



Tenure Matters



A column by Sue Slater, Senior Advisor Petroleum, RLMS

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Welcome back. This month I want to discuss the Queensland Cooper Basin land release and how exploration might be impacted by the strategic environmental area, under the *Regional Planning Interests Act 2014*, that now effectively replaces the Cooper Basin Wild River Declaration, under the repealed *Wild Rivers Act 2005*.

The 2015 land release was gazetted on 15 May 2015, with applications closing on 8 October 2015. Most of the areas advertised were in the Cooper Basin, and are shown on Figure 1. We do not yet know who the preferred tenderers are for these areas, nor even the number of applicants for each of the areas, because that information is no longer available to us.

Since numbers of applications is a good measure of the health of the exploration sector, the secrecy that now appears to surround the applicant names, which have certainly previously been available information, means that this measure can no longer be deduced. Interestingly ranking criteria are also no longer provided for tender applications, but more on that perhaps another time.

Under the *Regional Planning Interests Act 2014* four types of priority or strategic areas are identified:

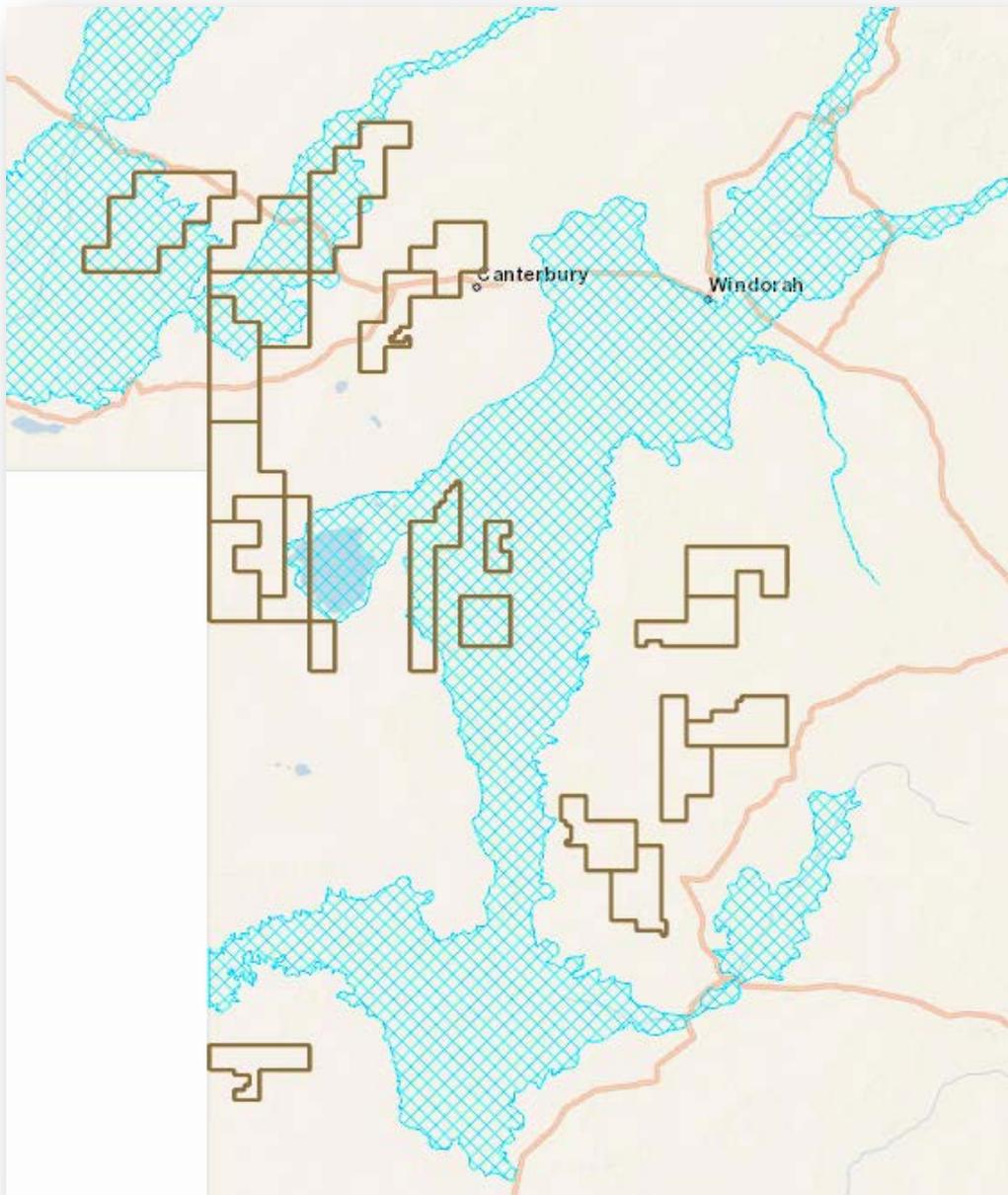
- Priority agricultural areas (PAA)
- Priority living areas (PLA)
- Strategic environmental areas (SEA) and
- Strategic cropping areas (SCA, formerly Strategic Cropping Land under the repealed *Strategic Cropping Land Act 2011*).

There are currently four SEAs: Channel Country; Fraser Island; Gulf Rivers and Hinchinbrook Island. SEAs are areas identified as having regionally significant environmental attributes, within which the “protection of ecological integrity is the priority land use”¹. However, other land uses are not

¹ <http://www.dilgp.qld.gov.au/planning/regional-planning/areas-of-regional-interest.html>

precluded but must not jeopardise the ecological integrity of the SEA. A guideline: “Carrying out resource activities and regulated activities in a Strategic Environmental Area” is available.²

Figure 1 2015 Cooper Basin land release and the Strategic Environmental Area



A resource activity is defined as including any activity for which a resource authority is required. Specifically, however, a Petroleum Survey Licence, a Data Acquisition Authority or a Water Monitoring Authority all under the *Petroleum & Gas (Production & Safety) Act 2004*, are not resource activities. We will not discuss here the exemptions in place for pre-existing activities, or for environmental authorities issued prior to the repeal of the *Wild Rivers Act 2005*, because I want to mainly discuss the impact of the SEA on the Cooper Basin land release areas, which will of course not be exempt from the requirements under those parameters.

² <http://www.dilgp.qld.gov.au/planning/regional-planning/rpi-act-forms-guidelines-and-fact-sheets.html>

An assessment application must be made for a RIDA (Regional Interests Development Approval), which requires a report and an application fee (currently \$5,844, \$11,688 or \$23,375 depending on the area of expected impact). The report must address the activity's impact on the SEA, and these will be assessed against the criteria in Schedule 2 of the *Regional Planning Interests Regulation 2014*. A public notification may be required for a resource activity in a SEA; or if another public consultation process has already occurred, it may be determined to meet RIDA requirements.

For SEAs the required outcome under Schedule 2 is "*the activity will not result in a widespread or irreversible impact on an environmental attribute of a strategic environmental area.*" The prescribed solution is:

15 Prescribed solution

(1) *The application demonstrates either—*

(a) the activity will not, and is not likely to, have a direct or indirect impact on an environmental attribute of the strategic environmental area; or

(b) all of the following—

(i) if the activity is being carried out in a designated precinct in the strategic environmental area—the activity is not an unacceptable use for the precinct;

(ii) the construction and operation footprint of the activity on the environmental attribute is minimised to the greatest extent possible;

(iii) the activity does not compromise the preservation of the environmental attribute within the strategic environmental area;

(iv) if the activity is to be carried out in a strategic environmental area identified in a regional plan—the activity will contribute to the regional outcomes, and be consistent with the regional policies, stated in the regional plan.

The environmental attributes for the Channel Country SEA are in Part 3, section 7 of the *Regional Planning Interests Regulation 2014*. These are:

- the natural hydrologic processes of the area characterised by
 - natural, unrestricted flows in and along stream channels and the channel network; and
 - overflow from stream channels and the channel network onto the flood plains of the area, or the other way; and
 - natural flow paths of water across flood plains connecting waterholes, lakes and wetlands in the area; and
 - groundwater sources, including the Great Artesian Basin and springs, that support waterhole persistence and ecosystems in the area;
- the natural water quality in the stream channels and aquifers and on flood plains in the area;
- the beneficial flooding of land that supports flood plain grazing and ecological processes in the area.

Of most interest in these attributes from the petroleum exploration perspective are the groundwater processes, including springs; and the water quality in aquifers. Activities must be shown not to have a **direct or indirect impact** on these attributes.

The RIDA application is a separate process to each of the tenure and environmental authority applications, although it is not necessarily a pre-condition for the grant of either. In a SEA it may be appropriate to lodge an assessment application for a RIDA at the same time as making an EA application, or undertaking an EIS where that process applies. An eligible person to lodge a RIDA assessment application is, in our context, a person who has applied for, or who can apply for, an environmental authority or a resource authority for the resource activity.

The *Regional Planning Interests Act 2014* does not specify when an application for a RIDA is to be lodged. You can choose when to make your application based on when the appropriate level of information is available. The Guideline: *"How to make an assessment application for a regional interests development approval under the Regional Planning Interests Act 2014"*³ should be consulted. However, activities in the SEA cannot commence until the RIDA process is completed. From this perspective it is worth considering what, if any, impact the RIDA process might have on an ability to meet early work program commitments.

Most exploration can occur under the eligibility criteria and standard conditions⁴. When applying for the EA, consider in particular whether the conditions about produced water, well stimulation (not authorised within 2 km of a landowner bore and sourced from a formation within 200m vertically of the stimulation impact zone), and dams can be met whilst still meeting your approved work program. Eligibility criteria for standard conditions include the requirement that not more than 1% of the total land area is significantly disturbed at any point in time. If you cannot meet the eligibility criteria, then a site specific application is required (e.g. for a petroleum lease). If the eligibility criteria are able to be met, but not all the standard conditions, you might need to make a variation application.

We are unlikely to know the outcome of the 2015 land release until early 2016. I assume we will never know how many applications were made – this loss of transparency in the process is a retrograde step for Queensland and the resource sector.

I am happy to hear suggestions about topics you would like covered. Feel free to email me at sue.slater@rlms.com.au with the subject heading Tenure Matters.

In the meantime, remember "Tenures make the Project; the Project doesn't make the Tenures".

RLMS covers the project spectrum from planning through to State and Federal government approvals, including land access, compensation, environmental impact statements and work schedules for clients ranging from entrepreneurs to major corporations, from start-ups to government agencies, and state significant projects such as Queensland's LNG giants. Contact RLMS at:

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³ <http://www.dilgp.qld.gov.au/planning/regional-planning/rpi-act-forms-guidelines-and-fact-sheets.html>

⁴ <https://www.ehp.qld.gov.au/management/non-mining/environmental-authority.html>