EXPLANATORY NOTES

LAND PROTECTION

(PEST AND STOCK ROUTE MANAGEMENT)

BILL

2001

LAND PROTECTION (PEST AND STOCK ROUTE MANAGEMENT) BILL

EXPLANATORY NOTES

GENERAL OUTLINE

Policy Objectives of the Bill

The main purpose of the Bill is to provide for pest management for land and stock route network management. The main policy objectives are to protect land and water from the adverse impacts of weeds and pest animals and to manage the stock route network in a sustainable manner for travelling stock and other purposes. The Bill is to replace the *Rural Lands Protection Act 1985*.

The scope of the legislation is pest plants and animals and it is intended to cover species that are exotic invasive weeds of non-cropping situations, exotic pest animals (including wild dogs and dingoes) and indigenous species of locusts. The focus of the Bill is not only on pests that cause impacts on primary production, but also those that have impacts on the environment, society or other economic activities. The stock route network encompasses a huge range of biodiversity within Queensland and the aim is to manage the natural resources on the network in a sustainable manner for future generations.

The application of the legislation is to the land and fresh water bodies of Queensland to high-water mark, so it does not include marine pests.

Major policy approaches in the Bill are:

Prevention: The prevention of introduction of new pest species into Queensland and the prevention of spread of both new and established pests is addressed through provisions for emergency declaration, quarantine, control and the reduction of spread by human activities.

Planning provisions: A planning framework is proposed for the coordinated management of pests and stock routes by key stakeholders (communities, industries, State and local governments) and for the management of pests on State controlled lands.

***Local government partnership*:** The area of pest and stock management remains a partnership between the State and local government. At the local level it is expected that the local government will enforce the provisions of the legislation and will operate in the role of the "day to day" manager of the stock route network.

***Land Protection (Pest and Stock Route Management) Council*:** The Land Protection (Pest and Stock Route Management) Council is to be established to provide advice to the Minister about strategic issues related to pest and stock route network management. It will be a 15 member Council with representation including local government, primary industry, community, conservation and affected Government

Departments with an independent chair. The Minister will appoint members of the Council.

***Principles and Strategies*:** A set of principles has been developed to guide policy and planning about pest and stock route management and these are to be incorporated in State Strategies that are required to be developed for Weeds, Pest Animals and the Stock Route Network. The principles will be considered in the development of management plans for local government areas or by State agencies that manage large areas of State owned land.

Guidelines: The chief executive, Department of Natural Resources and Mines will be able to issue guidelines that can indicate the management approach required for a declared pest in a particular part of the State.

Means of achieving objectives

The objectives of the Bill will be achieved mainly by -

- establishing principles of pest management for land and stock route network management;
- providing for pest management planning and stock route network management planning;
- declaring certain animals and plants to be declared pests;
- restricting the introduction, keeping or sale of declared pests;
- preventing the spread of declared pests in the state, including preventing their spread by human activity;
- establishing responsibilities for pest and stock route management;
- building and maintaining fences to stop declared pest animals moving from a part of the state to another part;
- establishing the Land Protection (Pest and Stock Route Management) Council to give advice and make recommendations to the Minister about the management of pests and the stock route network;
- establishing pest operational boards on the determination of the Minister to manage specific pest issues and continuing the operations of the Darling Downs – Moreton Rabbit Board;
- constructing and maintaining travelling stock facilities on the stock route network;
- monitoring, surveying and controlling pests and the movement of travelling stock.

Estimated Cost for Government implementation

The Bill is to replace the existing *Rural Lands Protection Act 1985* and the partnership between State and local government is to continue with pest and stock route management. Local level management of pests and the stock route network will continue to be the responsibility of local government. The major costs associated with the Bill will be information, training and implementation and generic compliance training can be tailored toward the specific requirements of the Bill. It is expected that Department of Natural Resources and Mines will meet these costs of about $150,000.

Consistency with Fundamental Legislative Principles

There are a number of instances in the Bill where concern may emerge for respect for the rights of the individual and for the individual's right to the enjoyment of owned land and property. In examining possible infringements of those rights it is important to recognise the implications and ensure that infringements are made only in exceptional circumstances and in having to exercise powers for the public benefit they are specifically limited to key policy objectives and particular circumstances.

The main policy objective of the Bill is to protect the natural resources of the State from the adverse impacts of pests so that the economic, environmental and social benefits that flow from those natural resources will be available for future generations. In that context, there are key policy objectives to restrict the introduction, keeping or sale of declared pests and to prevent the spread of declared pests, including their spread caused by human activity.

Many declared pests are extremely invasive weeds that are spread by water, wind and animals, including birds, and some pest animals are capable of high mobility, such as migratory locusts, so they have an excellent capability to spread from infested sites onto land that is free from or relatively unaffected by the pest with a very damaging consequence. It is estimated that the adverse impact of weeds alone costs Queensland in excess of $600 M annually.

A number of specific instances involving fundamental legislative principles are now explained.

Declared Pest Barrier Fences

A number of barrier fences protect parts of Queensland from declared pests such as the wild dog and rabbit. These fences in total far exceed 2,500 kilometres in length and the fences generally are built along the private property boundary of hundreds of private properties. To protect livestock such as sheep, goats and cattle from predation by wild dogs it is essential that the integrity of the fence barrier be maintained. This requires regular patrolling to detect breaks created by animals or wind, fire and flood and to repair the damage or replace sections of the fence.

Since the barriers are built upon private land, one option would be to compulsorily acquire easements of land, have them surveyed and registered upon titles. This would tend to alienate the owners from future use of the land when a power of entry can provide the permission to regularly patrol the right of way beside the fence. It is proposed to provide this power of entry for regular access to the private land and the owners will have the benefit of a maintained boundary fence, and the protection of livestock by the fence and control programs conducted along the fence.

Powers of entry - land

A key objective of the Bill is to prevent the spread of pests within the State, especially to prevent the spread of pests caused by human activity. Invasive weeds establish rapidly on land parcels and mobile pest animals continue to populate new territory.

This means that constant monitoring is required to detect the presence of pests upon land and to establish if the owner is meeting the obligation to control declared pests upon the land.

An option could be to have no inspection programs and rely only on public education programs about pests and their damage. It is possible that this would pose a long-term potential for severe economic, environmental or social losses for the State and perhaps 10 per cent of owners will fail to meet their obligations. It is proposed to have pest survey programs that are announced and advertised so that landowners are reminded of their pest control obligation and will know that inspections are planned for all parcels within a defined area or selected places. The *Local Government Act 1993* has similar provisions for approved inspection programs.

Powers of entry - vehicles

A key objective of the Bill is to restrict the introduction, keeping and sale of declared pests and to prevent the spread of pests within the State especially preventing their spread by human activity. A result of consultation revealed deep community concern about the lack of controls over the movement of vehicles such as heavy machinery and harvesters that may be transporting declared pests either within soil or other organic material or the transport and sale of products such as grain, fodder, stock, sand and gravel that are contaminated with the reproductive parts of declared pest plants.

It is proposed to create an offence to move or transport things on a road if a person reasonably ought to know that soil or organic material attached to the thing may contain the reproductive material of a declared pest plant. The intent is to have a requirement to contain contaminated products being transported to prevent spillage or release and wash-down or clean dirty vehicles and machinery prior to movement by road. There will be a power for an authorised person to stop and search a vehicle if there is a reasonable suspicion that it may contain reproductive material of a declared pest plant.

Seizure of Declared Pests

A key objective of the Bill is to restrict the introduction, keeping and sale of declared pests. A person may apply for a permit to keep a declared pest that is approved for the species and the purpose of keeping prescribed by a regulation. The intent is to restrict keeping, based upon national guidelines, to low risk species that will not establish in the wild and create adverse economic, environmental or social impacts for the State. There will always be instances where collectors of animals and plants attempt to introduce and keep exotic animals and plants beyond those indicated by the national guidelines and permitted by regulation. These species will not be covered by the permits system.

It is proposed that a declared pest found to be kept by a person without a permit after legal entry to the place of keeping, may be seized. The person will have the opportunity to produce the permit for the declared pest within 48 hours and if no permit is produced the declared pests may be disposed of or destroyed in a reasonable

way by an authorised person. No compensation is to be payable for the loss of the pest.

Emergency and quarantine powers

A key objective of the legislation is to restrict the introduction, keeping and sale of declared pests into the State and new incursions of pests have become regular occurrences in recent times. These incursions require a response mechanism that permits emergency declaration for up to 3 months and sets control actions into place. There is a great public benefit to be obtained from early strategic response to newly detected pests or plague pests to be weighed against the rights of an individual to the enjoyment of owned land and property.

In acting to control pests in an emergency there is the capacity to keep the public informed about the nature of the emergency and the pest, with explanation of control objectives and control approaches to be placed in the electronic or print media.

The normal avenues of consent and access to land are insufficient for some scales of emergency response and the actual mobility of some declared pests such as migratory locusts. Quarantine is recognised as a powerful tool in preventing the spread of declared pests and property quarantine powers are proposed to be available to the State and local government for Class 1 and Class 2 pests that pose a serious threat to the economy, environment or society.

Stock Route Management

The stock route network consists of thousands of kilometres of land corridor, sometimes used as roads, and many associated reserves established either for the use of travelling stock or for other purposes. Local governments have the function of stock route network management and to control the movement of stock in their areas under the Bill. This entails regular supervision of stock movements on the network and patrolling to ensure that water facilities are maintained and pests are controlled. Many reserves on the stock route network have become subject to a lease or permit for grazing purposes, albeit with conditions that acknowledge the rights of travelling stock to pasture and water on the land.

It is proposed that the drover of stock will give 48 hours notice to the owner before entering reserves under lease or permit. Local governments at times require the mustering of stock travelling under permit and are to obtain the consent of the land owner or give 24 hours notice of entry for a muster on the private land. A fencing notice is also proposed for private land adjoining the network where the network is being degraded by the grazing pressure of stock numbers from the private land and if damage is being caused to stock route facilities.

Consultation: Extensive consultation has occurred since the release of a Discussion Paper in February 1994 and the release of a Consultation Draft of a Land Protection Bill in May 1999. 100 written submissions were received to the Consultation Draft. A Legislation Reference Panel was established to consider the issues of concern raised in the submissions. The Panel's recommended changes were endorsed by the Rural

Lands Protection Board that is established under the *Rural Lands Protection Act 1985*. Community presentations were held for 14 centres around the State with most interest being from local governments, government departments, industry, Landcare and conservation groups. Eleven government departments, the Department of Defence and the local governments of Queensland, including the Local Government Association of Queensland Inc. have been consulted. A Memorandum of Understanding is to be signed by the Minister and the president of the Local Government Association of Queensland Inc. regarding the implementation of the Bill.

NOTES ON PROVISIONS

CHAPTER 1 - PRELIMINARY

PART 1 - INTRODUCTION

Clause 1 sets out the short title of the Bill.

Clause 2 provides for the commencement of the Bill on a date to be proclaimed.

PART 2 - PURPOSE AND APPLICATION OF BILL

Division 1 - Purpose

Clause 3 states the object of the Bill is to support management of pests and the stock route network in Queensland.

Clause 4 outlines how these objects are to be achieved by a framework of actions -

- giving general principles to guide management of pests and the stock route network; and
- planning for the management of pests and the stock route network; and
- declaring certain animals and plants to be declared pests; and
- placing restrictions on bringing declared pests into the state, as well as their keeping and selling; and
- preventing the spread of declared pests within the state especially through human related activities; and
- establishing responsibilities for managing pests and the stock route network; and
- building or maintaining fences as barriers to the passage of some declared animal pests; and
- establishing the Land Protection (Pest and Stock Route Management) Council to play an advisory role to the minister in pest and stock route network management; and
- providing for the establishment of pest operational boards to manage particular declared pests in certain parts of the state; and
- constructing and maintaining the facilities for travelling stock on the stock route network; and

- monitoring, surveying and controlling pests and movements of travelling stock on the stock route network.

Division 2 - Application

Clause 5 binds all persons and entities operating within Queensland. This is to include the State itself with the intent being that the State has the same obligation as others to manage pests. It is to extend as far as legally possible to the Commonwealth and other States.

Clause 6 allows a person to take a lawful action against a declared pest to meet an obligation for declared pest control under this Bill when the person might otherwise be assumed to commit an offence under the *Nature Conservation Act 1992 or the Forestry Act, 1959.* These Acts of Parliament necessarily contain broad provisions about protecting all forms of wildlife and forest products, for the State as owner. This can relate to indigenous or non-indigenous species.

Clause 7 makes it clear that the *Dividing Fences Act 1953* is not to apply for a property boundary fence that may have been incorporated within a declared pest fence so as to form a barrier to the passage of declared pest animals from one part of the State to another.

PART 3 - INTERPRETATION

Clause 8 provides for a dictionary of certain terms used in the Bill to be included as a schedule to the Bill. (Schedule 3).

CHAPTER 2 - PEST MANAGEMENT

PART 1 - PRINCIPLES OF PEST MANAGEMENT

Clause 9 establishes general principles of pest management in Queensland. They are intended to be the underlying principles supporting State strategies against pests, and for planning exercises to manage declared pests at different scales such as state-wide, within river catchments, within local government areas or for particular parts of the State.

PART 2 - STATE PEST MANAGEMENT STRATEGIES AND GUIDELINES FOR MANAGING PESTS

Division 1 - State pest management strategies

Clause 10 provides that the chief executive is to sponsor the development of separate State strategies for weeds and pest animals to direct and coordinate pest management activities within Queensland. Examples of likely outcomes from the strategies are given. The term "chief executive" throughout the Bill refers to the chief executive, Department of Natural Resources and Mines.

Clause 11 specifies the strategies must have regard to the established principles of pest management.

Clause 12 sets out that each strategy will have effect for the period it states, but not more than 5 years. It ceases at the end of the stated period or upon adoption of a new strategy.

Clause 13 requires the chief executive must as far as practicable, within the limitations of the Department's abilities and resources, direct and coordinate the implementation of the Weed Strategy and the Pest Animal Strategy.

Clause 14 requires strategies are to reviewed when the chief executive decides is appropriate, but must be reviewed at least 6 months before stated period ends.

Division 2 - Guidelines for managing pests

Clause 15 enables the chief executive to prepare guidelines about managing a declared pest and specifies the type of information that could be expected in a guideline.

Division 3 - Inspecting strategies and guidelines

Clause 16 requires that the chief executive must keep available for public inspection at no charge copies of the strategies and guidelines in electronic or written form.

PART 3 – PLANS FOR MANAGING PESTS ON STATE-CONTROLLED LAND, AND PEST MANAGEMENT COMMITTEE

Division 1 - Plans

Clause 17 requires that a State entity that controls large areas of land, but is not an owner of land, must prepare a State pest management plan for managing declared pests. The areas presently affected are native forests and timber reserves, unallocated State land, protected areas, State managed timber plantations, and State controlled roads. Queensland Rail will hold leases over land for rail corridors as will SunWater over land for dam impoundments and water distribution channels. These 2 entities will therefore be included in the definition of a landowner. The clause outlines what a plan may include.

Clause 18 specifies that the plan must be consistent with the principles of pest management, the State strategies and the guidelines for pest management.

Clause 19 sets out the plan is to have effect for not more than 5 years. It ceases at the end of the stated period or upon adoption of a new plan.

Clause 20 requires each entity to keep available for public inspection at no charge a copy of the plan in electronic or written form.

Division 2 - Pest management committee

Clause 21 requires that the chief executive must establish a Committee for management of pests on State controlled land.

Clause 22 outlines the functions for the Committee are to –

- improve pest management activities; and
- provide better coordination and consistency in approach; and
- integrate with other planning processes such as local government area pest management plans; and
- provide on overview of the implementation of pest management plans.

Clause 23 specifies that at least one representative is required of State land managing entities mentioned in Clause 17.

Clause 24 allows the Committee to decide how to conduct its business, but it must meet at least once a year.

PART 4 - PEST MANAGEMENT PLANS FOR LOCAL GOVERNMENT AREAS

Clause 25 requires that a local government must develop a pest management plan for managing pests in its land area within 1 year of the Bill's commencement date and outlines requirements for plans.

Clause 26 specifies that the plan must be consistent with the principles of pest management, the State strategies and the guidelines for pest management.

Clause 27 outlines the process for the development of the plans. It provides that a local community working group be established to advise on the development of the plan. It specifies that a local government may ask for a representative from a State entity that controls land. It sets out requirements such as to consider the interests of landowners, Aboriginal and Torres Strait Islander peoples, industry groups and members of the public.

Clause 28 provides for a process where the draft local government area pest management plan must be advertised to be available at no cost to the public, and to ask for the public's written comments on the draft within 28 days. The local government must consider any proper written submissions made to it.

Clause 29 requires that the local government must give the draft local government area pest management plan to the Minister. The Minister must consider the plan and advise the local government if it provides for the management of declared pests in its area and requirements for plans. Also, the Minister must advise the local government of how the plan may be amended to meet the requirements.

Clause 30 provides the local government will adopt the plan by resolution once the Minister is satisfied with the plan.

Clause 31 sets the period of the plan at no more than 4 years and it ceases at the end of the stated period or upon adoption of another plan.

Clause 32 requires the local government to implement its plan.

Clause 33 requires a local government to review the effectiveness of the plan at least 3 months before the end of each financial year. It also provides that the plan must be amended if the State strategy is amended.

Clause 34 outlines the process for the amendment and subsequent Ministerial advice on the amended plan.

Clause 35 requires the local government must keep a copy of its pest management plan at no charge for public inspection in electronic or written form.

PART 5 - DECLARED PESTS

Division 1 - Declaration of declared pests

Clause 36 provides that the declaration of a plant or an animal to be a pest will be by way of a regulation.

A local government may also continue to make a local law for the declaration of a pest plant or animal within its local government area under the *Local Government Act 1993*.

Clause 37 gives an emergency pest declaration capability for situations such as a serious new pest incursion. This can declare a new pest or change the class of a currently declared pest. The chief executive can make a declaration that details the nature of the emergency for a pest to become declared under a particular class. This is to be subordinate legislation. When the emergency ends the declaration is to be repealed or otherwise it will lapse after 3 months.

Clause 38 describes what the classes of pests will be called and how they may be separated. Adverse impacts are described as economic, environmental and social and the scale of present impact or predicted impact will separate Class 1, 2 and 3 pest declaration categories. An assessment will be conducted to determine to which class a pest should become assigned.

A Class 1 pest is not generally present in Queensland. It is considered that if the pest was introduced it would cause an adverse economic, environmental or social impact. An obligation exists for a landowner to keep land free of Class 1 pests.

A Class 2 pest is found in Queensland and has, or could have, a serious adverse economic, environmental or social impact in the State or another State or Territory. An obligation exists for a landowner to keep land free of a Class 2 pest, although a guideline may specify a pest management approach in a part of the State.

A Class 3 pest is found in Queensland and has, or could have, an adverse economic, environmental or social impact in the State or another State of Territory. A pest control notice can be issued for a Class 3 pest present on an owner's land if it threatens an environmentally significant area that is adjacent to the owner's land or is on the owner's land. A guideline may specify a pest management approach in a part of the State.

Division 2 - Offences about declared pests

Clause 39 makes it an offence for a person, without reasonable excuse, to bring a declared pest into the State other than by permit. Prevention of the arrival of new pests will be the best safeguard against the establishment of wild populations. Examples may likely be Indian Palm Squirrels or Siam Weed and there is the potential for severe adverse impacts from some species.

Clause 40 makes it an offence for a person, without reasonable excuse, to feed a declared pest animal other than one that is kept by permit. Declared pest animals are often encouraged into urban fringes or settled areas by persons deliberately feeding foxes, wild dogs and feral cats that then become pest problems to other people. It will not be an offence to pre-feed a trap site or to set a trap with food as part of a pest animal control operation such as trapping for feral pigs or to conduct a baiting campaign such as for wild dogs or foxes.

The offence exemption provision for feeding declared pest animals other than under a declared pest permit for the purpose of feeding the animal as part of a baiting or trapping campaign to control its numbers must be read in conjunction with Part 8,

Feed Restrictions for Disease Prevention and Control in the Stock Regulation 1988, that prohibits the feeding of animal matter or animal contaminated matter to stock, but provides an offence exemption for using animal matter or animal contaminated matter in a poisoned bait to kill dingoes, feral pigs or foxes.

Clause 41 makes it an offence for a person, without reasonable excuse, to keep a Class 1 or 2 declared pest other than by permit. The definition of keep is broad to cover under a person's possession or control in any place. Class 3 pests are not included since they are commonly present in many parts of the State.

Clause 42 makes it an offence for a person, without reasonable excuse, to release or set free a declared pest other than by permit. Examples would be the intentional release of feral pigs into a State forest and declared aquatic plants into any public water body. It will not be an offence to release a declared pest animal such as a rabbit that has been inoculated with the myxoma or calici virus for transmission to other rabbits or a declared pest plant such as Harrisia Cactus that is infested with mealy bug for biological control purposes.

Clause 43 makes it an offence for a person to harvest a Class 2 pest plant for commercial use other than by permit. The aim is to limit the spread of viable parts of plants such as seeds and vegetative parts in the harvest operations through the use of permit conditions.

Clause 44 makes it an offence for a person to sell a declared pest other than by permit. The definition of sell is broad to include auction, supply, exchange, give away, offer or attempt to sell, cause or permit to be sold, keep, expose, supply or receive for sale, and dispose of by hire or lease. Prevention of the spread of pests requires this tool to limit the sale, barter or exchange of invasive pest species.

Clause 45 makes it an offence for a person to supply a thing that is contaminated with reproductive material of a Class 1 pest plant or a Class 2 pest plant prescribed under a regulation. However, a person is taken not to commit an offence if the person provides a written notice that states the thing may contain the reproductive material of the prescribed Class 2 pest plant. Examples of 'thing' include livestock, fodder, grain, gravel, soil, sand, water, vehicles and machinery, packing and mulch. Class 1 pests are not commonly established in the State and may likely include such pests as Alligator Weed and Siam Weed. Class 2 pests to be prescribed may likely be Parthenium Weed, Prickly Acacia and weedy Sporobolus species.

Clause 46 makes it an offence for a person to drive or transport a vehicle or any thing on a road if the person knows, or ought reasonably to know, that soil or organic material likely to contain reproductive parts of a declared pest plant is in or on the vehicle. An example could be an uncleaned grain harvester contaminated with Parthenium Weed seed. The person is required to take reasonable steps to contain the contaminant weed seed from release during the act of driving or transporting any thing or to wash-down or clean the vehicle so as to be free of the contaminant declared pest.

PART 6 - DECLARED PEST FENCES

Division 1 - Fixing building line and building declared pest fences

Clause 47 provides the proposed line to construct a fence that is intended to stop the passage of declared pest animals such as wild dogs or rabbits may be stated in a regulation.

Clause 48 provides that the Building Authority is to use any existing fencing to upgrade it to suitable animal-proof standard and the fence is to be built as close to the proposed line as is practicable. The Building Authority may be the chief executive, a pest operational board, or a local government.

Division 2 - General provisions about declared pest fences

Clause 49 requires the Building Authority to build and pay for a gate or grid in the declared pest fence if the fence is realigned and this realignment causes operational interference to the land owner.

Clause 50 requires the Building Authority to maintain the declared pest fence in pest proof condition. To do this, the Building Authority is given powers to clear a line along the fence of vegetation or obstructions and to enter upon land to clear obstructions, inspect or maintain the fence. The Building Authority is to remove any risk of damage to the declared pest fence or obstruction of the access track posed by falling trees, vegetation, fire, ant mounds, water washouts, built structures or earth works.

Clause 51 enables the Building Authority to enter upon land for the purposes to build or maintain a declared pest fence or clear a line along it. This section limits that power and provides for procedures to be followed in entering e.g. obtaining approval and providing satisfactory notification of the entry. There is however provision for emergency entry provided the owner is notified. The effectiveness of the declared pest fence relies on any accidental opening being quickly repaired so the breach does not allow damage to protected stock to occur.

Clause 52 enables the Building Authority to make an agreement with a person about making an opening in a declared pest fence for such purposes as laying a pipeline or for temporary access. Provision is also made to allow for the imposition of conditions to ensure the integrity of the fence.

Clause 53 provides a Building Authority may, by written notice, give a person a direction to restore a declared pest fence to the condition it was in before the damage reasonably believed to have been caused by the person. If the person does not comply, the Building Authority may perform the work.

Clause 54 requires the Building Authority to cause as little damage as possible in exercising the powers and to notify the landowner should any damage occur to the land or owners thing.

Division 3 - Offences about declared pest fences

Clause 55 makes it an offence for a person, without reasonable excuse, to damage or make an opening in a declared pest fence.

Clause 56 makes it an offence for a person, without reasonable excuse, to -

- build a structure, excavate land, move earth or carry out an activity likely to obstruct the building, inspection or maintenance of a declared pest fence; or
- obstruct a person who is building, inspecting or maintaining a declared pest fence and any of its gates or grids; or
- obstruct a person who is clearing a declared pest fence line.

Clause 57 makes it an offence for a person, without reasonable excuse, to fail to close a gate in a declared pest fence immediately after use.

PART 7 - DECLARED PEST PERMITS

Division 1 - Obtaining or renewing declared pest permits

Clause 58 enables a person to apply for a declared pest permit or to renew an existing permit to introduce, keep or sell a declared pest. The application must be in the approved form and be accompanied by the fees set in regulation. If it is a renewal application, it must be accompanied by the permit. This application must be made at least 30 days before the current permit expires.

Clause 59 gives the chief executive the power to ask in writing for fuller particulars to decide the application. If the information is not supplied without reasonable excuse, the chief executive may refuse the application.

Clause 60 provides that the chief executive will decide the application and sets out the requirements that the chief executive needs to make the decision.

Clause 61 provides that the chief executive, if it is decided to grant the application, must issue a declared pest permit in the approved form and give it to the applicant with any conditions notified on an information notice. The term is to be for a period of not more than 2 years and commences on the date of issue or a later stated date.

Clause 62 provides that the chief executive may issue the declared pest permit subject to any reasonable conditions and gives a full range of the type of conditions expected.

Clause 63 requires the chief executive to give an information notice about a decision to refuse the application and refund the permit fee paid.

Division 2 - Amendment, suspension or cancellation of permits

Clause 64 gives the basis that the chief executive may amend a declared pest permit to vary such particulars as the species of declared pest to be kept, the number of pests that are to be kept and the place where the declared pests are to be kept.

Clause 65 enables the chief executive to suspend or cancel a permit and specifies the grounds where this action may be taken.

Clause 66 outlines the process the chief executive is to follow for suspension or cancellation of a permit. Notice in writing to the permit holder as to grounds that are believed to exist to suspend or cancel the permit is required. The notice must state the intended action, grounds relied upon with instances stated and the length of any proposed suspension period. The permit holder can make a written submission to show the permit should continue during a period not later than 28 days after the notice is given to the holder. After due consideration, the chief executive may then cancel or suspend the permit.

Clause 67 enables the chief executive to immediately suspend or cancel a declared pest permit upon reasonable belief that grounds exist and, in extraordinary circumstances, such as adverse economic, environmental or social impact in the State or part of the State or a danger to the public. The chief executive is to give a written notice to the permit holder advising of the suspension, the period of suspension, the grounds relied upon to suspend or cancel with supporting instances. It is to be effective immediately until the period ends. The permit holder may make a written submission to show the permit should continue within 28 days after the notice is given to the holder.

Clause 68 provides that following the consideration of a permit holder's written submission the chief executive may by written notice give the permit holder the opportunity for points at issue to be rectified within a stated period that is reasonable in the circumstances. This will have the effect of staying a previous notice pending the rectification of the issues. An example could relate to poor standards of security.

Clause 69 enables the chief executive to cancel or suspend a permit if the rectification sought by the notice is not made.

Clause 70 requires the chief executive to provide a written notice to the permit holder suspending or cancelling the permit for the original period or to cancel it for a period. This must include information about the decision, and the date of effect is the either the day the notice is given or a later date stated in the notice.

Clause 71 requires the holder of a permit that is suspended or cancelled must return it to the chief executive within 7 days of date of effect unless there are reasonable circumstances that prevent this. When a suspension period has ended the chief executive must return a permit to the permit holder.

Division 3 - Disposing of declared pests when permit is cancelled

Clause 72 provides that if a permit has been suspended or cancelled and the former permit holder remains in possession of the declared pest covered by the permit, the chief executive may give a written notice directing the former permit holder to dispose of the pest within a time stated in the notice. The former permit holder must

comply unless there is a reasonable excuse not to comply. Compensation is not to be payable for the loss of the pest.

Division 4 - Replacement and surrender of permits

Clause 73 provides a means for the replacement of a declared pest permit in the circumstances of loss, damage or destruction of the permit.

Clause 74 provides that a declared pest permit holder may surrender a declared pest permit to the chief executive by returning it with a written surrender.

Division 5 - Register of permits

Clause 75 requires the chief executive to keep a register of declared pest permits and gives examples of the information particulars to be recorded.

Division 6 – Offence about declared pest permits

Clause 76 makes it an offence for a declared pest permit holder not to comply with the conditions of a permit without a reasonable excuse. Many species are highly invasive and have established wild populations following escapes. There is the potential for economic and environmental adverse impacts. Some species are dangerous to humans and conditions about exposure to humans and secure keeping must be the prime concern.

PART 8 - PEST CONTROL FOR LAND

Division 1 - Obligation to keep land free of pests

Clause 77 provides that a landowner has an obligation to take reasonable steps to keep the owned land free of Class 1 and Class 2 pests unless the owner holds a declared pest permit to allow specified pests to be kept at described locations upon the land. This obligation extends to land where the owner has the use of the land, the best access to the land or receives a benefit from the land in certain situations, namely -

- unfenced land such as a road or unallocated state land that adjoins or is within the owners land; or
- other land that is fenced in with the owner's land; or
- the beds, banks and water of a watercourse within the owner's land; or
- the bed, banks and water to the centre-line of a watercourse that forms the boundary, or part of the boundary of the owned land.

To allay any doubt, the intent is that the obligation of a landowner applies to the State and is intended to include the State.

Division 2 - Controlling pests

Clause 78 provides that where a landowner does not reasonably comply with the obligation to keep land free of Class 1 and 2 pests, a relevant entity may give a written

notice requiring compliance. Where a landowner has a Class 3 pest present upon the land and that pest is causing or threatens to cause adverse economic, environmental or social impact on an environmentally significant area that may be adjacent to or within the owner's land, a relevant entity may give a written notice that requires compliance.

The relevant entity may give the owner of the land a written pest control notice that states -

- the particular parcel or parcels of land to which it relates, including any particular environmentally significant area that is affected; and
- the declared pest that is affecting the particular land or the declared pest and other pests that are threatening the ecological integrity of an environmentally significant area; and
- the desired outcome or required action that is reasonably expected for control of the pest and a reasonable compliance period; and
- for monitoring compliance with the notice the entity may enter upon the land at any reasonable time and without further notice.

Additionally, within the compliance period, the owner may be required to take reasonable action against a plant or animal that is not a declared pest if it is an environmentally significant area within the land or adjacent to the land and -

- the pest is threatening, or likely to threaten, the survival of native wildlife in the area; or
- the pest is affecting, or likely to affect, the area's capacity to sustain natural processes.

In circumstances where environmentally significant areas are under threat there are often a number of pests involved. To simply remove a declared pest and ignore other pest species in the pest control notice would invite those pest species to colonise the niche created by the removal of the declared pests. The desired outcome from the issue of the pest control notice would be thwarted. This provision enables additional pest species to be named when the private land is infested with declared pests.

A notice may be advertised in a local newspaper in the case of an overseas or absent landowner or another circumstance where the notice cannot be given to the landowner. The notice is required to include an information notice about the entity's decision to give it.

The landowner must comply with the notice unless the owner has a reasonable excuse not to comply with it.

Relevant entity in this clause means one of the following - chief executive, chair of a pest control board or a local government.

Environmentally significant area in this clause means one of the following -

- all areas intended to be protected under the *Nature Conservation Act 1992;*
- a reserve for environmental purposes under the *Land Act 1994;*

- a world heritage area listed under the World Heritage Convention;
- an area supporting a critically endangered or endangered ecological community in the list contained in the *Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth);*
- a declared Ramsar wetland under the *Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth);*
- an area of high conservation value under the V*egetation Management Act, 1999;*
- an area, other than state controlled land, stated in the pest management plan of the local government for the area as having special environmental significance for native flora and fauna.

In this clause, landowner does not include the State, so, a pest control notice cannot be issued on the State.

Clause 79 provides that a landowner who is given a pest control notice may ask for an extension of time to comply with the notice within 14 days of receiving the notice. The request shall be made in writing, state the reason why an extension of time to comply is required and be accompanied by the prescribed fee.

After considering the request, the relevant entity must decide to extend the time for compliance or refuse to extend the compliance period. If the entity decides to refuse to extend the period it must give an information notice about the decision to the applicant.

Clause 80 gives the relevant entity the power to give the landowner an entry notice if there is not full compliance with the notice. The process for notification and the actions that can be taken including pest controllers to enter and take equipment onto the land are outlined. The notice must be received at least 7 days prior to the entry. Provision is also made for the recovery of the costs of entering and controlling the pests from the landowner. A further entry notice can be issued in order to check the effectiveness of the action taken in the entry notice. The entry is necessary because the landowner has failed to meet the obligation to control declared pests.

Clause 81 gives the issuing entity the power to authorise a pest controller to enter the land at a reasonable time and to take on persons and equipment in order to carry out the stated action of the notice. The clause makes it an offence for a person to obstruct the pest controller exercising power under the notice, unless the person has a reasonable excuse.

Clause 82 sets out that an entry notice remains in force for not more than 2 months unless the notice is revoked by the entity or the actions are taken by the pest controller. The entry notice also remains in force and binds successors in title during that period.

Division 3 - Recovering costs

Clause 83 provides that a relevant entity may recover the full costs of entry and performance or attempted performance of the work under a pest control notice

following non-compliance by a landowner. This includes the charging of interest as set in a regulation. Each owner shall be jointly and severally liable to pay the charges.

Clause 84 specifies that if the full debt is not paid for entry costs under a pest control notice it is to be become a charge upon the land. A local government can register the charge for the unpaid amount under the *Local Government Act 1993*, section 1068. Another relevant entity will have the charge upon the land validated by this clause. A charge in relation to part of a parcel of land shall become a charge against the parcel of land. This clause does not limit any other remedy to achieve payment of the debt.

Clause 85 specifies that a relevant entity may ask for registration of the charge by the person responsible for registering titles to the land and dealings affecting the land. This must be done by a certificate signed by the relevant entity stating that there is a charge upon the land made under these provisions. The registration may be released upon full payment of the debt.

Division 4 - Register of notices

Clause 86 requires that a relevant entity must keep a register of pest control notices it has issued. The particulars to be recorded are outlined and the fee to search the register may be prescribed by a regulation. The usual place of business to search the register of the relevant entities shall be quoted.

PART 9 - EMERGENCY CONTROL OF DECLARED PESTS

Division 1 - Emergency control of declared pests by pest controllers

Clause 87 enables the chief executive to respond in the case of an emergency if a situation arises where urgent action is needed to prevent serious economic, environmental or social impact from a declared pest upon a part or the whole of the State. Historical examples relate to plagues of locusts and mice, but could relate to the arrival of new serious pests affecting agriculture, livestock or human health.

Clause 88 provides the chief executive can authorise a person to be a pest controller for the emergency purpose to enter land at any reasonable time and to take any reasonable action to destroy or control the declared pest on the land. The entry onto the land by the pest controller requires the reasonable attempt to gain consent of the landowner or if not possible -

- there has been a general public announcement through electronic or print media as to the nature of the emergency, the reason for control action and the types of actions to be taken to control the declared pest; or
- the obtaining of consent of individual persons who are landowners is not practicable in the circumstances. An example would be the rapid movement of a swarm of locusts through a grain-growing region when crops are at an advanced stage. In this instance the chief executive is required to make a general public announcement through the print media as to the nature of the emergency, the reason for control action and types of control actions that have

been undertaken throughout a defined area of operations against the declared pest.

Division 2 - Emergency quarantine notice

Clause 89 outlines the circumstances when emergency quarantine provisions apply to situations where the chief executive or chief executive officer reasonably believes a declared pest is present in an area and urgent action is required to prevent significant economic, environmental or social impact in the area of the State.

Clause 90 provides that the relevant entity may give a written notice to a landowner for emergency quarantine actions in relation to a Class 1 or Class 2 declared pest that is found to be present upon the land owner's land. The notice may require reasonable actions to be taken to destroy or control the Class 1 or Class 2 pest on the land and this may include -

- restricting the movement of fodder, produce, grain, sand, soil, gravel, water, stock, machinery, vehicles or any other things from or onto the land; and
- restricting what persons may do upon the land, for example, no harvesting of an infested crop, no disturbance of earth or drainage lines to be cut in infested areas; and
- directing how things contaminated with the pest are to be treated or dealt with when found; and
- directing the owner to destroy anything infected with the pest or suspected of containing the pest; and
- requiring the owner to test for the presence of the pest in any thing and how to treat a detection of the pest.

The notice must state the powers given to authorised persons including giving reasonable directions to destroy or control the pest on the land. The notice must be repealed once the relevant entity is satisfied the emergency no longer exists. If not repealed earlier, the notice expires 3 months after it is given to the owner of the land.

Clause 91 gives a power for the relevant entity, if it reasonably believes that a person has failed to fully comply with the requirements of an emergency quarantine notice, to direct an authorised person to take the required actions. The authorised person must take the directed actions.

Division 3 - Offences about emergency control of declared pests

Clause 92 makes it an offence for a person, without reasonable excuse, to fail to comply with the emergency quarantine notice.

Clause 93 makes it an offence for a person, without a reasonable excuse, to fail to comply with a reasonable direction given by an authorised person under an emergency quarantine notice.

PART 10 - CONTROL OF DOGS

Clause 94 gives a definition to identify land that is not intended to be affected by this part.

Clause 95 allows an authorised person or a land owner, including the person in charge of stock on the land, within a rural district to destroy a dog if the authorised person or owner reasonably believes a dog on the land is not under someone's control and it is attacking, or is about to attack, stock on the land. This clause is to continue a legislated provision about straying dogs on rural land that attack or threaten to attack livestock and cause or may cause an economic pest impact in parts of the State used for livestock rearing pursuits.

Clause 96 requires that a local government keep a copy of maps showing urban districts in the local government's area available for public inspection at no charge. Urban districts are constituted under the *Fire and Rescue Authority Act 1990.*

CHAPTER 3 - STOCK ROUTE NETWORK MANAGEMENT

PART 1 - PRINCIPLES OF STOCK ROUTE NETWORK MANAGMENT

Clause 97 establishes general principles for guidance about the management of the stock route network. They are intended to be used in the State strategy for stock route network management and for planning exercises to manage stock routes at different scales such as statewide, for regional areas, and for local government areas.

PART 2 - STATE STOCK ROUTE NETWORK MANAGEMENT STRATEGY

Clause 98 provides that the chief executive must sponsor the development of a State strategy to direct and coordinate stock route network management activities within Queensland. It gives likely outcomes for the strategy.

Clause 99 specifies that the Strategy must have regard for the principles for stock route network management.

Clause 100 provides that the strategy shall have effect for the period stated in it, but for not more than 5 years.

Clause 101 requires that the chief executive must implement the strategy as far as practicable within the limitations of the Department's abilities and resources.

Clause 102 requires the chief executive to review or renew the strategy at least 1 year before its term expires.

Clause 103 requires the chief executive to make available for public inspection at no charge a copy of the strategy in written or electronic form.

PART 3 - STOCK ROUTE NETWORK MANAGEMENT PLANS

Clause 104 provides that a regulation will list local governments that are required to develop a stock route network management plan. There are 48 local governments situated in central and western Queensland that have traditionally had movements of travelling stock upon the stock route network.

Clause 105 requires that a local government listed in a regulation must develop a stock route network management plan within 1 year of the commencement of this Bill and outlines some of the likely content of the plan.

Clause 106 provides that a local government must establish a working group to prepare a draft plan in consultation with interested parties and the input of major stakeholders in stock route network management. The local government may request a State entity indicated to provide 1 representative who can contribute to the planning process. The plan must consider the management issues outlined and the interest of landowners, Aboriginal communities, industry groups and members of the public.

Clause 107 specifies that the local government stock route network plan must be consistent with the principles for stock route network management and the State strategy.

Clause 108 requires a local government to advertise notice of the draft plan in a newspaper and provide access to the plan at no charge to the public. The local government is required to consider any proper written submission made to it on the draft plan within 28 days of the public notice.

Clause 109 requires that a local government must give the Minister the draft plan within 60 days of the end of the submission period and at least 3 months before the previous plan expires. The Minister must consider the plan and if not satisfied it meets requirements must advise the local government how it may be amended.

Clause 110 provides if the Minister is satisfied the local government may, by resolution, adopt the plan.

Clause 111 sets the period of the plan at not more than 4 years and it ceases to have effect once a local government adopts another plan.

Clause 112 requires a local government to implement the approved plan as far as is practicable.

Clause 113 requires a local government to review the effectiveness of its plan 3 months before the start of each financial year. If the State strategy is amended then the local government must review the plan.

Clause 114 outlines the process for local government amendment of the plan and subsequent Ministerial advice before adoption of the plan.

Clause 115 requires that a local government must keep available for public inspection at no charge a copy of its stock route network management plan in a written or electronic form.

PART 4 - STOCK ROUTE AGISTMENT PERMITS

Division 1 - Obtaining permits

Clause 116 enables a landowner or their agent to apply to a local government for an agistment permit over land that forms part of the stock route network or a road under local government control in that local government area. This application is limited to eligibility criteria that the landowner's stock are subject to adverse conditions as a result of drought, flood or fire or for stock travelling under permit requiring animal husbandry or spelling. Permits can also be granted when the pasture requires management to maintain or enhance its long-term use as identified in the management plan for that part of the network. If the agistment is to be for pasture management then the availability of the areas is to be publicly advertised in a newspaper. Applications are to be accompanied by the prescribed fee and can be made in written or electronic form or made orally.

Clause 117 gives the local government the power to request further reasonable information from the applicant, by written notice, to decide the application. If the applicant does not provide the information by the stated date, without reasonable excuse, the local government may refuse the application.

Clause 118 specifies points a local government issuing entity must consider to decide the application. The use of the particular land for stock agistment must be consistent with the local government stock route network management plan and the issuing entity is to be satisfied -

- the applicant has not held an agistment permit for the particular land in the last 3 months; and
- there will remain sufficient pasture and water available on the particular land for the use of travelling stock as well as for the agistment; and
- the particular land is not held under another lease, permit or licence; and
- the stock's agistment is not likely to lead to bring in or spread declared pests on land within the local government area; and
- the stock's grazing is not likely to degrade the land; and
- the stock's agistment on the particular land does not present a road safety risk; and
- the stock are not affected by a notifiable disease; and
- for a state controlled road, the approval, with or without conditions is obtained.

Clause 119 requires that if the local government decides to grant the application, it must issue the stock route agistment permit in the approved form, and include written notice of the conditions and reasons for them and how they may be reviewed. A copy of the permit is required to be given to the chief executive.

Clause 120 sets out the duration for a permit for the number of days, but not more than 28 days.

Clause 121 requires that if the local government decides to refuse the application the local government must give the applicant a written notice that advises reasons for the refusal and advises how to ask for a review of the decision. The applicant is to be refunded the application fee paid.

Division 2 - Renewing permits

Clause 122 enables the holder of a stock route agistment permit to apply for a renewal before it expires and upon payment of the prescribed fee. The application may be made in written or electronic form or may be made orally.

Clause 123 gives the grounds for a renewal, to be once only, for a period of up to 28 days if water and pasture is sufficient for travelling stock needs as well as the agistment.

Clause 124 requires the local government, if it decides to renew the permit, to give the applicant a fresh permit in the approved form with any conditions and the reasons for them and how to apply for a review. A copy of the permit is required to be given to the chief executive.

Clause 125 requires the local government to give a review notice and to refund the permit fee if it decides to refuse the application.

Division 3 - Conditions of permits

Clause 126 gives the local government the power to impose reasonable conditions upon a stock route agistment permit and outlines a range of examples including keeping stock enclosed, supervised or off road surfaces, erecting signs to warn of the presence of stock, requiring the applicant to possess a public liability insurance cover and allowing conditions specific to a State controlled road.

Clause 127 enables the applicant to ask for amendment of the permit conditions and sets out the process of application, consideration, written advice to the permit holder and the giving of a review notice if the application is refused.

Division 4 - Cancellation of permits

Clause 128 enables a local government to cancel an agistment permit and sets out the circumstances as false representations, non-compliance with permit conditions or lack of pasture or water. Written advice is to be given to the permit holder as to grounds and circumstances, how to ask for a review and refund of unused portion of fees is to be made. Cancellation takes effect immediately the notice is given.

Division 5 - Reviewing decisions about permits

Clause 129 enables the chief executive to review a local governments decision made in relation to all aspects of stock route agistment permits. The chief executive is required, to confirm or revoke the decision by written notice, and give direction to the local government within 14 days of being asked for the review. An information notice about any changed conditions is to be given.

The request for review does not itself stay the operation of a decision.

Division 6 - Replacing permits

Clause 130 provides a local government may, by written notice, require the permit holder to return a permit for amendment after a review decision within a reasonable period. The clause makes it an offence for the holder not to comply with the written notice unless the holder has a reasonable excuse. The local government must issue a replacement permit to the holder and give the chief executive a copy. Amendment of the permit does not depend on it being replaced under this clause.

PART 5 - STOCK ROUTE TRAVEL PERMITS

Division 1 - Preliminary

Clause 131 provides this part applies to stock driven on foot on land described as forming part of the stock route network or unallocated State land adjoining the network and a road or land that is controlled by a local government.

Some parts of the stock route network are also the corridor for State controlled roads and Section 47 of the *Transport Infrastructure Act 1994* has requirements under that Act about stock movements on State controlled roads.

Clause 132 provides that a person must not drive stock on foot on any road or the stock route network under a local government's control without the issue of a stock route travel permit. The clause makes it an offence unless the stock movement is exempt.

Clause 133 sets out when stock movements on foot do not require a permit such as movements under one day in daylight hours and must be for animal husbandry purposes or property management purposes for properties worked as one unit.

The *Transport Infrastructure Act 1994* at section 47 sets out requirements under that Act about movements of stock on State controlled roads and should be read in conjunction with this clause.

Division 2 - Obtaining permits

Clause 134 enables the owner of stock, or a person acting on the owner's behalf to make application for a stock route travel permit. The application may be made to a

local government in a written or electronic form or may be made orally and the applicant must pay the fee prescribed by a regulation.

Clause 135 gives the local government the power to require, by written notice, further reasonable information to decide the application. If the applicant does not provide this further information by the stated date without reasonable excuse, the local government may refuse the application.

Clause 136 sets out the points a local government must consider to decide to issue a stock route travel permit. A local government can also issue a permit covering another local government area, if each local government involved for the journey agrees in writing. These are the points that a local government is required to be satisfied -

- there is sufficient pasture and water on the land where the stock will travel; and
- the stock's travel will not contribute to the spread of declared pests within the local government's area; and
- the stock's travel is not likely to spread a notifiable disease; and
- the rate of travel of the stock will be at least that stated under the permit; and
- the stock's travel does not present a road safety risk; and
- the written consent has been obtained from any local government for the stock's travel along the intended journey; and
- the approval for travel on a state controlled road, with or without conditions, has been obtained under the *Transport Infrastructure Act 1994.*

Clause 137 requires that, if the local government decides to grant the application, it must issue the stock route travel permit in the approved form and include written notice of the conditions and reasons for them and how they may be reviewed. A copy of the permit is required to be given to the chief executive.

Clause 138 sets out the duration period a permit is in force.

Clause 139 requires that if a local government decides to refuse the application, the local government must give the applicant a written notice that advises reasons for the refusal and advises how to ask for a review of the decision. The applicant is to be refunded the permit fee paid.

Division 3 - Notice of correct particulars

Clause 140 requires a permit holder to notify a change of circumstances by providing full correct particulars as soon as practicable to the local government that issued the permit. An example may be increased numbers of stock because of purchase, a change of authorised route to take advantage of good pasture or a change of authorised route because of no water. The clause makes it an offence not to notify a change in circumstances that affects the permit.

Clause 141 provides that a local government can require the return of the permit, by written notice, in the case of changed circumstances and correct particulars. The clause makes it an offence not to return the permit unless the holder has a reasonable

excuse. The local government must issue a replacement permit covering the correct particulars and give a copy of the permit to the chief executive.

Division 4 - Conditions of permits

Clause 142 gives the local government the power to impose reasonable conditions upon a stock route travel permit and outlines a range of examples including hours of day for travel, movement specific to stated locations, keeping stock enclosed or supervised, erecting signs about the presence of stock, requiring the applicant to possess public liability insurance cover and allowing conditions specific to a State controlled road.

Clause 143 enables the applicant to ask for amendment of the permit conditions and sets out the process of application, consideration, written advice to the permit holder and the giving of a review notice if the application is refused.

Division 5 – Cancellation of permits

Clause 144 enables a local government to cancel a travel permit and sets out the circumstances as false representations, non-compliance with permit conditions, or lack of pasture or water. Written advice is to be given to the permit holder as to the grounds and circumstances, how to ask for a review and refund of unused portion of fees is to be made for cases exceeding 100 kilometres of travel. Cancellation takes effect immediately the notice is given.

Division 6 - Reviewing decisions about permits

Clause 145 enables the chief executive to review a local governments decision made in relation to all aspects of stock route travel permits. The chief executive is required, by written notice, to confirm or revoke the decision and give direction to the local government within 7 days of being asked for the review. An information notice about any changed conditions is to be given. The request for review does not itself stay the operation of the decision.

Division 7 – Miscellaneous provisions

Clause 146 provides that a local government may, by written notice, request the permit holder to return a permit for amendment after a review decision within a reasonable period. The clause makes it an offence for the holder not to comply with the written notice unless the holder has a reasonable excuse. The local government must issue a replacement permit to the holder and give the chief executive a copy. Amendment of the permit does not depend on it being replaced under this clause.

Clause 147 requires the person in charge of stock being driven on foot under a stock route travel permit must travel stock in a direction toward their destination at a rate of not less than 10 kilometres in each 24 hours, unless the permit states otherwise. The rate of travel is to be calculated by inspections conducted by the local government timed to be at least 24 hours apart. In calculating the rate of travel these periods are not to be included -

- when rain, flood, fire or unavoidable circumstance reasonably prevents the movement of the stock, or
- when the stock are lawfully kept or depastured elsewhere.

The clause makes it an offence for the permit holder not to comply with the rate of travel unless the holder has a reasonable excuse.

PART 6 – FENCING STOCK ROUTES

Clause 148 seeks to protect or improve the stock route network by giving a local government the power to decide that a stock-proof fence must be built on private land adjoining the stock route network to prevent land degradation caused by local grazing pressure, to prevent damage to constructed water facilities, to remove interference with mobs of travelling stock or to protect natural resources and biodiversity. It is not intended to apply to State controlled land.

Clause 149 enables a local government to issue a written notice to the owner of private land adjoining the stock route network to build a stock-proof fence on the boundary to prevent stock on the private land entering any part of the network. The fencing notice must give a reasonable period to build the fence and must be accompanied by an information notice about the decision.

Clause 150 establishes an obligation to build the fence and makes it an offence not to build the fence within the reasonable period unless the owner has a reasonable excuse.

Clause 151 establishes an obligation for the owner of land that adjoins the stock route network to maintain a built boundary fence in a stock-proof condition so as to prevent the straying of stock onto the stock route network. The clause makes it an offence not to maintain a fence unless the owner has a reasonable excuse.

Clause 152 provides if the landowner does not comply with the notice to fence or fails to maintain a built boundary fence in a stock-proof condition, the local government may enter upon the owner's land for the purpose to build the fence or to bring the built fence to a stock-proof condition. The local government must give the owner at least 7 days written notice informing of the intent to enter, the purpose, the anticipated date of entry and the anticipated completion date.

Clause 153 provides that, if a local government enters land under a notice to fence and performs the work, the costs reasonably incurred in the action are a debt payable to the local government. This debt is payable for the landowner or jointly and severally by the landowners. If the debt is not paid by the due date then interest may be charged on the amount overdue, as prescribed in a regulation.

Clause 154 specifies if the amount charged under a notice to fence is not paid it becomes a charge upon the land as if it were an unpaid amount under the *Local Government Act 1993,* section 1068. This shall be a charge upon the land even if it is only a part of the land that is affected. This does not limit any other remedy for the recovery of the amount.

PART 7 - OTHER PROVISIONS ABOUT STOCK ROUTE NETWORK MANAGEMENT

Division 1 - Mustering Stock

Clause 155 enables a local government to require that stock be mustered upon relevant land in its area and is intended to give some control over the movements of stock under permit.

Clause 156 provides that a local government may, by written notice given to the permit holder, require the mustering of stock on the land. The notice must state the reasonable period in which stock are to be mustered and give an information notice about the decision to call for the muster.

Clause 157 establishes an obligation and makes it an offence not to comply with the muster notice.

Clause 158 provides that if the permit holder does not comply with the muster notice the local government may enter the land at any reasonable time to muster the stock. If the land is subject to lease the local government will enter the land only with the landowner's consent or upon written notice provided to the landowner at least 24 hours before the entry.

Clause 159 specifies that the costs incurred in performing the muster become a debt payable to the local government by the permit holder and if the debt is not paid interest may be charged at the rate prescribed by a regulation.

Division 2 - Pasture on stock route network

Clause 160 provides that a local government must manage and conserve the pasture, including herbage, on the stock route network in its area so as to ensure there is an adequate supply for travelling stock in normal circumstances, that is, in the absence of fire, flood or drought conditions.

Clause 161 provides for the circumstance where the land is fenced so as to include the stock route network within private land and local government reasonably believes that the sustainable use of pasture on the stock route network is threatened because there is over-grazing caused by the numbers of stock on the land. It gives a local government the power to issue a written notice to the owner of the land that requires the owner to reduce the number of stock grazing upon the total area of land (private land plus stock route network). The notice is to state the number of stock that should reasonably be grazed upon the total area of land, including the enclosed stock route network, and the reasonable date by which the reduction in numbers must be made. The clause makes it an offence for the owner of the land not to comply unless the owner has a reasonable excuse. This clause does not limit the local government's powers to issue a notice to fence to the owner of the land.

Division 3 - Travelling stock facilities and water facility agreements

Clause 162 provides that a local government must maintain all travelling stock facilities on the stock route network within its area in good condition and available for use. Should the Minister require it, the local government is to supply water or facilities to stock travelling under permit in its area.

Clause 163 provides that the chief executive, a local government and an owner of land situated in its area may enter into a written tripartite agreement for the supply of water from a State owned water facility on the stock route network or the purchase of water from private land adjoining the stock route network. An agreement may also include such things as the shared construction of a water facility by different parties in their separate assigned interests, the regular maintenance of any water facilities, or the watering of travelling stock on private land where there is a facility. The agreement must state who owns the facility and in what interests, who is responsible for its control, maintenance and management, the fee payable under the agreement and provide for termination by any party giving the other parties written notice of termination according to a notice period.

Clause 164 provides that a local government must keep a register of all agreements that it enters into regarding water facilities. The register will describe the land to which or from which water is supplied, the landowner's name and address, the fee payable and the party who is responsible for control, maintenance and management and any minimum guaranteed water supply. A person may, upon payment of a fee prescribed by regulation, inspect a register or obtain a search of the register when the local government's public office is open.

Clause 165 applies in the circumstance if, under a water agreement, the State contributes to the construction cost of a water facility built upon private land because it is the only or best available water source. The chief executive may, with the consent of the landowner, register the agreement in the freehold land register or the appropriate register for land leased from the State. The agreement will be binding on successors in title to the land.

Division 4 - Stray stock

Clause 166 makes it an offence to allow stock to stray onto the stock route network, without a reasonable excuse.

Clause 167 provides that if the chief executive officer of a local government reasonably suspects that stock found upon the stock route network are stray stock, the chief executive officer may seize the stock.

Clause 168 provides that where the chief executive officer of the local government knows the owner of the stock a written notice of seizure must be given. Where the owner of the stock is not known, the notice must be published in a local newspaper advising that the stock will be disposed of within 3 days of the notice if not claimed.

Clause 169 requires that a person who claims the stock must establish legal ownership of the stock to the satisfaction of the chief executive officer and must pay the reasonable costs of seizing, removing, and holding the stock and giving the notice before the stock are to be released.

Clause 170 outlines that where no person claims ownership of seized stock the Chief executive officer of the local government may proceed to public auction where the market value of the stock is believed to be less than that set by a regulation. It is proposed that when the market value of the stock is believed to be less than $1,000 the local government may dispose of the seized stock as it thinks fit. Compensation will not be payable for the loss of the stock after this public notice.

Clause 171 specifies that the chief executive officer shall apply the proceeds from sale of the seized stock toward the reasonable expenses incurred in the auction and the reasonable costs of seizing, removing and holding stock and giving the seizure notice. Any residue amount may be paid to the owner of the stock, if ownership becomes established, or may be retained by the local government.

Clause 172 enables a chief executive officer of a local government to destroy straying stock if there is a reasonable belief the stock are stray stock found on the stock route network, it is not practicable to seize the stock and it is in the interest of public safety to destroy the stock. Compensation is not payable for stray stock destroyed under this clause.

PART 8 - OTHER OFFENCES ABOUT THE STOCK ROUTE NETWORK

Clause 173 makes it an offence for the person undertaking the activity covered by a stock route agistment or travel permit to not comply with a condition of the permit unless the person has a reasonable excuse. Also, the person must produce the stock route travel permit to an authorised person upon request.

Clause 174 makes it an offence to graze stock on the stock route network unless it is done under a stock route agistment permit, stock route travel permit, or by a permission that is given under another Act (example a permit to occupy under the *Land Act* 1994 for grazing purposes), unless the person has a reasonable excuse.

Clause 175 makes it an offence for a person to cause damage to a travelling stock facility on the stock route network, without having a reasonable excuse. An example of an offence would be to damage or interfere with the working parts or equipment of the water facility.

Clause 176 makes it an offence for a person to waste or pollute available water from a travelling stock facility on the stock route network, without the person having a reasonable excuse. An example of an offence would be to place an animal carcass, or harmful chemical in water supplied from the travelling stock facility.

Clause 177 makes it an offence to take water from a travelling stock facility on the stock route network other than by an agreement or as authorised by a permit, unless the person has a reasonable excuse. An example of an offence would be re-directing

water from a State owned facility to a private property for a private use without permission.

Clause 178 makes it an offence for a person to camp within 300m of an artificial water point on the stock route network unless the person has a reasonable excuse. This is intended to not hinder access to the water point and allow the watering of stock travelling under permit.

Clause 179 makes it an offence for a person to obstruct the movement of travelling stock along the stock route network without a reasonable excuse. Examples of an offence would include to prevent the passage of the stock or to use vehicles, animals or noise to threaten or alarm stock travelling under permit.

Clause 180 makes it an offence for a person to burn pasture upon the stock route network without the consent of the local government for the area, unless the person has a reasonable excuse. It also makes it an offence to remove pasture on the stock route network without the approval of the local government for the area, unless the person has a reasonable excuse. An example of an offence would be the cutting and baling of Mitchell grass to make hay without first obtaining the approval of the local government.

Clause 181 makes it an offence for a person to place a thing on the stock route network that is likely to harm stock or to obstruct stock movement, unless the person has a reasonable excuse. An example of an offence would be the dumping of animal carcasses, car bodies, water tanks, fencing, wire or rope on the stock route network.

Clause 182 makes it an offence for a person in charge of stock covered by a stock route travel permit to enter a part of the stock route network where there is a permission under another Act for stock to be grazed (Example, a special lease or permit to occupy under the *Land Act 1994)* unless at least 48 hours prior notice of the intention to use that section of the stock route network is given to the land owner of that part of the network. Also, it makes it an offence for the owner of the land, unless the owner has a reasonable excuse, to not allow the travelling stock, to travel through unimpeded, to graze the pasture and to drink the water on the section of the stock route network and the owner's stock must not obstruct the travel of the stock through the section of the stock route network.

CHAPTER 4 - MATTERS RELATING TO LOCAL GOVERNMENTS

Clause 183 sets out the functions that are given to a local government, namely to -

- ensure that declared pests are managed within its area in accordance with this Bill and the principles of pest management; and
- manage the stock route network in its area in accordance with this Bill and the principles of stock route network management; and
- regulate and control the movement of stock driven on foot on the stock route network.

Clause 184 gives the Minister the power to direct a local government to perform a function or obligation under this Bill. The Minister must consult the local government for its views before giving a written notice.

Clause 185 provides for the event that a local government does not comply with the Minister's notice. A regulation may state the local government's function or obligation, declare that it is given with full powers to the chief executive and direct the chief executive to perform the required action within a period of time.

Clause 186 specifies that the costs reasonably incurred by the chief executive in performing the actions for a function or obligation under a regulation are a debt payable by the local government to the State.

Clause 187 provides that the Minister may require a local government to pay in each financial year an amount to the chief executive for services provided or to be provided under this Bill. Examples of the chief executive's services may include research, public education, planning, mapping, training, technical advice and support, but does not include the normal functions of local government in pest and stock route management. The amount must not exceed the maximum amount to be fixed by a regulation. It outlines things that may be included, namely -

- whether a declared pest fence benefits land by protecting agricultural production within the local government area; or
- whether a part or all of the area in the operational area for rabbits; or
- whether land within the local government area is likely to benefit from pest control programs such as emergency control action.

Clause 188 provides that the Minister may require a local government to provide information about an amount that is payable under the legislation or to give a report about a function or power performed or exercised or required to be performed or exercised under the Bill.

CHAPTER 5 - LAND PROTECTION COUNCIL AND LAND PROTECTION FUND

PART 1 - LAND PROTECTION (PEST AND STOCK ROUTE MANAGEMENT) COUNCIL

Division 1 - Establishment

Clause 189 provides for the establishment of the Land Protection (Pest and Stock Route Management) Council.

Division 2 - Functions

Clause 190 sets out the functions of the Land Protection Council to give advice of a strategic nature to the Minister about the management of pests and the stock route network and outlines matters where recommendations may be made.

Clause 191 enables the Land Protection Council to perform its functions either by Ministerial request or on its own initiative.

Clause 192 provides the Minister must consider Council recommendations and respond with written advice.

Division 3 - Membership

Clause 193 specifies 15 members of the Land Protection Council will be appointed by the Minister and outlines how the organizational representation is to be sourced.

Clause 194 provides that if a representative organization does not nominate a person for membership on the Land Protection Council the Minister may appoint a person in that place.

Clause 195 outlines the circumstances where a person is not qualified to be or continue to be a Council member.

Clause 196 provides that the Minister decides the conditions, other than under this Bill for a Council member to hold office.

Clause 197 provides that the Minister decides the remuneration and allowances for members other than officers of the public service.

Clause 198 sets out that a member's term of appointment is by instrument of appointment and must not be more than 3 years.

Clause 199 specifies the circumstances where the member's office on the Council becomes vacant.

Division 4 - Proceedings

Clause 200 enables the Land Protection Council to conduct its business, including the meetings, how it considers appropriate.

Clause 201 specifies that the Land Protection Council can decide its own meeting times, although, it must meet at least three times per year. The chairperson may call a meeting at any time or must call a meeting if requested by the Minister.

Clause 202 provides that a quorum for Council meetings shall be 8 members. When members have been stood down after notifying an interest in the subject to be discussed, the remaining members are to be sufficient to meet that quorum.

Clause 203 specifies that the chairperson must preside at all meetings or in the chair's absence a member chosen by other members present must preside.

Clause 204 sets out conduct of meetings, including acceptable use of teleconferencing or video-conferencing in lieu of member attendance and how the decisions of the Council are to be reached by majority vote.

Clause 205 specifies that written agreement of at least 8 members is a valid resolution of the Council although the notice of resolution is not passed at an ordinary meeting of the Land Protection Council.

Clause 206 provides that a member must not have an interest that could conflict with proper performance of duties when an issue about that interest comes before the Land Protection Council to consider. Unless the Council directs otherwise, the member is not to be present for consideration or to take part in the decision. The disclosure of interest is to be recorded in the meeting minutes. Offence penalties are provided and interest does not include an interest that the member has in common with other members of the entity represented by the member.

Clause 207 specifies the Land Protection Council is to record proceedings of meetings in minutes.

Division 5 - Annual report

Clause 208 provides that after the end of each financial year the Land Protection Council must prepare and give a written report to the Minister about its activities. The Minister must table a copy of the report in the Legislative Assembly.

PART 2 - LAND PROTECTION FUND

Clause 209 establishes a Land Protection Fund for financial collections and expenditure under this Bill.

Clause 210 sets out the purpose and the operations of the Land Protection Fund and the financial collections expected for the fund.

Clause 211 provides that expenditure from the Land Protection Fund shall be for expenses incurred by the chief executive or a pest operational board, for any payment permitted under the legislation or authorised by the chief executive to be paid from the Fund.

Clause 212 provides that 50 percent of any amount received by a local government for a stock route travel permit, a stock route agistment permit, or for water supplied from a government facility is to be paid into the Land Protection Fund. The balance is to be retained by the local government for the administration, maintenance and improvement of the stock route network in the local government's area. Payment of amounts is to be at intervals of not more than 3 months decided by the local government.

CHAPTER 6 - PEST OPERATIONAL BOARDS

PART 1 - GENERAL

Clause 213 enables a pest operational board to carry out pest management operations within a particular part of the State to be established under a regulation and sets out the requirements to be met in making the regulation.

Clause 214 provides that a pest operational board is to be a body corporate, have its own seal and may sue or be sued in its corporate name.

Clause 215 provides that a pest control board represents the State and has the privileges and immunities of the State.

Clause 216 specifies that a pest operational board is a statutory body under the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982* and states the relationship of the board's powers under this Bill.

PART 2 – FUNCTION AND POWERS

Clause 217 sets out the function of pest control boards in their particular operational area and how the function is to be achieved.

Clause 218 provides that a pest control board has all the powers of an individual and gives examples that show the extent of powers that a pest operational board may exercise.

Clause 219 provides the Minister with the power to issue a written direction to a pest operational board about the performance of a function or exercise of its powers if satisfied it is necessary in the public interest. It requires the Minister to consult with the board before giving the direction and the direction is to be gazetted within 21 days.

PART 3 - BOARD OF DIRECTORS

Division 1 - Establishment and role

Clause 220 specifies that a pest operational board must have a board of directors.

Clause 221 outlines the board of directors is responsible for the function and exercise of powers and to ensure performance in an appropriate, effective and efficient way.

Division 2 - Provisions about directors

Clause 222 provides the Minister is to appoint directors.

Clause 223 sets out the directors of the board choose the chair or if a chair is not chosen for the first meeting it is the director chosen by the chief executive. It further provides the chair holds office until the next annual meeting of the board.

Clause 224 outlines requirements for qualification for appointment as a director.

Clause 225 sets out a term of appointment for a director or a casual director to be as stated in the instrument of appointment but, no more than 3 years.

Clause 226 sets out the circumstances for termination of an appointment of a director of the board by the Minister.

Clause 227 outlines the circumstances when the office of a director of the board becomes vacant.

Division 3 - Director's duties

Clause 228 provides that a director must not have an interest that could conflict with proper performance of duties when an issue about that interest comes before the board. Unless the board directs otherwise, the director is not to be present for consideration to take part in a decision. The disclosure is to be recorded in the meeting minutes. Offence penalties are provided and interest does not include an interest that the director has in common with others of any nominating entity.

Clause 229 removes any doubt that the director is required to act in the best interests of the pest operational board.

Division 4 - Business and meetings

Clause 230 enables the board to conduct its business and meetings in the way it considers appropriate.

Clause 231 specifies the meeting arrangements and when a meeting is to be called.

Clause 232 sets out the quorum requirement of a board.

Clause 233 sets out that the chair or another director chosen by the directors is to preside at meetings.

Clause 234 sets out conduct of meetings, including acceptable use of teleconferencing or video-conferencing in lieu of member attendance and how decisions of the board are to be reached by majority vote.

Clause 235 specifies the board is to record proceedings of meetings in minutes.

Division 5 - Director's fees and allowances

Clause 236 provides entitlement to fees and allowances is to be approved by the Minister.

PART 4 - FINANCIAL MATTERS

Clause 237 requires a pest operational board to provide written estimates of operational costs including a works program for each financial year at least 2 months before the start of the financial year.

Clause 238 provides a pest operational board must obtain the approval of the Minister for its financial year's work program and cost estimates.

PART 5 - OTHER PROVISIONS ABOUT PEST OPERATIONAL BOARDS

Clause 239 enables a pest operational board to delegate its power to an appropriately qualified person or sub-delegate a power of the chief executive if permitted to do so.

Clause 240 requires a pest operational board to give the Minister a written report about the board's operations after the end of each financial year and the Minister must table the report in the Legislative Assembly.

CHAPTER 7 - INVESTIGATION AND ENFORMCEMENT

PART 1 - PEST SURVEY PROGRAMS

Clause 241 provides that the chief executive, a pest control board or a local government may approve a pest survey program for the purpose of entering places, other than residences, to monitor compliance with the requirements about declared pests under this Bill. The pest control board and local government are limited to the area of the State that is described for their jurisdictional responsibility. It outlines the public information content that is required for the program and gives the period of effect as no more than 3 months. This clause is modelled on the "approved inspection program" under the *Local Government Act 1993.*

Clause 242 requires that the pest survey program must published in a local newspaper at least 14 days before and not more than 28 days before the program commences. The notice will advise how a copy of the program may be inspected or obtained at a cost.

Clause 243 specifies where a copy of the program is to be available for inspection or purchase.

PART 2 -AUTHORISED PERSONS

Clause 244 enables the chief executive, pest control board or a local government to appoint a person to be an authorised person for this Bill. The appointing authority must be satisfied the person has the proper expertise or experience to be authorised.

Clause 245 specifies that an authorised person holds office on the conditions stated in the person's instrument of appointment, a signed notice given to the person, or a

regulation and that the instrument of appointment, signed notice or regulation may limit the authorised person's powers under the Bill. The appointment may relate to a part of the State that is an area of jurisdictional responsibility.

Clause 246 requires the appointing entity to issue the authorised person with an identity card containing a recent photograph of the authorised person and sets out other relevant particulars to be added.

Clause 247 requires an inspector to produce the inspector's identity card before exercising any power under the Bill or display the card when exercising the power. However, if it is not practicable to comply with this requirement, the authorised person must produce the card at the first available opportunity.

Clause 248 specifies the circumstances under which an authorised person ceases to hold office.

Clause 249 specifies how an authorised person may resign the office.

Clause 250 makes it an offence for a person who ceases to be an authorised officer, without reasonable excuse, to fail to return the person's identity card to the chief executive within 21 days after ceasing to be an authorised person.

PART 3 - POWERS OF AUTHORISED PERSONS

Division 1 - Entry to places other than vehicles

Clause 251 sets out the circumstances where an authorised person may enter a place that is not a residence or a dwelling. In addition to the power to enter public land or public places and business premises that are normally open to the public at that time, other entry may be made by consent of the occupier or authorised by warrant. Specific provisions that allow entry by an authorised person in other circumstances are -

- the entry is necessary to monitor compliance with a pest control notice or an emergency quarantine notice that has been given to the owner; and
- the entry is to take action because of a landowner's failure to comply with an emergency quarantine notice; and
- the entry is made under an advertised pest survey program and the entry is made at a reasonable time.

Also, in line with the *Local Government Act 1993,* an authorised person may enter land around premises at a place to the extent that is reasonable to contact the occupier or enter the place where the authorised person reasonably considers members of the public are ordinarily allowed to enter in order to contact the occupier.

Clause 252 outlines the procedures that an authorised person must follow when seeking consent to enter a place. It is provided that, should the issue arise in a proceeding whether the occupier consented to the entry, the onus is on the person relying on the lawfulness of the entry to prove that the occupier consented to the entry.

Clause 253 specifies that, for cases of entry where special provisions apply, the authorised person must make a reasonable attempt to inform the occupier of the purpose of the entry and of the notice that has been given for the entry.

Clause 254 provides that an authorised person may apply to a Magistrate for a warrant to enter a place.

Clause 255 sets out the conditions when a Magistrate may issue a warrant and specifies the information that must be stated in the warrant.

Clause 256 provides that an authorised person may apply for a warrant by telephone, facsimile, radio or another form of communication because of urgent or other special circumstances.

Clause 257 outlines the procedures that must be followed by an authorised person prior to entering a place under a warrant.

Division 2 - Entry to vehicles

Clause 258 provides that an authorised person may enter a vehicle if the person in control consents to the entry or if the authorised person reasonably suspects the vehicle to be involved in the commission of a declared pest offence or it may provide evidence of the commission of a declared pest offence.

Clause 259 outlines the procedure that must be followed by an authorised person before entering a vehicle including telling the driver the purpose of the entry and requirement to ask consent although entry is permitted under this Bill.

Clause 260 provides that an authorised person may signal the person in control of the vehicle to stop the vehicle or not move the vehicle.

Clause 261 makes it an offence for the person to disobey the signal without a reasonable excuse.

Clause 262 provides that an authorised person may give directions to the person in control of the vehicle, with a warning, to give reasonable assistance, to take the vehicle to a stated place, to wash down or clean the vehicle or anything in or on the vehicle and to remove any reproductive material of a declared pest plant. It makes it an offence to not comply with a requirement.

Division 3 - Powers for entry to all places

Clause 263 specifies what powers are available to an authorised person who has entered a place for the purposes of monitoring or enforcing compliance with the Bill and includes a requirement to provide reasonable assistance or to give information to the authorised person. The authorised person is further required to issue a warning about the requirement and awareness of reasonable excuse.

Clause 264 makes it an offence for a person to not give reasonable assistance, unless the person has a reasonable excuse. An example of an excuse would be a tendency to incriminate the person.

Clause 265 makes it an offence to not give required information, unless the person has a reasonable excuse. An example of an excuse would be a tendency to incriminate the person.

Division 4 - Seizure

Clause 266 provides an authorised person who enters a place, without consent or warrant, with the power to seize a thing at the place entered, only if the authorised person reasonably believes that the thing is evidence of an offence against the Bill.

Clause 267 provides an authorised person with the power to seize a thing at a place if -

- the authorised person obtained the necessary consent to enter the place; and the inspector reasonably believes that the thing is evidence of an offence against the Bill; and seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent; or
- the authorised person is able to enter the place under a warrant and the seizure is authorised by the warrant; or
- the authorised person reasonably believes another thing at the place is evidence of an offence against the Bill and needs to be seized to secure evidence or to prevent repeat offences; or has just been used in committing an offence against the Bill.

Clause 268 specifies the steps an authorised person may take in relation to a thing that has been seized as to move the thing from the place where it was seized or leave the thing at the place of seizure but restrict access to it.

Clause 269 makes it an offence for a person to tamper or attempt to tamper with the seized thing or with the thing that restricts access, without the authorised person's approval.

Clause 270 provides that an authorised person may require a person in control of a seized thing to take it to a stated reasonable place by a stated reasonable time; and if necessary, to remain in control of it at the stated reasonable place for a stated reasonable time.

Clause 271 requires an authorised person to issue a receipt for any seized thing and to give the receipt to the person from whom the thing was seized. However, if it is not practicable the authorised person must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way. This does not apply to a thing that because of its nature, condition or value renders this to be impracticable. The receipt must describe each seized thing and its condition and, for a declared pest, state the time the pest was seized and the owner may produce to the authorised person, within 48 hours of the seizure time, the declared pest permit for the pest. If the permit

is not produced within the 48 hours, the authorised person may destroy or dispose of the pest.

Clause 272 specifies the circumstances when an authorised person must return a seized thing to its owner.

Clause 273 allows the owner of seized thing to have access to it for inspection or copying (if it is a document) until it is forfeited, disposed of or destroyed.

Clause 274 requires that an authorised person must give the owner of a pest an opportunity to produce the declared pest permit for the pest within 48 hours of seizing it. If the owner does not produce the permit, the authorised person may destroy or dispose of the pest in a reasonable way decided by the authorised person. A notice of the destruction or disposal of the pest must be given to the owner and no compensation is to be payable.

Division 5 - Forfeiture

Clause 275 outlines the circumstances when a thing seized in connection with a suspected offence is forfeited to the State because a owner can not be located or it would be unreasonable to make efforts to return the thing to its owner.

Clause 276 provides, upon conviction of a person for an offence under this Bill, a Court may order forfeiture to the State of any thing owned by the person or the seized thing.

Clause 277 enables the chief executive to deal with a thing forfeited to the State, as the chief executive considers appropriate, including the destruction or disposal of the thing.

Division 6 - Other powers

Clause 278 enables an authorised person, if an offence has or appears to have been committed against the Bill, to require a person to state the person's name and residential address, and to produce evidence of the correctness of the stated name or address. When making such a requirement, the authorised person must warn the person that it is an offence to fail to state the person's name or address, unless they have a reasonable excuse.

Clause 279 makes it an offence for a person, without reasonable excuse, to fail to comply with a request to give the person's name and address. However, there is no offence if the person is not proved to have committed the offence.

Clause 280 provides that, if an authorised person reasonably believes that an offence against this Bill has been committed and a person may be able to give information about the offence, a notice may be given requiring the person to give information about the matter at a stated reasonable place and at a stated reasonable time.

Clause 281 makes it an offence for a person, without a reasonable excuse, to fail to comply with an information requirement of the authorised person. A reasonable excuse would be the giving of information that might tend to incriminate the person.

Clause 282 enables an authorised person to require a person to make available for inspection or copying a document issued to the person or required to be kept under this Bill.

Clause 283 makes it an offence to not produce or make available for inspection a required document, unless the person has a reasonable excuse.

PART 4 - NOTICE OF DAMAGE

Clause 284 sets out this part applies to damages caused when an authorised person exercises a power under the Bill, other than damage reasonably believed to be trivial.

Clause 285 requires an authorised person to give written notice of damage to the owner or person who possesses the thing. The notice must give particulars of the damage for possible compensation and be left in a conspicuous position in a reasonably secure way. The notice may include a belief the damage was caused by a latent defect in the thing.

PART 5 - OTHER OFFENCES

Clause 286 makes it an offence for a person to state anything to an authorised person that the person knows is false or misleading in some material particular.

Clause 287 makes it an offence for a person for a person to give an authorised person a document containing information that the person knows is false or misleading in a material particular.

Clause 288 makes it an offence to obstruct an authorised person in the exercise of a power, unless the person has a reasonable excuse. If the authorised person decides to exercise the power and the person's conduct is considered to be an obstruction, a warning is to be given.

Clause 289 provides that a person must not impersonate an authorised person appointed under the Bill.

CHAPTER 8 - EVIDENCE AND LEGAL PROCEEDINGS

PART 1 - EVIDENCE

Clause 290 sets out that this part relates to a proceeding under the Bill.

Clause 291 specifies the things relating to appointments that it is not necessary to be proved in a court proceeding.

Clause 292 specifies that the signature purporting to be that of a person named in the appointment is not necessary to be proved in a court proceeding.

Clause 293 specifies that a certificate purporting to be signed by the appointed entity is evidence of a matter including a notice, direction, requirement, permit, document or appointment under the Bill.

PART 2 - LEGAL PROCEEDINGS

Clause 294 sets out how a proceeding for an offence against the Bill must start in a summary way under the *Justices Act 1886* within 1 year after the commission of the offence or 1 year after it comes to knowledge, but within 2 years after the commission of the offence.

Clause 295 enables a court to order a convicted defendant to pay a commencing entity's reasonable costs and expenses in taking the action only if satisfied it is just in the circumstances of the particular case.

CHAPTER 9 - APPEALS

Clause 296 enables an aggrieved person to appeal to the Magistrates Court for any appealable decision under the Bill.

Clause 297 outlines the process for a person to start an appeal to the Magistrates Court within 28 days of having received notice of the decision being appealed against.

Clause 298 provides the Magistrates Court may stay a decision appealed against to ensure the effectiveness of the appeal.

Clause 299 sets out the process that the Magistrates Court may use to hear and decide the appeal.

Clause 300 sets out the powers of the Magistrates Court to decide an appeal and make an order for costs it considers appropriate.

Clause 301 specifies the decision of the Magistrates Court may be appealed to the District Court, but only on a question of law.

CHAPTER 10 - MISCELLANEOUS PROVISIONS

Clause 302 outlines the process for a person to pursue reasonable compensation for loss or damage because of an exercise of power under this Bill and, failing agreement between the parties, how a the matter may be decided by a court.

Clause 303 provides the Minister may establish advisory committees and decide the functions, membership and operations for the committee.

Clause 304 provides a delegation power for the Minister and sets out the powers that may not be delegated under the Bill.

Clause 305 provides a delegation power for the chief executive and sets out the powers that may not be delegated under the Bill.

Clause 306 provides a local government may delegate its powers under the Bill.

Clause 307 outlines there is a protection from liability for persons exercising powers under the Bill and a relevant person is not civilly liable for an act done, or an omission made, honestly and without negligence under the Bill. Liability instead attaches to the State, the local government or the pest operational board.

Clause 308 enables the chief executive to approve forms for use under the Bill.

Clause 309 provides a regulation making power under the Bill.

CHAPTER 11 - REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

PART 1 - REPEAL

Clause 310 repeals the *Rural Lands Protection Act 1985*.

PART 2 – SAVINGS AND TRANSITIONAL PROVISIONS

Division 1 - Preliminary

Clause 311 sets out the definitions for terms used in savings and transitional arrangements.

Division 2 - Savings and transitional provisions

Clause 312 provides for the dissolution of the Rural Lands Protection Board.

Clause 313 provides for the continuation of the Darling Downs – Moreton Rabbit Board as a pest operational board.

Clause 314 provides members of former rabbit board continue as the Darling Downs – Moreton Rabbit Board.

Clause 315 provides for continuity of employment and conditions of employment for employees of the Darling Downs – Moreton Rabbit Board.

Clause 316 provides that the assets, rights and liabilities of the former rabbit board are to vest in the Darling Downs – Moreton Rabbit Board.

Clause 317 provides that any legal proceeding commenced by the rabbit board may be continued and finished by or against the Darling Downs – Moreton Rabbit Board.

Clause 318 requires the Darling Downs – Moreton Rabbit Board be established by a regulation as legal successor of rabbit board.

Clause 319 provides that all existing permissions about introducing and keeping declared pests are to continue in force for particular purposes.

Clause 320 provides that all existing applications to travel or depasture stock not decided before the commencement of the Bill may be processed as if they were applications under the Bill.

Clause 321 provides that all existing applications to keep or sell an animal or plant not decided before the commencement of the Bill may be processed as if they were applications under the Bill.
Clause 322 provides that a fence established under the former Act becomes at the commencement a declared pest fence for a declared pest species.

Clause 323 provides that all existing notices given to a person to control declared animals and plants continues in force and any contravention of the notice may be prosecuted under the former Act.

Clause 324 provides that endorsements about certain notices, orders and regulations issued under four sections of the former Act are to be removed from the registers of land (refers to extraordinarily noxious plants notice, control syndicates notice, barrier fence orders and ring fences regulation).

Clause 325 provides for the continuance of stock route water agreements between a local government and a landowner entered into under the former Act or an earlier Act, but it expires 2 years after the commencement of this Bill or upon the agreement's earlier expiration date. The chief executive of lands is to remove registrations of water agreements from all registers of land upon expiration.

Clause 326 specifies any reference in an Act or document to the former Act may be construed to be a reference to this Bill.

Clause 327 specifies any reference in an Act or document to the former protection board may be construed to be a reference to the Council. Also, specifies any reference in an Act or document to the former rabbit board may be construed to be a reference to the Darling Downs – Moreton Rabbit Board.

Clause 328 specifies that a reference to the former fund may be taken to be a reference to the Land Protection Fund.

CHAPTER 12 – CONSEQUENTIAL AMENDMENTS

Clause 329 provides consequential amendments to other Acts are made by the schedule 2.

SCHEDULE 1

APPEALABLE DECISIONS AND AGGRIEVED PERSONS

Lists all matters that may be subject to an appeal by an aggrieved person.

SCHEDULE 2

CONSEQUENTIAL AMENDMENT OF ACTS

Fisheries Act 1994 Section 8(2)

"Marine plant" – This is to correct reference to the Act

Forestry Act 1959 Section 5

"Forest products" – This is to enable grasses on the stock route network to be grazed by stock travelling or agisted under permit or by another permission from a local government.

Land Act 1994 Section 433

This is to delete rate of travel of stock that is now prescribed under this Bill.

Schedule 6

"noxious plant" – This is to correct reference to the Act.

Police Powers and Responsibilities Act 2000

Authorised persons for this Bill will not be members of the Queensland Police Service.

Stock Act 1915

"Stock route" This is to correct reference to the Act.

Section 12(2)(b)

Removes the power to declare by regulation any road to be a stock route for the use of travelling stock.

Section 37(1)(b)

Removes the offence about travel of stock by any road or route other than a stock route.

Transport Infrastructure Act 1994

"ancillary works and encroachments" This makes reference to a stock route travel permit under this Bill.

Water Act 2000

Section 215 – This is to enable water to be taken under a licence other than on land to which the licence attaches for the purpose of stock route network water agreements.

SCHEDULE 3

DICTIONARY

This is the dictionary of terms used in the Bill.