonably be obtained elsewhere in Queensland. For other development, there is an alternative site when the development can be located on land that is not strategic cropping land, and where the development is not prevented on these alternative sites by other laws.* *The ownership of the land of the alternative site and business needs are not relevant considerations for determining whether a suitable alternative site exists."*
116	**Sub 42 Queensland Resources Council**	Who must decide exceptional circumstances application - QRC supports the Coordinator general's role and suggests that the OCG should retain the power to decide exceptional circumstances for all projects. QRC recommends deleting S116(2) so that the Coordinator General administers the exceptional circumstances test. (Sub 42, Att p.17)	The Government announced in August 2010 SCL Policy Framework that the Minister may designate a project as exceptional circumstances (Excepted Development). Clause 116 of the Bill provides for who must decide an exceptional circumstances application. This requires that an exceptional circumstances application must be decided by the Minister, except in certain circumstances involving significant projects. In these instances, the Bill provides that Coordinator-General make the exceptional circumstance decision.
118	**Sub 42 Queensland Resources**	What is a *significant community benefit* - The choice of drafting seems to substantially strengthen the test. QRC recommends that the word "overwhelmingly" be removed. (Sub 42, Att	Clause 118 provides the definition for what is a *significant community benefit.* This definition is consistent with the definition released in the August 2010 SCL Policy Framework.

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118	**Sub 42 Queensland Resources Council**	Exceptional circumstances - In terms of the corrections that QRC would like to make to the original submission, the three areas are identified below. **One:** **Section 118** – In defining the exceptional circumstances test, the original QRC submission objected to the addtition of the word "*overwhelmingly"* in the phrase *"significant community interest"*. However, the phrase *"overwhelmingly significant community interest"* was used in the glossary of the August 2010 policy framework and as such QRC would like to **withdraw** the recommendation in page 17 of attachment one of our 4 November 2011 submission.	Refer to DERM comments provided on submission 43.
118	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC is similarly concerned as per above comments that clause 118(a) creates ambiguity. QMDC seeks clearer legislation that outlines what factors must be taken into account when the carrying out of development is "an overwhelmingly significant opportunity" against the need to protect SCL. What is needed to tip the scales in favour of the development? In determining that purely economic and job creation should not be the sole determining factors.	Clause 118 provides the definition for what is a *significant community benefit.* This definition is consistent with the definition released in the August 2010 SCL Policy Framework. Clause 128 provides the criterion for determining whether there will be a *significant community benefit*.
119	**Sub 27 Moreton Bay Regional Council**	Public access to application - Section 119 describes the "relevant person" for an "exceptional circumstances application" as the person listed in subsection (2). However, that subsection lists obligations of the "relevant person" rather than specific entities.	Drafting errors and other minor errors may be amended prior to the Bill being passed by the Parliament.
120 & 121	**Sub 27 Moreton Bay Regional Council**	Public Notice of Application - Section 121 requires that public notification of an "exceptional circumstances application" be made as soon as practicable "after making the exceptional circumstances application". This is contrary to the time stated in section 120.	The effect of section 120 is to prevent an applicant publishing a public notice under section 121 until the requirements stated in clause 120 have come to pass.
121	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC recommends the submission period should be extended to 28 days to allow for better community engagement and real public time to make a submission (See clause 121(4)).	Clause 121 provides for public notice of an application for exceptional circumstances. It provides for a submission period of not less than 21 days. This does not prevent a longer time period being provided for the submission period. The timeframes established in the Bill are consistent with the timeframes established for public notification on IDAS development applications under the *Sustainable Planning Act 2009*.
123	**Sub 27 Moreton Bay Regional Council**	Amending application - Section 123 prevents certain types of amendments being made to exceptional circumstances applications after they are advertised for public submissions. This should be revised to allow the amendments to be made on the condition that the application is then readvertised.	The Bill does not prevent an application being re-advertised.
124	**Sub 27 Moreton Bay Regional Council**	Application of Division 3 - Section 124 deals with exceptional circumstances applications that have not been "withdrawn or decided under section 235(3)." Reference should also be included in that section to lapsed applications.	Clause 124 provides that at the end of the submission period for an exceptional circumstances application that has not been withdrawn or decided under clause 235(3) Division 3 applies (decision stage). Clause 235 discusses what happens where an applicant does not comply with an application requisition provided under clause 234 from the decision-maker. If the application is a validation application or assessment application, the

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			decision-maker may decide the application based on the information at hand if the decision-maker considers the information is sufficient to make a decision. Otherwise the decision-maker may decide the application is lapsed. However, for an exceptional circumstances application section 235(3) provides that the decision-maker may decide to refuse the application.
127	**Sub 21 Xstrata Coal**	Classification, grade or quality of the relevant resources is disregarding in consideration of alternative sites for exceptional circumstances - This is very concerning. Just as all soils are not the same (some will be SCL and some will not), so all coals are the same either. No resources development for coal could ever pass the exceptional circumstances test as currently presented. Recommendation: Delete this section	This comment appears to relate to clause 62 of the Bill which provides for a minimum size for land that will be considered SCL when applying the SCL criteria. The criteria are focused on the soil resource and are not assessed at property of paddock level. The minimum size requirements apply to the minimum size of the soil resource that may be identified as SCL, not a property. The minimum sizes were determined by agronomists and land resource specialists, to identifying areas of high quality cropping land that is suitable for a broad range of crops (for example, by excluding small or poorly configured areas that are not suitable for standard cropping systems). The specified minimum sizes were identified in the proposed criteria that were publicly released on 14 April 2011 and *Protecting Queensland's strategic cropping land: Guidelines for applying the proposed strategic cropping land criteria* released in September 2011.
127	**Sub 27 Moreton Bay Regional Council**	Sole criterion for deciding no alternative site Section 127 deals alternative sites for deciding exceptional circumstance applications. The reference in subsection (3) to a possible alternative site being a "...reasonable distance from, the region or locality to which the development relates" needs to be more prescriptive to have the necessary effect.	The provision as drafted is consistent with Government policy.
127	**Sub 30 Haystack Road Coal Committee**	Sole criterion for deciding no alternative site - Section should preclude the construction of compressor stations and salt dams on SCL	Chapter 4 of the Bill provides the framework for deciding whether a project has exceptional circumstances. Projects that would have a permanent impact on SCL or potential SCL in a protection area may apply for exceptional circumstances under clause 115 of the Bill. A development can only be decided to be in exceptional circumstances where it meets the criteria under clauses 127 and 128 (no alternative site and significant community benefit). If a development is in exceptional circumstances, it must also be assessed under Chapter 3. Clause 14 defines when development has a permanent or temporary impact. Impacts from resource developments will be considered when assessing whether a development will have a temporary or permanent impact on SCL. In making a SCL protection decision for environmental and resource authorities under Chapter 3, the chief executive must consider, amongst other things, whether the applicant has demonstrated that the impact has been avoided or minimised to the greatest extent practicable. The Bill (clauses 98 and 99) allows for conditions to be imposed on developments to manage or prevent those impacts. These conditions may include conditions requiring the applicant to restore SCL to its pre-development condition.
127	**Sub 42 Queensland Resources Council**	Sole criterion for deciding no alternative site - The alternative site test for resource projects seems designed to be unable to be passed whereas the equivalent test for development applications S129(3) is quite loose. QC recommends that S127(2)d) be deleted, and that the other clauses of this section need a substantial rewrite. (Sub 42, Att p.17)	Clause 127 is consistent with the August 2010 SCL Policy Framework which defines "alternative site" as "Land, other than strategic cropping land, on which development can reasonably be located. There is an alternative site for resource development when the resource can reasonably be obtained elsewhere in Queensland. For other development, there is an alternative site when the development can be located on land that is not strategic cropping land, and where the development is not prevented on these alternative sites by other laws. The ownership of the land of the alternative site and business needs are not relevant considerations for determining whether a suitable alternative site exists.
128	**Sub 42 Queensland Resources**	Sole criterion for deciding significant community benefit - Combined with the drafting in S118, these sections seem to go beyond the intent of the policy in making it very difficult for any non-community	While the development must demonstrate public benefits, it may also have a private or personal benefit for the developer or investors. This will not disqualify the project from having a significant community benefit, provided the public benefits far outweigh (in relative terms) the private benefits. The exceptional circumstances provisions

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128	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC agrees with clause 128(a)&(b) and believes these both make clause 128(c) redundant.	The exceptional circumstances provisions were first announced in the August 2010 SCL Policy Framework and this clause is consistent with the policy intent of the framework.
129	**Sub 52 Environmental Defenders Office**	Notice and taking effect of decision - Notice of decisions made under the Bill, need to be given to all interested and affected parties – this includes landowners, adjoining landowners, any other person or entity that made a submission during a relevant public notification period as well as applicants. In respect to exceptional circumstance decisions, clause 129 only requires a notice to be given to the applicant. Yet an applicant need not be the owner of the land affected. An exceptional circumstance decision is extremely powerful and it must be directly communicated to all interested and affected parties. Clauses 129 and 71(b) should be amended to clearly state that copies of decisions be given to, at a minimum: the applicant; the owner or owners of the land; the owner or owners of all adjoining land; the relevant local government authority; and any person or persons that made a submission during the public notification period.	Chapter 4 provides addresses exceptional circumstances. Clause 121 requires that an exceptional circumstances applicant must publish a notice of the application in a state-wide newspaper and in newspaper circulating in each local government area that includes the land which is subject of the application. Clause 241 provides that the chief executive must keep a register showing the outcome of validation decisions, SCL protection decisions and exceptional circumstances decisions. Clause 242 provides that the chief executive may keep the decisions register published on the department's website and must make the register available for inspection and purchase.
130	**Sub 42 Queensland Resources Council**	Appeal to Planning and Environment Court - For resource projects, the Land Court would seem like a better destination. QRC recommends amendment of the section to enable appeals to the Land Court. (Sub 42, Att p.17)	The provision provides for a single jurisdiction in relation to validation decisions. The Bill provides in Clause 108 that decisions under Chapter 3 Part 4 **Strategic cropping land protection assessment for environmental and resource authorities** may be appealed to the Land Court.
130	**Sub 52 Environmental Defenders Office**	Appeals to Planning and Environment Court - Rights to appeal decisions, such as validation or exceptional circumstance decisions, in the Queensland Planning and Environment Court and Land Court of Queensland should be extended to submitters. This approach is consistent with third party rights under the *Sustainable Planning Act 2009*, and, to a degree, in Queensland's resource laws. There is no evidence that submitter appeal rights open the floodgates in terms of litigation. Costs provisions in those Courts already exist to minimise frivolous or vexatious conduct.	Submitters to have appeal avenue under Judicial Review where they can demonstrate standing.
131	**Sub 42 Queensland Resources Council**	What is *mitigation* - QRC is concerned that companies that are investing in mitigation expertise onsite will be put into a situation of tendering to the advisory group for their own mitigation funding. QRC suggests S131 seems too narrowly defined and should include scope for investment by the company onsite so that mitigation measures S133(1) are recognised as	Clause 134 provides that companies may enter into a mitigation deed. On 27 September 2011 Government announced mitigation arrangements including a fact sheet that explains how companies can invest into projects under a mitigation deed. Clause 134 is consistent with this policy announcement.

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		mitigation. (Sub 42, Att p.19)	Clause 138(3) specifically provides that restoration activities already required by an authority can not form part of a mitigation deed.
131	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC does not support the mitigation fund. It assumes a developer can buy his/her way out of the Act's intention to protect SCL, which is a very small percentage of the State's cropping land.	Clause 131 states that mitigation is required for identified permanently impacted land (defined in clause 12 as being land decided under Clause 98 (1)(A) (ii). Clause 100 provides that in making an SCL protection decision, the chief executive must consider whether the applicant has demonstrated that the impact has been avoided or minimised to the greatest extent practicable. Further, 11(5)(a)(i) states that for identified permanently impacted land, the mitigation requirement can only be relied on if the impacts of the development cannot otherwise be reasonably avoided or minimised. Mitigation requirements are therefore only required after the Chief Executive has decided that the applicant has demonstrated that the impact has been avoided or minimised to the greatest extent practicable.
131 – 149	**Sub 17 Jimbour Action Group**	Mitigation - Valuation must include present and future losses of productivity, productive efficiencies and land values.	The objective of mitigation is to address the loss of agricultural productive value that occurs where a development results in permanent impacts on SCL. The value of mitigation must be greater than or equal to the lost productive capacity. A per hectare zonal mitigation rate, prescribed in the regulation, will be based on an averaged land value of arable land. Clause 132 defines the term mitigation value which is the dollar value, determined by the total area permanently impacted by the development multiplied by the zonal mitigation rate. This is consistent with the Government's policy announcement on 27 September 2011.
131 – 149	**Sub 22 Ian and Janet Cox**	Mitigation - Mitigation should not be seen as a way for mining to proceed on SCL	Clause 11(5)(a)(i) of the Bill states that for identified permanently impacted land, the mitigation requirement can only be relied on if the impacts of the development cannot otherwise be reasonably avoided or minimised. Mitigation requirements are therefore only required after the chief executive has decided that the applicant has demonstrated that the impact has been avoided or minimised to the greatest extent practicable.
131 – 149	**Sub 30 Haystack Road Coal Committee**	Mitigation - Mitigation should not allow miners to access SCL	The Bill is consistent with the Government's policy announcements on 31 May 2011 and 27 September 2011 that mitigation is to be provided for permanently impacted SCL. The policy objective of mitigation is to address the loss of productivity of cropping to the State that may occur where SCL or potential SCL is permanently impacted. In a protection area, a permanent impact can only be approved in an exceptional circumstance determined in Chapter 4. In management areas, SCL may be permanently impacted and the Bill requires mitigation for the loss of the permanently impacted land's productivity capacity as cropping land. Clause 11(5)(a)(i) of the Bill states that for identified permanently impacted land, the mitigation requirement can only be relied on if the impacts of the development cannot otherwise be reasonably avoided or minimised. Mitigation requirements are therefore only required after the chief executive has decided that the applicant has demonstrated that the impact has been avoided or minimised to the greatest extent practicable.
131 – 149	**Sub 31 Marilyn Bidstrup**	Mitigation - Mitigation may not be a deterrent to miners to avoid having permanent impacts on SCL.	The Bill is consistent with the Government's policy announcements on 31 May 2011 and 27 September 2011 that mitigation is to be provided for permanently impacted SCL. The policy objective of mitigation is to address the loss of productivity of cropping to the State that may occur where SCL or potential SCL is permanently impacted. In a protection area, a permanent impact can only be approved in an exceptional circumstance determined in Chapter 4. In management areas, SCL may be permanently impacted and the Bill requires mitigation for the loss of the permanently impacted land's productivity capacity as cropping land. Clause 11(5)(a)(i) of the Bill states that for identified permanently impacted land, the mitigation requirement can only be relied on if the impacts of the development cannot otherwise be reasonably avoided or minimised. Mitigation requirements are therefore only required after the chief executive has decided that the applicant has demonstrated that the impact has been avoided or minimised to the greatest extent practicable.
131 – 149	**Sub 32 Bendee Farming Pty**	Mitigation – Mitigation and offsets should not be allowed in the SCL legislation.	The Bill does not allow offsetting of SCL. SCL is regarded as a finite resource that cannot be recreated. The Bill is consistent with the Government's policy announcements on 31 May 2011 and 27 September 2011 that mitigation is to be provided for permanently impacted SCL. The policy objective of mitigation is to address the

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	Ltd.		loss of productivity of cropping to the State that may occur where SCL or potential SCL is permanently impacted.
132	**Sub 21 Xstrata Coal**	Mitigation value - Omitting the "mitigation value" from the Acts add further uncertainty to the future viability of resource development in Queensland. Recommendation: Prescribe the "mitigation value" i.e. a dollar value per hectare ion the Act.	A per hectare zonal mitigation rate will be prescribed by regulation and will be based on an averaged land value of arable land.
132	**Sub 42 Queensland Resources Council**	What is the *mitigation value* of identified permanently impacted land - QRC is curious to know how these values will be determined and when the draft regulation might be released. The Act should usefully set down some principles to guide the development of this critical regulation. Further, there can be no sensible discussion on the impact of the mitigation provisions until it is understood what rate will be prescribed in the regulations. Further discussion on mitigation should continue at this time. (Sub 42, Att p.19)	The objective of mitigation is to address the loss of agricultural productive value that occurs where a development results in permanent impacts on SCL. The value of mitigation must be greater than or equal to the lost productive capacity. A per hectare zonal mitigation rate, prescribed in the regulation, will be based on an averaged land value of arable land. Clause 132 defines the term mitigation value which is the dollar value, determined by the total area permanently impacted by the development multiplied by the zonal mitigation rate. This is consistent with the Government's policy announcements of 27 September 2011.
132	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC does not support minimum sizes.	Clause 132 relates to calculating the mitigation value based on the identified permanently impacted land, in hectares, multiplied by the rate prescribed under a regulation.
133	**Sub 51 Property Council of Australia**	What are Mitigation measures Ambiguity in the policy – what constitutes 'mitigation'	The Bill provides the detail as to what constitutes mitigation (chapter 5). This detail was not appropriate for inclusion in the draft SPP released for public consultation in August 2011 as mitigation requirements form part of the Bill, not the SPP. On 31 May 2011, the Government announced mitigation requirements and released further information on mitigation arrangements on 27 September 2011.
135	**Sub 23 Property Rights Australia**	Mitigation criteria - Mitigation payments should be made to the land owner when land has dual occupancy by mining and cropping interests rather than public benefits.	Clause 11 of the Bill provides that mitigation must have a positive and enduring effect on the future productivity of cropping in the State. Mitigation criteria are identified in clause 135 and require that mitigation measures must: aim to increase productivity of cropping in the State; provide a public benefit; aim to have an enduring effect; be quantifiable and able to be independently valued; benefit the largest possible number of agribusinesses; and must provide a benefit to the cropping activity or system that was impacted in the relevant local area. The Bill is consistent with the Government's policy announcements on 31 May 2011 and 27 September 2011 that mitigation is about providing a broader public benefit as the policy objective of mitigation is to address the loss of productivity of cropping to the State that may occur where SCL or potential SCL is permanently impacted.
135	**Sub 37 Queensland Farmers' Federation**	If it were applied in an agreed circumstance (temporary impact) QFF would see mitigation as being a function of restoring and underpinning productivity growth. For this reason QFF does not see justification for the specific reference to the NRM regional bodies (Clause 135) in the administration or advice with respect to mitigation projects. QFF supports the role of NRM regional bodies within their uncontested regional expertise in NRM planning and management. They do not have this same level of expertise in agricultural productivity, particularly at the state level. Industry organisations do, as do their partners in industry research and development organisation, all of which are specifically tasked with investing in productivity. It is these organisations that should be engaged	Clause 147 provides that the membership of an advisory group is to consist of a chairperson and other members appointed by the chief executive. The reference to NRM groups is in the Explanatory Notes and is in the context of an area for 135(1)(f).

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		for this role.	
135	**Sub 37 Queensland Farmers' Federation**	Clause 135 identifies criteria for assessing mitigation "projects". The criteria include "benefit the largest possible number of cropping agribusinesses." QFF submits that this criterion should be deleted as it does not delivery on the intent of the provision and could lead to perverse outcomes.	This is one of six criteria which provide direction when determining mitigation measures and should not be read in isolation. Mitigation criteria are identified in clause 135 and include outcomes of: increasing productivity of cropping in the State; provide public benefit; have an enduring effect; be quantifiable and able to be valued; benefit the largest number of agribusinesses; be related to the cropping activity that was impacted, including the location it was being undertaken in.
035	**Sub 37 Queensland Farmers' Federation**	If it were applied in an agreed circumstance (temporary impact) QFF would see mitigation as being a function of restoring and underpinning productivity growth. For this reason QFF does not see justification for the specific reference to the NRM regional bodies (Clause 135) in the administration or advice with respect to mitigation projects. QFF supports the role of NRM regional bodies within their uncontested regional expertise in NRM planning and management. They do not have this same level of expertise in agricultural productivity, particularly at the state level. Industry organisations do, as do their partners in industry research and development organisation, all of which are specifically tasked with investing in productivity. It is these organisations that should be engaged for this role.	
135	**Sub 42 Queensland Resources Council**	What are the *mitigation criteria* - QRC is concerned that the S135(1)(e) focuses on the number of agribusiness rather than perhaps value of production of area under crop. This seems like the wrong metric and could skew decisions from the Advisory group. QRC recommends that S135(1)(e) is reworded to focus on the value of agricultural production.	This is one of six criteria which provide direction when determining mitigation measures and should not be read in isolation. Mitigation criteria are identified in clause 135 and include outcomes of: increasing productivity of cropping in the State; provide public benefit; have an enduring effect; be quantifiable and able to be valued; benefit the largest number of agribusinesses; be related to the cropping activity that was impacted, including the location it was being undertaken in.
135	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC supports the criteria in general but suggests clarification is needed on how the Act intends to measure the "benefit" referred to in clause 135(1)(e).	Clause 146 provides for an advisory group to advise the chief executive about mitigation measures under mitigation deeds or payments from the mitigation fund. Clause 138, 139 and 143 provide that the chief executive must seek advice from the advisory group and be satisfied the mitigation measure complies with the mitigation criteria and is consistent with the mitigation principles and productivity principles under the SCL principles. Clause 148 provides that the Chief Executive must publish information about the measures on the department's website.
137	**Sub 42 Queensland Resources Council**	Prohibition on carrying out development without prior mitigation - S137(4) – this drafting seems perverse. QRC would argue that if the land is found not to be SCL, there is no need for mitigation, so the advisory group's spending can cease. QRC recommends that the clause be deleted. (Sub 42, Att p.19)	This is a necessary clause to make it clear that mitigation requirements continue to apply, even in the event that after mitigation has been paid (eg by one proponent), and land later is found not to be SCL (eg by another future proponent who validates the same land for the purposes of another application). This could arise if the first proponent elected to treat potential SCL as if the land were SCL under clause 84 and they have paid mitigation on that basis, and then later the land is found not to be SCL. The mitigation requirement continues in relation to the first proponent.
141 – 144	**Sub 4 Fitzroy Basin Association**	Strategic cropping land mitigation fund - Support establishment of the fund but fund must be used exclusively for activities that will benefit cropping land. Request amendments to the Bill to include more stringent provisions re use of the fund and no payment for government administrative activities	Under clause 143, payments from the mitigation fund can only be made for mitigation measures or for expenses incurred by the Chief Executive in performing functions required under chapter 5 of the Bill relating to mitigation. This clause makes it clear that the chief executive's expenses paid from the mitigation fund must not be used for remuneration. Clause 142 provides that accounts from the mitigation fund must be kept in accordance with the *Financial Accountability Act 2009*. Mitigation criteria are identified in clause 135 and require that mitigation

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			measures must: aim to increase productivity of cropping in the State; provide a public benefit; aim to have an enduring effect; be quantifiable and able to be independently valued; benefit the largest possible number of agribusinesses; and must provide a benefit to the cropping activity or system that was impacted in the relevant local area. Clause 143 provides that the chief executive must seek advice from a community advisory group (established under clause 145) before making a payment for mitigation measures from the mitigation fund. Clause 148 provides that the Chief Executive must publish information about the measures on the department's website.
143	**Sub 42 Queensland Resources Council**	Payments from fund - S143(2) – QRC is concerned that the advisory group is being forced into micromanaging progress payments on mitigation work. QRC recommends that this clause be deleted.	Clause 143 and the role of the advisory group under clause 146 is consistent with the Government's policy about the role of the group in mitigation announced on 27 September 2011.
143	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC recommends that if payments from the mitigation fund are required for "the expenses incurred by the chief executive in performing functions", those "expenses" need to be listed in a Schedule of the Act.	Under clause 143 the Chief Executive may make payments from the mitigation fund for expenses incurred by the Chief Executive in performing functions required under chapter 5 of the Bill which relates to mitigation. This clause makes it clear that the mitigation fund must not be used for remuneration. Clause 142 provides that accounts from the mitigation fund must be kept in accordance with the Financial Accountability Act 2009.
143	**Sub 48 FutureFood Queensland**	Payments from fund - FFQ recommend the committee support changes to the legislation to ensure monies from the mitigation fund are used exclusively for the benefit of cropping lands. (Sub 48, p.3) FFQ is concerned that as the legislation sits at present the funds could be returned to treasury and not be used for the purposes designated (Sub 48, p.2).	Mitigation funds will be used for the benefit of cropping lands as per Chapter 5, Part 3 of the Bill (Mitigation) and, in particular, clause 143 which ensures mitigation funds are only payable for mitigation measures or expense incurred by the chief executive related to determining mitigation measures.
145	**Sub 44 Agforce**	Establishment - The development of the mitigation process and the utilization of the Community Advisory groups appear to have strong outcomes, but there is little detail as to how these groups will be set up. Agforce believes that these groups will require extensive industry input to assess appropriate research possibilities for mitigation, knowledge of the specific cropping regimes of the location, and the processes through which the extension of these group's findings will occur. To date there is no information as to how these groups will be financed, what the makeup of the groups will be, nor the powers they will hold. Agforce can only assume that these details will be forthcoming through the regulations. At the very least the incorporation of the specific "Research & Development Corporation" into these committees should occur, as the focus of these is to look at the efficiencies and production capacity of these cropping regimes.	Clause 147 of the Bill establishes that the Chief Executive appoints members to the community advisory group. Clause 149 provides that the Chief Executive may make guidelines about the community advisory group practices. Clause 149 (c) states that a guideline may give advice about advisory group practices.
145 – 147	**Sub 17 Jimbour Action Group**	Mitigation – Community Advisory Group - CAG must include agricultural experience and have local farming knowledge. Monies moved from an area to broader research may not be deemed acceptable. Agree with Haystack Road Coal Committee's submission.	Clause 147 provides that the membership of an advisory group is to consist of a chairperson and other members appointed by the chief executive. Mitigation criteria are identified in clause 135 and require that mitigation measures must: aim to increase productivity of cropping in the State; provide a public benefit; aim to have an enduring effect; be quantifiable and able to be independently valued; benefit the largest possible number of agribusinesses; and must provide a benefit to the cropping activity or system that was impacted in the relevant local area. Clause 143 provides that the chief executive must seek advice from a community advisory group (established under clause 145) before making a payment for mitigation measures from the mitigation fund and clause 139 has the same requirement

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			where the chief executive proposes to enter into a mitigation deed.
147	**Sub 27 Moreton Bay Regional Council**	Membership - Section 147 dealing with the membership of the "community advisory group" needs to be expanded to address the "community" component required by section 145.	Clause 145 of the Bill provides for the establishment of community advisory groups. The chief executive may elect to establish a single group to consider mitigation deeds and mitigation fund payments, or establish multiple groups that represent different areas where cropping is undertaken.
147	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC recommends that the membership of the community advisory groups be facilitated and coordinated at a regional level in order to bring together expertise from within each region. Representation must include local landholders, NRM organisations, industry, government, business, Aboriginal communities, Landcare groups, scientific organisations, research institutions and community groups. The membership of the advisory groups provide the regions with the confidence that consultation with key stakeholders and communities will be facilitated by the Act.	Clause 147 of the Bill establishes that the Chief Executive appoints members to the community advisory group.
148	**Sub 37 Queensland Farmers' Federation**	QFF submits that the Decision Register should also include details about how mitigation is being managed. This will ensure industry and community will have an opportunity to understand how mitigation will be delivered.	Clause 148 provides that the chief executive must keep a record of all mitigation measures and publish information about the measures on the department's website. This does not exclude details about how mitigation is managed.
149	**Sub 42 Queensland Resources Council**	Record and access to mitigation measures - S149(e) – This clause [which provides that the chief executive can make guidelines giving advice about any matter relating to this chapter] seems very broad. QRC recommends that this clause be deleted. (Sub 42, Att p.20)	Clause 149 provides that the Chief Executive may make guidelines about the matters in Chapter 5 (Mitigation) or its administration.
153	**Sub 42 Queensland Resources Council**	Power to give restoration notice - These are very broad powers which rely on the reasonable belief of an authorised person which allow a very directive response. QRC would prefer to see a more graduated system of notices described in this section. (Sub 42, Att p.21)	Clause 153 provides the power for an authorised person to give restoration notice. Under part (1), this applies if an authorised person reasonably believes a person has committed or is committing an SCL offence or is involved in an activity that is like to result in an SCL offence, and the matter is capable of being rectified. "Reasonably believes" in defined in Schedule 2 of the Bill as "believes on grounds that are reasonable in the circumstances."
156	**Sub 27 Moreton Bay Regional Council**	Land registry record of restoration notice - Section 156 mentions withdrawal and termination of restoration notices. Where are the provisions dealing with withdrawing or terminating "stop work" and "restoration notices"?	Clause 165 provides clarity on the effect of stop work and restoration notices where the recipient is acquitted of the alleged offence. Otherwise withdrawing and terminating stop work and restoration notices are administrative matters. Section 24AA of the *Acts Interpretation Act 1954* establishes that a power to make a decision also confers the power to amend or repeal that decision. Therefore in relation to the Bill, the power to issue a stop work or a restoration notice also confers the power to withdraw or terminate the notice.
160	**Sub 42 Queensland Resources Council**	Chief executive's power to amend restoration notice - S160(4) – 28 days to respond seems insufficient to assess a potentially complex request. QRC suggests that the time for response is set by agreement between the chief executive and the recipient.	Clause 160 provides for the Chief executive's power to amend a restoration notice. Part (4) states a minimum period of 28 days that the chief executive must give to the recipient to make any submissions about the proposed amendment. This does not prevent the Chief executive from providing a longer period if necessary.
170	**Sub 42 Queensland Resources**	Appointment conditions and limit on powers - Part of the delegation from chief executive to authorised person derives from their instrument of appointment S170(1)(a). In this case, QRC	The appointment conditions and limit on powers provided under Clause 170 are standard enforcement provisions and powers that exist in other Acts, for example, the *Environmental Protection Act 1994*.

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	Council	suggests that it is reasonable that these instruments of appointment are made public. QRC suggests that the clause be amended so that the scope of authority of the authorised person is disclosed whenever these powers are exercised (perhaps as part of the identity card in S173). (Sub 42, Att p.21)	
227	**Sub 39 Canegrowers**	Technical committee - CANEGROWERS is supportive of the proposal to have a technical committee monitor the application of the criteria. We also support the proposal to review the policy framework at the end of 2years of implementation.	Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016.
227	**Sub 42 Queensland Resources Council**	Establishment - QRC would like to have seen the Committee review the SCL criteria. (Sub 42, Att p.22)	Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016.
227	**Sub 50 Local Government Association of Queensland Ltd.**	LGAQ recommends that the wording of section 227 is amended so that the Minister must, rather than may, establish the committee.(Sub 50, p.2)	Amending clause 227 from 'may' to 'must' would result in the Act being inoperable until such time as the committee is formerly established or if for some reason the committee did not meet the requirements of clause 228 (for example, where a committee member resigns).
227 – 231	**Sub 54 Origin Energy**	Science and Technical Implementation Committee- Origin would like to place on the record its support for the provision enabling the establishment of a Science and Technically Implementation Committee to provide advice to the Minister.	No response required.
228	**Sub 26 ASSSI**	SCL assessments to be undertaken by qualified persons. Recommend that a person assessing SCL or advising the Minister should be a certified practicing soil scientist stage 2 or above however notes concerns that there are limited numbers of qualified individuals	Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. Clause 228 provides that the Minister may appoint a person as a committee member only if satisfied the person has experience or expertise in soil attributes and processes or another area of knowledge prescribed under a regulation. In accordance with standard government decision making, chapter 2, part 2 provides that the chief executive is the decision maker for deciding what is SCL. Clause 234(1) provides that the a decision maker can require and applicant to provide the decision maker an independent report by an appropriately qualified person, verifying information in an application or requiring additional information. Clause 236 (4) allows a decision maker to ask a submitter or anyone else for information relating to particular criteria or other relevant criteria in deciding an application. These provisions allow the chief executive to obtain appropriate expert advice as required.
228	**Sub 52 Environmental Defenders Office**	Membership - Political lobby groups must not be allowed to appoint scientists to the Science and Technical Implementation Committee. We refer to the statement by Hon Rachel Nolan of 24 August 2011 advising that the Queensland Resources Council and Queensland Farmers' Federation will be appointing scientists to this committee. The independence and legitimacy of the Science and Technical	Clause 228(3) of the Bill provides that the Minister may appoint a person as a committee member only if satisfied the person has the expertise or experience in soil attributes and processes or another area of knowledge prescribed by regulation.

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		Implementation Committee will be questioned if political lobby groups are entitled to appoint members.	
232	**Sub 27 Moreton Bay Regional Council**	Application of Part 2 - Section 232 needs to be modified to clarify that that part only deals with applications made under the proposed Act. Such a modification would make it clear that the part does not apply to development applications made under SPA but mentioned in the Bill provisions. A similar comment applies to the wording of section 264.	Drafting conventions are established by the *Acts Interpretation Act 1954* and *Statutory Instruments Act 1992*, which are administered by the Office of Queensland Parliamentary Counsel.
236	**Sub 42 Queensland Resources Council**	Particular criteria generally not exhaustive - S236(2) - Given that the Act already ascribes sweeping powers in a number of areas, this section risks compounding the unintended consequences. QRC recommends that this clause be deleted. (Sub 42, Att p.22)	Clause 236 is consistent with decision-making provisions in other legislation and is a standard administrative law provision.
237	**Sub 42 Queensland Resources Council**	Particular grounds for refusal generally not exhaustive - S237(2) - This clause seems even broader than 236 and it is without the limits imposed in S236(2). QRC recommends that this clause be deleted. (Sub 42, Att p.22)	Clause 237 is consistent with decision-making provisions in other legislation such as the Sustainable Planning Act 2009.
238	**Sub 27 Moreton Bay Regional Council**	General power to impose conditions - Section 238 indicates that a power to decide an application includes a power to "grant the application subject to conditions that must be complied with before the application is granted". That same provision also indicates that the power extends to an ability to "approve or grant the thing the subject of the application subject to conditions that must be complied with before the thing is approved or granted". There are two issues here:- - you grant an approval or a request, not an application; and - conditions of an approval cannot be imposed before that approval is issued.	Section 238 establishes the ability for the chief executive to approve an application subject to conditions that must be completed prior to the environmental authority, resource authority or development approval being granted. The effect of the provision therefore is that the authority or development approval will not be granted until that condition has been completed. If the condition is not complied with the authority or development approval must not be granted, or if it is granted will be invalid
241	**Sub 37 Queensland Farmers' Federation**	QFF believes projects that have been granted transitional status or exceptional circumstances should be listed on the decision register (Clause 241).	Clause 241 (1) of the Bill provides that the chief executive must keep a register showing the outcome of exceptional circumstances decisions. Clause 241 (2) allows the chief executive to keep in the register any other information the chief executive considers appropriate. This could include information about development projects meeting the transitional provisions under the Bill.
241 – 242	**Sub 26 ASSSI**	Decision register - Soil data collected should be made available to public databases	Clause 241 (2) allows the chief executive to keep in the register any other information the chief executive considers appropriate. This could include soils information relating to particular developments.
249	**Sub 27 Moreton Bay Regional Council**	Remotely sensed image reports - Section 249 refers to a notice stating the grounds on which a party intends to rely to prove that a statement was incorrect. That provision relates to section 250 and should be deleted from section 249.	Drafting errors and other minor error may be amended prior to the Bill being passed by the Parliament.
266	**Sub 52 Environmental Defenders Office**	No compensation because of act - We support clause 266.	Clause 266 provides that no compensation is payable because of the Act. No response required.

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269	**Sub 37 Toowoomba Regional Council**	Review of Act - Engage with Council at the two year review.	Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016. Clause 269(2) provides that the review must include a review of provisions about the science and technical implementation committee. The Minister at the time of the review will determine any further matters to be considered by the review and appropriate consultation.
269	**Sub 42 Queensland Resources Council**	Review of Act – The discussion of the scientific committee refers to a two-year review [between 30 January 2014 and 30 January 2016]. QRC suggests that the review date be set as 2 years after the date of assent, otherwise the review could fall due in two parliamentary terms time. (Sub 42, Att p.22)	Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016. Clause 2 of the Bill provides that the Act commences on the date of assent or 30 January 2012, whichever is the later. As the commencement of the Bill could occur on either of these dates, clause 269 has been drafted to cater for either commencement date.
269	**Sub 50 Local Government Association of Queensland Ltd.**	Advice provided at the Stakeholder Advisory Committee Meeting, held on 27 October 2011, identified that the Science and Technical Implementation Committee would be required to perform a review after two years of the legislation being in effect. A specific review timeframe should be identified in the legislation.(Sub51, pp.2-3)	Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. Clause 229 sets out the functions of the committee which are to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016. The Minister will be able to request a report from the Committee to inform the review.
271	**Sub 27 Moreton Bay Regional Council**	Regulation-making power - Section 271 deals with issues that may be addressed in a Regulation. Other provisions within the Bill make it clear that the scope of such issues is far more extensive than what is indicated in subsection (2).	Section 13 of the *Statutory Instruments Act 1992* provides that where the law requires or authorises a thing to be done by statutory instrument; a statutory instrument may be made for that purpose. Additionally subsection 271(2) should not be read exclusively—its application is not to limit the regulation making power to only fees and regulation offences. Therefore section 271 is read in conjunction with any other provision that requires or authorises a thing to be done by regulation to give the power to make that regulation. Subsection 271(2) provides the power for these requirements as there is not direct mention of them in the operational provisions such as s14(3) (prescribing an activity to have a permanent or temporary impact) and s95 (general requirements for application).
272	**Sub 27 Moreton Bay Regional Council**	Definitions for Chapter 9 - The definition of "permanent impact restriction" in section 272 needs to be modified to replace the word "means" with "see".	Drafting errors and other minor error may be amended prior to the Bill being passed by the Parliament.
272 – 282	**Sub 18 QER Pty Ltd.**	Transitional provisions - Oil shale company seeking transitional status (McFarland tenements located between Mackay and Proserpine). Mineral Resources Act imposed a moratorium on development on their tenements. State government review process underway – if these was not the case, would have met the transitional arrangements.	The SCL Bill does not contain any specific provisions in relation to the McFarland tenements (MDL 202). Specific provisions of the *Mineral Resources Act 1989* (MRA) established a moratorium from 2008 until 17 August 2028 during which the granting of a mining lease is prevented, and authorised activities on Mineral Development Licence 202 and associated exploration permits are suspended. Also, section 318ELAL(d) of the MRA specifically provides that the moratorium does not limit or otherwise affect or suspend rights or obligations of the holder of the tenement under any other Act relevant to mining tenements.
272 – 283	**Sub 55 Macarthur Coal Limited**	Transitional provisions - Effective implementation of the promised transitional provisions relating to projects including MCC's Monto Coal Project is one of MCC's key concerns with the SCL Bill. Specifically, the level of protection offered to those projects that fall within the scope of Division 3 of Part 3 of Chapter 9 of the SCL Bill is far lower than industry expected on a reasonable interpretation of the policy documentation released by the Queensland	On 31 May 2011, the Government announced transitional arrangements for proposed coal, mineral, gas and petroleum resource development projects that met certain milestones in the approvals process. Chapter 9 of the Bill gives effect to the policy outcomes identified in the *Strategic cropping land—Transitional arrangements* factsheet released on 31 May 2011.

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272 – 293	**Sub 42 Queensland Resources Council**	Transitional provisions - Restrictions on issuing authority for identified permanently impact land in a Protection Area - The transitional provisions as drafted are very complex. Section 278 provides for transition for expansion projects. The effect of this section centres on the interpretation of *"permanent impact restrictions"*. This phrase is defined in schedule 2, page 190 as referring to Section 272 (page 156). Section 272 is a definition for the purposes only of Chapter 9, which itself then refers to Section 93 (page 61). Section 93 has two parts: 93 Restrictions on issuing authority for identified permanently impacted land in protection area This section applies if the land is identified permanently impacted land in a protection area. An environmental authority can only be issued for the resources activity if it is in exceptional circumstances. It is not clear that circular cross referencing delivers on the intent of the policy and a number of QRC members are concerned that they do have the transitional status they thought they had. QRC would now recommend that the intent of the exemption in section 278 be clarified by requiring the project to make *"reasonable endeavours to avoid, minimise and mitigate impacts on strategic cropping land"*.	The structure of the provision is based on drafting convention. The explanatory notes clarify this and other provisions. On 31 May 2011, the Government announced transitional arrangements for proposed coal, mineral, gas and petroleum resource development projects that met certain milestones in the approvals process. Chapter 9 of the Bill gives effect to the policy outcomes identified in the *Strategic cropping land—Transitional arrangements* factsheet released on 31 May 2011. The fact sheet provided that eligible transition projects would be required to demonstrate that all efforts have been made to avoid permanently alienation SCL and they avoid, minimise and mitigate their impact on SCL.
272 – 283	**Sub 55 Macarthur Coal Limited**	Transitional provisions - As QRC's submission states: 'Provisions introducing an element of retrospectivity to the commencement of some obligations were also based on a reasonable expectation that the Bill would be consistent with the policy announcements with which the retrospective commencement has been linked, and that has turned out not to be the case, for the reasons which will be explained in more detail in this submission. Consequently, any possible justification which could otherwise have been argued for the elements of retrospectivity is now outweighed by the fact that the Bill is inconsistent with legitimate expectations based on policy announcements (Section 4(2)(g) Legislative Standards Act 1992).' The policy announcements created a reasonable expectation that the transitional provisions would operate in favour of all projects, regardless of whether they were situated in the management area or protections areas. It was expected that for those projects that met the transitional thresholds, they would be subjected to a less time consuming process than other projects. This is not the case. The effect of the transitional provisions on projects that fall within Chapter 9, Part 3 Division 3 SCL Bill (which includes section 281) is limited to the extent that those projects are overlapped by a protection area. Chapter 9, Part 3 Division 3 SCL Bill affords no protection to those projects that otherwise meet the transitional requirements, but are located in the management area. Section 278 SCL	On 31 May 2011, the Government announced transitional arrangements for proposed coal, mineral, gas and petroleum resource development projects that met certain milestones in the approvals process. Chapter 9 of the Bill gives effect to the policy outcomes identified in the *Strategic cropping land—Transitional arrangements* factsheet released on 31 May 2011.The Bill is generally consistent with the fundamental legislative principles. Clause 278 (2) is a clarifying provision removing all or part of the sub-clause. The provision provides the requirements that the entire Act will apply to the application, except section 93 which is the permanent impact restriction. Clause 281 (1)(b) date is not consistent with government's 31 May 2011 announcement. Amendments will be sought to correct this drafting error.

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		Bill states that, 'The permanent impact restriction does not apply for an environmental authority application and its related resource application if they are excluded under this division.' By definition, the 'permanent impact restriction' applies only to land identified in a protection area (see section 93 SCL Bill). Therefore, for projects that fall within the management area **and** the scope of Chapter 9, Part 3, Division 3 SCL Bill (including MCC's Monto Coal Project), the SCL Bill offers no protection for the future development of these projects. The current operation of the transitional provisions creates a significant financial impact to MCC that was not anticipated (due to the reasonable belief that projects such as the Monto Coal Project would be afforded a facilitative benefit under the transitional provisions). Delay to the Monto Coal Project that will arise as a result of strategic cropping land assessment requirements represent significant costs to MCC. Additionally, the outcomes of that assessment may result in resource sterilisation. The Monto Coal Project meets the transitional thresholds. It should be protected from this harm. Particularly, aspects of the Monto Coal Project covered by section 281(1)(b) of the SCL Bill include mining lease 80175 and any future mining lease applications out of exploration permits for coal 613 and 683 certified before 23 August 2012 (noting the typographical error the Department has confirmed exists in s. 281(1)(b) which inaccurately refers to 23 August 2010). MCC can provide further information outlining the potential impacts on the Monto Coal Project on a commercially confidential basis if that is required. In reliance on the expectation born from the previous policy announcements, investment decisions have been made for this project (and others) that did not anticipate these additional costs. It is proposed as an alternative to section 278(2) SCL Bill that projects that fall within Chapter 9 Part 3 Division 3 are subject to an environmental authority condition requiring (as set out in the relevant policy statements) that the holder use reasonable endeavours to avoid, minimise and mitigate impacts on strategic cropping land that exists in the project area.	
272 – 285	**Sub 20 Cotton Australia**	Chapter 9, Division 3 "Exclusion of permanent impact restriction for particular applications"- Finally, Cotton Australia is very concerned that transitional arrangements, such as that offered to the Springsure Creek coal project, not only immediately reduces the amount of land protected by SCL, but also undermines public confidence in the ability of SCL to provide ongoing protection. This concern also extends to the exceptional circumstances provisions, which can still allow development on Protected Land. (Sub 20, p 4)	On 31 May 2011, the Government announced transitional arrangements for proposed coal, mineral, gas and petroleum resource development projects that met certain milestones in the approvals process. The announcement provided that those projects eligible for transitional arrangements but which had not already obtained final environmental approvals would still be required to avoid, minimise and mitigate their impacts on strategic cropping land and meet all other legislative requirements necessary for the development. Chapter 9 of the Bill is consistent with the 31 May 2011 announcement. On 23 August 2010, the Government released *Protecting Queensland's strategic cropping land: A policy framework* which provided that *'in the rare and unlikely event, where a proponent can demonstrate that: for development under the resources legislation, the resource exists nowhere else; or, for development assessed under the SPA, it cannot occur anywhere else other than on strategic cropping land, the Minister may designate the project as a Excepted Development (with conditions), provided there is a significant community benefit.* Part 4 of the Bill provides the framework for deciding whether a project has exceptional circumstances. Projects in a protection area that are determined to meet the exceptional circumstances provisions in the Bill must still avoid, minimise and mitigation any impacts on SCL or potential

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			SCL and will be assessed under Chapter 3 of the Bill.
274	**Sub 27 Moreton Bay Regional Council**	Act generally applies for all applications whenever made - Note 2 within section 274 refers to a "source application" being granted. Only a request or an approval can be granted.	Drafting conventions are established by the *Acts Interpretation Act 1954* and *Statutory Instruments Act 1992*, which are administered by the Office of Queensland Parliamentary Counsel.
275 & 278	**Sub 42 Queensland Resources Council**	Transitional provisions - Two: Section275 and S278: QRC's recommend-ations on page 23 of attachment one of our November 4 submission is entirely wrong. We had recommended that the phrase "apart from the permanent impact restrictions applies" be deleted, when in fact this is central to how the transition mechanisms apply. QRC would like to withdraw this recommendation. While the QRC comment is still accurate in noting industry concerns, but the QRC's recommendation has evolved to reflect industry concerns with the transitional provisions for expansion (S278 division 3) projects. The recommendation would now reflect the Macarthur submission (number 056) that the intent be made clear that the project make *"reasonable endeavours to avoid, minimise and mitigate impacts on SCL".*	Refer to DERM comments provided on submission 43.
275 – 278	**Sub 42 Queensland Resources Council**	Exclusion - Wording of these exclusions is not sufficiently robust to deliver the policy outcome described in the Government's transition factsheet – specifically 278(2). QRC recommends deleting the phrase "apart from permanent impact restriction applies for the applications" from 278(2). (Sub 42, Att p.23)	On 31 May 2011, the Government announced transitional arrangements for proposed coal, mineral, gas and petroleum resource development projects that met certain milestones in the approvals process. Chapter 9 of the Bill gives effect to the policy outcomes identified in the *Strategic cropping land—Transitional arrangements* factsheet released on 31 May 2011. Clause 278 (2) is a clarifying provision removing all or part of the sub-clause. The provision provides the requirements that the entire Act will apply to the application, except section 93 which is the permanent impact restriction. The structure of the provision is based on drafting convention and is not within the control of the department.
275 – 283	**Sub 19 Megan Baker**	Transitional arrangements - How long has it taken the government to bring in this legislation? Way too long in my opinion. We have all known about this impending legislation for a couple of years – landholders, resource companies and communitites alike but despite this resource companies have forged ahead at a rapid rate in an attempt to beat the government. Landholders have been lobbying the government to take action sooner rather than later and yet in black and white a single company is being rewarded for blatantly forging ahead with a total disregard for this legislation.	The consultation undertaken in developing the SCL policy and legislation is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee and submitted to the Committee by DERM on 4 November 2011. This consultation has included the following: **February 2010**—The Government released a discussion paper on conserving and managing food-producing land for public consultation. **February 2010**—A Stakeholder Advisory Committee was formed (including representatives from the agriculture, resource and urban development sectors, local government and natural resource management groups) and has meet regularly since its formation. **February–March 2010**—The Government hosted community information sessions on the discussion paper. **23 August 2010**—The Government released Protecting Queensland's strategic cropping land: A policy framework (August 2010 framework) for public consultation. **August–September 2011**—The August 2010 framework was presented at nine community forums on coal seam gas in south-west Queensland. **14 April 2011**—The Government released the proposed criteria for identifying SCL, a technical assessment report and independent expert review report of the proposed criteria. **31 May 2011**—The Government announced implementation of the SCL policyt through Protection Areas and a Management Area, released the transitional arrangements, and released a Regulatory Assessment Statement for public consultation.

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			5 August 2011—A draft State Planning Policy was released for public consultation. **24 August 2011**—The Government announced there would be a Science and Technical Implementation Committee. **8 September 2011**—Guidelines for applying the proposed criteria at a property level were released, as well as an online mapping tool. **27 September 2011**—The Government announced that legislation would be introduced into Parliament in late October 2011, and released further information on mitigation arrangements. The Bill is consistent with previously announced government policy. On 31 May 2011, the Government announced transitional arrangements for proposed coal, mineral, gas and petroleum resource development projects that met certain milestones in the approvals process. Chapter 9 of the Bill gives effect to the policy outcomes identified in the *Strategic cropping land—Transitional arrangements* factsheet released on 31 May 2011.
279	**Sub 41 Queensland Law Society**	Applications made and finalised EIS TOR on or before 31 May 2011 - Has a date error which sets a deadline for applications of 23 August 2010, which should have been 23 August 2012, according to a factsheet. (Sub 41, p.4)	It seems likely that the key point in this submission refers to clause 281. The date in clause 281 (1)(b) is inconsistent with the Government's 31 May 2011 announcement. Amendments will be sought to correct this drafting error.
279	**Sub 42 Queensland Resources Council**	QRC is concerned the same erroneous deadline of 23 August 2010 appears to have been applied in section **279(b)(i)** in relation to the certificate of application. Once again, QRC would hope that this section would be amended to be consistent with S281(1)(b) so that the Bill aligns with the Government's May 2011 fact sheets on transitional mechanisms. (Sub 42, p.3)	Clause 279 (b)(i) is consistent with government's 31 May 2011 announcement
279	**Sub 42 Queensland Resources Council**	Applications made and finalised EIS TOR on or before 31 May 2011 - S279(b)(i) - In the policy, QRC understood that there would be a period in which the certificate could be issued by August 2012. (Transition fact sheet). QRC recommends that this clause be amended to allow for a period for the certificate of application to be issued to match S281(1)(b) below. (Sub 42, Att p.23)	Clause 279 is consistent with the Government's announcement. It seems likely that the key point in this submission refers to clause 281.
279	**Sub 42 Queensland Resources Council**	Transitional provisions - Three: S279(b)(i)-QRC's submission calls out a typographical error in this section's deadling of 31 May 2011, when that is the deadline that was set in the factsheet on transitional matters. QRC would like to **withdraw** the comment on page 23 of attachment one of the 4 November submission.	Refer to DERM comments provided on submission 43.
279	**Sub 43 Qld Murray - Darling Committee Inc.**	This date should be the date when the strategic cropping policy and legislation development process was announced the then Minister Stephen Robertson who stated that it was the government's intention that developments would abide by the spirit of the proposed legislation. It should be noted that the Trigger maps have remained virtually unchanged since that announcement.	The Government announced on 31 May 2011 its intention to include transitional arrangements for proposed coal, mineral, gas and petroleum resource development projects that met certain milestones in the approvals process in new SCL legislation. The transitional arrangements were to apply to projects that had met certain milestones as at 31 May 2011. Clause 279 of the Bill is consistent with the Government's announcement.
279 – 282	**Sub 42 Queensland Resources Council**	The transition provisions don't recognise the Government's 2008 decision on oil shale and the McFarlane tenure. Part 7AAB of the Mineral Resources Act imposed a moratorium on development of QER's McFarlane tenements. Section 318ELAD provides that during the	The SCL Bill does not contain any specific provisions in relation to the McFarland tenements (MDL 202). Specific provisions of the *Mineral Resources Act 1989* (MRA) established a moratorium from 2008 until 17 August 2028 during which the granting of a mining lease is prevented, and authorised activities on Mineral

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		moratorium a mining tenement cannot be granted, but otherwise the status quo of the tenements are preserved. In the absence of the moratorium, QER would have finalised an EIS terms of reference before 31 May 2010 and been eligible for transitional provisions. QRC suggest that the Bill amend the MRA to specifically include SCL in the status quo provisions of Part 7AAB. (Sub 42, Att p.24)	Development Licence 202 and associated exploration permits are suspended. Also, section 318ELAL(d) specifically provides that the moratorium does not limit or otherwise affect or suspend rights or obligations of the holder of the tenement under any other Act relevant to mining tenements.
280	**Sub 43 Qld Murray - Darling Committee Inc.**	Comments as above.	On 23 August 2010, the Honourable Stephen Robertson released the SCL policy framework outlining government's approach to protecting the state's best cropping land resources, and that Government expect proponents to will take the framework into account in progressing their developments. The 31 May 2011 announcement by the then Minister Kate Jones, included the release of transitional arrangements for new and undecided resource development projects, a Regulatory Assessment Statement, and the announcement of the implementation of the SCL policy through Strategic Cropping Protection Areas and a Strategic Cropping Management Area.
281	**Sub 30 Haystack Road Coal Committee**	Existing mining lease and EP or MDL forming a contiguous area - Existing mining leases forming contiguous areas should not include acquisitions after the announce-ment date as it would cause a loophole – eg CS Energy purchase of MDL at Haystack Road	Clause 281 of the Bill is consistent with government's 31 May 2011 announcement in regards to transitional arrangements for expansion projects.
281	**Sub 40 Lindsay & Avriel Tyson**	This clause needs to be reviewed as this will not protect SCL if included in the legislation	Clause 281 of the Bill is consistent with government's 31 May 2011 announcement in regards to transitional arrangements for expansion projects.
281	**Sub 41 Queensland Law Society**	Existing mining lease and EP or MDL forming a contiguous area S281(1)(b) has a date error which sets a deadline for applications of 23 August 2010, which should have been 23 August 2012, according to a factsheet. (Sub 41, p.4)	Clause 281 (1)(b) date is not consistent with government's 31 May 2011 announcement. Amendments will be sought to correct this drafting error.
281	**Sub 42 Queensland Resources Council**	Errors - **S281(1)(b**) transitional provisions – the Bill sets a deadline for applications of 23 August 2010, whereas the fact sheets…set the deadline as 23 August 2012. DERM has assured QRC that this section will be subject to an amendment to be moved in committee by the Minister for natural resources, Hon Rachel Nolan MP.	Clause 281 (1)(b) date is not consistent with government's 31 May 2011 announcement. Amendments will be sought to correct this drafting error.
281	**Sub 42 Queensland Resources Council**	Existing mining lease and EP or MDl forming a contiguous area - S281(1)(b) – in the policy decision, this deadline was 23 August 2012 [not 23 August 2010]. QRC understands that this is just a typographical error and will be corrected. (Sub 42, Att p.23)	DERM has recommended that this error is corrected by amendment of the Bill.
281	**Sub 42 Queensland Resources Council**	Existing mining lease and EP or MDl forming a contiguous area - S281)(c) - The definition of tenure holder will be very important as it is common to hold tenure through joint venture and other collective arrangements. Further, the test as drafted does not envisage tenure being held within company groups. For example, it is common practice for tenures to be held by different companies who all have common ownership. QRC suggests that the test should be that substantially the same tenure holder held both the production tenure and the continuous EP or MDL on 23 August 2010. The legislation needs to recognise the	DERM will recommend clarifying amendments to this provision.

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		tenement application being held by the holder of the adjoining ML, or *…held by a related body corporate(s) (within the meaning of the Corporations Act) of the holder of one of the holders.* (Sub 42, Att p.23)	
282	**Sub 15 Bandanna Energy**	Provision for future environmental authority or mining lease relating to EPC 891 - Amend clause 282 to say- "any environmental authority application and any related resource application for a mining lease relating to EPC 891 resulting from the finalised EIS TOR published on 2 June 2011 is excluded." Claim that current drafting of the clause 282(2) applies to the exclusion of all resource activities under the EIS and therefore does not place the project in the same position as section 279 projects.	Transitional arrangements established under clause 279 of the Bill require the development proponent to hold a certification of application for the mining lease, or equivalent requirements for a petroleum lease application. The certificate of application references the lease application made by the development proponent, which must state the resource activities that are to be carried out should the lease be granted (section 245(1) of the *Mineral Resources Act 1989*). The reference in clause 282 (2) of the Bill, therefore places EPC 891 in the same position as the transitional projects under clause 279, which is to reference the resource activities identified at the time the transitional arrangement was granted. The reference in clause 282 (2) to the resource activities identified in the finalised EIS terms of references for the Bandana Energy development proposal equates to the resource activities referenced in the certificate of application for clause 279 transitional arrangement projects.
282	**Sub 37 Queensland Farmers' Federation**	Transitional arrangements and exceptional circumstances: QFF believes the transitional arrangements provided for under the Bill are generous to the point of devaluing the enduring impact this legislation will have. The arrangements are not transparent in that neither the community nor affected industries can clearly observe the status of existing projects or the basis upon which transitional status was granted. This is particularly the case with respect to Clause 282 (EPC 891). To show faith in the intent of this Act, QFF requests the Government reviews the conditions that will be applied to all projects provided transitional status and ensures that new conditions be applied to deliver upon the principles of this legislation. As aforementioned QFF also submits that development projects being granted either transitional status or exemptions or categorised / regulated for state significance should be listed on the Decision Register.	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 19 Megan Baker**	Provision for future environmental authority or mining lease relating to EPC 891 - Springsure Creek should not be excluded from the SCL Bill. Clauses 282 and 283 should be deleted. Similar issues to submission no. 006.	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 6 Central Queensland's Golden Triangle**	Provision for future environmental authority or mining lease relating to EPC 891 - Springsure Creek should not be excluded from the SCL Bill. Clauses 282 and 283 should be deleted. Breach FLPs. Project does not fall within transitional provisions—Mining development licence application only made to mining registrar on 17 October 2011. – no certificate of application yet received. No assessment done on the extent the project may result in subsidence. No evidence that cropping land of this type in Australia has been, or can be fully rehabilitated after longwall mining. Written assurance provided by Bandanna has not been made available. Bandanna was always an underground mine and despite Min Nolan's comments, no concession was made to change from open-cut to underground. Direct financial benefit to a company by including clauses	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.

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		282 and 283 in the Bill.	
282 & 283	**Sub 8 Arcturus Downs**	Provision for future environmental authority or mining lease relating to EPC 891- Springsure Creek should not be excluded from the SCL Bill. Clauses 282 and 283 should be deleted. Similar issues to submission no. 006	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 11 Jackie Wells**	Provision for future environmental authority or mining lease relating to EPC 891 - Springsure Creek should not be excluded from the SCL Bill. Clauses 282 and 283 should be deleted.	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 13 Adam Sullivan**	Provision for future environmental authority or mining lease relating to EPC 891 - Springsure Creek should not be excluded from the SCL Bill. Clauses 282 and 283 should be deleted. Similar issues to submission no. 006	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 14 Paul Murphy**	Provision for future environmental authority or mining lease relating to EPC 891 - Special exemptions in the Bill with benefit to private individuals or companies against oath of MPs.	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 25 P.R. Ingram**	Transitional provisions - Delete provisions for Springsure creek because they contradict the principles of the SCL legislation	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 29 Sally Sullivan**	Provision for future environmental authority or mining lease relating to EPC891 - Springsure creek exemptions should be deleted	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 32 Bendee Farming Pty Ltd.**	Provision for future environmental authority or mining lease relating to EPC 891 - Delete these provisions from the Bill on the basis that the Springsure Creek project did not meet the transitional arrangements and was always going to be an underground project. The Springsure Creek project should be subject to SCL legislation. An individual project should not benefit from exclusion from the SCL legislation.	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 – 283	**Sub 38 Trevor and Di Berthelsen & family**	Similarly question the special transitional arrangements granted to Bandanna Energy.	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.

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282 & 283	**Sub 40 Lindsay & Avriel Tyson**	It is not acceptable under any circumstances to introduce legislation that clearly benefits an individual company. S282 & S283 should not be allowed.	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 38 Trevor and Di Berthelsen & family**	Questions the justification for and strongly opposes the exclusion of the Springsure Creek Coal Project EPC 891 in this strategic cropping land legislation. We seek the deletion of these clauses from the Bill.	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 44 Agforce**	Future mining lease relating to EPC 891 - SCL protection conditions imposed AgForce is also seeking information from this Committee's inquiries as to the validity of s.282 and s.283 of the proposed Bill, pertaining to the exclusion of EPC891 (the Bandana Coal Project) from the SCL proposed legislation regarding the finalised terms of reference as being published on 2 June 2011 – three days after the release of the SCL policy intent that has formed the basis of this Bill. AgForce is extremely concerned regarding the processes behind which this deal has been undertaken and we seriously question the validity of the SCL policy platform when the first time it was been tested, it appears to have failed to protect strategic cropping land under the definitions of criteria and timeframes outlined in the documentation. (Sub 44, p.4)	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 35 Sharon & Mike Wagner**	There is evidence in this area [Springsure] that open cut mining causes subsidence (example Gordon Downs- used to be the largest organic farm in the Southern Hemisphere - and is now practically a wasteland). Opposed to transitional arrangements for the Springsure Creek Coal Project. Questions government's assessment of the project. The whole SCL Policy has to date been nothing but a joke! The Qld Govt is continually changing the barriers to suit themselves as each situation arises. Queenslanders, and landholders need certainty. There must be NO mining on SCL, organics and Animal Refuge areas, nor where there are endangered species (example Brimblebox). Once destroyed, it is permanently or for at least centuries.	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 46 Doug & Tahnee Tyson**	The Springsure Creek Coal Project (EPC 891) should not be excluded from the Strategic Cropping Land legislation and Clauses 282 and 283 should be deleted from the Bill. (Sub 46, p.1)	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
282 & 283	**Sub 47 Ann Hobson**	The Springsure Creek Coal Project (EPC 891) should not be excluded from the Strategic Cropping Land legislation and clauses 282 and 283 should be deleted from the Bill. There is no justification for the special transitional arrangements given to Bandanna Energy and the inclusion of clauses 282 and 283 in the legislation: this is not a project of state or	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.

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		public significance; this is not a project in an advanced stage of development; this project did not have a final terms of reference on 31st May 2011; an application for a Mineral Development Licence was made to the mining registrar on 17th October 2011. As of today 03.11.2011, Bandanna Energy have not received a certificate of application for a Mineral Development Licence under the Mineral Resources Act 1989 (Qld). Despite public statements to the contrary this always was an underground project - there was no show of commitment to the SCL Policy by Bandanna Energy through a change of plans from open cut to underground. This is a decision made by a government who have not once been to visit the area and get an appreciation for what is at stake – despite numerous invitations. Bandanna Energy have not done any community consultation. Bandanna have not rehabilitated exploration holes in a timely manner – clearly demonstrating their disregard to existing government legislation. The legislation in its current form as introduced to Parliament does not show any commitment to the protection of prime agricultural land. It not acceptable under any circumstances to introduce legislation that clearly benefits an individual company. The inclusion of clause 282 and 283 are a complete contradiction of the fundamental principles of the legislation. There is no basis for the claims of reclamation by Bandanna Energy. Commercial viability must come into play when looking at rehabilitation options. There is no justification for assuming that the subsidence can be overcome – there are no examples of this anywhere in Australia	
283	**Sub 4 Fitzroy Basin Association**	Provision for future environmental authority or mining lease relating to EPC 891 - Remove this provision from the Bill and require that the Springsure Creek Coal project is evaluated under the full provisions of the SCL Bill	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
283	**Sub 15 Bandanna Energy**	Provision for future environmental authority or mining lease relating to EPC 891 - Amend clause 283 (3) to say - it is a condition of the environmental authority that its holder must use all reasonable endeavours to rehabilitate the effects of the impact on SCL from underground coal mining carried out under the lease. Claim that the condition should be limited to the rehabilitation of the effect on underground coal mining on SCL, not all land. Suggest delete clause 283(4) and (5) as these provisions allow additional conditions to be imposed on the projects and are said to be inconsistent with the Treasurer's letter of 6 June 2011.	In establishing the special transitional arrangements for the Bandana Energy project EPC 891, the government identified that the legislative provisions relating to the development would include two particular conditions: that the project be implemented as an underground coal project without scope for future consideration of development of open-cut operations; and that Bandana Energy must use all reasonable endeavours, including necessary contouring and laser levelling, to rehabilitate the effects of any impact of the underground coal project at Springsure Creek on *strategic cropping land*, such as through subsidence... [emphasis added]. As the purposes of the Bill relate to strategic cropping land and the management of development impacts on that land, the effect of clause 23 of the Bill is that a reference to land is referring to SCL or potential SCL to which the decision applies. Therefore, while clause 283 (3) requires the holder of EPC 891 to "*…rehabilitate all impacts on the land from underground coal mining…*", reading this provisions in conjunction with clause 23, it is clear that the requirements on the resource authority holder is to rehabilitate all impacts to the SCL that result from the underground mining activity. Clause 283(4) is simply defining that the "conditions" in clause 283 are to be treated as SCL protection conditions for the purpose of the whole Act. Clause 283(5) provides that any other SCL protection conditions (such as avoid and minimise the impacts on SCL and mitigate any permanent impacts) may be applied provided they do not over-ride the conditions in clause 283(2) and 283(3). Clauses 282

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			and 283 are consistent with the Government's policy announcement on transitional provisions and the special transitional arrangements for Bandanna's Springsure Creek proposal.
283	**Sub 48 FutureFood Queensland**	SCL protection conditions imposed - We are concerned and object to the transitional arrangements granted to holders of EPC891 (Springsure Creek Coal Pty Ltd). Their Terms of Reference for the Impact assessment Statement was delivered outside the 31st May exclusion timeframe. This is totally unacceptable to the local community, and does not do justice to the intent of the legislation. (Sub 48, p.2) FFQ recommend that the committee strikes out S283 dealing with Springsure Creek mining lease EPC 891. (Sub 48, p.3)	Clauses 282 and 283 of the Bill do not exclude any future environmental authority or mining lease relating to EPC 891 from the requirements of the Act. These clauses provide specific transitional arrangements and conditions on any future development which include that all reasonable endeavours to rehabilitate all impacts on the land from underground coal mining must be used. The Bill is consistent with public statements made by the Government relating to EPC 891.
285	**Sub 7 GE Energy**	Major renewable energy projects as exceptional circumstances - Remove the condition on minimum size of a renewable energy generation project – this would be consistent with the *Land Act 1994*	Clause 285 provides for major renewable energy projects to be prescribed as development in exceptional circumstances under clause 113 of the Bill. Development under the Geothermal Acts was identified as being subject to the proposed policy framework which was released on 23 August 2010 (Protecting Queensland's strategic cropping land: A policy framework). The Government's policy was to except major renewable energy projects as exceptional circumstances. Major renewable energy projects are the only developments automatically excepted in the legislation, the removal of a threshold (ie 30 MW) from the provision would mean that any renewable energy project would be excepted. In determining what should constitute a major renewable energy project, consideration was given to the following: The level of generation requiring an authority under the *Electricity Act 1994* which is 30 MW. The National Electricity Rules also recognise 30 MW as a threshold size at which a generator may have a significant impact on power system operations and the electricity market and, while the Australian Energy Market Operator automatically exempts generators of less than 5MW from registration under the Rules, it may exempt generators of up to 30MW. Generators of over 30MW are regarded as significant under all these regulatory arrangements. The Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) uses a greater than 30 MW threshold for its reporting on major renewable energy projects. Individual renewable energy projects that do not meet the definition under clause 285 can still apply for exceptional circumstances under clause 115 of the Bill.
285	**Sub 7 GE Energy**	Major renewable energy projects as exceptional circumstances - Replace definition of renewable energy source with definition of 'eligible renewable energy source' provided for in section 17 *Renewable Energy (Electricity) Act 2000 (Cth)*	The renewable energy sources defined are largely consistent with provisions in the Commonwealth *Renewable Energy (Electricity) Act 2000*. Hydro and marine sources of renewable energy have not been included in clause 285 as the Bill relates development on land (cropping land). Geothermal renewable energy sources have not been included in the definition under clause 285 of the Bill. The August 2010 framework (Protecting Queensland's strategic cropping land: A policy framework) provided that the strategic cropping land legislative framework would apply to resources legislation including the *Geothermal Exploration Act 2004* (the *Geothermal Energy Act 2010* was passed by Parliament after the release of the SCL policy framework). Clause 113 of the Bill provides that a regulation may prescribe a type of development to be in exceptional circumstances. The clause specifically allows for resource activities under the *Geothermal Exploration Act 2004* or the *Geothermal Energy Act 2010* to be prescribed in future as a type of development to be in exceptional circumstances.
285	**Sub 42 Queensland Resources Council**	Provision for prescribing major renewable energy projects as development in exceptional circumstances - S285(2) - QRC can see no reason to exclude geothermal as a renewable energy source. QRC recommends that the definition is amended to include geothermal energy. (Sub 42, Att p.24)	The approach identified in Clause 285 of the Bill is consistent with the Government's policy statements outlined in the policy framework for strategic cropping land released in August 2010. The policy framework provided that the strategic cropping land legislative framework would apply to resources legislation, including the *Geothermal Exploration Act 2004* (the *Geothermal Energy Act 2010* was passed by Parliament post the release of the SCL policy framework). Clause 113 of the Bill provides that a regulation may prescribe a type of development to be in exceptional circumstances. The clause specifically allows for resource activities under the *Geothermal*

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			Exploration Act 2004 or the *Geothermal Energy Act 2010* to be prescribed in the future as a type of development to be in exceptional circumstances.
290	**Sub 3 Robert and Lynette Petersen**	Amendment of Schedule 7 (referral agencies and their jurisdictions) - Object to planning laws preventing dividing existing property into 2 titles	The State Government will have a role in assessing development applications for subdivision where a proposed lot containing SCL or potential SCL is under 15ha in size. Assessment will be against the provisions of the SCL SPP. The State Government will not have a role in assessing development applications for subdivision in the following areas: an area zoned under a planning scheme for urban, rural residential or future rural residential purposes; an area described as urban footprint under a regional plan or State planning regulatory provision; a key resource area; and where no proposed lot containing SCL or potential SCL is under 15ha in size. In these areas subdivision may occur as per the requirements of the local government planning scheme or regional plan.
290	**Sub 43 Qld Murray - Darling Committee Inc.**	QMDC is concerned by the references to minimum land or part of land sizes and recommends that the legislation should be reflective of wider landscape values so that fragmentation is avoided. All SCL should be protected and there should be no minimum area assigned to that protection.	The area sizes identified in clause 290 of the Bill that amend the Sustainable Planning Regulation 2009 provide the triggers for referral to the concurrence agency for assessment. They are not minimum areas for protecting SCL.
290	**Sub 50 Local Government Association of Queensland Ltd.**	The Association fully supports the intention of the Strategic Cropping Land Policy not to capture small-scale developments, low impact developments, or those developments associated with / ancillary to primary production and considered necessary to achieve financial viability. The concept of clustered development, raised at the Stakeholder Advisory Committee Meeting, held on 27 September 2011, is also supported. Specifically, section 290 of the Bill identifies the type and scale of development under the Sustainable Planning Regulation 2009 that will require assessment under the strategic cropping land principles i.e. development triggers. The LGAQ suggests that the development triggers as proposed are appropriate; however given the current government move toward regulatory reform suggests that these triggers be reviewed either by the Science and Technical Implementation Committee or at the same time as the Minister requests advice about the administration of the Strategic Cropping Land Act. Sub 50, p.3)	Clause 269 of the Bill requires the Minister to review the Act's operation after 30 January 2014, but before 30 January 2016. The review of clause 290 could be addressed in this review.
291	**Sub 27 Moreton Bay Regional Council**	Insertion of new Schedule 13A - The list of "excluded matters for SCL or potential SCL concurrence agency jurisdiction" contained in section 291 differs from the list of exemptions appearing in Annex 1 of the draft SPP.	On 5 August 2011, the Government released a draft State Planning Policy for public consultation. The Government is currently considering submissions received and a final SPP will be prepared as required by clause 80 of the Bill. Clause 291 provides exemptions from the *Sustainable Planning Regulation 2009* triggers. Definitions in the SPP, wherever possible, will be consistent with definitions in the Bill. Where possible, existing definitions under the SPA, SP Regulation and Queensland Planning Provisions have been used for clauses 290 and 291 of the Bill.
291	**Sub 27 Moreton Bay Regional Council**	Insertion of new Schedule 13A - The listing for "intensive animal industries" in section 291 indicates that the exemption applies "...to the extent that any of the industries are feedlotting". This implies that so long as some of the industries on the site are feedlotting, all of the intensive animal industries on the land are "excluded matters". Clearly that is not the intent of the provision and removal of the words "any of" would clarify that intent.	The comment provided is a matter of interpretation and the provision as drafted is appropriate. The intent of this provision is clear in that feedlotting is excluded from SCL or potential SCL concurrence agency jurisdications under the Sustainable Planning Regulation 2009

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291	**Sub 33 Ipswich City Council**	Insertion of new Schedule 13A - Excluded matters in this schedule should be consistent with Annex 1 of the draft SPP. 'Dwelling house' as identified as exempt development in the draft SPP should be considered an 'excluded matter' under the Bill. Excluded matters 2, 4 and 7 should be defined in the dictionary of the Bill to provide clarity.	On 5 August 2011, the Government released a draft State Planning Policy for public consultation. Definitions in the SPP, wherever possible, will be consistent with definitions in the Bill. Where possible, existing definitions under the SPA, SP Regulation and Queensland Planning Provisions have been used for clauses 290 and 291 of the Bill. Regarding definitions for excluded matters under clause 291, "a domestic housing activity" (excluded item 2) is defined under the Sustainable Planning Regulation 2009, an urban area (excluded item 4) is defined under the Sustainable Planning Regulation 2009, and a Key Resource Area (excluded item 7) is defined under State Planning Policy 2/07: Protection of Extractive Resources.
291	**Sub 33 Ipswich City Council**	Insertion of new Schedule 13A - Annex 1 of the draft SPP and Schedule 13A of the Bill needs to identify an interim measure for which land uses are exempt if a planning scheme is not QPP compliant.	The activities listed in Schedule 13A of the Bill that are defined under the Standard Planning Scheme Provisions have descriptive definitions that can be used to interpret whether or not a proposed activity meets the definition and therefore whether or not it is an excluded matter.
291	**Sub 33 Ipswich City Council**	Insertion of new Schedule 13A - Remove 'outdoor sport and recreation', 'parks' and 'constructing underground pipes' from temporary development in Annex 2 of the draft SPP and move to Annex 1. Adverse impacts will result if these land uses are required to cease operation after 50 years. These land uses should also be listed as 'excluded matters' under Schedule 13A of the Bill.	Temporary development is defined in the bill in clause 14 (4). The draft SPP also contained a list of temporary developments in Annex 2. The draft SPP was released for public consultation and the Government is currently considering the submissions received including comments on Annex 2.
291	**Sub 42 Queensland Resources Council**	Insertion of new sch 13A - For the sake of clarity, QRC would prefer that these exemptions are noted under S6	Clause 291 provides exemptions from the *Sustainable Planning Regulation 2009* triggers. These parts of chapter 10 of the Bill amend the Sustainable Planning Regulation 2009.
291	**Sub 43 Qld Murray - Darling Committee Inc.**	Urban expansion has historically been the main cause of reduction in good quality agricultural land in the QMDB region. This is unlikely to change given the increasing population of both Southeast and Southern Queensland. QMDC are very concerned that the following listed excluded matters clause 291(4),(5),(6)& (7) will undermine the intent of the SCL Act and should therefore be removed from this section.	Urban expansion is addressed through local government planning schemes and regional planning under the *Sustainable Planning Act 2009.* Clause 80 of the Bill requires a State planning policy (SPP) under the Planning Act about SCL. A draft SPP was released for public consultation on 5 August 2010. The draft SPP stated that it would not apply to areas already designated for urban development under existing regional plans and local government planning schemes. However, SCL will need to be considered when those existing plans and schemes are remade or amended, or when new plans or schemes are developed. The exemptions for urban areas in clause 291 of the Bill are consistent with the policy outlined in the draft SPP.
291	**Sub 44 Agforce**	Insertion of new sch 13A - There has been some consternation during the development process of this bill regarding on farm diversification of development pertaining to removal of strategic cropping lands. Agforce is pleased to see this further expanded upon in S291, listing many farm diversification developments that can be excluded from these criteria. However, without having seen the regulations to these sections, it is difficult to understand what prcesses these will be assessed under, and there appears to be the posdsibility from the draft regulatory statements pertaining to this Bill that very large costs for development applications may be required for the landholder to undertake these activities on their own property. Agforce requests the committee to look in to this issue and provide resolution to the agricultural sector that this will not be the case. (Sub 44, p.2)	The cost for assessment of development applications were estimated in a Regulatory Assessment Statement released on 31 May 2011 for public consultation. However, exemptions under clause 291 of the Bill, will allow applications for diversified uses listed in clause 291 (including a building, structure or activity supporting cropping on SCL or potential SCL) to be made without a SCL assessment.
291	**Sub 50 Local**	The Association fully supports the identified "excluded matters" in Chapter 10, Part 2, section 291 – Schedule 13A. Nonetheless, the LGAQ	Planning for communities is addressed through local government planning schemes and regional planning under the *Sustainable Planning Act 2009.* Clause 80 of the Bill requires a State planning policy (SPP) under the

Cl.	Submitter	Section/Initiative/comment	DERM comments
	Government Association of Queensland Ltd.	has received concerned comments from its local government members affected by the strategic cropping land policy. In particular, there are a number of communities that have been identified as completely surrounded by potential strategic cropping land in the trigger map and fear that development and/or expansion will be impeded. Despite the intent of the policy and the need protect strategic cropping land, it is suggested that to maintain economic viability in some rural or remote communities, development associated with both the agricultural and resource industries will be necessary. (Sub 50, p.3)	Planning Act about SCL. These matters are not dealt with in the Bill as they will be dealt with in the SPP. A draft SPP was released for public consultation on 5 August 2010. The draft SPP recognised that some urban centres are surrounded by SCL, and strict requirements to avoid development on this land would prevent future growth. Therefore, the draft SPP proposed to allow for demonstrated exceptional circumstances in the making of regional and local government planning schemes. For example, urban expansion may be permitted on SCL where it can be demonstrated that there is no alternative non-SCL land available for required urban expansion.
292	**Sub 27 Moreton Bay Regional Council**	Amendment of Schedule 26 (dictionary) - The definition of the term "footprint" in section 292 has the following problems:- the term is expressed in section 290, (changes to Schedule 7 of SPR), as an area rather than a "...proportion of the relevant lot" as indicated by the definition; and the term includes "an area used or that may be used for storage.". This aspect is unlikely to be known at the application stage and would be very difficult to police. The word "storage" also needs to be clarified to exclude temporary goods storage.	The definition of footprint is necessary to allow the impacts of proposed development applications to be quantified and assessed. The concept is consistent with other items in Schedule 7 which refer to infrastructure or other elements of the final development.

SCHEDULES

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
1	**Sub 1** **Charles Nason**	Zonal criteria - Identification of SCL using criteria too basic.	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee. Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016. Clause 3 of the Bill provides that the purpose of the Bill is to protect land that is highly suitable for cropping. The criteria have been designed to achieve this purpose. State Planning Policy 1/92 Development and Conservation of Agricultural Land (SPP1/92) continues to apply to a broader range of agricultural land.
1	**Sub 5** **Kingaroy Concerned Citizens**	Zonal criteria – Coastal Queensland zone - Slope threshold should be increased from 5% to 8% to capture the red soils in the South Burnett area. Recommend partitioning off the South Burnett from the Coastal Queensland zone and lift the slope threshold to	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
	Group	8%. DERM has said that above 5% in South Burnett are not 'best of the best' – this is disputed. DERM not responded to KCCG proposal.	and independent expert review. DERM met directly with Kingaroy Concerned Citizens Group on 14 June to outline the SCL policy and to discuss the group's concerns. DERM then undertook a supplementary technical assessment of the South Burnett region in 20-21 June 2011, which involved an on-ground examination of cropping land across the region by soils and agronomy technical experts. On 21 June 2011, immediately following the assessment, these technical experts met with Kingaroy Concerned Citizen's Group representatives to outline their findings. On 27 September 2011, the department wrote to the Kingaroy Concerned Citizen's Group advising that the results of the assessment confirm that the current 5% slope threshold for the Coastal Queensland zone, which includes the South Burnett region, was appropriate to identifying Queensland's best cropping land.
1	**Sub 9** **Cassowary Coast Regional Council**	Zonal criteria – Wet Tropics zone - Slope and drainage criteria exclude a large amount of cropping land in the area – substantial areas are located in areas with poor drainage and located on slopes greater than 5% (eg sugar cane and bananas).	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee.
1	**Sub 10** **Rebecca McNicholl**	Zonal criteria – Coastal Queensland zone - Slope threshold should be increased from 5% to 8% to capture Kingaroy – this would reflect the sustainable farming practices of Kingaroy farmers who can produce crops at higher slope threshold with similar or higher yields.Expand SCL assessment process to take into account recently recorded productivity of land and sustainable farming methods.	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. A supplementary technical assessment of the South Burnett region was undertaken by DERM in June 2011 which involved an on-ground examination of cropping land across the region by soils and agronomy technical experts. The results confirm that the current 5% slope threshold for the Coastal Queensland zone, which includes the South Burnett region, is appropriate to identifying the best cropping land in that region. The Bill does not include specific consideration of productivity or farming practices when determining whether land is SCL or not. These issues are not directly related to the quality of the soil resource and if considered, may lead to perverse outcomes (e.g. changing farming practices to alter the land's SCL status).
1	**Sub 16** **Friends of Felton**	Zonal criteria – Eastern Darling Downs - Slope of 5% too low- should be increased to 8%. High yielding crops are consistently grown on slope greater than 5% due to modern farming techniques such as zero tillage and controlled farming preventing erosion. Slope preferred by vegetable growers to eliminate water logging. Land with slope greater than 5% often has shallower soil and will be addressed through soil depth criterion.	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. The slope threshold of the Western Cropping zone was specifically considered in the Technical Assessment (refer to pages 21-22 of the report) and found to be appropriate. However, it was identified that the 3% slope threshold was excluding areas of highly suitable cropping land in the eastern Darling Downs. To address this, a new Eastern Darling Downs zone was separated from the Western Cropping zone with a 5% slope threshold. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee. The Bill does not include specific consideration of productivity or farming practices when determining whether land is SCL or not.

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
			These issues are not directly related to the quality of the soil resource and if considered, may lead to perverse outcomes (e.g. changing farming practices to alter the land's SCL status).
1	**Sub 16** **Friends of Felton**	Zonal criteria – Coastal Queensland zone - Slope threshold should be increased from 5% to 8% to capture the South Burnett area.	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. A supplementary technical assessment of the South Burnett region was undertaken by DERM in June 2011 which involved an on-ground examination of cropping land across the region by soils and agronomy technical experts. The results confirm that the current 5% slope threshold for the Coastal Queensland zone, which includes the South Burnett region, is appropriate to identifying the best cropping land in that region.
1	**Sub 26** **ASSSI**	Purpose of the Act – Zonal Criteria dismayed at the creation of yet new criteria to identify the most productive cropping land; the onus being placed on the landholder (or the company wishing to undertake a particular development) to use the proposed criteria to identify SCL when maps have already been produced, for good quality agricultural land (GQAL in many instances but not all mirrors the SCL indicative mapping) under the Queensland Government's State Planning Policy 1/92, Development and Conservation of Agricultural Land;	Clause 3 of the Bill provides that the purposes of the Bill are to protect land that is highly suitable for cropping; manage the impacts of development on that land; and preserve the productive capacity of that land for future generations. This is consistent with the Government's policy announced in February 2010 that the best cropping land—strategic cropping land— is a finite resource that must be conserved and managed for the longer term. A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee. Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016.
1	**Sub 26** **ASSSI**	Criteria - the confusion that is likely to exist when making the assessments due to critical errors of fact in Table 3 on water holding capacity in Protecting Queensland's strategic cropping land – Proposed criteria for identifying strategic cropping land.	Schedule 1, clause19, of the Bill sets out two methods for determining the Soil Water Storage criterion – soil texture look-up table; or a combination of laboratory measurement and direct field measurement. The requirements are further set out in this section of the Bill and the details of the methods are provided in the Guidelines document (particularly section 4.8 and Appendix 2). This approach to determining soil water storage was endorsed by Dr Roger Shaw, whose research work included significant work on soil water storage, in his independent review of the criteria for identifying SCL.

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
1	**Sub 39** **Canegrowers**	SCL criteria - The SCL criteria are still debatable. They do not identify some highly productive agricultural soils in Queensland nor do they cater for the diversity of the production systems that remain viable on a variety of soil types across the state.	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee. Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016. Clause 3 of the Bill provides that the purpose of the Bill is to protect land that is highly suitable for cropping. The criteria have been designed to achieve this purpose. State Planning Policy 1/92 Development and Conservation of Agricultural Land (SPP1/92) continues to apply to a broader range of agricultural land.
1	**Sub 40** **Lindsay & Avriel Tyson**	Legislation is too narrow in its focus – criteria seems to be setup to exclude paddocks rather than identify paddocks as SLC. Water resources not considered at all.	The criteria are focused on the soil resource and are not assessed at property or paddock level. However, in the management area, land must meet the SCL criteria and thresholds for the relevant zone (schedule 1 of the Bill) and have a history of cropping. Cropping history is assessed at property level. Water resources Other legislation is in place to regulate the impacts of development on water supplies including the Water Act 2000 which addresses access to groundwater supplies and the Environmental Protection Act 1994 which addresses environmental harm caused to groundwater supplies. Climate, including rainfall was considered in setting the boundaries of the five criteria zones to reflect the different cropping systems and climatic variations across the State. However, the Bill does not include irrigation water availability due to its dependence on issues not related to the quality of the soil resource and the potential for perverse outcomes (for example, the sale of water rights affecting which would affect the land's status as strategic cropping land). A technical assessment involving detailed checking of the criteria for 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. The issue of irrigation was considered as part of the technical assessment and concluded (refer to page 12 of the assessment report)- "The capacity for a parcel of land to be irrigated is dependent on many issues, including access to reliable water sources, the locality of the land, the configuration of the land and capacity to alter the land surface (e.g. levelling). This is further complicated by water being a tradeable commodity. Further, not all cropping requires irrigation, which depends on its locality (for example, higher rainfall areas in the Wet Tropics), prevailing weather conditions (i.e. wet seasons) and the type of crop being grown (e.g. dryland grains cropping). For these reasons, the availability (or otherwise) of irrigation water for cropping is not considered within the SCL framework or criteria."
1	**Sub 42** **Queensland Resources Council**	Zonal criteria for original zones - Given the open questions over these criteria* and the inevitable need to amend these criteria as implementation proceeds, QRC suggests that these criteria thresholds should be in regulation not legislation.	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
		* See QRC's independent review of the proposed criteria. QRC recommends removal of the detail of the specific zone thresholds from the legislation and address in regulation instead. (Sub 42, Att p.25)	is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee. Including the criteria and thresholds in the Bill satisfies the requirements of the Legislative Standards Act 1992. The criteria are a fundamental part of the Bill and will determine how the Act will effect individuals' rights and liberties. Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. These matters can include advice on the criteria and the thresholds. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016.
1	**Sub 42** **Queensland Resources Council**	Enshrining the proposed scientific criteria (schedule1) used to identify strategic cropping lands, before they have been properly field-tested, is an example of where the haste to enact legislation is likely to create difficulties when the criteria need to be refined in the future. (Sub 42, p.3)	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee. Including the criteria and thresholds in the Bill satisfies the requirements of the Legislative Standards Act 1992. The criteria are a fundamental part of the Bill and will determine how the Act will effect individuals' rights and liberties. Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. These matters can include advice on the criteria and the thresholds. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016.
1	**Sub 43** **Qld Murray - Darling Committee Inc.**	QMDC supports the publication definitions and defined publications as they provide some rigour in the assessment process. Chloride content definition does not appear to have a threshold...how can this be applied (See Schedule 1 (11))? Electrical conductivity definition does not appear to have a threshold...how can this be applied (See Schedule 1 (12))? Soil depth definition re continuous gravel layer...need depth to gravel layer and depth of the gravel layer (See Schedule 1 (17))? Schedule 1 Part 2 Criteria Division 1 Western Cropping Zone - Criterion 3 Gilgai density extent is too narrow. Many of the cracking vertosols are flat and black and will meet many of the criteria outlined in this document. In the past these areas have been leveled with lasers to allow successful crop production. QMDC is of the view that these practices could continue to be implemented, depending on individual property circumstances. In addition, some gilgai depressions cannot be easily leveled. Some of the areas play an integral role in supporting biodiversity. From a biodiversity point of view it would be detrimental to remove these gilgai depressions.	The thresholds for chloride content, electrical conductivity and soil depth are set out in Schedule 1, Part 2, Divisions 1-5 for each of the relevant cropping zones. A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Gilgai microrelief is specifically considered in the technical assessment (refer to pages 23-24 of report) and recommended that the gilgai depth threshold be increased from 300mm to 500mm. The report concluded that gilgai "greater than 500 mm would generally fail on other SCL criteria such as salinity or wetness following rain due to ponded water, and typically will re-form after levelling". The criteria apply to the soil resource; other Acts are specifically focussed on biodiversity conservation. Criterion 6 The eight criteria for each cropping zone set out in Schedule 1, Part 2, Divisions 1 to 5 operate together to define SCL. An area must meet all of the eight criteria to be defined as SCL. Each criterion on its own is unable to define strategic cropping land. Criterion 7

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
		If these attributes are included as criteria for SCL, outstanding questions are: Is land considered SCL criteria once the laser leveling takes place? Does this criteria restrict properties from improvements such as laser leveling? Criterion 6: An assessment process viewing this criterion in isolation does not account for soil type, related soil chemistry, soil porosity and rainfall reliability. Criterion 7: QMDC is concerned that the concentration of chloride is the only salt being measured in the Western Cropping area. Criterion 8: QMDC's concern with the threshold proposed is that in practice there are a lot of production systems that are grown on soils with a PAWC of 75mm or better. Schedule 1 Part 2 Criteria Division 5 Granite Belt Zone – Criterion 7: the EC criteria for the Granite Belt may be misleading because there are crops being grown in that area that are EC tolerant. QMDC would also like to see some discussion on secondary salinity and whether this needs to be considered. Irrigation Capability: Areas within the Western Zone and granite belt zone produce a large proportion of the nation's horticultural crops on sandy loam soils which is largely excluded from SCL maps. Further discussion is required to articulate clearly whether the intent of the policy is to solely protect naturally productive areas or whether it also includes other areas which become productive with the addition of water. It could be well argued irrigated property could also be strategic cropping lands. Process and Changes to Criteria and Thresholds: QMDC recommends that the development and application of agreed criteria and associated thresholds should be underpinned by a number of guiding principles, similar to the SPP1/92. These principles would assist a consistent and transparent approach within the policy framework.	Chloride is used as the measure of salinity in the Western Cropping and Eastern Darling Downs zones due to the presence of gypsum found in soils in these zones which elevate electrical conductivity (EC) readings. The technical assessment report released in April 2011 specifically addresses this issue (refer to page 31)- "One of the problems in using EC1:5 as an indicator of soil salinity is that all soluble salts, including gypsum, are detected in the soil solution. Whilst existing predominantly in soil as crystals, gypsum readily dissolves when soil is diluted with water in the laboratory resulting in inflated EC1:5 measurements. For this reason, it has been found that chloride concentration is a preferable indicator of salinity in areas where gypsum may be present (i.e. in the Western Cropping zone and new Eastern Darling Downs zone). In addition, recent research (Dang et al., 2008) has shown that chloride concentration is a better indicator of subsoil constraints to the growth of grain crops which predominate in western areas." Regarding comments about criterion 7 in the Granite Belt zone, page 9 of the independent expert review report noted "The threshold level of EC1:5 chosen represents the boundary between moderately salt tolerant plants and salt tolerant plants for high clay content soils (Table 27 of Salcon 1997)". Criterion 8 Pages 33-37 of the technical assessment report specifically discuss the soil water storage criterion and its measurement. Irrigation The issue of irrigation was considered as part of the technical assessment and concluded (refer to page 12 of the technical assessment report)- "The capacity for a parcel of land to be irrigated is dependent on many issues, including access to reliable water sources, the locality of the land, the configuration of the land and capacity to alter the land surface (e.g. leveling). This is further complicated by water being a tradeable commodity. Further, not all cropping requires irrigation, which depends on its locality (for example, higher rainfall areas in the Wet Tropics), prevailing weather conditions (i.e. wet seasons) and the type of crop being grown (e.g. dryland grains cropping). For these reasons, the availability (or otherwise) of irrigation water for cropping is not considered within the SCL framework or criteria." Process and changes to criteria and thresholds Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister.
1	**Sub 48** **FutureFood Queensland**	FFQ recommends the committee support …the criteria defining SCL	No comment required.

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
1	**Sub 49** **Lee McNicholl**	Schedule 1, Part 2 defines the criteria that validates SCL within the various zones. Criteria 1 relates to the maximum permissible slope that applies across the different SCL zones. A 3% max slope relates to the Western Cropping Zone where our operation is located. In all other zones a 5% max. applies. My view is that state of the art sustainable farming and "Landcare" practices are widespread across the Western Cropping Zone on soils that are generally less erosion prone than soils in the other zones where the 5% max rule applies. I submit that your committee seek DERM's explanation why this anomaly exists and if DERM's cannot justify their recommendations I submit that 5% slope criteria be applied in the Western Cropping Zone. (Sub 49, p.1)	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. The slope threshold of the Western Cropping zone was specifically considered in the Technical Assessment (refer to pages 21-22 of the report) and found to be appropriate. However, it was identified that the 3% slope threshold was excluding areas of highly suitable cropping land in the eastern Darling Downs. To address this, a new Eastern Darling Downs zone was separated from the Western Cropping zone with a 5% slope threshold.
2	**Sub 21** **Xstrata Coal**	The dictionary in Schedule 2 does not contain a definition of SCL, but does contain a circular reference to S9. Recommendation: Provide a clear and unambiguous definition of SCL.	Drafting conventions are established by the *Acts Interpretation Act 1954* and *Statutory Instruments Act 1992*, which are administered by the Office of Queensland Parliamentary Counsel.
2	**Sub 21** **Xstrata Coal**	Commencement - This is a very short timeline for the Committee to make proper and considered recommendations to the Parliament. This Bill is a complex and important piece of legislation, with potentially significant ramifications for both resource development and farming in Queensland. Recommendation: Commencement on 30 June 2013 to allow proper and considered review of the submission; the science underpinning the legislation to be reviewed and enhanced, ensuring it is robust and correct; and formulation of meaningful recommendations to the Parliament	The consultation undertaken in developing the SCL policy and legislation is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee and submitted to the Committee by DERM on 4 November 2011. This consultation has included the following: **February 2010**—The Government released a discussion paper on conserving and managing food-producing land for public consultation. **February 2010**—A Stakeholder Advisory Committee was formed (including representatives from the agriculture, resource and urban development sectors, local government and natural resource management groups) and has meet regularly since its formation. **February–March 2010**—The Government hosted community information sessions on the discussion paper. **23 August 2010**—The Government released Protecting Queensland's strategic cropping land: A policy framework (August 2010 framework) for public consultation. **August–September 2011**—The August 2010 framework was presented at nine community forums on coal seam gas in south-west Queensland. **14 April 2011**—The Government released the proposed criteria for identifying SCL, a technical assessment report and independent expert review report of the proposed criteria. **31 May 2011**—The Government announced implementation of the SCL policy through Protection Areas and a Management Area, released the transitional arrangements, and released a Regulatory Assessment Statement for public consultation. In addition, the Government announced the requirement for mitigation measures. **5 August 2011**—A draft State Planning Policy was released for public consultation. **24 August 2011**—The Government announced there would be a Science and Technical Implementation Committee.

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
			8 September 2011—Guidelines for applying the proposed criteria at a property level were released, as well as an online mapping tool. **27 September 2011**—The Government announced that legislation would be introduced into Parliament in late October 2011, and released further information on mitigation arrangements. The Bill is consistent with previously announced government policy.
2	**Sub 27** **Moreton Bay Regional Council**	Dictionary - The definition of the term "decision-maker" in Schedule 2 needs to be amended to clarify that it only applies to applications made under this Act (see item 32 above for more detail).	Drafting conventions are established by the *Acts Interpretation Act 1954* and *Statutory Instruments Act 1992*, which are administered by the Office of Queensland Parliamentary Counsel.
2	**Sub 27** **Moreton Bay Regional Council**	Dictionary - (42) The definition of "highly suitable for cropping" in Schedule 2 needs to be more determinative.	Section 32A of the *Acts Interpretation Act 1954* provides that words are to be read in the context provided by the Act. Therefore where a word is not defined the ordinary meaning of the word must be relied upon in the context of the legislative provision. The phrase "highly suitable for cropping" therefore takes on the ordinary meaning of the word as understood when applied to the purposes of the Act to protect strategic cropping land. Providing an additional definition would limit the application of the provision, and the powers of the Minister and chief executive, unnecessarily.
2	**Sub 27** **Moreton Bay Regional Council**	Dictionary - (43) The section number has been omitted from the definition of the term "minimum size" in Schedule 2.	Drafting errors and other minor error may be amended prior to the Bill being passed by the Parliament.
2	**Sub 27** **Moreton Bay Regional Council**	Dictionary - (44) The definition of the term "official" in Schedule 2 is cyclical in its operation. Its meaning is essential to establishing the scope of liability under section 268. However, item (f) of the definition is reliant upon firstly establishing who is liable in the performance of functions under the Act.	Drafting conventions are established by the *Acts Interpretation Act 1954* and *Statutory Instruments Act 1992*, which are administered by the Office of Queensland Parliamentary Counsel.
2	**Sub 27** **Moreton Bay Regional Council**	Dictionary - (45) The words "that the land is restored to" need to be removed from the definition of the term "predevelopment condition" in Schedule 2. The current wording gives the impression that restoration is required before the development is started rather than when it ceases.	Section 14B of the *Acts Interpretation Act 1954* applies to require the clause to be read to achieve the purposes of the Act. Therefore the provision should be read to the effect the restoration should be undertaken to a level that returns the land to the condition of that land prior to the development commencing.
2	**Sub 27** **Moreton Bay Regional Council**	Dictionary - (46) The definition of the term "relevant website" in Schedule 2 refers to "the department's website" but gives no indication as to which department is involved in this context.	Drafting conventions are established by the *Acts Interpretation Act 1954* and *Statutory Instruments Act 1992*, which are administered by the Office of Queensland Parliamentary Counsel. The department's website refers to the department responsible for the administration of the Act at that point in time. Department names may change and listing the relevant departments would require amendment to all of the acts as the departments change. The Queensland Parliamentary website may be relied upon to determine which department, from time to time, is responsible for administering the Act.
2	**Sub 37** **Queensland**	The criteria remain under debate. QFF notes the complexities that have been involved in developing the criteria for SCL identified under Schedule	A technical assessment involving detailed checking of 128 sites across the five strategic cropping land zones—Granite Belt, Wet tropics, Coastal Queensland, Eastern Darling Downs and Western Cropping

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
	Farmers' Federation	2 of the Act. QFF supports the proposal to have a technical committee monitor the application of the criteria to ensure the intended scientific outcomes are achieved and further the Federation supports the proposal to review the policy framework at the end of 2years of implementation. QFF notes that the criteria as they are stated do not in any way identify some highly productive agricultural soils or land in Qld and nor do they cater for the diversity of the production systems that remain viable on a variety of soil types across the state.	zones—and an independent expert review were undertaken to ensure the criteria are scientifically robust. On 14 April 2011 the proposed criteria were publicly released, along with the technical assessment report and independent expert review. Further detail about the consultation undertaken in developing the criteria is outlined in the Consultation Briefing on the Strategic Cropping Land Bill 2011 prepared for the Environment, Agriculture, Resource and Energy Committee. Clause 227 of the Bill provides that the Minister may establish a Science and Technical Implementation Committee. The Committee's functions will be to give the Minister independent scientific and technical advice about the administration of the Act relating to soil and land resources and other matters decided by the Minister. Clause 269 provides that the Minister must review the Act's operation after 30 January 2014 but before 30 January 2016. Clause 3 of the Bill provides that the purpose of the Bill is to protect land that is highly suitable for cropping. The criteria have been designed to achieve this purpose. State Planning Policy 1/92 Development and Conservation of Agricultural Land (SPP1/92) continues to apply to a broader range of agricultural land.
2	**Sub 42** **Queensland Resources Council**	Commencement - Does not leave much time for review of such a complex, contentious and ground breaking Bill.(Sub 42, Att p.1) QRC recommends commencement on July 2012	Clause 2 provides for commencement on the day that is the later of the following days – the date of assent or 30 January 2012.
2	**Sub 42** **Queensland Resources Council**	Dictionary - The definition [of contiguous] does not include the sense in which a lot can be contiguous – for example in S61(2)(b) – whereby a watercourse or road does not break the contiguity for applying zonal criteria. QRC suggests that for consistency that the same definition be applied for the purposes of transition mechanisms. (Sub 42, Att p.25)	The Bill defines Contiguous in the Schedule 2 Dictionary. Part 8 of the *Acts interpretation Act 1954* states that a defined term should be read consistently throughout the Act, unless the context or drafting of a provision requires the word to be interpreted otherwise. *Clause 46* of the Bill adds the additional context to the definition of contiguous when applied to determining the extent of a property in 46 (1) (b) . In this instance, where the boundaries of individual lots, which make up the property, do not abut because there is a road or a watercourse between them - the lots are still considered to be contiguous.In terms of clause 61 (2), the additional context does not apply and contiguous is to be defined by the Schedule 2 dictionary In relation to using contiguous in clause 281 for the transitional arrangements for expansion projects, the term is also interpreted as per the definition provided in the Schedule 2 Dictionary. Tenures are not cadastrally based. When mapping tenure areas, the Department of Employment, Economic Development and Innovation do not indicate the location of roads and watercourses in relation to tenure areas and it is common for tenures to abut. The contiguous nature of a mining lease and any mineral development licence or exploration permit will be readily determined by the spatial data held by the government.
2	**Sub 42** **Queensland Resources Council**	Dictionary - The definition of tenure seems to rely on "the holding of land under a resource Act". This definition is very important for a whole host of rights for a resource project during the SCL process and as such it is very essential that the definition reflects the full range of exploration and production tenures which are possible. QRC suggests that the definition include a specific list of all the different tenure types under resource legislation. (Sub 42, Att p.25)	DERM will recommend that amendment be made to the Bill to clarify that all resource authorities are included as 'tenure'.
22 (1)(b)	**Sub 21** **Xstrata**	Applications and amendments - The Bill creates uncertainty for the resources sector because the criteria	The August 2010 policy framework released by the Government provided that the new SCL legislation would apply to all new and undecided resources development applications. It also provided that

Sch.	Submitter	Section/ Comment Key Points	DERM Comments
		and trigger maps are flawed and the transitional arrangements are short lived due to amendments s22 (1) (b) . - requires amendment prior to assent and more time for review	amendments to resources legislation would- "*require assessment of the impact on SCL and will condition tenure accordingly. Further conditions for restoration and other environmental matters will continue to be addressed under the Environmental Protection Act 1994*". Clause 22 (1)(b) of the Bill effectively provides that the Bill applies to applications for amendment, renewal or re-grant of a resource authority, environmental authority or development approval. This is consistent with the Government's policy announced in August 2010. However, DERM has recommended amendments to the Explanatory Notes to clarify that the assessment will only relate to the matters applied for in the application. Assessment would not be required where no new or amended Environmental Authority is required under the *Environmental Protection Act 1994*. For example, if a resource development submits an application for an amendment to the environmental authority to increase the level of discharge into a local waterway, the application will be assessed to determine if the proposed amendments will have any impacts on SCL or potential SCL. If there are no impacts, the chief executive can make a decision to that effect under section 90 of the Act. In this instance, the assessment would not consider the entire resource development activities.
Ch. 2 and 4	**Sub 52** **Environmental Defenders Office**	Identifying Strategic Cropping Land – Exceptional Circumstances Public notice requirements fall short of best practice. First and foremost, the owners of land to which the SCL relates, as well as adjoining landowners, must be given written notice of applications that affect their rights under the Bill. Second, the way in which applications are publicly advertised, need to reflect local conditions. We were instructed by a client from the Mackay region that circulation in a local newspaper does not guarantee information will come to attention of all interested stakeholders in timely way. Some landowners only get mail once a week. Time frames for making submissions need to be long enough to allow an interested person the opportunity to consider the application, engage experts to provide advice on any technical matters, and produce an appropriate submission.	Chapter 2 address identifying SCL. Part 1 specifically relates to maps, zones, criteria and areas. Under this part, notification requirements are provided for map amendments. These include: Clause 33 – minor amendments are required to be published by the chief executive on the department's website. Clause 36 – requires the Minister for zonal or protection area amendments to publish a notice about the proposed amendment circulating generally in the area to which the amendment relates. Clause 39 provides that the chief executive must keep maps published on the department's website and make the maps available for public inspection. The chief executive must also make available on the department's website any zonal or protection area amendments. This approach is consistent with similar provisions in other legislation involving map amendments (e.g. Vegetation Management Act 1999). Clause 36 provides for a minimum of 21 days for anyone to make a submission to the Minister about the proposed zonal or protection area amendments. The timeframe established in the Bill is consistent with the timeframes established for public notification on IDAS development applications under the Sustainable Planning Act 2009. Chapter 2 Part 2 deals with deciding what is SCL and validation decisions. Clause 54 specifically provides that a validation applicant must give all owners a copy of the validation application. Clause 55 provides that the applicant must also publish a notice circulating in each local government area that includes the land which is subject of the application.

Appendix C – Witnesses at public hearing – 10 November 2011

Witness	Organisation
Mr Brent Finlay, President	AgForce Queensland
Mr Dan Galligan, Chief Executive Officer	Queensland Farmers' Federation
Mr Matt Kealley, Senior Manager, Environment	Canegrowers
Mr Michael Murray, Queensland Policy Officer	Cotton Australia
Mr Drew Wagner, Policy Director	AgForce Queensland
Mr Howard Briggs	Australian Society of Soil Science Inc.
Dr Louise Cartwright, President	Australian Society of Soil Science Inc.
Mr Craig Johnstone, Media Executive	Local Government Association of Queensland
Mr Geoff Penton, Chief Executive Officer	Queensland Murray-Darling Committee Inc.
Mr Andrew Barger, Director, Industry Policy	Queensland Resources Council
Mr Gavin Batcheler, Solicitor	HopgoodGanim on behalf of Bandanna Energy Limited
Mr Aaron Johnstone, State Director	Cement Concrete & Aggregates Australia
Ms Lizzie Bradford, Secretary	Arcturus Downs Ltd and Central Queensland Golden Triangle Community
Mr Ian Whan, President	Friends of Felton
Mr Charles Wilson, Co-Chair	FutureFood Queensland

Appendix D – Briefing officers – Department of Environment and Resource Management

Officer	Position
Ms Sarah Bill	Principal Policy Officer, Land Planning
Mr Peter Burton	General Manager, Land Management and Use
Ms Anita Haenfler	Director, Land Planning
Ms Shannon Jimmieson	Principal Adviser, Land Management and Use
Mr Chris Robson	Assistant Director-General, Land and Indigenous Services
Ms Carly Waide	Manager, Land Planning

Statement of Reservation

We, the undersigned, support the purposes of the *Strategic Cropping Land Bill 2011* (the bill) as they are stated in Clause 3:

> *(a) protect land that is highly suitable for cropping; and*
> *(b) manage the impacts of development on that land; and*
> *(c) preserve the productive capacity of that land for future generations.*

In respect of Recommendation 1 in this report, we support it to the extent that it recommends the bill proceed through the Queensland Parliament. However, we are compelled to submit this statement of reservation in view of Recommendation 1 also recommending the bill be passed subject only to the clarifications and assurances sought by the committee in respect of several clauses and provisions in the bill.

We can not ignore the fact that the committee report seeks only further clarifications and assurances from the Minister in respect of critical issues concerning several key clauses and provisions of this bill. The public submissions taken by the committee have raised a number of fundamental concerns and the Department of Environment and Resource Management (DERM) has been unable to adequately address them.

As such, we consider the committee report ought to recommend that the Minister provide clear and unambiguous advice about these substantive issues, rather than simply seeking clarification and assurances about them. Given the significance of this bill (as it is without precedent in other states or at the Commonwealth level[7]), it is imperative that achieving the maximum level of certainty is a priority consideration.

The LNP believes strongly that strategic cropping land (SCL) must be protected and that it presently does not have adequate protection in Queensland. The position of the LNP is that the bill is significantly flawed and our concerns will be outlined further below. However, the LNP considers that the bill needs to be passed by the parliament as soon as possible, to afford SCL at least a degree of protection.

The LNP remains committed to implementing its stated policy to protect SCL. However, the LNP believes this bill should be passed as soon as possible to inform the decision making process in respect of new development applications. The LNP believes some of the technical work that will be done, in terms of the analysis of soils as a result of the implementation of this bill, will be useful in implementing its policy.

SHORTENED COMMITTEE PROCESS

Standing Order 136 ordinarily provides parliamentary committees with up to 6 months from the referral of a bill to the date that it is required to report to the Legislative Assembly. In this instance, the Committee has been required to report back to the Legislative Assembly by 25 November 2011, only one month from the date of the bill's introduction to the Legislative Assembly on 25 October 2011.

While the matters contained in the bill have been the subject of an extended public consultation process[8], it does not appear to have been a particularly effective one. The call for public submissions

[7] *Strategic Cropping Land Bill 2011*, Explanatory Notes, Consistency with legislation of other jurisdictions, Page 9

[8] Environment, Agriculture, Resources and Energy Committee, Public Briefing by DERM on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Pages 2,3,4

to the committee's inquiry resulted in 56 written submissions, the overwhelming majority of which, while supporting the principle objectives of the bill, expressed serious concerns with its clauses and provisions.

It would appear the efforts of the government to undertake public consultation[9] have been unsuccessful in resolving the major community and industry concerns about its strategic cropping land policy. The government facilitated public consultation has proven to be an inadequate substitute for a full and proper consideration of the bill by the Environment, Agriculture, Resources and Energy Committee of the parliament.

EXAMINATION OF THE BILL

The report accurately identifies the most contentious issues raised by public submissions and in the evidence given to the committee during its public briefing by DERM and the public hearing on the bill. There is a wealth of additional material that supports the LNP's contention that the bill is significantly flawed. LNP members of the committee encourage other members to consider this material carefully.

To canvass in detail in this statement of reservation, even a fraction of the information provided to the committee would result in a report as lengthy as the committee report itself. The observations below seek to underline those matters that have been presented to the committee as representing significant policy, technical and administrative flaws in the bill in order to facilitate members' consideration of it.

THE IDENTIFICATION OF STRATEGIC CROPPING LAND

There were substantial concerns expressed in relation to the process established by the bill to identify SCL, particularly the policy decision by the government to establish both the two SCL protection areas and the SCL management area. It was asserted that there was no justification for differentiating between SCL in the two protection areas (Southern & Central Protection Areas) and in the management area[10].

A number of submitters expressed dissatisfaction that an arbitrary distinction had been made between the protection afforded to SCL within the two protection areas and SCL in the management area, insisting that SCL was either worth protecting or it was not[11]. The failure to afford all SCL a consistent level of protection appears to be contrary to the stated purpose of the bill, to protect land highly suitable for cropping.

Notwithstanding that the explanatory notes accompanying the bill claim that it provides for a consistent process for assessing and determining whether developments are able to proceed on SCL[12], this is clearly inaccurate. There are no technical differences between the quality of the soils on SCL in the two protection areas, compared to the quality of the soils on SCL in the management area.

As such, while the bill claims to establish a scientifically based process for identifying SCL in Queensland[13], it does no such thing. It proposes to create a two tier system distinguishing SCL in the two protection areas from SCL in the management area based only on its location, not its productive

[9] *Strategic Cropping Land Bill 2011*, Explanatory Notes, Consultation, Pages 8,9
[10] Environment, Agriculture, Resources and Energy Committee, Public Hearing on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Page 3
[11] Environment, Agriculture, Resources and Energy Committee, Public Hearing on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Page 3
[12] *Strategic Cropping Land Bill 2011*, Explanatory Notes, Policy Objectives and the reasons for them, Page 1
[13] *Strategic Cropping Land Bill 2011*, Explanatory Notes, Achievement of policy objectives, Pages 2,3

capacity. Nothing in the bill's explanatory notes or in the information provided by DERM, justifies this distinction.

That the bill creates this arbitrary distinction is a legitimate criticism of its provisions. This arbitrary provision has been included without any explanation and must therefore be considered a policy decision of the government. This policy decision appears to undermine the stated purpose of the bill. It is reasonable therefore, to question if the public can have confidence in the balance of the provisions in the bill.

VALIDATING WHETHER LAND IS SCL OR NOT

There were considerable concerns expressed in relation to the criteria established in the bill to determine whether or not land is SCL, involving assessment against eight criteria based on the physical characteristics of the soil, whether it meets minimum size requirements and whether it meets a cropping history test. These provisions encouraged wide ranging debate about what makes cropping land "strategic".

While the eight physical soil criteria are considered to be relevant tests to legitimately determine the quality of cropping soils, the thresholds set for each of these criteria have been criticised for excluding highly productive land that has been successfully growing high value crops for extended periods[14]. Notwithstanding zonal adjustments allowing for regional differences, the eight soil criteria are considered to be flawed.

The cropping history test criteria has been criticised for its failure to consider that land worthy of being considered as SCL (meeting the physical soil criteria) could be excluded on the basis that factors other than suitability for cropping may prevent a landholder from farming land. Amongst these include depressed market prices, extended drought conditions, or a fixed term biosecurity declaration over a property.

The additional minimum size criterion appears to present a reasonable test against which SCL mapping can be undertaken. A small, isolated area of land that would otherwise be considered as SCL is not realistically a strategic asset. However, the minimum size test (along with the cropping history test) moves the SCL validation process a further step away from a purely technical or scientific assessment of soils.

ASSESSMENT OF THE DEVELOPMENT IMPACTS ON THE LAND

There were considerable concerns expressed in relation to the mechanisms for assessing the impact of development on SCL in terms of its reduced productive capacity, the efficacy of measures to avoid and minimise these impacts and determining if the impacts are temporary or permanent. A particular concern is the absence of a clear mechanism calibrating impacts on SCL with mitigation payments[15].

The appropriateness of the 50-year time frame for determining if a permanent impact has occurred on SCL following a development has been contested. Other time frames more relevant to agricultural enterprises, such as the 10-15 planning cycles for water resource plans and the 30 year

[14] Environment, Agriculture, Resources and Energy Committee, Public Hearing on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Pages 2,5,6

[15] Environment, Agriculture, Resources and Energy Committee, Public Briefing by DERM on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Pages 12,13,16,17

lease renewal periods under the Delbessie Agreement, have been proposed as more appropriate for this purposes in the bill[16].

These more relevant timeframes are more appropriate for agricultural enterprises to measure productivity losses resulting from a development, against the opportunity cost to their investment. A development on SCL essentially alienates an agricultural enterprise from a key asset of that enterprise. Measuring this alienation against access to other key assets, such as water and tenure security, makes more sense[17].

No real justification for the 50 year timeframe is provided either in the explanatory notes accompanying the bill, or the information provided by DERM to the committee. A further serious concern is that DERM has not yet established an accurate mechanism to calculate what resources (financial or otherwise) will be required to reestablish the productive capacity of SCL through a mitigation measure[18].

PROJECTS TO BE APPROVED IN EXCEPTIONAL CIRCUMSTANCES

There was considerable concern expressed in relation to the process for determining if a development meets certain criteria to be approved under exceptional circumstances provisions within a Protection Area, where such a project would ordinarily not be permitted to occur. Chief amongst these concerns was that the definition of what constitutes exceptional circumstances is unacceptably vague.

A proposed development may proceed on SCL in a Protection Area if it meets two "exceptional circumstances" criteria. The Minister may approve a development if there is no alternative site for the development, or if the project will provide an overwhelming and significant community benefit[19]. However, the required value of the community benefit is not quantified, nor is the nature of it established by the bill.

It should be noted that the bill defines "significant community benefit" as being both an overwhelmingly significant opportunity to benefit the state and the benefit of the development outweighs the State's interest in protecting SCL[20]. It is difficult to understand then, how the provisions contained in Chapter 4 can stand part of the bill, when they appear to be inconsistent with all of its stated purposes in Chapter 1.

Approving a development in a Protection Area under the exceptional circumstances clause, which will have a permanent impact on the SCL in question, is clearly inconsistent with the stated purpose of the bill to protect land highly suitable for cropping, manage the impacts of development on that land and preserve the productive capacity of that land for future generations. The contradiction is plain.

MITIGATION

[16] Queensland Murray Darling Committee, Submission No. 44 to the Environment, Agriculture, Resources and Energy Committee Inquiry into the *Strategic Cropping Land Bill 2011*

[17] Environment, Agriculture, Resources and Energy Committee, Public Hearing on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Page 9

[18] Environment, Agriculture, Resources and Energy Committee, Public Briefing by DERM on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Pages 12,13,16,17

[19] *Strategic Cropping Land Bill 2011*, Ch 4 Exceptional Circumstances, Page 72

[20] *Strategic Cropping Land Bill 2011*, Ch 4 Exceptional Circumstances, Pages 75,76

There were considerable concerns expressed in relation to the scientific and technical legitimacy of proposed measures in the bill to facilitate the restoration of the productivity of SCL, after a development activity has ceased[21]. There were also considerable concerns expressed about the ability to accurately calculate the loss of the productive capacity of SCL, after a development activity has ceased.

In terms of the science of rehabilitating the productive capacity of SCL through the mitigation measures provided for in the bill, a number of submissions stated that there is no scientific evidence that this can occur, particularly on prime agricultural land[22]. The provisions providing for mitigation measures to restore the productive capacity of SCL, is a fundamental plank supporting the objectives of the bill[23].

Evidence was given to the committee during the public hearing on the bill, that during the extended public consultation period on the government's SCL policy, no peer reviewed science documenting the successful rehabilitation of prime agricultural land was presented[24]. This is extraordinary, given that the provisions in Chapter 5 of the bill, is at least in part dependent on the assumption that SCL can be rehabilitated.

Furthermore, if the provisions of Chapter 5 are not supported by any peer reviewed science documenting successful rehabilitation of SCL, these provisions are contrary to two stated purposes of the bill, being to manage the impacts of development on SCL and to preserve its productive capacity. If SCL can not be rehabilitated, the impacts can not be managed and its productive capacity can not be preserved.

TRANSITIONAL ARRANGEMENTS

There were considerable concerns expressed in relation to transitional arrangements provided for in the bill that relate to developments that have met certain milestones in the assessment and approval process prior 31 May 2011. There was particular attention in this regard paid to the unique arrangements pertaining to the Springsure Creek coal project, where special transitional arrangements have been put in place.

Evidence to the committee stated that Bandanna Energy's application did not meet the 31 May deadline. The government's policy decision to allow the application to proceed is outside the intent of the SCL transitional arrangement provisions[25]. The committee however, was advised that this policy decision was justified on the basis that the application had been administratively completed, save for its publication[26].

A submission to the committee states that the state Strategic Cropping Land Advisory Committee (SCLAC) was briefed at a meeting on 2nd June 2011, that as the proponents (Bandanna Energy) had

[21] Growcom, Submission No.36 to the Environment, Agriculture, Resources and Energy Committee Inquiry into the *Strategic Cropping Land Bill 2011*

[22] Environment, Agriculture, Resources and Energy Committee, Public Hearing on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Page 4

[23] *Strategic Cropping Land Bill 2011*, Explanatory Notes, Achievement of policy objectives, Pages 2,4

[24] Environment, Agriculture, Resources and Energy Committee, Public Hearing on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Page 4

[25] Environment, Agriculture, Resources and Energy Committee, Public Briefing by DERM on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Pages 8,10

[26] Environment, Agriculture, Resources and Energy Committee, Public Briefing by DERM on the *Strategic Cropping Land Bill*, Transcript of Proceedings, Pages 8,10

not finalised a terms of reference for its EIS prior to the government releasing its SCL policy, that the Springsure Creek coal project would now be subject to the SCL framework as set out in the bill[27].

The submission also states that subsequent to and notwithstanding this advice, the government has since entered into special transitional arrangements with Bandanna Energy to allow the development to proceed outside the SCL framework[28], the details of which were outlined in correspondence to Bandanna Energy dated 6 June 2011, from the Treasurer and Minister for State Development and Trade[29].

The unusual nature of these arrangements has undermined public confidence in the government's SCL policy. The Springsure Creek coal project is in a regulatory "twilight zone" – not subject to the processes that governed applications prior to 31 May, but equally, not subject to the processes that have governed applications since 31 May. This situation has implications for the integrity of Chapter 9 of the bill.

CONCLUSION

With parts of the bill seemingly in conflict with its stated purposes, with other parts of the bill seemingly failing to achieve its objectives, with some provisions of the bill included without justification, in the absence of science to support certain parts of the bill and with a regulatory nightmare undermining public confidence in the bill generally, the LNP's contention that the bill is flawed is well and truly substantiated.

However, the current government's failure to modernise the regulatory arrangements to properly manage the land use completion between agriculture, mining and resource and urban development and protect SCL, the LNP remains of the view that it is still desirable to ensure this bill is passed to inform decisions on development applications. We support Recommendation 2 contained in the committee's report.

Mr Andrew Cripps MP
Member for Hinchinbrook

Mr Jack Dempsey MP
Member for Bundaberg

Mr Andrew Powell MP
Member for Glass House

[27] AgForce Queensland, Submission No.45 to the Environment, Agriculture, Resources and Energy Committee Inquiry into the *Strategic Cropping Land Bill 2011*

[28] AgForce Queensland, Submission No.45 to the Environment, Agriculture, Resources and Energy Committee Inquiry into the *Strategic Cropping Land Bill 2011*

[29] Tabled document, Mr Gavin Batcheler, Hopgood Gamin on behalf of Bandanna Energy, Letter from the Hon Andrew Fraser MP, Environment, Agriculture, Resources and Energy Committee, Public Hearing on the *Strategic Cropping Land Bill*,