

RESOURCE ACTIVITIES ON AGRICULTURAL LAND

A Guide to the Regional Planning Interests Act 2014

2015



WHAT IS THE *REGIONAL PLANNING INTERESTS ACT 2014*?

The *Regional Planning Interests Act* is new legislation, passed by the Queensland Parliament that came into effect in June 2014. It affects the way resource activities (mining, petroleum and gas developments) can operate on agricultural land.

The effect of the legislation is that resource companies are required to obtain separate approval for their activities on agricultural land in addition to existing mining tenure and environmental approvals.

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AM I AFFECTED?

You are affected by the Act if there is a resource activity proposed on your land and your land is included in an area mapped as an area of regional interest. There are two areas of agricultural land that are defined as areas of regional interest: Priority Agricultural Area (PAA) and Strategic Cropping Area (SCA).

The rules for what is permitted in the different areas are set out in the Regional Planning Interests Regulation 2014. It is important to know which area affects your property.

For example, if your land is both SCA and PAA, only the PAA rules apply where the land is used for a Priority Agricultural Land Use (PALU). On land not used for a PALU (that is also SCA), the SCA rules apply. See Figure 1 for how the rules apply to different areas.

Regional plans (for example the Darling Downs Regional Plan and the Central Queensland Regional Plan) identify PAA and PALU for each region. To qualify as a PALU, the land must have been used for the use at least three years during the previous 10 years.

A separate statewide map shows the location of SCA.

Maps of these areas of regional interests are available from:
<http://dams.dsdp.esriaustraliaonline.com.au/damappingsystem/>

EXEMPT ACTIVITIES

The Act requires all resource activities to obtain a Regional Interests Development Approval (RIDA) before they undertake work on an area of PAA or SCA, unless they are exempt under the Act.

The resource company is exempt from the need for a RIDA if:

- The proposed activity is to operate under a voluntarily-agreed conduct and Compensation Agreement (CCA), or
- The resource company and the land holder have negotiated where and how their activities are to be conducted. However, the activities must not have a 'significant impact' on the PAA or SCA, and must not 'impact' on land not owned by the land owner.

Pre-existing or certain pre-approved resource activities or activities that will be completed within 12 months are also exempt and are not affected by the Act. Pre-approved resource activities are only exempt if their approvals include details of their on-farm activities and impacts.





WHAT ARE MY OPTIONS?

Your options are determined by whether you are able or wish to reach agreement with the resource company regarding the details of the location, extent and nature of the works and infrastructure on your land associated with the resource activity.

If an agreement is reached between the land owner and the resource company, there is no requirement for the resource company to obtain development approval.

An agreement may be in the form of a Conduct and Compensation Agreement (CCA) under the Land Access Code or may form the basis for the subsequent preparation of a CCA.

The Act and the Regulation do not specify or set limits on what may be included in or agreed to in a negotiated agreement.

If an agreement is not reached for whatever reason, the resource company must apply for an Regional Interests Development Approval.

SHOULD I NEGOTIATE AN AGREEMENT?

This will depend on your particular circumstances and approach. There is no obligation on you to undertake negotiations or to sign an agreement.

An important consideration is that a development approval cannot result in

- a loss of more than 2% of the PALU and productive capacity on your property; or
- impact on more than 2% of the strategic cropping land on your property.

DO I STILL NEED TO NEGOTIATE A CCA FOR LAND ACCESS IF A RID IS ISSUED?

An approval known as a Regional Interests Decision (RID) may be issued by the State Government, however you must still negotiate a CCA under the Land Access Code. The CCA could be finalised after a RID is issued (and any appeal process is completed) as the details of the approval may affect the content of the CCA.



Image courtesy of Arrow Energy.

WHAT DO I NEED TO DO?

From the Gasfields Commission Queensland Checklist:

1. **Take time** - Commit some time upfront to understand the resource company you are dealing with and their proposed timeline and program for undertaking proposed activities on your property.
2. **Get advice** - This is a complex negotiation that requires a good understanding of a wide range of disciplines, including resource industry law and regulation, land valuation, natural resource economics and accounting.
3. **Keep talking** - It is important that both sides keep communicating to try to better understand each other's point of view and to identify possible solutions or a way forward.
4. **Think business to business** - Treat your negotiations with resource companies as you would negotiations with any other business seeking to operate alongside or underneath your existing rural business.
5. **Prepare a property plan** - It is important that your plan is on the table when undertaking negotiations, to ensure that the resource company is well aware of your intentions for the future development of the property and your rural business.
6. **Measure baseline conditions** - To help quantify and measure impacts and disturbances to your underlying rural business over time, it is critical that you as the landholder keep a record of the state of your land, soils, pastures, weeds, vegetation, roads and rural infrastructure before and after the resource company undertakes activities on your land.
7. **Key contacts and records** – Record all details of personal contact details, meetings, agreements and appointments.

CAN I MAKE A SUBMISSION ON A REGIONAL INTEREST DEVELOPMENT APPLICATION?

This depends on whether an application is 'notifiable'. At present whether an application on SCA or PAA is notifiable is determined by the Chief Executive of the Department of Infrastructure, Local Government and Planning.

If an application is notifiable, then any person may make a submission to the Chief Executive who must consider all submissions regarding the application.

If an application is not notifiable, the land owner may comment on the application but the Chief Executive is not required to consider the information supplied.

CAN I APPEAL AGAINST A REGIONAL INTERESTS DECISION?

Yes, the land owner or an affected land owner may lodge an appeal with the Planning and Environment Court regarding the approval or the conditions included in the approval.

An affected land owner is the owner of any land that may be affected by the activity because of its proximity to the activity, and the impact the activity may have on the area of regional interest.

An appeal must be lodged within 20 days of the land owner receiving a decision notice or of the publication of a public notice of the decision.

HOW CAN I CHECK WHETHER A RESOURCE ACTIVITY IS OPERATING LAWFULLY?

If a landholder is concerned about any work associated with a resource activity on PAA or SCA, any person can seek a declaration from the Planning & Environment Court about the lawfulness of any activity.

WHERE CAN I GO FOR HELP OR MORE INFORMATION?

Regional Planning Interests Act:

<http://www.dilgp.qld.gov.au/planning/regional-planning/regional-planning-interests-act.html>

Telephone: 1300 967 433

Email: RPIAct@dilgp.qld.gov.au

Postal address: The Chief Executive
Department of Infrastructure, Local Government and Planning
C/- the RPI Act Development Assessment Team
PO Box 15009, City East Queensland 4002.

Maps of regional interests:

<http://dams.dsdip.esriaustraliaonline.com.au/damappingsystem/>

Gasfields Commission Queensland Checklist:

<http://www.gasfieldscommissionqld.org.au/resources/gasfields/landholder-land-access-checklist.pdf>

Department of Natural Resources and Mines - Tips for landholders:

http://www.dnrm.qld.gov.au/__data/assets/pdf_file/0015/193101/tips-landholders-negotiations.pdf

Darling Downs Regional Plan:

<http://www.dilgp.qld.gov.au/planning/regional-planning/darling-downs-regional-plan.html>

Central Queensland Regional Plan:

<http://www.dilgp.qld.gov.au/planning/regional-planning/central-queensland-regional-plan.html>

Department of Infrastructure, Local Government & Planning Guidelines:

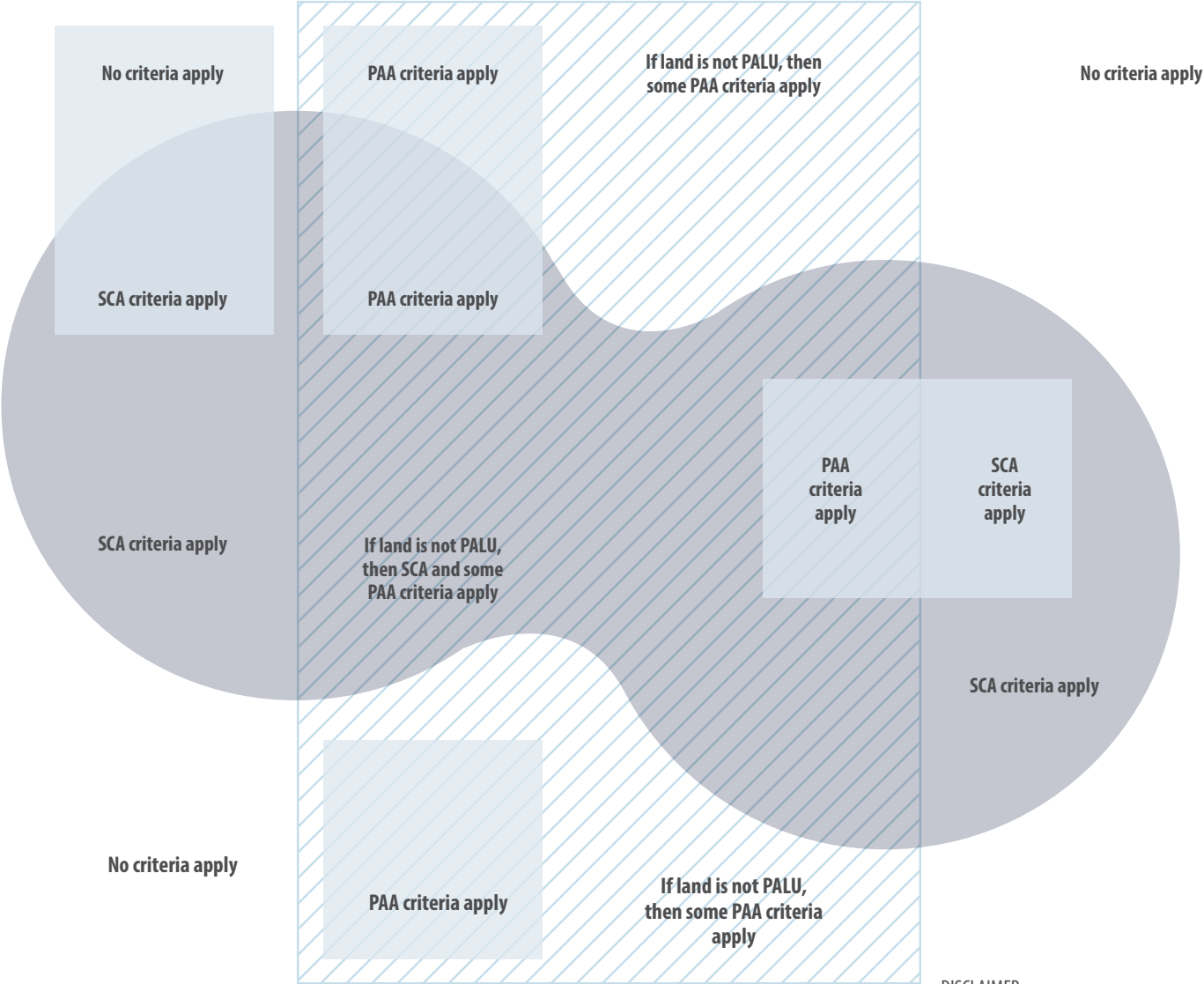
<http://www.dilgp.qld.gov.au/planning/regional-planning/rpi-act-forms-guidelines-and-fact-sheets.html>

Research into land management impacts by the Gas Industry Social and Environmental Research Alliance (GISERA):

<http://www.gisera.org.au/research/agricultural.html>



Figure 1: Application of Assessment Criteria depends on the existence and distribution of regional interests.



- Strategic Cropping Area (SCA) Regional Interest
- Priority Agricultural Area (PAA) Regional Interest
- Priority Agricultural Land Use (PALU)

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