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Proposed Amendments to the Regional Planning Interests Act 2014 Feedback

**WESTERN DOWNS REGIONAL COUNCIL
SUBMISSION**

1. **Amendment One:** Replace the 'current exemption' in section 22 of the RPI Act with new eligibility criteria. An authority holder will undertake self-assessment against these criteria.

RESPONSE: Western Downs Regional Council is highly supportive of measures which increase clarity, transparency and certainty for stakeholders as with the proposed eligibility criteria. Early and consistent engagement and communication with stakeholders, particularly affected land owners, is considered of significant importance for the success of resource development projects undertaken in the region.

Feedback provided to the Western Downs Regional Council is that some resource developers in the region have been more successful in building relationships and maintaining open communication with land owners and stakeholders than others. The increase in process transparency proposed with the new amendments will increase clarity, transparency and certainty over the life of projects for stakeholders, even in instances where resource developers have not built relationships or maintained strong communication with stakeholders.

Increasing the transparency of how land is used by resource authority holders and a process which demonstrates that the impact of the planned activity has been duly considered by the authority holder will assist in building trust with land owners and other local stakeholders. Increased transparency about the nature and extent of activities will also increase accountability for the resource authority holder over the life of the project, while ensuring that land owners receive full information about the implications of regional interest for their land. While these proposed amendments do not deal directly with stakeholder consultation, stakeholder outcomes will be improved under eligibility criteria which increase clarity, transparency and certainty over the life of a resource project.

Western Downs Regional Council supports the Queensland Government proposal to refer to the self-assessment process as a compliance assessment process to distinguish between a typical self-assessment and the process being proposed under the new eligibility criteria. Council supports the requirement for the authority holder to notify the administering authority of compliance with the code and details of this compliance. This will increase the accountability and transparency of the application process and increase stakeholder confidence that there are checks and balances for resource developments occurring in their local area. Western Downs Regional Council also encourages the assessment results to be communicated to land owners and relevant stakeholders to maintain strong communication.

Western Downs Regional Council supports the maintenance of the requirement for auxiliary approvals for planning proposals including resource tenure, an environmental authority and other relevant approvals to ensure protection of the environment and biodiversity located near resource activities.

Western Downs Regional Council supports the introduction of clearly defined eligibility criteria for compliance assessment pertaining to impacts of activities occurring in Priority Agricultural Area (PAA), Strategic Cropping Areas (SCA) and water supply. Impacts of activities should include impacts of underground activities, and not be limited to those activities occurring above ground. This is particularly

important for activities which involve directional drilling across multiple properties and any hydrological report should capture the impact of the entire footprint of resource activities, above and below ground. Western Downs Regional Council strongly urges that land owners be consulted as key stakeholders in the compliance assessment process where resource activities will occur on PAA and SCA land. Land owners should be involved in determining whether proposed activities will have an impact on existing or potential priority agricultural land use, rather than leaving this determination with the resource authority holder. Where hydrological reports form the basis for future compliance for resource holders, affected land owners should review and endorse the report as part of the compliance assessment process.

It is strongly recommended that support is provided to land owners when engaging with resource authority holders. Land owners will need to be educated on their rights under the proposed eligibility criteria and their roles to ensure they are able to maximise the opportunities presented by resources accessed on their properties, while managing risks and impacts of development on their land and agricultural activities. This will require individualised mentoring, support and training for land owners affected by resource development. Land owners are individuals and have individual circumstances. Many would prefer individual consultation to address their concerns, rather than training offered in large groups. To ensure the ongoing and unique needs of individual land owners are met, funding should be provided to support one-to-one facilitation with mentors and educators. This could be achieved through the GasFields Commission Queensland, or similar entity, provided it was appropriately resourced to achieve this higher level of support to land owners.

The introduction of eligibility criteria specifically relating to regionally significant water supply area is of particular importance to the Western Downs Region where reliable, long-term water supply quality is of vital importance. Several towns in the Western Downs are situated in close proximity to the Condamine Alluvium and its tributaries, identified as a regionally significant water source in the RPI Act Proposed Amendments draft. Under the new eligibility criteria, additional protection would be afforded to areas of the Western Downs which are in a regionally significant water source area, with exemptions not being available for these areas. Seven of eight towns in the Western Downs are reliant on surface water, which is already at risk due to climate conditions. The Western Downs Regional Council has also recently completed several major redevelopment projects of the region's lakes, lagoons and weirs as part of its COVID-19 Recovery Package. These projects aimed to stimulate local economies during development and with ongoing tourism opportunities and to improve the region's liveability for community members. The long-term success of these redevelopments, and the region broadly, relies heavily on the maintenance of existing water quality for the region's surface and underground water supply. Western Downs Regional Council is strongly supportive of eligibility criteria in the compliance assessment process which strengthen protections for water supply in the region an increase visibility for how resource authority holders have considered and acted to mitigate activity impacts on the local water supply.

2. **Amendment Two:** Introduce a new requirement for authority holders to provide information to the assessing authority about activities being carried out under an exemption (including new eligibility criteria). This information will be available on a publicly accessible register.

RESPONSE: Western Downs Regional Council supports the introduction of a requirement for authority holders to provide information about activities carried out under an exemption to the assessing authority and the creation of a publicly accessible register for increased transparency. Council encourages authority holders to actively promote the exemption register to landowners and the local community (including residents, businesses, and the local government authority).

Western Downs Regional Council is highly supportive of the proposed register to increase transparency and improve ease of access of information to stakeholders, including the broader community. Ongoing communication with stakeholders is considered of significant importance for the success of development projects undertaken in regional areas. The proposed register will increase transparency around activities occurring under exemptions and provide the local community with access to information ensuring they can be informed about resource activities occurring in proximity to their properties or businesses. Creation of an exemption register will ensure that landowners understand what activities occur on their property or on neighboring properties. Western Downs Regional Council encourages authority holders to actively promote the exemption register to landowners and the local community (including residents, businesses, and the local government authority).

This increased transparency and accountability for resource authority holders will help increase community confidence in resource activities in their local area. Where stakeholder engagement and relationship building on the part of the resource authority holder has not been strong, an exemption register will ensure the landowners and the local community remain informed about ongoing resource activities and planned resource activities. This is of particular importance for small communities in resource rich areas who have expressed to Western Downs Regional Council they are often inadequately engaged by developers prior to and during the life of resource projects.

Western Downs Regional Council supports the inclusion of the information on the exemption register indicated on the Discussion Paper while it is encouraged that the register should also include:

- The reason for the exemption and the relevant exemption code s22, s23 or s24
- The potential impact of the land

To ensure completeness of information available to local stakeholders, Western Downs Regional Council supports the mandatory detailing of existing RPI exemptions by tenure holders for all activities undertaken in an area of regional interest.

3. **Amendment Three:** Introduce new requirements for the authority holder acting under an exemption to:
 - Consult with land owners regarding the new eligibility criteria

- Notify land owners and adjoining land owners for activities using s22, s23 and s24 exemptions.

Introduce a new requirement for authority holders carrying out activities under an exemption to make a declaration to the administering authority that the relevant consultation or notification with land owners has been carried out.

RESPONSE: Western Downs Regional Council supports the establishment of a framework for the resource authority holder to declare consultation has been made with land owners and adjoining land owners. Council strongly urges that, in addition to notifying adjoining land owners, if an exempt activity is expected to affect a business or local government authority asset, these parties are also notified and consulted. Council strongly recommends that the consultation process for parties affected by exempt activities include the opportunity for these parties to make a submission to the assessing authority about the exempt activities or request alterations to the activity. It is recommended that a time frame for this consultation to be initiated within is established, with measures to ensure land owner concerns are adequately addressed, and a joint declaration be made by affected parties that relevant consultation and notification has been completed. It is strongly recommended that support and education is provided to land owners about the purpose of the eligibility criteria and their rights as land owners.

Meaningful and ongoing engagement between resource authority holders, land owners and adjoining land owners is strongly endorsed by Western Downs Regional Council. Ongoing engagement and consultation regarding activities being performed under an exemption by the resource authority holder should be considered a minimum requirement. It is strongly recommended that a timeframe for initiation of this consultation between resource authority holders and land owners be established. Additionally, it is recommended measures be included in the proposed framework to ensure that any concerns raised by land owners, or adjoining land owners, about the impact of resource activities on agricultural operations are adequately addressed. Suggested measures include the opportunity for affected land owners to make a submission about exempt activities to the assessing authority and the requirement of a joint declaration by land owners and authority holders that the necessary consultation and notification has been completed. A joint declaration, rather than an authority holder declaration, would ensure that land owners are meaningfully engaged and agree with authority holders that the consultation undertaken to address their unique concerns and that they understand the implications of the resource activities proposed to occur on their land.

Council strongly urges that, in addition to notifying adjoining land owners, if an exempt activity is expected to affect a business or local government authority asset, these parties are also notified and consulted. Council strongly recommends that the consultation process for parties affected by exempt activities include the opportunity for these parties to make a submission to the assessing authority about the exempt activities or request alterations to the activity. For example, where an exempt activity, including those exempt due to a private conduct and compensation agreement, such as a deviated well, might significantly impact a road, river or be close to a town water source. In these instances, the local government authority or business that operates, or is responsible for, the affected road, weir, bore or

other water source, should be provided with notification of the activity, meaningfully consulted and given opportunity to provide a submission or feedback to the assessing authority.

It is strongly recommended that support for land owners is not limited to consultation driven by resource authority holders. Land owners will need to be educated on their rights and responsibilities under the proposed eligibility criteria to ensure they are able to maximise the opportunities presented by resources accessed on their properties, while managing risks and impacts of development. This will require individualized mentoring, support and training for land owners affected by resource development. Land owners are individuals and have individual circumstances. Many would prefer individual consultation to address their concerns, rather than training offered in large groups. To ensure the ongoing and unique needs of individual land owners are met, funding should be provided to support one-to-one facilitation with mentors and educators. This could be achieved through the GasFields Commission Queensland, or similar entity, provided it was appropriately resourced to achieve this higher level of support to land owners.

4. **Amendment Four:** Provide an effective compliance and enforcement framework which supports the purpose of the RPI Act and ensures appropriate outcomes are achieved in areas of regional interest.

RESPONSE: Western Downs Regional Council supports the development and implementation of a compliance and enforcement framework to support the purpose of the RPI Act including amendments to investigation powers, requiring provision of information requested by the State/authorised persons, show cause and enforcement notices and the introduction of offences for noncompliance.

Western Downs Regional Council acknowledges that agriculture is the both the largest industry and employer in the region and that the resource sector is the second largest employer in the region. Both industries are significant in the Western Downs region, making substantial contributions to gross regional product. Balancing the interests of resource authority holders, landholders and community stakeholders is key to both the agricultural and resource sectors' strength and the continued growth of the Western Downs economy. For this reason, Western Downs Regional Council supports the development and implementation of a compliance and enforcement framework which ensure that that the purpose of the RPI Act is upheld, land owner and community interests are protected, and resource authority holders have accountability for actions undertaken under an exemption or lease. Western Downs Regional Council supports the provision of 'interim' actions to allow for the remedy of minor infringements by resource authority holders without the involvement of the courts, provided correction of minor infringements are made in a timely manner.

Care should be taken to communicate final compliance and enforcement framework to land owners to ensure they are aware of their rights and what actions are available to them should they have reason to believe a compliance infringement is occurring on their property. This will require individualized mentoring, support and training for land owners affected by resource development. Land owners are individuals and have individual circumstances. Many would prefer individual consultation to address their

concerns, rather than training offered in large groups. To ensure the ongoing and unique needs of individual land owners are met, funding should be provided to support one-to-one facilitation with mentors and educators. This could be achieved through the GasFields Commission Queensland, or similar entity, provided it was appropriately resourced to achieve this higher level of support to land owners.

5. **Amendment Five:** Provide a consistent point in the application process (the time of lodgment) at which the land owner is notified of the application. This is in place of the existing process which varies depending on whether the application is required to undergo public notification.

RESPONSE: Western Downs Regional Council supports the standardisation of notification to land owners of RIDA applications, regardless of whether the application is subject to public notification.

6. **Amendment Six:** Introduce notification requirements to alert affected land owners about RIDA applications.

RESPONSE: Western Downs Regional Council strongly supports the introduction of notification requirements to alert affected land owners about RIDA applications. Land owners should also be provided with mentoring and training to ensure they can make effective submissions responding a notification they have received.

Western Downs Regional Council considers building strong local relationships to be of significant importance in gaining trust, acceptance and mitigating adverse impacts of resource developments in the region. Feedback provided to Council is that some resource projects have been more successful in stakeholder engagement and relationship building than others in the region.

The introduction of notification to affected land owners, including adjoining land owners, will both improve transparency about proposed projects in the region and encourage resource authority holders towards more comprehensive stakeholder engagement. The opportunity for affected land owners to be notified and make a submission will assist in mitigating adverse impacts of resource developments by allowing potential problems to be identified early in the project development and application process.

To ensure that affected land owners are able to make effective representations in any submission detailing adverse affects of proposed activities on their own or adjacent land, it is important that land owners are provided with individualized mentoring, support and training. Land owners are individuals and have individual circumstances. Many would prefer individual consultation to address their concerns, rather than training offered in large groups. To ensure the ongoing and unique needs of individual land owners are met, funding should be provided to support one-to-one facilitation with mentors and educators. This could be achieved through the GasFields Commission Queensland, or similar entity, provided it was appropriately resourced to achieve this higher level of support to land owners.

7. **Amendment Seven:** Amend the business day definition to align with the *Planning Act 2016* (removal of December-January holiday period).

RESPONSE: Western Downs Regional Council supports the amendment of the business day definition to align with the definition of the Planning Act 2016. Ensuring the public notification period excludes the Christmas holiday period, when many local stakeholders are travelling out of the region, will ensure all stakeholders have equal opportunity to make submissions to public notifications. Western Downs Regional Council also encourages authority holders to avoid having public notifications which coincide with other holiday periods and additional time should be provided for submission, if public notification occurs during holiday periods.

8. **Amendment Eight:** Remove requirements for newspaper publication of a RIDA decision, as per the requirements under the *Financial Accountability Act 2009*. Allow chief executive discretion on newspaper publication for notification of RIDA applications.

RESPONSE: Western Downs Regional Council supports the removal of requirements for newspaper publication of a RIDA decision, consistent with the Financial Accountability Act 2009. However, requirements should remain in place which ensure alternative notification methods, appropriate for the local area, are utilised to advise local stakeholders of a RIDA decision. For example, where there is a local newspaper with healthy circulation numbers, a newspaper notification of RIDA applications would remain appropriate. In areas where there is no active local newspaper, existing local networks (such as Local Government Newsletters, Chambers of Commerce) should be strongly engaged to ensure the community is notified of a RIDA application. Council considers a dedicated website for RIDA notification to be an inappropriate notification method as the onus would be on the community to proactively monitor local area applications and it is expected that uptake of such a notification method would be extremely limited.

9. **Amendment Nine:** Require a RIDA application to address all applicable areas of regional interest, where they apply.

RESPONSE: Western Downs Regional Council supports the proposal for RIDA applications to address all applicable areas of regional interest in a single application, where overlapping areas of interest exist, streamlining the application process for resource authority holders.

10. **Amendment Ten:** Clarify the s24 exemption for pre-existing activities in line with the intent to allow for lawful activities (prior to RPI Act commencement) to operate without an approval.

RESPONSE: Western Downs Regional Council supports the proposal to redraft the s24 exemption provision regarding operation of lawful activities occurring prior to the commencement of the RPI Act to improve the clarity of this exemption.

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