Speech by

Andrew Cripps

MEMBER FOR HINCHINBROOK

Hansard Tuesday, 29 November 2011

STRATEGIC CROPPING LAND BILL

Mr CRIPPS (Hinchinbrook—LNP) (8.07 pm): The explanatory notes accompanying the Strategic Cropping Land Bill state—

The purpose of the Bill is to implement a legislative framework that recognises the State's strategic cropping land (SCL) as a finite resource that must be protected against the impacts of development and preserved for future generations.

The bill proposes to utilise planning and development powers to manage development impacts and, in identified areas, protect strategic cropping land from developments that will have a permanent impact on it and/or diminish the productivity of the land. The explanatory notes state that in recent times Queensland's SCL has been subject to an increasing range of competing land uses, including mining and other resource developments and urban expansion. The pressure on SCL areas for nonagricultural uses has escalated as the economics of the mining and resources sector has changed due to advances in technology and urban growth continues.

Finally, the explanatory notes claim that, as Queensland grows, this bill will strike a balance between the competing land uses and ensure that there is no overall loss of agricultural productivity associated with the state's SCL in the long term. The bill claims to provide a consistent process for assessing and deciding whether developments are able to be processed on SCL and to provide clarity and certainty for investment decisions by the agriculture, urban development and mining and resource sectors.

The LNP supports the purposes of the bill as they are stated in clause 3: to protect land that is highly suitable for cropping; to manage the impacts of development on that land; and to preserve the productive capacity of that land for future generations. The Environment, Agriculture, Resources and Energy Committee report on the bill, tabled in the House on 25 November, accurately identifies the most contentious issues raised by the public submissions and in the evidence given to the committee during its public briefing by DERM and the public hearing on the bill. I certainly want to acknowledge the hard work of all committee members in view of the constrained time frame available for the consideration of the bill and extend a particular expression of gratitude to the parliamentary staff who supported the committee for their extraordinary efforts.

Recommendation 1 of the committee's report recommends in part that the bill proceed through this House. The LNP members of the committee support this recommendation to that extent. However, the LNP members of the committee feel compelled to submit a statement of reservation because the balance of recommendation 1 recommends that the bill be passed subject only to the clarifications and assurances sought by the committee of the minister in respect of several clauses and provisions in the bill.

The LNP members of the committee cannot ignore the fact that the committee only seeks further clarifications and assurances from the minister in respect of critical issues concerning several key clauses and provisions of the bill. The public submissions taken by the committee on the bill have raised a number of fundamental concerns that the Department of Environment and Resource Management has been unable to adequately address. As such, we consider the committee report ought to have recommended that the minister provide clear and unambiguous advice about these substantive issues rather than simply seek clarification and assurances about them.

As the explanatory notes accompanying the bill point out, the bill is significant because it is without precedent in other states or at the Commonwealth level. As such, achieving a maximum level of certainty is a priority consideration. Why is there such a pressing need for the parliament to achieve the maximum level of certainty as it pertains to the clauses and the provisions in this bill? The answer is that, given the bill is without precedent, there may be fewer sources of extrinsic material available to assist with the statutory interpretation of this bill in the event that it passes the House and becomes law in Queensland. As such, the proceedings of the parliament during its consideration of the bill in a relatively new area of legislation may, after its assent, be relied upon to interpret the act should it be contested in a court of law in the relative absence of other extrinsic matters. This is made clear in clause 14B of the Acts Interpretation Act.

Therefore, the LNP members of the committee consider that the committee report ought to have recommended that the minister provide clear and unambiguous advice about the substantive issue rather than the report simply seeking clarification and assurances about them. The LNP believes strongly that SCL must be protected and that it presently does not have adequate protection in Queensland. As such, the LNP will not be opposing this bill. The position of the LNP is that the bill is significantly flawed; however, the LNP considers that the bill needs to be passed by the parliament as soon as possible to afford SCL at least a degree of protection.

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

Standing order 136 ordinarily provides parliamentary committees with up to six months from the referral of a bill to the date that it is required to be reported to the Legislative Assembly. In this instance, the committee was required to report back to the Legislative Assembly by 25 November this year, only one month from the date of the bill's introduction into the Legislative Assembly on 25 October 2011.

While the matters contained in the bill have been the subject of an extended government run public consultation process, it does not appear to have been an effective one. The call for public submissions to the committee inquiry resulted in 56 written submissions, the overwhelming majority of which, while supporting the principal objectives of the bill, expressed serious concerns about the bill's clauses and provisions. It would appear that the efforts of the government to undertake public consultation, as outlined by DERM during its public briefing to the committee on the bill, have been unsuccessful in resolving the major community and industry concerns about its SCL policy.

The government facilitated public consultation, as outlined in the explanatory notes accompanying the bill, has proven to be an inadequate substitute for a full and proper consideration of the bill by the Environment, Agriculture, Resources and Energy Committee of the parliament, which has turned up myriad issues. As I said earlier, the committee report accurately identifies the most contentious issues raised by the public submissions and in the evidence given to the committee during its public briefing by DERM and the public hearing on the bill. Amongst this material is a wealth of additional information that supports the LNP's contention that the bill is significantly flawed. A great deal of that material outlines the concerns of the public submissions that highlight significant policy, technical and administrative flaws in the bill.

I mentioned earlier that the explanatory notes accompanying the bill state that in recent times Queensland's SCL has been subject to an increasing range of competing land uses, including mining and other resource developments and urban expansion. This is an understatement that only this government, which has failed to act responsibly, could make with a straight face. This land competition and the concerns and problems that it has created have not snuck up behind this government and taken it by surprise. This land-use competition and the concerns and problems that it has created have been obvious and plain. Notwithstanding that they have been obvious and plain, not until now has the government tried to do something to protect SCL in Queensland.

Given that it has been in power for the period during which the land-use competition has escalated, creating these concerns and problems, the responsibility for failing to act lies with this government. The LNP has long recognised the essential need to protect prime agricultural land in Queensland, and that supports the basis of our intensive cropping land industries and our broadacre farming systems. The LNP understands that the critical objective is to ensure the productive capacity of our prime agricultural land is maintained. The LNP recognises that many farm enterprises and mining and resource enterprises have co-existed in harmony for long periods of time. However, the LNP also recognises that in recent years the mining and resources industries have been growing and expanding rapidly and that these projects can have a significant impact on farming activities. Furthermore, the LNP believes that it is in the public interest to prevent these significant impacts from occurring on SCL.

The LNP has also long recognised that the coal seam gas industry has created a new dimension and more complicated challenges. There is a need for legislation that must deal with the competition for land use between agriculture and the CSG industry which will need to co-exist over a large geographic

area for a long period of time. The LNP fully understands the importance of protecting our prime agricultural land that sustains our intensive cropping and broadacre farming system. We are committed to ensuring there is no expansion of the CSG industry on that land if it will adversely affect its productive capacity to produce food and fibre in the future.

The LNP was first to place on the record its commitment to protecting prime agricultural land in response to the increasing land-use competition between the agriculture and mining and resource industries. The LNP has repeatedly called on this government to modernise the legislation in recognition of these plain and obvious challenges.

During a speech in a second reading debate in the parliament on 28 October 2008, during the regional sitting of parliament in Cairns, the then shadow minister for mines and energy, the member for Callide, when responding to the Mines and Energy Legislation Amendment Bill on behalf of the LNP, made the position of the LNP very clear in relation to protecting SCL in Queensland. He said—

The black soil flood plains on the Darling Downs are regarded as some of the best country in the world ... They are places that should be protected at almost all cost.

...

I think it is important that everybody involved in the process knows that under an LNP government, with our determined policy to protect prime agricultural land, the value of prime agricultural land will be a very important factor in the public interest test that is applied by an LNP minister and at every stage of the application process ...

...

If a company is going to spend its own money in exploring areas of prime agricultural land, then it needs to know very clearly that under an LNP government the value of that prime agricultural land will be a paramount consideration in the public interest test that we will apply. I cannot say it any clearer than that.

...

Landholders, who are the other part of the equation, also need to have confidence that an LNP government will ensure that the value of that prime agricultural land is a paramount consideration ...

With a clear commitment from this very early stage, no stakeholders in this matter—whether it be local communities, farmers, mining and resource companies or financial institutions—could be in any doubt that an LNP government would ensure the mining and resource industry would be subject to legislation and regulation that would give effect to our long-held policy of ensuring that the productive capacity of our prime agricultural land is maintained into the future. Since 2008 the LNP's strong commitment to protecting prime agricultural land has been reaffirmed many times. In 2010 the LNP released a position statement on the CSG industry. As part of that position statement, the LNP repeated its strong approach with a commitment under the heading 'Protecting Prime Agricultural Land'. It said—

The LNP recognises the long term need to preserve prime farmland for continued agriculture throughout Queensland from mining, urban development and gas production activity which adversely impacts on that land.

...

Just as it is unlawful to consider applications to clear vegetation in areas mapped as remnant vegetation, so too should it be unlawful to consider applications for open cut mines on lands identified as top quality agricultural lands.

In September this year the LNP released its strategic plan for agriculture which included a detailed outline of our intention to protect SCL in Queensland through the implementation of an improved system of statutory regional plans which will involve extensive local community input in developing regional plans; ensure that there is no open-cut mining on strategic cropping land; not allow underground mining, coal seam gas activity or other development on strategic cropping land if it is likely to have a significant adverse impact on the productive capacity of that land to produce food and fibre in the future; and prioritise regional plans for the Darling Downs and golden triangle regions followed by other regions where these matters are pressing and in urgent need of attention.

While the LNP is absolutely committed to implementing its policy should we be elected, it is worth pointing out or reminding those Queenslanders who have expressed concerns and who have been campaigning for the protection of SCL in this state that this government has had at its disposal the legislative capacity to prevent the unnecessary confrontation between agriculture and the mining and resources industry from escalating to this point but has taken an active decision not to do so. The Mineral Resources Act contains provisions allowing the responsible minister to exercise at their discretion a public interest test at the issuance of individual mining tenements. These provisions in the Mineral Resources Act allow the responsible minister to apply a public interest test at every stage, specifically when an exploration permit is applied for, when it is due for renewal, when an exploration permit is upgraded to a mineral development licence and when the mineral development licence is upgraded to a mining lease.

Those Queenslanders who have expressed concerns and who have been campaigning for the protection of SCL should be aware that this government has had every opportunity to apply a public

interest test to protect SCL in Queensland when an exploration permit is applied for, when it is due for renewal, when an exploration permit is upgraded to a mineral development licence and when a mineral development licence is upgraded to a mining lease. At each stage it has been within the minister's power to apply a public interest test to protect SCL. Why then has this government not been exercising its capacity to protect SCL in Queensland by applying that public interest test not to grant exploration permits, renewals, mineral development licences and mining leases?

As far back as 2008 the LNP made it quite clear that this is a regulatory instrument that we would utilise to protect SCL. It is a question that those Queenslanders who have expressed concerns about, and have been campaigning for, the protection of SCL ought to ask this government. The answer will be extremely interesting. Unfortunately, it has taken this long for this government to bring forward modern legislation that properly protects SCL. This means there has already been extensive expansion of the mining and resource industry on SCL under outdated and inadequate legislation which has caused considerable community concern.

It was not until February last year that the Bligh government finally caught up with the pressing need for a policy to protect SCL with its release of its strategic cropping land discussion paper. In April this year the Bligh government released its proposed criteria for identifying what it described as strategic cropping land that was to be used to draft new strategic cropping land legislation. In August this year the Bligh government released its draft State Planning Policy to protect strategic cropping land, and this bill was eventually introduced into the House on 25 October. The Bligh government ought to be condemned for taking so long to develop a response to the dilemma of increasing land-use competition between agriculture and the mining and resources industries, which has been occurring and escalating for so many years under its watch.

I now turn to the bill proper. The most contentious issues arising out of the bill include the process for identifying strategic cropping land, the process for validating whether land is SCL or not, the process for assessing the impacts of development on SCL, the process for certain projects to be permitted on SCL in protection areas in exceptional circumstances, the process for mitigating the impact of a development on SCL and the nature of the transitional arrangements for projects that have met certain milestones in the planning process as at 31 May this year.

There were substantial concerns expressed in relation to the process established by the bill to identify SCL, particularly the policy decision by the government to establish two SCL protection areas and the SCL management areas. It was asserted that there was no justification for differentiating between SCL in the two protection areas, being the southern and central protection areas, and in the management area. A number of submitters expressed dissatisfaction that an arbitrary distinction had been made between the protection afforded to SCL within the two protection areas and SCL in the management area, insisting that SCL was either worth protecting or it was not.

Mr Michael Murray, representing Cotton Australia at the committee's public hearing on the bill, made the following statement when reflecting on the government's policy decision to establish two SCL protection areas and an SCL management area—

There is really no justification for the differentiation between the protected and the management zones. Either this country is worth protecting or it is not. Unfortunately, the management and the rules around that, as we understand them, really allow people to buy their way out of this process and there is no guarantee that they will actually be able to maintain the standard of the soil, so I think we need to move to the fully protected area.

Mr Dan Galligan, CEO of the Queensland Farmers Federation, said the following in response to a question from the member for Southport—

Our submission does not actually request that we lock up more land. What we said is that having a management zone, which is actually what is left after protection zones are in place, seems to be against the purposes of the act, which are to provide protection for SCL. The management zone identifies SCL and then does not provide the protection that was the intent of the policy in 2009. The position we have always had is that it should be a scientifically based process.

Mr Galligan continued—

All we say is that the management area is diluting the exact purpose of the policy in the first place.

I asked Mr Galligan to clarify his statement with the following question—

Is the point you are making that there are no technical differences in the assessment of the strategic cropping land soils within the protection areas as opposed to the technical assessment of strategic cropping land soils outside of those protections?

Mr Galligan responded—

That is right. There is no difference in the two zones.

The failure to afford all SCL a consistent level of protection appears to be contrary to the stated purpose of the bill, that being to protect land that is highly suitable for cropping. Notwithstanding that the explanatory notes accompanying the bill claim that it provides for a consistent process for assessing and determining whether developments are able to proceed on SCL, this is clearly inaccurate. There are no technical differences between the quality of the soils on SCL in the two protection areas compared to the

quality of the soils on SCL in the management area. As such, while the bill claims to establish a scientifically based process for identifying SCL in Queensland, it does no such thing.

It proposes to create a two-tier system, distinguishing SCL in the two protection areas from SCL in the management area based only on its location, not on its productive capacity. Nothing in the bill's explanatory notes or in the information provided by DERM justifies this distinction. That the bill creates this arbitrary distinction is a legitimate criticism of its provisions. This arbitrary provision has been included without any explanation and, therefore, must be considered a policy decision of the government. This policy decision appears to undermine the stated purpose of the bill. It is reasonable, therefore, to question whether the public can have confidence in the balance of the provisions of the bill.

There were considerable concerns expressed in relation to the criteria established in the bill to determine whether or not land is SCL involving assessment against eight criteria based on the physical characteristics of the soil. The criteria include the slope of the land; the rockiness of the soil; gilgai microrelief, which refers to small changes in topography of up to a few metres above and below the general plane of the land surface that shrink and swell substantially with changing water content; soil depth; wetness; PH; soil salinity; and soil water storage capacity. The criteria for determining whether or not land is SCL will also involve minimum size requirements and whether it meets a cropping history test.

These provisions encouraged wide ranging debate about what makes cropping land strategic. The bill acknowledges that the soil criteria and the minimum size test need to be flexible enough to acknowledge regional differences as to what constitutes SCL and what is an economically viable cropping area.

The five different regional cropping zones identified in the bill are western, eastern Darling Downs, Granite Belt, coastal and Wet Tropics. While soil characteristics are a critical aspect of identifying SCL, peak agricultural industry groups have pointed out that soil type alone does not determine the productive capacity of the land. Other factors such as a reliable supply of water, the availability of labour, access to transport infrastructure and proximity to markets are also important factors that determine whether crops can be viably grown, harvested, delivered and sold from any given location. Cropping land that meets these criteria may be described as strategic as opposed to just being good quality agricultural soils.

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

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

One of the good examples of where valuable productive soils may or may not be afforded protection under this bill is because they fail slope criteria. For example, the coastal zone established by the bill dictates a maximum of five per cent slope for land to be considered SCL. In some areas of Queensland, land with a slope of up to eight per cent has been demonstrated as being highly productive and regularly returning highly valuable crops in the sustainable farming system. One way of addressing this issue is amending the boundaries of the regional cropping zones to allow some types of land to be incorporated into adjacent zones with a higher slope criteria threshold or to allow the land to be protected or creating more zones. Another alternative would be to fall marginally short against one or two criteria but still be able to be considered for SCL if, for example, the land enjoys a reliable water supply, if it is close to a market or if it displays a reliable cropping history.

The soil criteria, minimum size and cropping history test have been criticised by various stakeholder groups. Again, Mr Galligan, the CEO of the Queensland Farmers Federation, offered the following evidence to the committee during its public hearing—

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

Mr Galligan went on to elaborate on this evidence in responding to a question from me, pointing out that, given the minimum size test and the cropping history test are not based on the physical characteristics of the soil, the bill does not establish a purely technical or scientific process for determining SCL. Taking this point to its logical conclusion, the physical characteristics of soil are not the only things that influence what makes cropping land strategic or what makes it productive. Mr Galligan said—

We have always been disappointed and are still disappointed about the fact that there are 10 criteria and not eight. There is the soil criteria, then the minimum area requirements and the cropping history. The minimum area requirements I think are going to pose

significant problems in the validation of SCL, because there will be lands that people have a common understanding would be good cropping lands which will be knocked out, and horticulture and cane are both concerned about that. The cropping history test I will be more scathing of. It is quite ridiculous, to be honest. It is going to impose a bizarre administrative burden—a final hurdle.

Mr Drew Wagner, representing AgForce, on the same issue offered the following observation—

The fact that we still have 10 criteria is very much an issue for AgForce and for our members ...

...

Slope, in particular, is one that is of massive concern at this point in time, regardless of what is actually in situ. With the productive value and nature of food security and food and fibre principles coming from these landscapes, you can find a very large tract of area cut out extraordinarily quickly just because of slope.

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

Another matter that attracted some attention of the committee during its consideration of the bill is the cost to validate SCL mapping on the ground when a development application was lodged. This issue started unfolding months ago during the budget sitting week. I asked the former minister for environment and resource management a very simple question. I referred to the new user charges associated with the implementation of the government's strategic cropping legislation announced in the budget and asked who would pay those new user charges. The question was a very straightforward one seeking some very simple information. Notwithstanding that, the former minister could not help herself, as she is regularly unable to, and was political in her answer. The former minister did manage to get out in the course of her politicised answer the advice that I was looking for: that it would be the proponent, the person looking to do any work on the strategic cropping land area, who is required to pay for the assessment.

That would have been sufficient to answer my question, but of course as I have already indicated the former minister could not help herself. It would be the proponent's responsibility. The former minister went on to make the remark—no doubt it was one that she thought was clever at the time—that if the LNP wanted farmers to pay for the SCL assessments we would have an opportunity to move amendments during this debate. That statement obviously suggests that the former minister did not think that farmers would be paying for assessments under the government's policy because she probably did not understand or know that farmers lodge development applications from time to time. Taking that argument to its logical conclusion, the member for Ashgrove obviously believed mining resource companies would be the only ones to lodge DAs requiring SCL to be mapped under the provisions of the bill. It showed a lack of understanding of the government's own policy by the former minister.

Nevertheless, I had the information that I was looking for. I had the confirmation that applicants would pay for the mapping, and that included farmers lodging code assessable development applications. So I do not need to take the gratuitous advice of the member for Ashgrove to move any amendments. Indeed, they were to pay extraordinary costs. Many submissions to the committee expressed horror at proposed costs of $27,254 to have land go through the process of validation as it is set out in the bill. I went through the process of putting scenarios to DERM officers at the public briefing in which there would be no change of land use, there would be no reconfiguration of the lots involved, there would be no subdivision of lots where landowners wanted to undertake normal, ordinary and routine works on farms and whether or not they would be caught by the bill. The DERM officers just pointed to clauses 290 and 291 in the bill. They did not really know. That was not helpful for certainty for local communities or for farmers.

Ms Nolan interjected.

Mr DEPUTY SPEAKER (Mr Elmes): Order! Minister, I ask for a little bit of shush, and it would help if we kept it to non-political matters for a little while, member for Hinchinbrook.

Mr CRIPPS: If those making representations to the committee in the consideration of the bill or appearing before the committee at the public hearing still sought clarification about what was in or out after having considered the bill, the government has not achieved clarity, and the stated objective of the government's bill is to achieve certainty and clarity for all stakeholders. In any event, recently we have seen the government—many months after the former minister made a clumsy attempt at politicising the issue—clarify the issue of—

Ms JONES: Mr Deputy Speaker, I find that offensive. I ask him to withdraw.

Mr CRIPPS: I withdraw. The government has announced changes to the fee structure for the SCL validation process as follows: small developments of less than 750 square metres will not attract a fee; developments between 750 and 3,000 square metres will attract a $500 fee; developments between 3,000

and 9,000 square metres will attract a $9,035 fee; and only developments above 9,000 square metres will pay the original $27,254. There will be other fees including: a $3,998 fee for the validation of SCL; a $1,951 fee for assessing the cropping history test; and a $46,253 fee for applications that may need to meet the exceptional circumstances test in an SCL protection area.

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

The appropriateness of the 50-year time frame for determining if a permanent impact has occurred on SCL following a development has also been contested. Other time frames more relevant to agricultural enterprises, such as the 10- to 15-year planning cycles for water resource plans and the 30-year lease renewal periods under the Delbessie Agreement, have been proposed, most notably and authoritatively by the Queensland Murray-Darling Committee, as more appropriate for the purposes of this bill. These more relevant time frames are more appropriate for agricultural enterprises to measure productivity losses resulting from a development against the opportunity cost to their investment.

A development on SCL essentially alienates an agricultural enterprise from a key asset in that enterprise. Measuring this alienation against access to other key assets, such as water and tenure security, makes more sense. I asked the industry representatives at the committee hearing about this 50-year time frame and its appropriateness for measuring permanent impacts on SCL and if the time frames nominated by the Queensland Murray-Darling Committee were more relevant. Mr Dan Galligan, the CEO of the Queensland Farmers Federation, offered the following—

The short answer is yes. The logic behind the analysis by the Queensland Murray-Darling Committee is sound as well. A time frame that related to the certainty for the business—and it is an agricultural business—would have some logic to it. We are talking about essentially alienating that business from a key resource that the business relies upon. All of those time frames make sense. They are much more relevant and there is some logic to them. None of those facets exist for the 50-year time frame. There has never been any logic put to me. There has never been any relevance put to me. There has never been any explanation as to why it is 50 years.

Mr Michael Murray, representing Cotton Australia, made the following statement—

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

No real justification for the 50-year time frame is provided either in the explanatory notes accompanying the bill or in the information provided by DERM to the committee. A further serious concern is that DERM has not yet established an accurate mechanism to calculate the resources, financial or otherwise, that will be required to re-establish the productive capacity of SCL through a mitigation measure.

There was considerable concern expressed in relation to the process for determining if a development meets certain criteria to be approved under exceptional circumstances provisions within a protection area, where such a project would ordinarily not be permitted to occur. Chief amongst these concerns was that the definition of what constitutes exceptional circumstances is too vague. A proposed development may proceed on SCL in a protection area if it meets two exceptional circumstances criteria. The minister may approve a development if there is no alternative site for the development or if the project will provide an overwhelming and significant community benefit. However, the required value of the community benefit is not quantified, nor is the nature of it established by the bill. It should be noted that the bill states that 'significant community benefit' means 'an overwhelmingly significant opportunity of benefit to the state' and 'the benefit outweighs the state's interest in protecting the land as SCL'.

It is difficult to understand, then, how the provisions contained in chapter 4 can stand part of the bill—they facilitate development on SCL that will have a permanent impact on the productivity of the land—when they appear to be inconsistent with all of the stated purposes in chapter 1, being protecting land that is highly suitable for cropping and preserving the productive capacity of that land for future generations. Approving a development in a protection area under the exceptional circumstances clause, which will have a permanent impact on the SCL in question, is clearly inconsistent with the stated purpose of the bill, which is to protect land highly suitable for cropping, manage the impacts of the development on that land and preserve the productive capacity of the land for future generations. The contradiction is plain.

There were considerable concerns expressed in relation to the scientific and technical legitimacy of proposed measures in the bill to facilitate the restoration of the productivity of SCL after a development activity has ceased. The submission to the committee from Growcom, Queensland's peak representative body for the horticulture industry, in particular raised this issue. There were also considerable concerns expressed about the ability to accurately calculate the loss of productive capacity of SCL after a development activity is ceased.

In terms of the science of rehabilitating the productive capacity of SCL through the mitigation measures provided for in the bill, a number of submissions stated that there is no scientific evidence that this can occur, particularly on prime agricultural land. The provisions providing for mitigation measures to restore the productive capacity of SCL are a fundamental plank supporting the objectives of the bill. Evidence was given to the committee during the public hearing on the bill that, during the extended public consultation period on the government's SCL policy, no peer reviewed science documenting the successful rehabilitation of prime agricultural land was presented. This is extraordinary given that the provisions in chapter 5 of the bill are at least in part dependent on the assumption that SCL can be rehabilitated. I asked industry representatives at the committee hearing for their opinion about the science of rehabilitating strategic cropping land and what was able to be demonstrated at this time. Once again, the evidence from Mr Galligan, the CEO of the Queensland Farmers Federation, was particularly interesting. He said—

I think what Growcom has raised and a number of submissions have raised is that people have seen no evidence that gives them any confidence that restoration can happen, particularly in higher value cropping areas ... Once a decision is made to allow resource development to occur, nobody has given me or any of my members any information that demonstrates that rehabilitation would come back to a level that would be satisfactory.

Mr Brent Finlay, the President of AgForce, provided a similar opinion—

To my knowledge, nowhere in the world has land been repatriated back to its original state.

I put the following question directly to the industry representatives at the committee hearing—

Given that you represent a broad spectrum of the agricultural peak bodies representing industry in the rural sector in Queensland, when you were consulted on the development of this proposed legislation, you would have engaged in a discussion with the responsible departments from the Queensland government about the science of rehabilitation being successful. Surely they would have presented you with a body of peer review documented science about the success of rehabilitating strategic cropping land or prime agricultural land elsewhere around the world.

Mr Galligan, the CEO of the QFF, responded—

No. No evidence has been presented to the advisory committee in relation to rehabilitation.

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

There were considerable concerns expressed in relation to the transitional arrangements provided for in the bill that relate to developments that had met certain milestones in the assessment and approval process prior to 31 May this year. In that regard there was particular attention paid to the unique arrangements pertaining to the Springsure Creek coal project, where special transitional arrangements have been put in place. Evidence to the committee stated that Bandanna Energy's application did not meet the 31 May deadline for projects to have completed their EIS terms of reference to avoid being subject to the new SCL transitional arrangements. Indeed, officers from DERM appearing at the committee's public briefing confirmed that the government's policy decision to allow the Bandanna Energy application to proceed was outside the intent of the SCL transitional arrangement provisions. However, the committee was advised that this policy decision was justified on the basis that the application had been administratively completed save for its publication.

A submission by AgForce to the committee stated that the strategic cropping land advisory committee was briefed at a meeting on 2 June 2011 that, as the proponents Bandanna Energy had not finalised the terms of reference for its EIS prior to the government releasing its SCL policy, the Springsure Creek coal project would now be subject to the SCL framework as set out in the bill. The submission also states that, subsequent to and notwithstanding this advice, the government has since entered into special transitional arrangements with Bandanna Energy to allow the development to proceed outside the SCL framework, the details of which were outlined in correspondence to Bandanna Energy dated 6 June 2011 from the Treasurer and Minister for State Development and Trade. That correspondence was tabled by Mr Gavin Batcheler from HopgoodGanim, representing Bandanna Energy, during the committee's public hearing on the bill.

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

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

substantiated. The dilemma, however, is that this government has failed to modernise the regulatory arrangements to properly manage the land-use competition between agriculture, mining and resources and urban development. Equally, this government has not afforded SCL a degree of protection by exercising its powers under the Mineral Resources Act, which allows the minister to apply a public interest test at every stage of the issuance of a mining tenement. Therefore, the LNP, while remaining of the view that the bill is flawed, will not oppose the passage of the bill to ensure that it informs decisions made on development applications on SCL in Queensland.

Ms Nolan interjected.

Mr DEPUTY SPEAKER (Mr Elmes): Order! Minister, I have been listening to what the member for Hinchinbrook has been saying very carefully. I do not consider that he has been in any way pejorative, so he should be heard in silence.

Mr CRIPPS: Thank you, Mr Deputy Speaker. It is our hope that in supporting the bill SCL is afforded a modicum of protection. It will certainly be a degree of protection that SCL has not been afforded previously, notwithstanding that the LNP and many communities and the agricultural sector in Queensland have for years been asking this government to address the escalating land-use competition across the state. While the LNP will not oppose this bill, to ensure that it informs decision making on new applications for mining and resource projects, offering SCL a degree of protection, it does not believe that the policy adequately protects SCL, and we remain committed to implementing our policy.

The LNP has adopted a policy of implementing a series of statutory regional plans that will provide for specific land-use mapping in individual regions, delivering certainty for local communities, landholders, the agriculture sector and the mining and resources sector. Statutory regional plans are an existing and understood planning tool that can be utilised to protect SCL. Statutory regional plans and the land-use maps attached to them take precedence over other planning instruments, such as local government planning schemes, unless otherwise provided for.

The SEQ Regional Plan and the FNQ Regional Plan are two existing regional plans that already have strict statutory land-use zones in force. These statutory regional plans will involve the development of land-use zones that define, regulate and control what land in certain zones can be used for or what it may not be used for in the future. Once zoned for particular land uses, the regional plans will deliver certainty to landholders and other stakeholders. The regional plans will clearly identify appropriate land uses in individual zones across the region, give proper statutory planning protection to strategic cropping land and establish suitable statutory separation distances between resource industry projects and other land uses that are incompatible, such as residential areas and agriculture.

The effect of statutory regional plans in establishing specific land-use zones is that planning authorities or regulatory agencies such as local councils or government departments are not able to accept an application for a proposed development activity that is not compatible with the dedicated land use in that zone. If an LNP government is elected, it will fast-track the development of statutory regional plans for the Darling Downs and the Central Queensland region encompassing the golden triangle, where the concerns relating to land-use competition between agriculture and mining and resource industries has been most acute.

The Bligh government does not intend to develop a statutory regional plan for the Darling Downs. Instead, it proposes only a Surat Basin Regional Planning Framework. Unusually, this is the only region in Queensland that is proposed to be covered by a regional planning framework as opposed to a regional plan. The final framework was released in July this year. This framework is not to be confused with the draft Toowoomba Regional Planning Scheme. The draft Toowoomba Regional Planning Scheme is also not to be confused with a regional plan for the Darling Downs. It is a consolidation of the eight former local government planning schemes that existed in that region prior to the forced amalgamation of eight local government authorities by this government.

The stated purpose of the Surat Basin Regional Planning Framework is to manage sustainable regional growth in the area by setting directions and principles to inform future decision making and policy. A regional planning framework based on principles to inform future decision making is a far cry from the planning certainty required by local communities, landholders and the agriculture, mining and resource industries. The LNP's policy demonstrates our commitment to addressing as soon as possible the serious concerns of local communities and those industries that have an interest in achieving planning certainty and preserving the productive capacity of SCL for the future production of food and fibre in Queensland.

More recently the LNP has announced plans to develop the statutory regional land use planning maps for the Scenic Rim, where the issues of competing land use between agriculture and mining and resources is presently beginning to escalate. As part of the development of these statutory regional plans, an LNP government will ensure that SCL is carefully identified and mapped as a defined land-use zone. These zones will be mapped and defined using transparent and robust science to identify top-quality agricultural soils and extensive industry and community engagement in relation to other factors that make cropping land strategic.

As previously outlined, the LNP believes the eight soil criteria used by this government's bill to develop its legislation are technically sound as an assessment of soils but they fail to give consideration to a range of other factors that may make cropping land strategic and make it deserving of protection. An LNP government would make the identification of SCL a core part of the statutory regional planning process. The consultation process utilised by the current government in the development of the SEQ and FNQ regional plans was criticised for not adequately engaging local government, industry and local communities. An LNP government will give Queenslanders a greater say in regional planning processes so that local communities have more input into their futures. This will result in better regional plans being developed, accepted and supported by local communities in respect of a range of economic, social and environmental issues. Critically for the issue of SCL, this improved regional planning process involving extensive local community input will provide important feedback on the issue of land use.

The LNP believes the use of statutory regional plans will enable individual plans to more accurately reflect regional variations in what ought to qualify as SCL. This bill establishes five regional cropping zones—western, eastern Darling Downs, Granite Belt, coastal and Wet Tropics—a number of which are geographically extensive. While some of the zones encompass large latitudinal variations, others cover areas that have significant altitudinal differences. Furthermore, peak agricultural industry groups have pointed out that favourable climactic conditions, as well as the existence of microclimates, or land with an advantageous aspect, being natural protection from frost or naturally good drainage, can also contribute towards certain areas legitimately being considered as SCL. As such, the narrow use of the eight criteria pertaining to the physical characteristics of soil and the questionable cropping history test used to identify SCL in this bill risk overlooking areas that deserve protection. The five regional cropping zones fail to adequately recognise regional variations within the zone.

In contrast, the LNP's plan to use statutory regional plans to establish strategic cropping land zones as part of land-use maps attached to those plans will ensure individual plans accurately reflect the regional variation in what qualifies as SCL. This regional flexibility will maximise the SCL protected for food and fibre production. Once strategic cropping land zones are established in a statutory regional plan, planning authorities or regulatory agencies such as councils or government departments would be unable to accept an application for a development activity that is not compatible with the cropping activity being pursued in that zone. Consistent with its long held and often repeated commitment to the protection of prime agricultural land, now referred to as SCL, an LNP government will implement its policy to establish statutory regional plans that include strategic cropping land zones. These zones will offer the highest level of protection to SCL, as I mentioned earlier, by prohibiting the development of any further open-cut mining projects on land zoned as strategic cropping land and prohibiting the development of any further underground mining, coal seam gas or other resource industry project on land zoned as strategic cropping land if it is likely to have a significant adverse impact on the productive capacity of that land to produce food and fibre in the future.

These tests were outlined in the LNP's strategic plan for agriculture. Determining if an industry project is likely to have a significant or adverse impact on the productive capacity of land to produce food and fibre in the future will involve information drawn from the consultation process during the development of an individual statutory regional plan and input from independent experts. The LNP made it clear as long ago as 2008 that our commitment to protecting strategic cropping land would be a very important factor in the public interest test applied by an LNP minister at every stage of a mining or gas project application process through its exploration, development and operational phase. The LNP wanted to make the mining and gas sectors understand at that time that under an LNP government an LNP minister would use the public interest test to give paramount consideration to the productive capacity of the land in question. The LNP intends to apply this approach in government with its own SCL framework, its statutory regional planning framework, to projects in areas of strategic cropping land that currently hold a lease, permit or licence in the event the proponents make an application to move to the next phase of the project. In doing so the LNP will seek to achieve the right balance in this difficult area of public policy.

The LNP believes that this bill is flawed. However, we will not oppose it for the reasons that I have outlined. Labor has been dragged kicking and screaming by the LNP and by many stakeholder groups in the community to take action to protect SCL. We have outlined our alternative policy and we are committed to implementing it should we have an opportunity to do so in government. The need to move this bill through the House to give strategic cropping land at least a modicum of protection has been called for by a wide range of stakeholder groups in the community making submissions to the committee and they have asked, with grave reservations about the technical, administrative and scientific provisions in this bill, for us to pass the bill so that it at least provides some modicum of protection. For that reason the LNP will not oppose this bill.