Parliamentary Committees

Land and Other Legislation Amendment Bill 2022

Report No. 16, 57th Parliament
Transport and Resources Committee
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Transport and Resources Committee

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Acknowledgements

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All web address references are current at the time of publishing. Please note that all in-text references have been removed. Refer to original source for more information.

Contents

Abbreviations

ADVCC	Accepted Development Vegetation Clearing Codes
AgForce	AgForce Queensland Farmers Limited
Agreement	Central Queensland Coal Associates Agreement
BMA	BHP Mitsubishi Alliance
committee	Transport and Resources Committee
Consultation Report	Stock Routes Discussion Paper - Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation
CYLC	Cape York Land Council
CYPHA	*Cape York Peninsula Heritage Act 2007*
department	Department of Resources
EDO	Environmental Defenders Office
FLP	Fundamental legislative principle
HRA	*Human Rights Act 2019*
ICUA	Indigenous community use area
Land Act	*Land Act 1994*
Land Regulation	Land Regulation
LGAQ	Local Government Association of Queensland
LSA	*Legislative Standards Act 1992*
REDD	Regional Ecosystem Database
RNTBC	Registered Native Title Body Corporation
Planning Act	*Planning Act 2016*
PMAV	Property map of assessable vegetation
SCML	Special Coal Mining Lease
Stock Route Management Act	*Stock Route Management Act 2002*
Stock Route Management Regulation	Stock Route Management Regulation 2003

Survey and Mapping Infrastructure Act	*Survey and Mapping Infrastructure Act 2003*
Vegetation Management Regulation	Vegetation Management Regulation 2012
VMA	*Vegetation Management Act 1999*
VM REDD	Vegetation Management Regional Ecosystem Description Database

Chair's foreword

This report presents a summary of the Transport and Resources Committee's examination of the Land and Other Legislation Amendment Bill 2022.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

The committee has made 3 recommendations, including that the Bill be passed. The committee heard evidence from stakeholders regarding reasons that changes to the status of ecosystems should remain in the regulation rather than be certified as is proposed in the Bill. The committee also identified numerous errors in the explanatory notes which it considers need to be corrected.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank our Parliamentary Service staff and the Department of Resources.

I commend the report to the House.

Shane King MP

Chair

Recommendations

1 Introduction

1.1 Role of the committee

The Transport and Resources Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 26 November 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.[1]

The committee's primary areas of responsibility are:

- Transport and Main Roads
- Energy, Renewables, Hydrogen, Public Works and Procurement
- Resources.

The functions of a portfolio committee include the examination of bills and subordinate legislation in its portfolio area to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles
- matters arising under the *Human Rights Act 2019*
- for subordinate legislation – its lawfulness.[2]

The Land and Other Legislation Amendment Bill 2022 (Bill) was introduced into the Legislative Assembly and referred to the committee on 17 March 2022. The committee is to report to the Legislative Assembly by 6 May 2022.

1.2 Inquiry process

On 21 March 2022, the committee invited stakeholders and subscribers to make written submissions on the Bill. 4 submissions were received. A list of submissions is contained in Appendix A.

The committee received a public briefing about the Bill from the Department of Resources (department) on Friday 1 April 2022. A transcript is published on the committee's web page. Appendix B contains a list of officials who appeared on behalf of the department.

The committee received written advice from the department in response to matters raised in submissions. The committee also received written advice from the department in response to additional questions asked by the committee.

The committee held a public hearing on Friday 8 April 2022. Appendix C contains a list of witnesses.

The submissions, correspondence from the department and transcripts of the briefing and hearing are available on the committee's webpage.

1.3 Policy objectives of the Bill

The purpose of the Bill, as set out in the explanatory notes, is to ensure the regulatory frameworks within the Resources portfolio remain efficient, effective, and responsive to change. The Bill provides a range of streamlining, minor and miscellaneous amendments, to legislation and regulations, that clarify policy intent and reduce complexity.

1 *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

2 *Parliament of Queensland Act 2001*, s 93; and *Human Rights Act 2019* (HRA), ss 39, 40, 41 and 57.

Specifically, the Bill:

- corrects minor technical errors in the *Acquisition of Land Act 1967* that were identified because of a court judgement
- corrects an outdated definition of landholder of the land in the *Cape York Peninsula Heritage Act 2007* (CYPHA) to reflect who may hold Aboriginal land
- amends the *Central Queensland Coal Associates Agreement Act 1968* to enable a variation of the Central Queensland Coal Associates Agreement. This proposed variation will provide a process to allow the removal of a special coal mining lease (SCML) from the agreement, or the removal of an SCML from the agreement and transfer of removed lease.
- amends the *Land Act 1994* (Land Act) and *Land Regulation 2020* (Land Regulation) to:
    - introduce an alternative, more efficient pathway to initiate lease conversion, giving the chief executive an opportunity to act proactively in the allocation of state land
    - streamline administrative processes for certain dealings affecting defence land
    - simplify, streamline, and clarify policy intent for certain matters about: road closures; decisions not to renew leases; right line tidal boundaries; and payment for improvements when a lease has been forfeited, surrendered, or expired
- modernises outdated requirements in the Land Act, *Place Names Act 1994*, *Stock Route Management Act 2002* (Stock Route Management Act) and *Vegetation Management Act 1999* (VMA) to publish notices in newspapers (where a newspaper is no longer in circulation), instead allowing this to occur by suitable media channels
- amends the Stock Route Management Act to both improve recovery of costs local governments incur managing and administering the stock route network, and overall simplify processes for stock route management; and amends the Stock Route Management Regulation 2003 (Stock Route Management Regulation) to take into account new stock route decision-making and mapping provisions under the Act
- streamlines the process to commence survey standards and clarifies policy intent and application of the ambulatory water boundary framework in the *Survey and Mapping Infrastructure Act 2003* (Survey and Mapping Infrastructure Act) and the Survey and Mapping Infrastructure Regulation 2014
- improves the administrative process for listing regional ecosystems and clarifies the policy intent of certain provisions in the VMA
- repeals the *Foreign Governments (Titles to Land) Act 1948*, to remove this outdated regulation as there are other legislative instruments regulating foreign ownership in Australia; and
- repeals the *Starcke Pastoral Holdings Acquisition Act 1994* and the *Yeppoon Hospital Acquisition Act 2006* as these acquisition processes have been fulfilled and these Acts are no longer required[3]

The Bill amends the:

- *Cape York Peninsula Heritage Act 2007*
- *Central Queensland Coal Associates Agreement Act 1968*
- *Land Act 1994*
- Land Regulation 2020

[3] Explanatory notes, pp 1-2.

- *Land Title Act 1994*
- *Place Names Act 1994*
- *Stock Route Management Act 2002*
- *Survey and Mapping Infrastructure Act 2003*
- Survey and Mapping Infrastructure Regulation 2014
- *Vegetation Management Act 1999*

The Bill also amends (listed in Schedule 1):

- *Acquisition of Land Act 1967*
- *Forest Wind Farm Development Act 2020*
- *Government Owned Corporations Act 1993*
- *Land Act 1994*
- Land Regulation 2020
- *Land Sales Act 1984*
- *Land Title Act 1994*
- *Queen's Wharf Brisbane Act 2016*
- *Stock Route Management Act 2002*
- Stock Route Management Regulation 2003
- *Survey and Mapping Infrastructure Act 2003*
- *Water Act 2000*

The Bill repeals:

- *Foreign Governments (Titles to Land) Act 1948, 12 Geo 6 No. 12*
- *Starcke Pastoral Holdings Acquisition Act 1994, No. 4*
- Survey and Mapping Infrastructure (Survey Standards) Notice 2021, SL No 154
- Survey and Mapping Infrastructure (Survey Standards – Requirements for Mining Tenures) Notice (No. 1) 2011, SL No. 221
- *Yeppoon Hospital Site Acquisition Act 2006, No. 43*

1.4 Government Consultation on the Bill

The explanatory notes detail that consultation was undertaken with relevant state government agencies and community and stakeholders.

1.4.1 Queensland Government consultation

The explanatory notes identify that the government stakeholders did not raise concerns with the proposed amendments.

In addition:

> The technical amendment to the *Cape York Peninsula Heritage Act 2007* has been endorsed by the Minister for the Environment and the Great Barrier Reef as this Minister has joint administrative responsibility for this Act.
>
> The office of Best Practice Regulation in Queensland Treasury has advised that no regulatory impact assessment is required for the proposed amendments.[4]

1.4.2 Community and stakeholder consultation

The explanatory notes identify that the Surveyors Board of Queensland and the department's Surveying Reference Group were consulted and were supportive of the proposed amendments to the *Survey and Mapping Infrastructure Act 2003* and the *Place Names Act 1994*.

Regarding the proposed amendment to the Stock Route Management Act and the Stock Route Management Regulation, the explanatory notes state:

> Extensive public and stakeholder consultation on stock route reforms has been undertaken since 2018, concluding with the release in July 2021 of a discussion paper titled Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation. Consultation with key stakeholder groups, which included Local Government Association of Queensland, Queensland Law Society and AgForce Queensland, has occurred for the amendments proposed in the Bill. These groups were supportive of the proposed amendments.[5]

The department confirmed that it:

> … has worked very closely with and we thank the Local Government Association of Queensland, AgForce and the Drovers Association for contributing to these amendments.[6]

The department also advised:

> AgForce and the Local Government Association of Queensland also provided feedback on the other legislative amendments, along with the Queensland Law Society.[7]

Both the Local Government Association of Queensland (LGAQ) and AgForce Queensland Farmers Limited (AgForce) confirmed that they were consulted on the Bill.[8]

However, when questioned about consultation in relation to the proposed amendments to the VMA, AgForce advised the committee at the hearing that they had not been consulted on this aspect of the Bill. However, AgForce subsequently corrected this to advise that AgForce staff had been briefed on the issue.[9]

Further information regarding consultation on the proposed amendments to the Stock Route Management Act and the Stock Route Management Regulation is contained in section 2.4.1 below.

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4 Explanatory notes, p 9.

5 Explanatory notes, p 9

6 Public briefing transcript, Brisbane, 1 April 2022, p 4.

7 Public briefing transcript, Brisbane, 1 April 2022, p 4.

8 Refer submission 1 and 4.

9 Public hearing transcript, Brisbane, 8 April 2022, p 10 and AgForce, correspondence, 13 April 2022, p 1.

1.5 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

After examination of the Bill, including consideration of the policy objectives to be implemented, stakeholders' views and information provided by the department, the committee recommends that the Bill be passed.

Recommendation 1

The committee recommends the Land and Other Legislation Amendment Bill 2022 be passed.

2 Examination of the Bill

This section discusses issues raised during the committee's examination of the Bill.

2.1 Proposed amendments to *Cape York Peninsula Heritage Act 2007*

Clause 4 updates the definition of "landholder for the Land" in Schedule (Dictionary) to reflect the Aboriginal land under the *Aboriginal Land Act 1991* is not only held by land trust trustees.

The Cape York Land Council (CYLC) advised of their support for the proposed amendment.

2.2 Proposed amendments to *Central Queensland Coal Associates Agreement Act 1968*

Clause 7 inserts a new schedule 7 which contains the proposed 2022 agreement between the parties to the Central Queensland Coal Associates Agreement (Agreement). The Agreement provides a process to allow the removal of a SCML from the Agreement, or the removal of a SCML from the Agreement and transfer of removed lease.[10]

The department advised:

> The agreement act legislates an agreement between the state and various BHP Mitsubishi Alliance entities for the mining of coal in Central Queensland. There are four special coal mining leases under the agreement act that are part of larger Central Queensland metallurgical coal projects. Of course, metallurgical coal is used in steelmaking, making it an important export commodity for Queensland. The current provisions of the act do not allow the transfer of interest in these special coalmining leases without making the transferee a party to that agreement.
>
> The BMA approached the government seeking an amendment to the agreement to enable the transfer of a special coalmining lease without the proposed transferee then, as a result, becoming a party to that agreement. The proposed amendments will allow the companies to make an exit application to remove a special coalmining lease from the act and the agreement without the transfer of interest in the lease or a transfer and exit application to remove a special coalmining lease from the act and agreement and transfer of the interest in the lease. In deciding an exit application, the minister must consider legitimate commercial operational objectives of the companies, the interests of the state as a party to the agreement and public interest in relation to the regulation of coalmining in Queensland.
>
> If the exit application is approved, the act and the agreement will no longer apply and the removed mining lease will be administered under the *Mineral Resources Act 1989*. It may be then transferred under the provisions of the *Mineral and Energy Resources (Common Provisions) Act 2014*. In deciding a transfer and exit application, the minister must also consider the legitimate commercial and operational objectives of the companies, the interests of the state as a party to the agreement and the interests in relation to the regulation of coalmining in Queensland. However, to deal with the transfer aspect of this application, the provisions of the Mineral and Energy Resources (Common Provisions) Act relating to approval to transfer a mining lease, or an interest in a mining lease, are taken to apply.

The committee sought assurances that the proposed amendments do not trigger any new provisions for the leaseholder in terms of the application process. The department explained:

> There are two new application processes here. Effectively, one is an exit application process that is set out in this particular bill and that would allow the parties to apply to the minister in order to keep their interests in the act. It is not actually a transfer but removes a special mining lease from the operation of the act and the agreement. Then it would be basically a normalised mining lease under the Mineral Resources Act. The application process is simply as listed in the current legislation so they just need to make that application to the minister.

[10] Explanatory notes, pp10-12.

> The second one is a transfer and exit application where, again, the parties would apply to exit from the operation of the act and the agreement but would potentially be seeking to transfer some of the interests in the mining leases. That is dealt with basically as an existing transfer process or the existing transfer processes under the Mineral and Energy Resources (Common Provisions) Act that have been applied to that particular transfer. Largely, it is existing processes effectively bolted on to this particular act. We have tried to apply them as much as we can in this space so it is a similar type of process as a normal mining lease transfer.
>
> …
>
> Effectively, the first point to note in terms of why a company would go through the processes, under the current provisions of the agreement they can apply to add parties to the agreement but they have to become parties to the agreement. If there is a desire to transfer those mining leases and not have that transferee become a party to the agreement, there is currently no mechanism for them to do that.[11]

In response to the committee's questions about whether the proposal will trigger additional environmental, water or other aspects in the transfer process, the department advised:

> It will normalise the mining leases. Any of the rights and obligations that apply under the existing agreement will cease to apply. The existing requirements under the Water Act, for example, will then apply to the new holder of the mining leases. Generally, the requirements in the environmental authorities will not be impacted by the amendments in this piece of legislation. The environmental authorities in a transfer follow the mining lease effectively. There is no process associated with that, as I understand it.[12]

2.3 Proposed amendments to *Land Act 1994* and Land Regulation 2020

Stakeholders were supportive of the proposed amendments to the Land Act and Land Regulation with the exception of the issues identified below.

2.3.1 Clause 22 – Insertion of new section 165B

Clause 22 inserts proposed new section 165B which enables the chief executive to decide to offer to convert a lease to either freehold land or a perpetual lease. The explanatory notes state:

> This amendment enables the chief executive to proactively manage the leasehold land estate by providing an alternative pathway for initiating conversion. The chief executive is able to proactively seek the conversion of leases where freehold is the most appropriate tenure, or where a perpetual lease is the most appropriate tenure for certain term leases, in accordance with the objectives of the *Land Act 1994*.[13]

The department advised the committee:

> Eligible leases are those for which there is no underlying tenure or interest in the land that is incompatible with freehold tenure, and when there is no public purpose associated with retaining state ownership of those tenures. Freeholding such land aims to provide greater tenure security to support business development and growth, which is critical to contribute to Queensland's economic prosperity.[14]

In response to the committee's questions about the reasons for the proposed amendments, the department advised:

> This amendment will basically allow our department to proactively offer the opportunity for freehold to that tenure holder. They will not be obligated to accept the offer and if they do not the tenure continues as it is now.

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11 Public briefing transcript, Brisbane, 1 April 2022, p 5.

12 Public briefing transcript, Brisbane, 1 April 2022, p 6.

13 Explanatory notes, p 16.

14 Public briefing transcript, Brisbane, 1 April 2022, p 1.

> The feedback that our department has received is that with the process of getting the application together with the requisite information and the uncertainty as to exactly where you can and cannot expect to get a positive outcome, it is pretty daunting for most people who otherwise have busy lives running their businesses et cetera. We see this as a way of being able to present that to those tenure holders so that they are aware of their options. If they then choose to take up the offer to convert their lease to freehold it will be a much more streamlined and clearer process to them as to what that means and looks like.[15]

The department assured the committee that:

> While the change will streamline the process, it does not remove any of the checks and balances necessary in dealing with relevant state land tenures. Before a conversion offer can be made by the chief executive, an assessment of the suitability to convert the land will be undertaken by the department. This assessment considers relevant state and local government requirements, strategies and policies relating to the land. There are also a number of safeguards in the Land Act and other pieces of legislation that ensure leases over land that has a public benefit are not converted to freehold. This includes leases over community purpose reserves, national parks in some instances, and state forests.

The department advised that leases over state forests, national parks and other conservations areas would remain ineligible for freehold conversion. The department also confirmed that:

> Other requirements, such as resolving native title under the *Native Title Act 1993*—a Commonwealth act, of course—will also need to be addressed before leasehold land can be converted to freehold.[16]

AgForce advised the committee that while it is supportive of the introduction of an alternative, more efficient pathway to initiate lease conversion it considered that term lease tenures require further attention.

AgForce advised:

> With most perpetual leases transitioning to freeholding, it is the term lease tenure that requires further attention if the State is to encourage continued good management, as well as the viability of the tenure, industry and its surrounding rural communities and to continue the good work that was legislated in 2014.
>
> Over the years, AgForce has advocated for reform and discussion for alternative tenure models to be implemented which address both the needs of traditional owners to have connection to country and lessees to exit the rent trap. AgForce believes that the state government should consider the implementation of a further tenure conversion program aimed at improving tenure security for term leases. As a preference, this would see the conversion of all leases to freehold or at the very least the conversion of term leases to perpetual.[17]

In relation to term lease tenure reform, AgForce advised the committee that they would like to see a high-level statement that provides for a structured and considered pathway that allows for discussions about, at times, some vexed issues and provides for some certainty about the process which could take some time. AgForce advised that they are keen to work collaboratively with government to resolve issues as they arise.[18]

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15 Public briefing transcript, Brisbane, 1 April 2022, p 6.

16 Public briefing transcript, Brisbane, 1 April 2022, p 2.

17 Submission 4, p 2.

18 Public hearing transcript, Brisbane, 8 April 2022, p 9.

AgForce provided an example of the types of issues that might be encountered during the process:

> For example, as the value of land goes up, freeholding land is a very interesting conversation to have with leasehold people because, to use an example at the moment, out in Boulia, the land revaluation is proposed over 300 per cent two months from now. When you start a freeholding process, that is the moment at which they determine the cost of that transfer. Starting a freeholding process, for example, out there before June this year is 300 per cent cheaper than starting a process after that.[19]

In response to this issue, the department advised:

> AgForce's suggestion for the state government to consider the implementation of a further tenure conversion program aimed at improving tenure security for term leases has been noted.
>
> The department is committed to improving the administration and management of state land and appreciates AgForce's continued engagement and feedback.[20]

2.4 Proposed amendments to *Stock Route Management Act 2002*

The explanatory notes state that the Bill achieves its policy objectives by amending the Stock Route Management Act so that:

- local government can retain permit fees and other charges collected. This is to improve cost recovery for the local government arising from managing the stock route network
- local government can charge an application fee (the amount to be prescribed when the Stock Route Management Regulation is remade) to cover some of the administrative costs arising from managing access to the network, while giving local government the flexibility to waive these fees in cases of hardship, for example during drought
- the Minister for Resources no longer needs to consider a local government's draft stock route network management plan
- local government no longer needs to establish working groups to advise on preparing draft plans
- the processes for updating and publishing the stock route network map utilises contemporary technologies and reflects local circumstances and community input
- local government stock route network management plans are extended to harmonise their review timelines with the state's stock route network management strategy so that actions in the strategy can be incorporated into local government plans; and
- local government is required to consult with state agencies where stock routes are co-located on or next to state-controlled roads, waterways, and protected areas to minimise risks to road safety, transport infrastructure, park management activities and biodiversity.[21]

[19] Public hearing transcript, Brisbane, 8 April 2022, p 9.

[20] Department of Resources, correspondence, 14 April 2022, p 3.

[21] Explanatory notes, p

The department confirmed:

> … the bill introduces important changes to that act that are the result of extensive stakeholder consultation over many years. These amendments are focused on creating a better funded network that provides improved outcomes for drovers, graziers and others who rely on the network. An important component of the bill is that all revenue from the use of stock routes will stay with the local governments that manage and maintain the network. … currently local governments are required to remit 50 per cent of the fee revenue that they receive back to the state government. The bill also introduces a new fee to cover some of the costs incurred by local government in assessing applications related to travel and agistment permits. The uniform state-wide fee will be established in the Stock Route Management Regulation. This will ensure the fee regime is fair and consistent across the state.
>
> The bill also provides local governments with the ability to waive that application fee if they believe circumstances, such as financial hardship for the applicant, warrant such a waiver. Enabling local governments to keep 100 per cent of the revenue and collect application fees will support better cost recovery for local governments, which will continue to use this revenue for the management of the network in their area.[22]

LGAQ advised the committee that it supports the changes proposed by the Bill.[23] However, LGAQ made a number of recommendations which are discussed below.

2.4.1 Consultation

As noted in section 1.4 above, public and stakeholder consultation on stock route reforms resulted in the publishing of a report on the 'Stock Routes Discussion Paper - Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation' (Consultation Report) in March 2022. The Consultation Report summarises the outcomes of the consultation.

At its public briefing on the Bill, the committee sought further information from the department about the consultation process. The department advised the Consultation Report further details of the stakeholders consulted.[24]

The Consultation Report notes:

> There were 16 formal submissions, 72 responses to the online survey, and 227 responses to the online poll. The report details the consultation process undertaken and the submissions received, and a government response is provided where appropriate. The submissions generally accepted that the proposed legislative amendments could improve the management of the network and the government thanks those who submitted their feedback.[25]

A list of formal submissions received is contained on page 26 of the Consultation Report.[26]

2.4.2 Clauses 55 – stock route map

Clause 55 provides that the chief executive has the power to decide stock routes for the state by certifying a digital electronic map showing them. The clause also provides that the certified map must be published on the department's website.[27]

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22 Public briefing transcript, Brisbane, 1 April 2022, p 2.

23 Submission 1, p 4.

24 Public briefing transcript, Brisbane, 1 April 2022, p 10.

25 Department of Resources, 'Consultation Report – Stock Routes Discussion Paper – Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation', March 2022, p 3.

26 Department of Resources, 'Consultation Report – Stock Routes Discussion Paper – Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation', March 2022, p 26.

27 Explanatory notes, p 24.

Both AgForce and LGAQ supported the process of updating and publishing the stock route network map online. However, LGAQ advised:

> … given that all roads can be used as stock routes in addition to stock routes that aren't roads, concern was expressed by local governments that the community found it confusing that not all stock routes were clearly identified on the map. The ability for local government staff to explain why this is the case through the provision of clear and consistent information by the Department of Resources would support local governments to communicate this issue to their respective communities.[28]

LGAQ recommended that the department:

> … develop consistent communication/education tools for all stakeholders to ease the burden on individual local government officers who are required to respond to concerns regarding grazing on stock routes not identified on the maps.[29]

In response to this issue the department advised that it:

> … will work with the LGAQ and other members of the Stock Route Strategy Stakeholder Working Group in relation to the development of appropriate communication/education material. The Stock Route Strategy Stakeholder Working Group has been established to support implementation of the Stock Route Network Management Strategy 2021–2025.[30]

In relation to changes to the stock route network maps, LGAQ advised:

> Local governments, as managers of the network, have the knowledge and expertise to identify where changes to the mapped stock route network are appropriate. The Department of Resources has previously proposed the development of a map amendment process to allow local governments to seek changes to the map as well as changes to route categorisation without the need for legislative amendments.[31]

LGAQ recommended:

> … the establishment of a map amendment process outside of the legislative framework to support input by local government regarding changes to mapping and network categorisation.[32]

And,

> … additional consultation with local governments about the extent and classification of the stock route network including the determination of appropriate service levels for each category of the stock route.[33]

In response, the department advised that it will continue to engage with local governments most impacted by any proposed changes before any updated stock route network map is finalised and:

> For significant amendments to the stock route map (e.g., realignment, permanent closure, re-classification of a stock route), the Department of Resources would continue to consult relevant local government, as currently occurs. The Department of Resources acknowledges that local governments, as managers of the network, have knowledge and expertise to advise where changes to stock routes may be appropriate. As happens now, the department will work with local government on significant amendments so local changes can be raised and considered.[34]

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28 Submission 1, p 7.

29 Submission 1, p 7.

30 Department of Resources, correspondence, 14 April 2022, p 3.

31 Submission 1, p 8.

32 Submission 1, p 8.

33 Submission 1, p 8.

34 Department of Resources, correspondence, 14 April 2022, p 3.

2.4.3 Clauses 63 – 67 – proposed fee regime

Clauses 63 to 67 relate to the proposed fee regime for stock route management.

2.4.3.1 Background

LGAQ advised the committee that the stock route network is approximately 150 years old and comprises approximately 70,000 kilometres of roads, reserves, corridors on pastoral leases, on state land and dedicated reserve which are used to move stock on foot, as well as provide emergency agistment.[35]

LGAQ advised:

> The network provides feed for the agri-industry, as well as some major infrastructure, transport of water, power and communication, plus they also have some significant native flora and fauna, remnant vegetation and cultural heritage.[36]

During the consultation process, in relation to the fee regime, the government proposed the following:

Proposals

It is proposed to introduce the following fees:

Fee	Stock size	As a fee unit
Travelling fee	Large stock	1 fee unit per 20 head*
	Small stock	1 fee unit per 140 head**
Agistment fee	Large stock	2.8 fee units – 5.5 fee units per head per week***
	Small stock	2 fee units to 4 fee units per 5 head4 per week***
Application fee#		150 fee units

* or part of 20 head
** or part of 140 head
*** or part of week
# Application fee unlikely to be included in remade regulation due to requiring a change to the Act.

It is proposed to charge a travel and agistment fee for small stock at one seventh the fee for large stock.

Source: Department of Resources, 'Consultation Report – Stock Routes Discussion Paper – Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation', March 2022, p 16.

The Consultation Report identifies:

> Most of the formal submissions (81 per cent) supported stock route fees being based on a user-pays principle, the adoption of the proposed fee framework comprising a fee unit structure for indexation, increases in travel and agistment permit fees, fees for small stock fee being set at one seventh of that for large stock, and a standard application fee.
>
> Submitters generally acknowledge that the fee increases are long overdue and necessary to make up for the significant shortfalls in cost recovery. Overall, they considered the proposed fee levels to be reasonable, more representative of the value of the benefits to stock route users, and agistment fees more aligned with commercial rates.[37]
>
> …

[35] Public hearing transcript, Brisbane, 8 April 2022, p 1.

[36] Public hearing transcript, Brisbane, 8 April 2022, p 1.

[37] Department of Resources, 'Consultation Report – Stock Routes Discussion Paper – Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation', March 2022, p 16.

> Fifty-three per cent of survey responders supported the proposed fee regime while 24 per cent were opposed. There was general support for a user-pays approach, but the concern was that fees should not increase to levels which make droving unviable.[38]

The Consultation Report also noted that:

> AgForce, the LGAQ and local governments would support continued discussions to further increase cost recovery to benefit the upkeep and maintenance of the stock route network. A local government also suggested the state provides sufficient funding to support costs that are considered unrecoverable.[39]

The government response included in the Consultation Report is as follows:

> **Government response**
>
> The proposed fee framework for the stock route network best reflects stakeholder feedback for a user pays system, supporting greater cost recovery by local governments and for moving stock on the network continuing to be viable.
>
> A standard application fee for travel and agistment permits will be included in the Regulation, providing consistency for stock route users and to support local governments recover their administration costs. Local governments will have the ability to waive application fees due to hardship.
>
> Travel and agistment fees for small stock will be set at one seventh the fee for large stock.
>
> Long-term grazing and associated fees were beyond the scope of the stock route regulation review as they are administered under the Land Act. However, these matters can be considered through the Stock Route Strategy Stakeholder Working Group.

Source: Department of Resources, 'Consultation Report – Stock Routes Discussion Paper – Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation', March 2022, p 19.

2.4.3.2 Proposed amendments

Clause 63 amends section 116 and implements the proposed application for permit arrangements, including allowing for a local government to waive payment in case of financial hardship. Clause 64 implements the renewal application fee process, which will be prescribed by regulation. Clause 65 amends existing section 134. Clause 65 allows a local government to waive an application fee for financial hardship. Clause 67 amends section 168 in relation to notice of seizures of stray stock to include on-line publishing.[40]

Clause 67 replaces section 187A to achieve the policy objective of greater cost recovery by local governments by allowing local governments to keep all revenue received from application fees, permit fees, water facility agreements and fines for reinvestment in the stock route network. Clause 67 also provides in proceedings brought by a local government for an offence against the Act, a fine imposed by the court must be paid to the local government's operating fund unless the court orders the fine to be paid to a particular person.[41]

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38 Department of Resources, 'Consultation Report – Stock Routes Discussion Paper – Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation', March 2022, p 17.

39 Department of Resources, 'Consultation Report – Stock Routes Discussion Paper – Proposed amendments to the Stock Route Management Regulation 2003 and associated legislation', March 2022, p 16.

40 Explanatory notes, pp 29-30.

41 Explanatory notes, p 30.

Proposed new section 187B provides that a local government receiving revenue from stock route application fees, permit fees, water facility agreements and fines must use the amount for the administration, maintenance or improvement of the stock route network in its local government area.[42]

In relation to application fees, LGAQ explained

> Clause 65 of the bill essentially creates this process where there is the ability for local governments to have an application fee. What happened prior to these changes is that some local governments had local laws in place already that allowed them the ability to do this, but also the ability to waiver on hardship, based on seasonal conditions like drought, flood or other issues. There are 24 local governments that have stock route management plans, but there are others which are peripherally impacted as well by the network. It standardises that approach across all local governments impacted, which we support.[43]

Stakeholders were supportive of the amendments proposed in Clauses 63 to 67. AgForce strongly supported local government being given the ability to waive payment of the application fee during periods of financial hardship (eg, droughts or floods).[44]

2.4.3.3 Other costs

The LGAQ also highlighted that, while not specifically addressed in the Bill, the fees for travelling permits have not changed since 1989 due to the existing permit fee being so low that it does not trigger the annual indexation rules. LGAQ advised that the:

> … resulting low price for travelling stock places a burden on local governments as fee revenue does not cover the necessary stock route management and maintenance. The fees for grazing are subject to regular indexation but are significantly below commercial agistment fees and are not representative of the true cost incurred by local governments.
>
> The costs incurred by local governments in managing the stock route network have been estimated at approximately $4.8 million per annum. Local governments can recoup some of the management and maintenance costs by charging fees for travelling stock and agistment, but the overall revenue captured in 2017/18 was just $324,000. This means local governments recover between 4 - 5% of the costs of managing the network depending on the seasonal demand.[45]

LGAQ supports the proposed fee structure, as articulated in the Consultation Report, will result in an increase in permit fees for travelling stock and agistment which aims to recover approximately 21 per cent of the costs to local government of managing the network.[46]

LGAQ advised that:

> … local government have responsibility for managing stock routes, yet our concern has always been that it is the ratepayers who carry the majority of the burden just because the current fee structure has not changed in some 20 years or so. When you think about ratepayers, it is important that you think about some of Queensland's smallest rural and remote councils. Many of them do not have enough own-sourced revenue as it is to adequately sustain their existing and planned operational budgets.[47]

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42 Explanatory notes, p 31.

43 Public hearing transcript, Brisbane, 8 April 2022, p 4.

44 Submission 4, p 3.

45 Submission 1, p 9.

46 Submission 1, p 9.

47 Public hearing transcript, Brisbane, 8 April 2022, pp 1-2.

LGAQ also noted that:

> … the location of each local government and the categories of the stock route network running through it, will also determine the level of cost recovery that can be achieved. For example, those councils that have larger numbers of travelling stock traversing their local government area are much more likely to be able to achieve greater cost recovery with permit fee increases. However, there are those local governments that have not seen travelling stock for years, coupled with limited demand for agistment permits, resulting in an inability to recoup the costs of managing the network regardless of how much the permit fees increase. It is these local governments that continue to manage and maintain the network through invasive plant and animal control and fire management activities in order to support the environmental and cultural values of the network, without any ability to recover the costs of doing so.[48]

LGAQ confirmed that while the proposed amendments allow for local councils to retain 100 per cent of the application fees:

> There would still be out-of-pocket costs for councils and hence the need for us to talk about long-term, ongoing opportunities to make sure the network is well funded and maintained.[49]

And,

> … councils will still be out of pocket in some respect. It also depends on the actual number of travelling stock using the particular routes. In some areas they have not seen cattle through for a number of years. One mayor mentioned to me, when I was talking to him the other day, that 100 per cent of zero is zero. Those councils still obviously have outlays that they have to pay, managing and maintaining the network.[50]

AgForce also supported the policy objective of greater cost recovery by local governments which they consider are critical to the long-term sustainability of the stock route network.[51]

LGAQ also suggested that permit fees be subject to annual indexation to ensure fees increase in line with the appropriate indexation and recommended that the department:

> … ensure the proposed increased fee structure, including appropriate indexation, is addressed within a revised regulation.[52]

In response, the department indicated that this issue would be considered during the remake of the Stock Route Management Regulation.[53]

48 Submission 4, pp 9-10.

49 Public hearing transcript, Brisbane, 8 April 2022, p 5.

50 Public hearing transcript, Brisbane, 8 April 2022, p 5.

51 Submission, 4, p 3.

52 Submission 1, p 9.

53 Department of Resources, correspondence, 14 April 2022, p 4.

The committee sought additional information from the department regarding cost recovery arrangements. The department advised:

> … the use of the stock route does vary significantly from year to year, largely driven by seasonal conditions. On average, the current level of cost recovery for local governments relates to, on average, four per cent of their costs of managing the network, which means those additional costs are covered by and large by local ratepayers in those communities. The proposed amendments will not provide 100 per cent cost recovery. It increases the level to around 40 per cent, again on average. No doubt, some councils will have a better level of cost recovery and others lower, depending on their local circumstances. That was a long conversation … with councils and users of the network to get the right balance. It is pretty rare, as I think everyone would acknowledge, for AgForce representing landowners to advocate for fee increases, but they have shown very significant leadership in that space to say, 'We need this network to be properly resourced and there needs to be a fair return for those who directly benefit.' Under the proposed regulation amendment, that is the level of cost recovery we expect.
>
> In relation to state government funding, the current allocation is around $940,000 per year for councils through an annual application, if you like, or a submission to seek funding from the state for capital works and for the maintenance of infrastructure on the stock route network. Predominantly … that relates to water infrastructure—everything from dams, bores, windmills, troughs, pads associated with those watering points—to make sure that essential infrastructure is provided. It can also cover things like stockyards and resting points along the network. That commitment has been in place for many years to maintain that infrastructure. There are also some additional investments proposed this year and next financial year in relation to some very high-cost infrastructure—some aged, leaky Great Artesian bores—where there will be special funding above and beyond that level of allocation to councils with a program directly administered by the Department of Resources to plug or to replace some of those existing leaky bores.[54]

LGAQ advised the committee that it 'would welcome the opportunity to work with the State Government to identify other mechanisms for local government cost recovery following completion of the regulation review' and recommended:

> … further discussions between the State and local governments following the regulation review process to identify mechanisms for greater cost recovery for local government.[55]

At the committee's public hearing the issue of additional funding mechanisms particularly to assist local government to be able to maintain pests, weeds and infrastructure on these stock routes was discussed. The LGAQ responded that they would be happy to have discussions about the types of mechanisms that could be developed but that their overriding principle is about the ongoing sustainability of the network and discussions about what as funding model might look to and what it might involve.[56]

LGAQ advised:

> … we want to make sure that the state still contributes to the capital infrastructure required to maintain the network as well. Whether it is a sinking fund or other mechanisms, we would be open to those discussions with the state government in relation to what that ongoing, long-term sustainable funding model would look like.[57]

[54] Public briefing transcript, Brisbane, 1 April 2022, p 4.

[55] Submission 1, p 10.

[56] Public hearing transcript, Brisbane, 8 April 2022, p 3.

[57] Public hearing transcript, Brisbane, 8 April 2022, p 3.

In relation to western region councils, LGAQ advised:

> They are broadly supportive of the changes and the need to improve cost recovery for them. One of the considerations is the number of stock that is travelling and, depending on which route, the use of that route. Depending on seasonal conditions and other issues, some routes are obviously more popular than others. While we welcome these changes, there are still opportunities, as we have said, to have a look at the long-term cost recovery model and to make sure that the route network is well maintained.[58]

In response to the issue of ongoing state funding, the department advised that it:

> … will continue to work with the LGAQ and other stakeholders through the Stock Route Strategy Working Group to consider ongoing improvements, including potential mechanisms to achieve further cost recovery for local governments. Any potential cost recovery mechanisms would have to be balanced with not making the movement of stock on foot unaffordable.[59]

LGAQ also observed:

> Queenslanders will still be paying far less for use of the stock route than what is perhaps charged in New South Wales. It is the case that council members of ours, such as Maranoa, have the situation where they have stock coming in from New South Wales because the cost to have cheap feed in Queensland is so much less than that in New South Wales.[60]
>
> …
>
> … in 2014 … a multimillionaire cattle baron from South Australia, used our stock routes from the Northern Territory all the way down to New South Wales and then sold the cattle. That took a lot of that feed and that opportunity away. We were going into drought in 2012, but were really into drought in 2014. That is something that I think the department, the LGAQ, AgForce and all of us have to take into some consideration as to how we use these stock routes because they are there for the welfare of keeping breeding cattle alive.[61]

2.4.4 Proposed new Stock Route Management Regulation

The Bill provides for a number of provisions, particularly those relating to fees, to be included in the Stock Route Management Regulation, which is to be remade. The committee sought additional information regarding the proposed regulation.

The department responded:

> The existing stock route regulation is quite old. It basically means that fees have not increased, particularly for travelling stock, for many years; since that regulation was made. That was resulting in the very low level of return to local councils from the fee revenue. The new regulation will be made subject to the passage of this amendment, of course. A new regulation hopefully then can be put in place with the new fee structure that was outlined in a consultation report that our department released earlier this month, which follows that extensive consultation with stakeholders on what an appropriate fee arrangement will be.[62]

2.4.5 Committee comments – Stock Route Management Act

The committee appreciates stakeholders concerns regarding the ongoing cost of maintaining the stock route network and the impact this has on regional councils, and in particular small and remote councils. The committee understands from the responses provide by the department that discussions regarding practical methods to enable these issues to be resolved are on-going.

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58 Public hearing transcript, Brisbane, 8 April 2022, p 4.

59 Department of Resources, correspondence, 14 April 2022, p 4.

60 Public hearing transcript, Brisbane, 8 April 2022, p 6.

61 Public hearing transcript, Brisbane, 8 April 2022, p 6.

62 Public briefing transcript, Brisbane, 1 April 2022, p 4.

2.5 Proposed amendments to *Vegetation Management Act 1999*

The department confirmed that the proposed amendments to the VMA will:

> … will enable regional ecosystems and their conservation status, regulated regional ecosystems and unregulated grasslands to be identified through a certified database rather than in the schedules to the Vegetation Management Regulation. This reflects similar arrangements under the Environmental Protection Regulation 2019. The vegetation management framework uses regional ecosystems as part of the way of identifying requirements relating to the regulation of woody vegetation clearing in Queensland.
>
> The Queensland Herbarium, in the Department of Environment and Science, is responsible for identifying, describing and mapping regional ecosystems. Periodically, the Herbarium makes changes to regional ecosystems to reflect improved scientific knowledge. This currently requires subsequent amendments to be made to the Vegetation Management Regulation to keep it up to date. The proposed amendments under the bill are similar to the existing certification process for regulated vegetation maps under the Vegetation Management Act. The certified database will be publicly available and contain information on each regional ecosystem's number, description, structure and conservation status. The database will continue to meet particular definitions in the Vegetation Management Act, such as that relating to endangered regional ecosystem, so there will be no change to regulation and management of woody vegetation.[63]

2.5.1 Clauses 94 and 97 to 107

Clause 94 proposes to amend section 8 to provide for regional ecosystems to be identified through a certified version of the Vegetation Management Regional Ecosystem Description Database (VM REDD), rather than through the Vegetation Management Regulation 2012 (Vegetation Management Regulation).

Section 8 currently defines vegetation to be:

> … a native tree or plant other than the following—
>
> (a) grass or non-woody herbage;
>
> (b) a plant within a grassland regional ecosystem prescribed under a regulation;
>
> (c) a mangrove.[64]

Clause 94 proposes to amend section 8(b) as:

> Identified in the VM REDD as having a grassland structure[65]

The VM REDD is defined under amendments to the schedule (dictionary) in clause 107 to mean:

> … the version of the Regional Ecosystem Description Database certified by the chief executive under section 22L.[66]

The explanatory notes identify that Regional Ecosystem Description Database (REDD) published by Queensland Herbarium contains information on regional ecosystems' numbers, descriptions, and conservation classes.[67]

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63 Public briefing transcript, Brisbane, 1 April 2022, p 3.

64 *Vegetation Management Act 1999*, s 8.

65 Land and Other Legislation Amendment Bill 2022, clause 94.

66 Land and Other Legislation Amendment Bill 2022, clause 107.

67 Explanatory notes, p 40.

Clause 97 amends existing section 20AK to insert a new section 20AK(3) to clarify that a regional ecosystem number for a regional ecosystem, means the regional ecosystem number established under the VM REDD.[68] The explanatory notes state that the clause 'provides for regional ecosystems to be identified through a certified version of the VM REDD'. The explanatory notes also state:

> Clause 97 provides that the regional ecosystem number that applies to a regional ecosystem is that shown in the certified VM REDD and not the Queensland Herbarium's Regional Ecosystem Description Database. Also, this definition was previously located in the Dictionary and is moved to this section to provide improved readability.[69]

Clause 98 amends existing section 20D(3)(b) to amend the editor's note to reflect the proposed amendments. The explanatory notes state that the editor's note identified that a change to a regional ecosystem is made by amending the Vegetation Management Regulation. The proposed amendments will provide that a change to a regional ecosystem (for example, a change to the conservation status, number or description) is done by certifying a new version of the VM REDD.[70]

Clause 99 inserts new section 20G to clarify that each mapping category can be shown on the regulated vegetation management map or a Property Map of Assessable Vegetation (PMAV).

The explanatory notes state that:

> Previously the definition of mapping categories didn't include PMAVs and only referred to the regulated vegetation management map. The Vegetation Management Act 1999 defines mapping categories (category A area, category B area, category C area, category R area and category X area) as areas shown on the regulated vegetation management map (RVMM). The same categories are shown on a Property Map of Assessable Vegetation (PMAV).[71]

The explanatory notes also state that the clarification does not alter any existing PMAVs or the process for assessing PMAV applications.[72]

Clause 100 amends existing section 20HB to clarify the circumstances in which the chief executive must amend the regulated vegetation management map. The explanatory notes state that the amendment corrects an error of terminology, in that there is no provision under the Act for amending a PMAV and that a PMAV can be made and can be replaced by making a new PMAV.[73]

Clause 101 inserts new section 22L which provides for regional ecosystems to be identified through a certified version of the VM REDD. The explanatory notes explain that currently the Vegetation Management Regulation has reproduced this information through Schedules 1 – 5. The proposed amendment allows for the chief executive to, from time to time, certify a version of the REDD to provide this information for the purposes of the VMA.[74]

The explanatory notes state:

> This approach will produce significant savings for the Department of Resources and the Department of Environment and Science by not having to process regulation amendments to update schedule 1-5 each time the regional ecosystem mapping is updated which normally happens every 1-2 years. This also reduces the risk of errors in updating descriptions via a regulation amendment.

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68 Land and Other Legislation Amendment Bill 2022, clause 97.

69 Explanatory notes, p 39.

70 Explanatory notes, p 40.

71 Explanatory notes, p 40.

72 Explanatory notes, p 40.

73 Explanatory notes, p 40.

74 Explanatory notes, p 40.

> To achieve this, subsection 1 provides the chief executive with the power to certify a version of the Regional Ecosystem Description Database as the VM REDD, in the same way that they can certify the vegetation management maps. New subsection 3 requires the chief executive to ensure that the VM REDD is only certified if the Minister is satisfied that each regional ecosystem is assigned to the correct class.[75]

The department advised:

> We currently have a disconnect in that there is the regional ecosystem database that is online, published by the Herbarium, and then there is the regulation under the Vegetation Management Act. The issue that we encounter currently is that the two can get out of sync. When the regional ecosystem database is updated by the Queensland Herbarium, we then need to amend the regulation. Having two points of reference for the same information is a recipe for confusion.[76]

The committee sought further information from the department regarding who has responsibility for the Queensland Herbarium's database, including whether it is up to date, legitimate and acceptable. The department advised that the Queensland Herbarium is part of the Environment and Science portfolio and undergoes its certification process through that department.

The committee also sought further information about who has responsibility in circumstances where there is any problems or disputes in relation to the database. The department advised

> **…** we have had processes by which landowners can identify any anomalies they see in that information. Where there are obvious errors that is changed at no cost to the landowner. We work very closely with the Department of Environment and Science on that.
>
> There are also processes by which in some cases more scientific assessment might be required. Landowners can apply for changes to be made. Our department assesses that. We will get input and advice from the Department of Environment and Science, but the decision-making lies with our department under the Vegetation Management Act.[77]

The joint submission from the Environmental Defenders Office (EDO) and the Wilderness Society highlighted their concerns regarding the proposal to certify the REDD as providing the regional ecosystem conservation status, rather than having the status listed in the Vegetation Management Regulation.

The joint submission states:

> We believe this change will unnecessarily reduce transparency and rigour. Under the current process, changes to the regulations are tabled in Parliament which would allow for the provision of a disallowance motion in the event that grasslands were inappropriately changed from regulated to exempt. However, under the new proposed process, such a change would not pass through Parliament and would, therefore, not be subject to the rigorous checks and balances currently in place.
>
> Additionally, since the change would pass through silently with an annual data release, it would be possible for the public to not be aware of the change for several years until a technical expert stumbled across it.
>
> We believe this is an unacceptable scaling back of transparency and accountability around an important regulatory matter of listing the conservation status of regional ecosystems, which flows through to how the regulations impact clearing of those ecosystems. We strongly recommend that this aspect of the proposal be amended so that regional ecosystems cannot change to being unregulated without Parliamentary oversight.[78]

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75 Explanatory notes, p 40.

76 Public briefing transcript, Brisbane, 1 April 2022, p 9.

77 Public briefing transcript, Brisbane, 1 April 2022, pp 9-10.

78 Submission 2, pp 1-2.

AgForce agreed, advising that it did not support the proposed changes in clauses 94, 98, 101, 102, 103, 104 and 107 and recommended that the government retain the declaration process in the Vegetation Management Regulation.[79]

AgForce stated:

> Currently native plants within grassland regional ecosystems listed in Schedule 4 and 5 of the *Vegetation Management Regulation 2012* are exempt of *Vegetation Management Act 1999* provisions. Any change to the Regulation must follow the 'Queensland Government Guide to Better Regulation' (2019) requiring regulatory impact analysis and public consultation. In contrast, the Regional Ecosystem Description Database (REDD) is frequently revised by the Queensland Herbarium and as a result end users such as landholders or vegetation management consultants are required to check regularly for updates. Landholders and consultants want clear, stable guidelines and regulations for vegetation management and not be subjected to frequent changes in regional ecosystem descriptions from a conservation management database.[80]

AgForce further advised:

> Any changes to regulated vegetation status needs to be advised in advance and not subject to an unknown publication date for a 'Certified REDD' which is effective immediately, as proposed in Section 22L insert. AgForce recommends the department retain the Regional Ecosystem status within Schedules 1 to 5 of the *Vegetation Management Regulation 2012*.[81]

In regard to the mapping process AgForce advised that it:

> … has been extremely supportive of the Queensland government's efforts, particularly through the Herbarium, in understanding and mapping the vegetation across the state and the regional ecosystems across the state and having those accurately identified because there is a whole legacy and history of that mapping being either semi correct, incorrect or so forth. We are very highly supportive of all efforts to improve the integrity of that science and to make that more available to all the decision-makers involved in managing those landscapes. On the corollary, we have some challenges in regard to the proposed changes in terms of how they start to introduce a large possibility of rapid change, rapid differences in the mapping interfering with the longer-term business planning of agricultural land managers…[82]

AgForce elaborated on this issue advising:

> The ongoing farm business management aspects of investment, relationships with banks, debts, so on and so forth, requires some stability, as we would all expect, in terms of decision-making. When it comes to investments and required investments for management of landscapes, when we look at some of the complexities that can occur … where landholders have invested a considerable amount of time to develop projects of clearing regrowth or managing landscapes on their properties that may or may not have been locked in under a property map of accessible vegetation, those requirements by the banks to have certainty when these developments can take place and where they can take place and the likely return on those investments, are very significant in terms of the sustainability of those enterprises. To have certainty going forward is paramount. When it can mean the difference between a landholder obtaining finance or not, for some planned actions going ahead, which can largely hinge on a database that is changing rapidly, that jeopardises the business stability of those investments.[83]

79 Submission 4, p 4.

80 Submission 4, p 4.

81 Submission 4, p 4.

82 Public hearing transcript, Brisbane, 8 April 2022, p 7.

83 Public hearing transcript, Brisbane, 8 April 2022, p 10.

2.5.2 Clause 96

Clause 96 amends section 19Q to clarify that development that is clearing vegetation under an accepted development vegetation clearing code is only categorised as accepted development under the Planning Act if it complies with all of the requirements of the relevant code. It also amends the note to section 19Q to clarify that to the extent the clearing does not comply with the relevant code, under the Planning Act, the clearing may be prohibited development or assessable development.[84]

The department advised:

> In 2016, an amendment to the Vegetation Management Act unintentionally assigned development categories to some clearing activities under the *Planning Act 2016*. This has the potential to generate confusion between the Vegetation Management Act and the Planning Regulation 2017. The bill amends the Vegetation Management Act to clarify that development under an accepted development clearing code is accepted development only if it complies with the code. The amendment does not change the current code requirements.[85]

AgForce sought clarification regarding how code compliant clearing will impact on other relevant purposes listed in Section 22A of the VMA, such as coordinated projects under the *State Development and Public Works Organisation Act 1971, Section 26*. AgForce noted that coordinated projects are outside the scope of clearing codes and referral stages of the *Sustainable Planning Act 2009*.[86]

In response, the department advised:

> The Accepted Development Vegetation Clearing Codes (ADVCC) do not affect the scope or operation of Section 22A of the *Vegetation Management Act 1999* (VMA s22A).
>
> VMA S22A identifies "relevant purposes", which are the clearing activities for which it is possible to make an application for approval. The Planning Regulation 2017, Schedule 10, Part 3, section 4 provides that clearing vegetation is prohibited development unless it is for a relevant purpose; is exempt clearing work; or is clearing which complies with an ADVCC. VMA s19Q duplicates the effect of the Planning Regulation, however it makes no mention of exempt clearing work, which could cause confusion as to what category of assessment applies to the items listed as exempt clearing work in the Planning Regulation Schedule 21.
>
> The proposed amendment to VMA s19Q removes the problematical subsections (2)(b) and (2)(c). This will clarify that the Planning Regulation 2017, Schedule 10, Part 3, section 4, operates as it is intended to do. Subsection (2)(a) is retained and its wording is clarified, to provide that clearing notified under an ADVCC is accepted development only if it fully complies with the ADVCC.
>
> Clearing for a coordinated project is a relevant purpose under VMA s22A. Where the clearing does not comply with an ADVCC and is not exempt clearing work, it is assessable development under the Planning Regulation 2017 and a development approval is required. The development application is assessed against State Code 16. The proposed amendment makes no change to these existing arrangements.[87]

84 Explanatory notes, p 39.

85 Public briefing transcript, Brisbane, 1 April 2022, p 2.

86 Submission 4, p 4.

87 Department of Resources, correspondence, 14 April 2022, p 8.

2.5.3 Clauses 97 to 100

Clauses 97 to 100 relate to a PMAV.

2.5.3.1 Background – PMAV

A PMAV is a certified property-scale map that shows the boundaries of vegetation categories on a property. A PMAV is made through agreement between a land owner and the Department of Resources and once the PMAV is certified, it replaces the regulated vegetation management map for determining the location and extent of the areas of vegetation regulated under the vegetation management framework on the property. PMAVs can be used to:

a) confirm, correct or refine a vegetation category area currently shown on the State-wide certified Regulated Vegetation Management Map (RVMM);

b) correct or refine a regional ecosystem code or a regional ecosystem boundary.

Existing sections 9, 20C, 20CA and 111 of the VMA are key sections relevant to PMAVs.[88]

Under the existing process, the vegetation category areas for a property are shown on the RVMM. The table below details the general descriptions for the 5 vegetation category areas defined in the VMA. The assessment of vegetation categories through the PMAV process follows the following hierarchical order of categories: If an area is not category B, a check is first made if category C applies, then if category R applies, and if neither apply, it is made category X.

Category A area (Red)	Area identified as a declared area, offset area or an area related to a compliance matter made in accordance with the VMA
Category B area (Dark Blue)	Remnant vegetation. Vegetation that has never been cleared. Or the vegetation has been historically cleared and the vegetation has grown back & reached the remnant criteria. The VMA defines remnant vegetation as vegetation where the predominant canopy covers more than 50% of the undisturbed predominant canopy and averages more than 70% of the vegetation's undisturbed height and is composed of species characteristic of the vegetation's undisturbed predominant canopy.
Category C area (Light Blue)	High Value Regrowth Vegetation. An area that has not been cleared for at least 15 years and contains an endangered, of concern or least concern regional ecosystem.
Category R area (Yellow)	Regrowth watercourse and drainage feature area. Areas within 50 metres of a watercourse or drainage feature in Great Barrier Reef catchments.
Category X area (White)	Areas that are non-remnant, category C or category R areas. Area has generally been historically cleared and often maintained. Areas shown on a PMAV as Category X may also contain significant vegetation.

Source: Department of Resources, PMAV Application Guide', 16 September 2021, p 5.
https://www.resources.qld.gov.au/__data/assets/pdf_file/0009/1580058/pmav-application-guide.pdf

The Department of Resources PMAV Application Guide notes:

> The scale at which the Queensland Herbarium's state-wide vegetation mapping has limitations associated with the array of data and methods used to create the mapping which may result in some inaccuracies at a property scale, both in relation to the boundaries of vegetation and the regional ecosystems as they exist on the ground. A PMAV can be used to correct these inaccuracies or confirm vegetation category areas and/or regional ecosystems at the property scale.

[88] Department of Resources, PMAV Application Guide', 16 September 2021, p 4.
https://www.resources.qld.gov.au/__data/assets/pdf_file/0009/1580058/pmav-application-guide.pdf

> Once a PMAV is made it becomes the point of truth for the subject area. The RVMM is updated monthly to reflect new PMAVs.[89]

2.5.3.2 Notification arrangements

The department advised the committee that it has an online tool by which landowners can apply for a property plan/report. Landowners can obtain this plan/report whether or not they have a PMAV. The department advised that the plan/report:

> … identifies regulated vegetation as well as the regional ecosystem descriptions and other useful information for landowners.
>
> …
>
> We keep a database of everyone who has registered their details and has requested such a plan. If there are any updates to either the existing maps or the regional ecosystem database, we notify landowners of those changes. At last count … we had about 15,000 landowners registered to receive those updates.[90]

Further in relation to the online tool and PMAV, the department clarified:

> Changes are only made where a landowner does not have a PMAV in place. Where landowners have already got a property map of assessable vegetation over their property, then nothing changes. Of the 15,000-odd people who receive that notification, some of them would already have PMAVs. It is telling them that the regional maps have been updated, but it will not change their property map because it is locked in under a PMAV.
>
> The other landowners who have been notified receive the map. For various reasons many have not applied for PMAVs. I guess there are those two distinct sets of landowners: obviously those where vegetation management is a really important part of their operations have PMAVs to give them that ongoing certainty; and others who have periodically logged on, got a copy of the map for various purposes but have not then followed through to lock in those vegetation classes through a PMAV process.[91]

The department advised the committee that landholders who have requested a property report in the previous 12 months will be notified each time the RVMM is updated and this process will continue under the proposed amendments.[92]

The committee sought further information from AgForce regarding their concerns about the impact of the proposed amendments on PMAVs. AgForce advised:

> For landholders who have gone through the PMAV process and have obtained a PMAV on their property, it provides a lot of certainty going forward. We have some considerable concerns about discussions of which we have been aware of some moves to change the PMAV instrument within the act, to perhaps introduce some more controls within that PMAV instrument; we are gravely concerned about that. If that was to change potentially in the act going forward, again that would be another cause of destabilisation of business certainty. Nothing is imminent from communications formally, but we are concerned about those potential changes coming, yes.[93]

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89 Source: Department of Resources, PMAV Application Guide', 16 September 2021, p 5. https://www.resources.qld.gov.au/__data/assets/pdf_file/0009/1580058/pmav-application-guide.pdf

90 Public briefing transcript, Brisbane, 1 April 2022, p 9.

91 Public briefing transcript, Brisbane, 1 April 2022, p 10.

92 Department of Resources, correspondence, 27 April 2022, p 9.

93 Public hearing transcript, Brisbane, 8 April 2022, p 10.

2.5.4 Clause 107 – Amendment of schedule (Dictionary)

AgForce identified:

> The Editor's note for *regional ecosystem number* needs to be updated to reflect the new departmental name from DNRM to Resources. Change to: "The database is available on the department's website https://www.resources.qld.gov.au/"[94]

In response, the department advised:

> Clause 107 subsection (1) amends the VMA to omit the definition of regional ecosystem number from the Schedule, and Clause 97 moves this definition to a note (appropriately updated) attached to section 20AK. It is therefore not necessary to update the definition in the Schedule.[95]

2.5.5 Committee comment

Stakeholders who commented on the proposed changes to the VMA, including AgForce, the EDO and the Wilderness Society, were in agreement that any change in a regional ecosystem status should remain within the Vegetation Management Regulation. Reasons for this view included:

- The change would unnecessarily reduce transparency and vigour
- Changes would not be subject to the rigorous checks and balances currently in place
- Changes would pass through 'silently' with an annual data release
- The public would not necessarily be aware of changes
- End users, such as landholders or vegetation management consultants would be required to check regularly for updates
- The proposed process does not require impact analysis and public consultation periods
- Landholders need certainty and any changes to the regulated vegetation status needs to be advised in advance and not subject to an unknown publication date for a 'Certified REDD' which is effective immediately.

The committee noted the department's assurance that landholders can be notified each time the regulated vegetation management map is updated for their property. However the committee remains concerned about a number of issues:

- Only those land holders who have requested a property report within the last 12 months will be notified
- Other interested parties do not have this facility available
- Detection of errors will be largely reliant landholders seeking a correction via the use of the PMAV process
- The changes to the regulated vegetation status would be effective immediately, thus potentially seriously impacting on effected landholders

In addition the committee has identified fundamental legislative principles in relation to the proposed amendments. Refer sections 3.1.2.5 to 3.1.2.8 below.

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94 Submission 4, p 5.

95 Department of Resources, correspondence, 14 April 2022, p 9.

The committee therefore recommends the Minister revisit the need for the proposed amendment that the regulated vegetation status be 'certified' rather than contained in a regulation.

Recommendation 2

The committee recommends the Minister revisit the proposed amendment to certify the regulation vegetation status rather than this being included in the Vegetation Management Regulation.

3 Issues outside the scope of the Bill

This section discusses issues raised by stakeholders which are outside the scope of the Bill.

3.1.1 Review of *Cape York Peninsula Heritage Act 2007*

The submission from CYLC stated:

> The CYLC has long advocated for the State to honour a commitment made in parliament on 18 August 2016 by former Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships, Jackie Trad, to review the CYPHA, provisions of which intersect with the Vegetation Management Act. She said:
>
> > *"While the Cape York Peninsula Heritage Act 2007 provides a framework to allow clearing for Indigenous development, no applications have been pursued to date. That is why tonight I am making a commitment to undertake a Cape York Development and Sustainability Review and appoint a Cape York Development and Sustainability Steering Group consisting of Indigenous leaders, NGOs and government agencies."*
>
> This commitment remains merely a line in Hansard despite representations to the former Premier and Minister about the lack of action.
>
> The VMA and the CYPHA recognise that Aboriginal development aspirations will be constrained by vegetation clearing restrictions, and thus make provision for clearing for a special Indigenous purpose including within an Indigenous Community Use Area (ICUA).
>
> The CYLC strongly recommends reform of the CYPHA to support Aboriginal landowners to realise development opportunities.[96]

In response, the department identified that further reform of the CYPHA is outside the scope of the Bill. However, the department advised:

> Currently, CYPHA does provide a process to support Aboriginal and Torres Strait Islander landholders to undertake clearing for development opportunities, even where the development involves broadscale clearing and would otherwise be prohibited development – for example, an agricultural development. This process requires landholders to request, and for the Minister to declare an area of land as an Indigenous Community Use Area (ICUA); and for the Minister to identify a proposed development within an ICUA as a Special Indigenous Purpose. Following these steps, landholders can make an application for a development approval for vegetation clearing.
>
> The Department of Resources is available to work with Aboriginal and Torres Strait Islander landholders so they can better understand CYPHA related vegetation clearing requirements for development proposals.
>
> Landholders can also apply for development approval for any other relevant purpose not associated with CYPHA requirements, and to clear in accordance with the accepted development vegetation clearing codes and for exempt clearing works. These provide additional pathways for development.[97]

3.1.2 Amendment of section 50 of the *Aboriginal Land Act 1991*

CYLC advised the committee:

> It has recently come to our attention that the wording of the section has the consequence of preventing an established Registered Native Title Body Corporation (RNTBC) that already holds land under section 40 of the ALA from 'upgrading' that landholding to being held on behalf of the native title holders of the land. It is our understanding that this consequence is unintentional.

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96 Submission 3, pp 1-2.

97 Department of Resources, correspondence, 14 April 2022, pp 1-2.

> Section 50 of the ALA already contemplates that there will be occasions in which it is appropriate for an Aboriginal Corporation that becomes a RNTBC to hold the land on behalf of native title holders only. The offending part of section 50 is subsection 50(1)(a), and particularly the phrase "…after it becomes the trustee of the land".[98]

CYLC is seeking an amendment to section 50 so that the timing of the Corporation becoming either a trustee or the RNTBC for the land will be irrelevant.[99]

In response to this issue, the department advised:

> Further reform of the ALA is outside the scope of the Land and Other Legislation Amendment Bill.
>
> The department will engage with the Cape York Land Council Aboriginal Corporation on this matter.[100]

98 Submission 3, p 2.

99 Submission 3, p 2.

100 Department of Resources, correspondence, 14 April 2022, p 2.

4 Compliance with the *Legislative Standards Act 1992*

4.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that 'fundamental legislative principles' (FLPs) 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
- the institution of Parliament.

The committee has examined the application of the FLPs to the Bill. The committee brings the following to the attention of the Legislative Assembly.

4.1.1 Rights and liberties of individuals

Section 4(2)(a) of the LSA requires that legislation has sufficient regard to the rights and liberties of individuals.

4.1.1.1 Clauses 17 and 20 – Summary of provisions

Clause 17 inserts new section 157B in the Land Act, giving the chief executive the power to decide not to make an offer of new lease, prior to receiving any renewal application.

Currently, section 160(3) of that Act provides for a limited right of appeal against a decision of the chief executive to refuse a renewal application if the only reason for the refusal was that the applicant had not 'fulfilled' the conditions of the lease.

Clause 20 replaces the current section 160(3) with the following:

> (3) The lessee may appeal against the chief executive's refusal decision if the only reason for the decision was that the lessee had not complied with the conditions of the lease.

This amendment does not change the grounds for the right of appeal; rather it simply extends it to a situation where the chief executive has (under the new section 157B) decided proactively to not offer a new lease.

4.1.1.2 Issue of fundamental legislative principle

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.[101]

The reasonableness and fairness of treatment of individuals is relevant in deciding whether legislation has sufficient regard to the rights and liberties of individuals.[102]

Where the chief executive decides to not renew a lease based on other ground (for example, on the basis that there is a more appropriate tenure for the land), there is no right of appeal.

4.1.1.3 Analysis

There is an opportunity for a lessee to be heard on any proposed decision not to offer a new lease. Clause 17 provides that before any decision to not offer a new lease is made:

- The chief executive must give the lessee written notice of the intention not to offer of a new lease, and give the reasons.

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101 *Legislative Standards Act 1992* (LSA), s 4(3)(a).

102 LSA, s 4(2)(a).

- A lessee may make a written submission in response about any matter relevant to the reasons for the chief executive's proposal.
- The chief executive must consider any submission before a final decision is made.

The explanatory notes set out this rationale for the limitation on grounds of appeal:

> Before the chief executive decides not to renew a lease, the chief executive must consider the matters in section 159 of the Land Act. Most of the matters in section 159 are of a policy nature or driven by other statute requirements, for example whether the public interest would be adversely affected or whether part of the lease is needed for environmental or nature conservation purposes. This means a decision based on these matters is unable to be appealed.
>
> …
>
> This limited appeal right is being applied in line with the same limited appeal right that exists for a decision to refuse a renewal application made by the lessee.[103]

4.1.1.4 Committee comment

The committee is satisfied that the amendment has sufficient regard for the rights and liberties of individuals.

4.1.2 Institution of Parliament

Section 4(2)(b) of the LSA requires legislation to have sufficient regard to the institution of Parliament.

4.1.2.1 Clause 73 – Summary of provisions

Clause 73 inserts a replacement section 9 in the *Survey and Mapping Infrastructure Act 2003*, the effect being to remove the current requirement for the Minister to give notice of the making of a survey standard for a standard to have effect. Instead, standards will take effect from publication (on a government website) by the chief executive.[104]

4.1.2.2 Issue of fundamental legislative principle

This amendment raises the issue of whether it has sufficient regard to the institution of Parliament. Whether a Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly.

Currently a notice must be given, and a standard has no effect until the notice is made. Further, such a notice is subordinate legislation.[105] As such, it is subject to tabling and disallowance processes, and examination by a portfolio committee.

4.1.2.3 Analysis

The proposed new section 9 provides:

- A survey standard must be tabled in the Legislative Assembly within 14 sitting days after it is published.
- If not so tabled, a survey standard ceases to have effect.
- Sections 50 and 51 of the *Statutory Instruments Act 1992* apply to a survey standard as if it were subordinate legislation.[106]

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103 Explanatory notes, p 6.

104 As to publication, see the proposed new section 10.

105 *Survey and Mapping Infrastructure Act 2003*, section 9(4).

106 See proposed sections 9(3) to 9(5).

In other words, survey standards, although no longer subordinate legislation, will continue to be subject to tabling and disallowance processes.

As to the rationale for the change from a notice and for any notice to be declared subordinate legislation, the explanatory notes state:

> This change streamlines the process to give effect to survey standards, ensuring the framework for making standards and guidelines is responsive to modern user and surveying needs.[107]

It is perhaps unclear why this asserted need for responsiveness necessitates the amendment.

The explanatory notes set out these factors in support of the conclusion that 'the potential FLP inconsistency' is justified:

> The power to make standards is delegated to an appropriately qualified person. Survey standards do not have broad application or place direct requirements on the public. The scope of matters dealt with by survey standards remain controlled by the Survey and Mapping Infrastructure Act and regulation. Section 6 of the Survey and Mapping Infrastructure Act is specific about topics that may be addressed by standards, and this is limited to aspects influencing the quality of boundary surveys. The Survey and Mapping Infrastructure Regulation 2014, Part 2 and Part 4 further constrain the scope of standards by listing principles that must be applied in carrying out a survey.[108]

4.1.2.4 Committee comment

The stated reasoning for the change is not entirely compelling. Nonetheless, given the nature of survey standards and the continued availability of the tabling and disallowance processes, the committee is satisfied that the amendment has sufficient regard for the institution of Parliament.

4.1.2.5 Clause 101 – Summary of provisions

Clause 101 inserts new section 22L in the VMA to provide that the chief executive may certify a version of the Regional Ecosystem Description Database[109] for the Act.

4.1.2.6 Issue of fundamental legislative principle

This amendment raises the same issue - whether the Bill sufficient regard to the institution of Parliament, by sufficiently subjecting the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly.

Currently, the identification process is by way of regulation.[110] Proceeding by way of certification by the chief executive means the process will not be subject to scrutiny by the Parliament (as at present), through examination by portfolio committees and through the disallowance process.

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[107] See explanatory notes, p 33, or 34. (At the time of writing, there is a discrepancy between the printed explanatory notes and the version online at the website of the Office of Queensland Parliamentary Counsel. In addition, in the notes on provisions, the relevant clause numbers do not correctly align with the explanation of these clauses, presumably in error. This continues for some pages. (See explanatory notes, pp 33-34 and following.))

[108] Explanatory notes, p 8.

[109] The *Regional Ecosystem Description Database* is the database of that name maintained by the Queensland Herbarium that contains numbers, descriptions, conservation classes and biodiversity status of regional ecosystems. See the definition, inserted by clause 107(2), in the dictionary in the schedule to the *Vegetation Management Act 1999*.

[110] Vegetation Management Regulation 2012, schedules 1 – 5.

4.1.2.7 Analysis

The explanatory notes state:

> … the identification of regional ecosystems as endangered, of concern or least concern, will continue to be determined against technical criteria that are provided by the *Vegetation Management Act 1999*. The requirement for the Minister to be satisfied that regional ecosystems are correctly classified will also be retained.[111]

The explanatory notes state the amendment will not have any impact on the level of regulation of regional ecosystems, as this will continue to be established through the Planning Regulation 2017. Further:

> This proposal allows changes to regional ecosystem descriptions and conservation status to be efficiently reflected in the vegetation management framework, so users continue to have access to up-to-date information that affects them at a lower administrative cost to government.[112]

The amendment will though have an impact on the level of Parliamentary scrutiny.

The committee sought additional information from the department on these aspects of the Bill, including further justification for the removal of the identification process from Parliamentary scrutiny.

The department advised:

> While the proposal to identify regional ecosystems and their conservation status for the purpose of the VMA in a certified version of REDD (the VM REDD), and not in the Vegetation Management Regulation 2012 (the Regulation), does remove Parliamentary oversight, there are a range of reasons this oversight is not required. Parliamentary oversight of the proposed VM REDD is not required because this database, like the Schedules in the Regulation that it will replace, is a technical product that will be routinely updated to reflect changes to the mapped extent of vegetation. Updates to the proposed VM REDD, or the current Regulation, do not reflect any change in policy or level of regulation.
>
> **Detailed response:**
>
> Parliamentary oversight is not required for updating the instrument that identifies conservation status, for the following reasons:
>
> 1. The criteria used to identify the conservation status of a regional ecosystem are, and will continue to be, specified in legislation.
>
>   Each regional ecosystem is categorised as endangered, of concern or least concern using the criteria specified in the *Vegetation Management Act 1999* (VMA) sections 22LA, 22LB and 22LC. These criteria are based on the percentage area remaining of each regional ecosystem:
>
>   - Endangered - remnant vegetation extent is less than 10% of its pre-clearing extent
>   - Of concern - remnant vegetation extent is 10–30% of its pre-clearing extent
>   - Least concern - remnant vegetation extent is over 30% of its pre-clearing extent.
>
>   In addition, the vegetation management class is elevated to the next category if the remnant vegetation extent of a regional ecosystem is < 10,000 ha.
>
> 2. The process used to determine the status of each regional ecosystem against these criteria is a technical process, based on vegetation clearing statistics derived from vegetation mapping.
>
>   The process uses a standard methodology and requires the application of scientific and technical skills. It does not involve making policy judgements.

[111] Explanatory notes, p 8.

[112] Explanatory notes, p 8.

Conservation status is determined by the following method:

- Firstly, areas of vegetation are mapped throughout the State.
- Field records and interpretation of satellite imagery are used to identify the regional ecosystem present in each area.
- The total area remaining of each regional ecosystem is then measured.
- Each regional ecosystem is then categorised as endangered, of concern or least concern using the criteria specified in the *Vegetation Management Act 1999* (VMA) sections 22LA, 22LB and 22LC.

The Queensland Herbarium then records these conservation statuses in the Regional Ecosystem Description Database (REDD), which describes Queensland's 1449 regional ecosystems, and identifies the vegetation management conservation class of each regional ecosystem.

3. The VMA provides a statutory process for landholders to correct the mapping in any given location – via a request for a Property Map of Assessable Vegetation (PMAV).

   Ordinary errors can occasionally occur in the process described above, for example mis-identifying the regional ecosystem present in a given area, or incorrectly mapping its boundaries. The PMAV process enables correction to both the regional ecosystem that is identified as being in an area of vegetation, and the boundaries of that vegetation. This process will not be affected by the proposed amendment.

   Landholders can check the mapping on their property by viewing the maps on Queensland Globe or by requesting a Property Report. Each time the regulated vegetation management map is updated, the Department of Resources notifies landholders who have requested a Property Report within the last 12 months. The Department of Resources will continue this notification process as part of the annual updates to both the regulated vegetation management map and the proposed VM REDD. This helps to ensure that any errors in mapping are identified and corrected, along with maintaining transparency for the information from which conservation status is calculated.

4. The proposed VM REDD, like the current Regulation, merely duplicates the information contained within the REDD, without any scope for the chief executive or Minister to approve any alternative categorisations of the regional ecosystems.

   The Queensland Herbarium updates the REDD on a continuous basis, to reflect changes in the way in which regional ecosystems are described, or due to recalculations of the area of a regional ecosystem that alters its conservation status. For the VMA, it is preferred to take an annual "snapshot" of the REDD, which is then retained unchanged until the next annual update – to give greater certainty for landholders.

   Presently, this "snapshot" is achieved by replicating the information in the REDD in the Regulation's Schedules. Whether this is done via amendments to the Regulation or by the proposed certification process, the list of regional ecosystems and the conservation status assigned to each, is and will continue to be purely a duplicate of the REDD with no changes. The criteria for assigning the conservation status to each regional ecosystem are, and will continue to be, specified in the VMA.

   Presently, the Minister is constrained by ss22LA, 22LB and 22LC from making the Regulation unless he is satisfied it is based on the specified criteria. Under the proposed amendment, this level of Ministerial scrutiny will be maintained. The chief executive will not be able to certify the VM REDD unless the Minister is satisfied it is based on the specified criteria.

   Under the Queensland Government's Best Practice Regulatory Guidelines, the annual updates to the VM Regulation Schedules are excluded from a consultation regulatory impact statement process, on the basis that the Regulation Schedules are a scientific, technical product and the amendments are routine in nature.

5. The level of regulation applying to clearing in any regional ecosystem, or any conservation category, will continue to be established through the VMA and Planning Regulation 2017.

   Planning Regulation Schedule 10, Part 3 determines whether clearing vegetation is accepted development, assessable development, prohibited development or exempt clearing work.

   The "relevant purposes" for which a development application can be made for clearing vegetation that is assessable development are listed in the VMA s22A.

   The assessment benchmarks used to assess a development application for clearing vegetation are contained within State Code 16, part of the State Development Assessment Provisions which are given effect by the Planning Regulation 2017.

   Clearing can also occur in accordance with the requirements of the Accepted Development Vegetation Clearing Codes, which are given effect by the Vegetation Management Regulation 2012.

   Changes to these important provisions to reflect a change in Government policy can be made only with Parliament's oversight or consent.

6. Similar technical databases are referenced in legislation, and updated regularly, without Parliamentary oversight.

   The proposed process to use a certified version of the REDD for the VMA is similar to the process already used for the Environmental Protection framework. The Environmental Protection Regulation 2019 defines environmentally sensitive areas as including "endangered regional ecosystems identified in the database known as the 'Regional ecosystem description database' published on the department's website". Accordingly, changes to the REDD are reflected in EP Act processes for managing contaminated lands and mining activities without any parliamentary oversight. The Department of Environment and Science has advised that this has not led to any issues or challenges in the 18 years since the EP Act commenced.

   The Regulated Vegetation Management Map, which shows the location of each area of vegetation and the regional ecosystem present in each area, is established by VMA s20A. This map is established by being certified by the chief executive. The map is updated annually to reflect changes in the mapped extent of vegetation and changes to the regional ecosystems identified in each area.

   The Vegetation Management Wetlands Map (VMA s20AA) and the Vegetation Management Watercourses and Drainage feature Map (VMA s20AB) are also established by being certified by the chief executive. These maps are also updated annually to reflect changes or refinements in the mapped location of these features.

   The Essential Habitat Map (VMA s20AC) shows the location of areas of vegetation that contain essential habitat factors for a species of protected wildlife, as listed in the essential habitat database. Both the essential habitat map and the essential habitat database are established by being certified by the chief executive. This map and database are also updated annually.

   It should be noted that the information used to determine the conservation status of each regional ecosystem (i.e. the total area remaining) is derived entirely from the vegetation mapping data that is also reported in the Regulated Vegetation Management Map.

7. This proposal under the VMA sets a higher oversight standard for the VM REDD than applies to the above maps and databases, by retaining Ministerial oversight.

   It requires that the Minister is satisfied that the regional ecosystems are correctly classified according to the rules contained in the VMA before the chief executive can certify a new version of the VM REDD.[113]

[113] Department of Resources, correspondence, 27 April 2022, pp 7-11.

4.1.2.8 Committee comment

The committee considered that the explanation/justification given in the explanatory notes was less than compelling in justifying a move away from regulation. The committee therefore sought further information from the department.

The explanation provided by the department still does not adequately address the justification for the move away from the use of the Regulation other than to say that it is 'not required because this database, like the Schedules in the Regulation that it will replace, is a technical product that will be routinely updated to reflect changes to the mapped extent of vegetation'[114]. Refer to section 2.5.5 above for further comment.

4.2 Explanatory notes

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. Under the heading *Consistency with fundamental legislative principles* this statement appears:

> The Bill has been drafted with regard to fundamental legislative principles (FLPs) as defined in section 4 of the Legislative Standards Act 1992 and is generally consistent with these provisions.[115]

Such an imprecise statement as 'generally inconsistent' implies that the Bill is not wholly consistent with the FLPs. In this respect such a statement does not of itself meet the requirement in section 23(1)(f) of the LSA that explanatory notes for a Bill are to include (in clear and precise language):

> [A] brief assessment of the consistency of the Bill with fundamental legislative principles and, if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency.

To comply with this statutory requirement, explanatory notes should either (depending of the factual position) state that a Bill is consistent with fundamental legislative principles, or set out any areas of inconsistency, with reasons for any inconsistency.

In this instance, after stating the Bill is 'generally consistent' with fundamental legislative principles, the explanatory notes continue:

> Although consistent, some amendments may be regarded as impinging on FLPs. The following will address this perceived impingement.[116]

Here, the explanatory notes go some small way towards satisfying the requirements in the Act, albeit dealing with the issues of FLP in quite general terms. However, using language such as 'may be regarded as impinging' and 'this perceived impingement' is an inappropriate, almost begrudging, way to describe and acknowledge areas of inconsistency with FLPs.

The analysis in the explanatory notes in the section regarding issues of FLP is poor. Variously, the explanatory notes at times fail to:

- identify the specific FLP that is said to arise
- articulate how there is an inconsistency with FLP or how an issue arises
- clearly set out any justification for any inconsistency or breach.

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114 Department of Resources, correspondence, 27 April 2022, p 10.

115 Explanatory notes, p 5.

116 Explanatory notes, p 5.

As a result, the explanatory notes canvass a number of matters which do not raise any issue of FLP. Additionally, no clauses numbers are referenced in that section.

Bearing in mind the desirable outcome of better informing the community about proposed legislation, best practice is for explanatory notes to:

- clearly identify each specific issue of FLP that arises and the specific clause giving rise to the issue
- set out the reasons for any inconsistency with the FLPs
- provide any justification for that inconsistency.

The explanatory notes also contain numerous errors. The notes on provisions, the relevant clause numbers do not correctly align with the clause being explained. Obviously, the committee would not be able to identify where information may have been omitted.

The following table identifies the errors, identified by the committee, in the clause number in the explanatory notes compared to the Bill:

Clause No	Bill	Explanatory Notes
31	31	31 31
54	54	54 54
56	56	556
61	61	611
62	62	622
63	63	633
64	64	65
65	65	66
66	66	67
67	67	67
71	71	74
72	72	75
73	73	76
74	74	77
75	75	78
76	76	79
77	77	80
78	78	81
79	79	82
80	80	83
81	81	84
82	82	85
83	83	86
84	84	87

Clause No	Bill	Explanatory Notes
85	85	88
86	86	89
87	87	90
88	88	91
89	89	92
90	90	93
91	91	94
92	92	95
93	93	9693
105	105	105
106	106	Included in 105 (not separately identified)
109	109	98

Other examples or errors include:

- on page 33 the number '717273' as been inserted prior to the heading 'Part 9 – Amendment of the Survey and Mapping Infrastructure Act 2003'.[117]
- on page 41 the number '97' has been inserted in the text in the final paragraph of the page after the words 'New section 149'.[118]

The committee has also identified that the formatting in the electronic version differs to the printed version of the explanatory notes so that there are 44 pages in the electronic version compared to 43 pages in the printed version of the document.

The explanatory notes otherwise comply with the requirements set out in part 4 and contain a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

4.2.1.1 Committee comment

Given the significance of explanatory notes in the interpretation of legislation, it is recommended that the Minister table a corrected version of the explanatory notes as a matter of priority.

Regarding the differences between the electronic and printed versions, the committee considers that stakeholders need to have confidence that electronic versions are exact copies of the official tabled version of the document. The committee is of the view that in this case formatting differences only have resulted in the differing page numbering.

Recommendation 3

The committee recommends the Minister table a corrected version of the explanatory notes as a matter of priority and ensure that the electronic version of the document is the same as the tabled document.

[117] Explanatory notes, p 33.

[118] Explanatory notes, p 41.

5 Compliance with the *Human Rights Act 2019*

The portfolio committee responsible for examining a Bill must consider and report to the Legislative Assembly about whether the Bill is not compatible with human rights, and consider and report to the Legislative Assembly about the statement of compatibility tabled for the Bill.[119]

A Bill is compatible with human rights if the Bill:

(a) does not limit a human right, or
(b) limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HRA.[120]

The HRA protects fundamental human rights drawn from international human rights law.[121] Section 13 of the HRA provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

The committee has examined the Bill for human rights compatibility. The committee brings the following to the attention of the Legislative Assembly.

5.1 Human rights compatibility

The committee considered sections 24 and 28 of the HRA and identified clauses 7, 11, 14, 20, 22, 59, 61 and 62 potentially may impact upon the cultural rights of Aboriginal peoples.

5.1.1 Section 24 (Property rights)

HRA section 24 provides that all persons have the right to own property and must not be arbitrarily deprived of it. This can include economic interests in property. All of the clauses in the Bill mentioned above can prima facie affect this right, for example by altering the style of tenure, charging fees, etc.

However, the changes introduced by the Bill alter rights of tenure by consent only, so the alteration will not be arbitrary. The fees charged reflect an existing "user pays" method which is fair and reasonable. Other amendments merely correct minor technical errors or update the legislation to better reflect existing practices or introduce a method of more efficient lease conversion and simplify and streamline management and methods.

On balance, property rights as such are not affected contrary to HRA section 24.

5.1.2 Section 28 (Cultural rights of Aboriginal peoples)

The situation with respect to HRA section 28 (cultural rights of Aboriginal peoples) is more problematic and is not mentioned at all in the Minister's statement of compatibility. Again, all of the clauses mentioned above in the Bill potentially may impact upon the cultural rights of Aboriginal peoples. Moreover, HRA preamble clause 6 recognises the "special importance for the Aboriginal peoples ... with their distinctive and diverse spiritual, material and economic relationship with the lands".

119 HRA, s 39.

120 HRA, s 8.

121 The human rights protected by the HRA are set out in sections 15 to 37 of the Act. A right or freedom not included in the Act that arises or is recognised under another law must not be taken to be abrogated or limited only because the right or freedom is not included in this Act or is only partly included; HRA, s 12.

Clause 7 introduces a proposed new agreement under which corporations may transfer benefits and obligations, and under which the Minister must consider the commercial interests of companies balanced against an undefined "public interest" in exit applications. Clause 11 allows amendments to trustee permits. Clause 14 deals with the transfer of a lease for significant development and the Minister being satisfied of (only) the transferee's financial and managerial capabilities. Clause 22 allows a chief executive to allow a conversion of a lease after assessing the most "appropriate" tenure for the land. Clause 59 allows a chief executive to review, amend or renew a stock route as that person considers "appropriate". Clause 61 relates to the preparation of a draft stock route network management plan and does expressly require taking into account the cultural values of the local government's part of the network and the interests of the local community and the requirements under other Acts. It is the only clause expressly to do so. All of these clauses can relate to, and impact upon, Aboriginal relationship with the lands concerned.

Clause 61 of the Bill specifically takes into account the requirements of other Acts, which would include the HRA as well as applicable Commonwealth native title legislation (although the other clauses in the Bill do not). The HRA itself in section 108 adopts an approach overriding the interpretive convention that later Acts will impliedly repeal earlier Acts to the extent of any inconsistency, thus meaning that the government and entities should exercise a discretion given by this Bill consistently with the HRA. But an express duty to do so is inconsistent throughout the Bill. Moreover, this inconsistency can result in human rights under the HRA becoming effectively unenforceable. This is because of the effect of HRA section 59, which only allows a person (eg, an Aboriginal or representative) to make a complaint of a breach of human rights when related to an action deemed unlawful within the terms of this Bill. The terms and discretions within this Bill do not, other than in clause 61, necessarily require consideration of, or respect for, Aboriginal human rights. While this does not affect the right to seek judicial review (HRA section 59(4)), the situation will be effectively the same.

As the HRA states expressly that Aboriginal rights relating to land have a "special importance" (preambular paragraph 6), and as a main object of the HRA is to build a culture in the Queensland public sector that respects and promotes human rights (section 3(b)), and as the objects of HRA are to be achieved by "requiring" public entities to act and make decisions in a way compatible with human rights (section 4(b)), and as the HRA expressly binds Parliament itself (section 5(2)(b)), any possibility of ineffective implementation of these "special" human rights should be avoided. Not to do so is merely paying lip service to human rights.

It is suggested that such a situation could be avoided by inserting, where relevant in the amendments introduced by the Bill:

> In order to avoid uncertainty, any acts or decisions made under this Act/Regulation/Agreement must comply with the *Human Rights Act 2019*.

The committee sought a response from the department in relation to these issues. The Department of Resources' response is contained in Appendix D.

5.1.2.1 Committee comment

The committee is required to provide a conclusion of compatibility under section 39 of the HRA. The committee finds the Bill is compatible with human rights.

5.2 Statement of compatibility

Section 38 of the HRA requires that a member who introduces a Bill in the Legislative Assembly must prepare and table a statement of the Bill's compatibility with human rights.

A statement of compatibility was tabled with the introduction of the Bill as required by s 38 of the HRA. The statement provides a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with property rights under the HRA.

However, the statement of compatibility does not contain sufficient information to facilitate understanding of the Bill in relation to its compatibility with the cultural rights of Aboriginal peoples which have not been dealt with in it. These issues are addressed in the department's response contained in Appendix D.

Appendix A – Submitters

Sub #	Submitter
001	Local Government Association of Queensland
002	Environmental Defenders Office and The Wilderness Society
003	Cape York Land Council
004	AgForce Queensland Farmers Limited

Appendix B – Officials at public departmental briefing

Department of Resources

- Ms Sarah Bill, Manager, Lands Policy and Support
- Mr Lyall Hinrichsen, Executive Director, Lands Policy and Support
- Mr Marcus Rees, Director Georesources Policy
- Ms Amber Wenck, Manager, Lands Policy and Legislation

Appendix C – Witnesses at public hearing

Local Government Association of Queensland

- Mr Nathan Rhule, Lead-Intergovernmental Relations Advocate
- Ms Alison Smith, Chief Executive Officer (via video conference)

AgForce Queensland Farmers Limited

- Mr Michael Guerin, Chief Executive Officer
- Mr Greg Leach, Senior Policy Advisor
- Miss Nikki Hoffmann, Policy Officer (via video conference)

Appendix D – Departmental response to issues raised in relation to human rights

Land and Other Legislation Amendment Bill 2022

DEPARTMENT OF RESOURCES

Advice to the Transport and Resources Committee regarding human rights and fundamental legislative principles

Date: 27 April 2022

The Department of Resources provides additional information on the Land and Other Legislation Amendment Bill 2022 requested by the Committee on 20 April 2022. The department's responses to each question are provided below.

CI	Committee Question	Department's response
Human Rights Act 2019		
	Clauses 7, 11, 14, 22, 59, 61 and 62 potentially impact upon the cultural rights of Aboriginal peoples. These provisions, except for clause 61, do not expressly take into account the cultural rights of Aboriginal peoples. The express duty to have regard to the cultural rights of Aboriginal peoples, is inconsistent throughout the Bill. Moreover, this inconsistency can result in human rights under the HRA becoming effectively unenforceable. This is because of the effect of section 59 of the HRA, which only allows a person (eg, an Aboriginal or representative) to make a complaint of a breach of human rights when related to an action deemed unlawful within the terms of the Bill. The committee has identified that the terms and discretions within this Bill do not, other than in clause 61, necessarily require consideration of, or respect for, Aboriginal human rights. While this does not affect the right to seek judicial review (HRA section 59(4)), the situation will be effectively the same. It has been suggested that such a situation could be avoided by inserting the following, where relevant, in the amendments introduced by the Bill: *In order to avoid uncertainty, any acts or decisions made under this Act/Regulation/Agreement must comply with the Human Rights Act 2019.* Could you please respond to the issues raised above and also advise why this has been expressly allowed in clause 61 but not in other clauses in the Bill?	**Summary:** the following summary is provided to address the Committee's questions in relation to human rights. Following this summary, specific detail is provided on human rights considerations for the clauses identified by the Committee. This information has been compiled in consultation with the Human Rights Unit within the Department of Justice and Attorney-General. ***Human rights compatibility of all statutory provisions*** Section 48 of the *Human Rights Act 2019* (HR Act) applies to every 'statutory provision'. The HR Act defines 'statutory provision' in Schedule 1 as "an Act or statutory instrument or a provision of an Act or statutory instrument". All statutory provisions must be interpreted, if possible, in a way that is compatible with human rights. If it is not possible to be interpreted in a way that is compatible with human rights, the statutory provision may be declared by the Supreme Court as incompatible with human rights (as provided by HR Act section 53). Section 48 also makes clear that the HR Act does not affect the validity of an Act or provision of an Act, or a statutory instrument or provision of a statutory instrument that is not compatible with human rights. The compatibility of a Bill with the HR Act should only be considered in the context of the amendments being proposed in a Bill. Compatibility should not consider human rights more generally across Acts or its provisions that are not the subject of the proposed

Cl	Committee Question	Department's response
		amendments. Following detailed analysis of all human rights, the Department of Resources determined that proposed amendments in the Land and Other Legislation Amendment Bill 2022 (the Bill) did not limit human rights and were compatible with the HR Act. The only exception to this is the proposal to introduce new application fees for applications under the Stock Route Management Act, which limited property rights, although on balance is considered reasonable and demonstrably justifiable. This determination was driven by the nature of the amendments in the Bill. That is, amendments address unnecessary administrative requirements within existing provisions to ensure more efficient processes. Amendments do not change the operation, policy intent or decision-making considerations of existing provisions. Including provisions such as the one the Committee specifically highlights in relation to the cultural rights of Aboriginal and Torres Strait Islander peoples in clause 61 is outside the scope of the proposed changes in the Bill. It is important to note that section 106 of the *Stock Route Management Act 2002*, which clause 61 amends, already contains the requirement referenced by the Committee in relation to cultural rights of Aboriginal and Torres Strait Islander peoples. Clause 61 is not introducing this consideration, it simply amends sections 106-111 of the *Stock Route Management Act 2002* only to remove the Minister's oversight of a local government's preparation and adoption of a draft stock route management plan, and to bring the duration of these plans in alignment with the State stock route network management strategy. ***Public entity obligations under the Human Rights Act 2019*** The HR Act requires public entities to act and make decisions compatibly with human rights and to properly consider human rights when making decisions (section 58(1)). Public entities are defined in section 9 of the HR Act and include: • "a public service employee". The *Acts Interpretation Act 1954* defines "public service employee" as it is defined by section 9 of the *Public Service Act 2008*. • "a Minister". The *Acts Interpretation Act 1954* defines "Minister" as a "Minister of the State". The obligations in HR Act section 58(1) apply to "acts" and "decisions" and "making a decision". This means that any public entity (including Ministers, chief executives, and other public service employees) making decisions or taking actions under the relevant legislation is

Cl	Committee Question	Department's response
		subject to the obligations created by section 58(1) of the HR Act. In other words, they are required to consider the impact of their proposed decision on the rights protected under the HR Act. The amendments within the Land and Other Legislation Amendment Bill 2022 does not remove this obligation under the HR Act. It is therefore not necessary to explicitly refer in this Bill, or any other Bill, to the application of the HR Act in situations where there is no suggestion that section 58(1) obligations under the HR Act do not apply to any of the acts or decisions. These obligations will only be overridden where an exception in section 58(2) applies. This includes where a public entity "could not reasonably have acted differently or made a different decision because of a statutory provision…or otherwise under law". However, this exception only operates where the decision-maker has no discretion in the exercise of their functions. ***Litigation and complaints under the Human Rights Act 2019*** If an individual believes a public entity has failed to meet its obligations under section 58(1) of the HR Act, they are able to pursue: • relief through legal proceedings where there is another ground of unlawfulness to "piggyback" human rights grounds. This includes "piggybacking" human rights arguments onto judicial review proceedings (as outlined in the Committee communication). • a human rights complaint. A complaint must be first made to the relevant public entity, with an individual then able to take a complaint to the Queensland Human Rights Commission if they do not receive a response to their complaint or receive an inadequate response (section 65 of HR Act).
Specified clause considerations relating to human rights		
7	Proposed 2022 agreement – Central Queensland Coal Associates Act	Clause 7 of the Bill includes amendments to the *Central Queensland Coal Associates Agreement Act 1968*. The amendments establish mechanisms to enable BHP Mitsubishi Alliance entities to make: • an Exit Application to remove a special coal mining lease from the operation of the Act and the Central Queensland Coal Associates Agreement (the Agreement); and • a Transfer and Exit Application to remove a special coal mining lease from the operation of the Act and the Agreement, and transfer all or part of the interests between themselves or other corporate entities that are not a party to the

Cl	Committee Question	Department's response
		Agreement. In deciding either an exit application, or a transfer and exit application, the Minister must consider the legitimate commercial and operational objectives of the Companies, the interests of the State as a party to the Agreement, and the public interest in relation to the regulation of coal mining in Queensland. In acting or making a decision in relation to the Agreement, including deciding an application, the Minister is bound by section 58 of the Human Rights Act 2019, which states that it is unlawful for a public entity to: • act or make a decision in a way that is not compatible with human rights; or • in making a decision, fail to give proper consideration to a human right relevant to the decision. It will be a matter for the Minister or the relevant public entity to consider whether each act or decision under the Agreement could impact upon human rights, including the cultural rights of Aboriginal and Torres Strait Islander peoples protected under section 28 of the *Human Rights Act 2019*. It is not necessary or advisable to expressly require consideration of the cultural rights of Aboriginal peoples in the amendments to the Act, as this would create duplication with the *Human Rights Act 2019*.
11	Trustee Permits	The Bill amends the *Land Act 1994* (Land Act) to enable a trustee (often a local government) to issue a trustee permit for a purpose that is inconsistent with the purpose for which the trust land was dedicated. A trustee permit may only be issued for a maximum period of 3-years, and does not give exclusive use of, or rights to, the land. No further improvements are able to occur under the permit. Secondary uses of trust land through permits can generate revenue important to the maintenance of trust land. These secondary uses include a clubhouse for a sporting or pony club (no commercial/liquor service); trustee permit for grazing and environmental management; a community event run to benefit the community by the trustee (e.g., fete, fair or community day). Before the inconsistent purpose could be approved, the trustee will be required to have a trust land management plan (TLMP) in place that considers the potential impacts of the inconsistent use and demonstrates how the inconsistent use will not diminish the purpose of the trust land. An inconsistent action must also not adversely affect any business in the area surrounding the trust land. The Department of Resources approves a TLMP. A TLMP deals with the sustainable use, development and management of trust land. The

Cl	Committee Question	Department's response
		plan must outline how the proposed use will maintain or enhance the existing attributes and use of the trust land. The trustee must evaluate all alternatives uses proposed for each part of the land. The evaluation must consider the use from a local area perspective (not only for the individual site), including any areas of cultural significance (if applicable). The plan must also detail how the impacts of the use of the land both on and off the site will be managed, including pollution and/or land degradation, and demonstrate how the trustee will fulfill and discharge their duty of care. The trustee must undertake public consultation on the plan to ascertain the views of the community, including relevant indigenous parties/groups, in relation to the proposed use of the trust land. The community is given the option to object to proposed secondary uses as part of the consultation for the TLMP. The trustee must record what issues were identified, how they influenced the TLMP and what actions have been taken as a result. Native title will also be addressed for any dealings on the trust land where required. Local government, as the trustee, must also fulfill its obligation under the *Human Rights Act 2019* to act and make decisions which are compatible with the rights it protects, and when making a decision, to give proper consideration to human rights, including cultural rights.
14	Transfer of a lease for significant development	This amendment makes clearer the operation of section 130 of the *Land Act 1994*. The amendment clarifies that if the chief executive requests an independent assessment of the transferee's financial and managerial capabilities, the chief executive must use this assessment when determining satisfaction as to the transferee's financial and managerial capability before agreeing to the transfer. This amendment gives a clearer provision for refusing a transfer if the assessment outcome supports that decision. The transfer of a significant development lease only involves transferring the ownership of the lease to a new owner. There are no changes to the use and conditions of the lease as the tenure for the land has already been allocated. There are no additional impacts to Aboriginal or Torres Strait Islander peoples. If the lease is subject to native title, this is catered for in the conditions of the lease (e.g., no works can be undertaken unless native title has been addressed in accordance with the Commonwealth *Native Title Act 1993*). An independent assessment of the transferee's financial and managerial capabilities is necessary to ensure the new owner is financially capable of undertaking the development the lease anticipates.
22	Deciding to make an offer to convert lease before receiving conversion application	This amendment introduces an alternative way in which lease conversion can be initiated. Currently, the Land Act requires a lessee to make an application. This amendment will enable the chief executive to make an offer to convert a lease to freehold tenure without first receiving a conversion application.

Cl	Committee Question	Department's response
		In deciding whether to make an offer, the chief executive must consider the matters in section 16, and any other relevant matters (s 420G), before making an offer to determine whether freehold is the most appropriate tenure. Section 16 of the Land Act requires that evaluation of the most appropriate tenure has regard to State, regional and local planning strategies and policies and commitments given by the State in relation to particular state land. Section 16 also requires consideration of the objects of the Act, which includes protection of environmentally and culturally valuable and sensitive areas and features; if land is needed for community purposes such as Aboriginal or Torres Strait Islander cultural purposes (for example, part of the site may contain a culturally significant structure, and that part may not be converted to freehold but retained as a reserve for cultural or historical purposes with an appropriate trustee appointed); and sustainable resource use and development. As part of the decision-making process under the Land Act, the department also: • considers and consults with all relevant stakeholders (including relevant Indigenous bodies, if applicable); • undertakes a cultural heritage assessment to identify any impacts; and • undertakes a native title assessment. This amendment will also be supported by departmental procedures or guides around the decision-making process to ensure relevant considerations are appropriately addressed. The department also undertakes a human rights impact assessment in accordance with section 58 of the *Human Rights Act 2019* before making a decision or taking action under the Land Act. The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. After consideration of the abovementioned legislative requirements, if freehold is the most appropriate tenure, the chief executive will make the offer to the lessee. Before a deed of grant is issued, if native title is not extinguished, the lessee must meet the legislative requirements under the Commonwealth *Native Title Act 1993* to address native title.
59	Review, amend or renew a stock route network management strategy, and publishing of this strategy	Amendments proposed by clause 59 which relate to the stock route network management strategy are simply aimed at address unnecessary administrative process. The primary purpose of developing the stock route network management strategy is to

Cl	Committee Question	Department's response
		direct and coordinate the management of the stock route network in recognition of the multiple departments and local governments involved in the management and use of the network. The development of the current, along with future strategies, involves public and stakeholder consultation. This consultation process draws out any specific issues and values that require addressing on the stock route network. Advice on implementation of the current stock route network management strategy is coordinated through the Stock Route Strategy Stakeholder Working Group with representation from State government departments, local governments, industry, peak bodies, and First Nations representatives. The working group is not involved in making any on-ground decisions. Any on-ground decisions are made by the relevant public entity, e.g., State or local governments, who are required to make these decisions in accordance with section 58 of the HR Act.
61	Preparing draft local management plans, and notifying, adopting and the duration of the plans	Following extensive stakeholder and public consultation, the amendments will reduce regulatory burden by removing the requirement for Ministerial approval of draft plans and clarifying the current consultation practice in terms of making it a statutory requirement to consult. The primary purpose of developing the Plans remains to ensure the local management of the stock route network is consistent with the principles in the *Stock Route Management Act 2002* and the stock route network management strategy. The consultation process required to develop the Plans draws out any specific issues and values that require addressing on the stock route network, including the environmental and cultural values, and multiple uses, of the stock route network in the local government's area. Any decisions made by a local government under a Plan will need to be done in accordance with section 58 of the HR Act.
62	Review, amend or renew a local stock route management plan, and publishing of plans	Following extensive stakeholder and public consultation, the amendments will reduce regulatory burden by removing the requirement for Ministerial approval of amended or renewed local management plans and ensuring the consultation process is consistent with that under clause 61. Any decisions made by a local government under a Plan will need to be done in accordance with section 58 of the HR Act.

STATEMENT OF RESERVATION
LNP Members of the Transport and Resources Committee

The Opposition welcomes the government's long-awaited response to the management of stock routes among other streamlining, minor and miscellaneous amendments to legislation and regulations.

In general, the Opposition is supportive of the bill and its intent. We note this bill was presented to committee under former Minister Anthony Lynham. At this particular time, the committee recommended the bill not be passed, due to feedback from stakeholders and committee members.

Whilst it is of concern at the amount of time the government has taken to resolve these issues, the Opposition welcomes the changes that for the most part have been incorporated. We also note the support from major stakeholders LGAQ and AgForce.

However, there are some minor issues with the legislation which the Opposition has concern with.

Clause 94 seeks to amend vegetation management regulation through a sneaky, underhanded attempt to disguise this section. It is alarming that a bill so long awaited by industry included this desperate attempt at amending vegetation management regulations without proper scrutiny. Clause 94 and its legislative intention was strongly opposed by stakeholders and the Opposition supports the recommendation of the committee to omit this entire clause. This recommendation was clearly the result of pressure from advocacy groups and Opposition committee members.

It was also incredibly concerning to note the significant unprofessionalism of explanatory notes. The notes on provisions and the relevant clause numbers failed to correctly align with the clause being explained. The committee has also not been able to identify where information may have been omitted. The Opposition welcome the committee's recommendation for the explanatory notes to be corrected.

In conclusion, the Opposition is supportive of the bill provided the government accepts the recommendations handed down by the committee.

We acknowledge the importance of stock routes in our rural and regional communities and the changes this bill will achieve.

Lachlan Millar MP
Deputy Chair
Member for Gregory

Pat Weir MP
Member for Condamine

Trevor Watts MP
Member for Toowoomba North