

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, August 2017*



Queensland

**No.
A BILL for**

An Act to provide for matters that will benefit residents of communities in the vicinity of large resource projects during their operation, and to amend this Act, the Anti-Discrimination Act 1991 and the Mineral Resources Act 1989 for particular purposes



Queensland

Strong and Sustainable Resource Communities Bill 2017

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2017

A Bill

for

An Act to provide for matters that will benefit residents of communities in the vicinity of large resource projects during their operation, and to amend this Act, the *Anti-Discrimination Act 1991* and the *Mineral Resources Act 1989* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Strong and Sustainable Resource Communities Act 2017*.

2 Commencement

This Act, other than part 3, division 3, commences on a day to be fixed by proclamation.

3 Object of Act

- (1) The object of this Act is to ensure that residents of communities in the vicinity of large resource projects benefit from the construction and operation of the projects.
- (2) The object is mainly achieved by requiring the owners of, or proponents for, large resource projects—
 - (a) to prepare a social impact assessment for the projects; and
 - (b) to employ people from nearby regional communities; and
 - (c) not to discriminate against residents from nearby regional communities when employing for the projects.

4 Act binds all persons

- (1) This Act binds all persons, including the State.
- (2) However, nothing in this Act makes the State liable to be prosecuted for an offence.

5 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

Part 2 Provisions for the benefit of residents of communities in the vicinity of large resource projects

6 Prohibition on 100% fly-in fly-out workers for large resource projects

- (1) This section applies to the owner of a large resource project that has a nearby regional community from the day that is 6 months after the designated day.
- (1A) For subsection (1), the designated day is the day the Coordinator-General publishes the name of the large resource project on the department's website under section 13.
- (2) The owner must not employ a workforce for the operational phase of the project that comprises 100% of workers who are fly-in fly-out workers.
- (3) The owner is taken to contravene subsection (2) whether it is the owner, a related body corporate of the owner, or an agent of the owner or related body corporate, that employs the workforce for the project.

7 Requirement for operational workforce management plan if s 6 contravened

- (1) This section applies if the Coordinator-General is satisfied, after requesting information under section 14A from the owner of a large resource project that has a nearby regional community, that the owner has contravened section 6.
- (2) The Coordinator-General may, by written notice given to the owner (a *requirement notice*), require the owner to prepare a

plan (an *operational workforce management plan*) for the project containing the matters stated in a guideline made by the Coordinator-General under section 7A.

- (3) In preparing the operational workforce management plan for the project, the owner must consult with the local government for each local government area within which all or part of the project, or a nearby regional community for the project, is situated.
- (4) If the Coordinator-General gives the owner a requirement notice for the project, the owner must submit to the Coordinator-General an operational workforce management plan for the project that complies with the requirement notice—
 - (a) within 3 months after receiving the requirement notice; or
 - (b) if the Coordinator-General allows a longer period by written notice to the owner, within the longer period.

Maximum penalty—800 penalty units.

- (5) The Coordinator-General may, by written notice to the owner—
 - (a) approve the plan for the project; or
 - (b) if the plan does not comply with the requirement notice, approve the plan subject to stated conditions.
- (6) Also, the Coordinator-General may state conditions for the project that relate to the plan.
- (7) If the Coordinator-General states a condition under subsection (5)(b) or (6), the stated condition is taken to be an enforceable condition for the project under the *State Development and Public Works Organisation Act 1971*, section 157A.
- (8) Except as provided in the *State Development and Public Works Organisation Act 1971*, part 7A, neither the Land Court nor the Planning and Environment Court has jurisdiction in relation to conditions stated for the project under subsection (5)(b) or (6).

7A Coordinator-General may make guideline for operational workforce management plan

The Coordinator-General may make a guideline stating the matters that must be included in an operational workforce management plan for a large resource project and must publish the guideline on the department's website.

8 Offence relating to advertising or document about recruitment for large resource project

- (1) This section applies to the owner of a large resource project that has a nearby regional community.
- (2) The owner must not—
 - (a) advertise positions for workers for the project in a way that prohibits residents of the nearby regional community for the project from applying for the positions; or
 - (b) otherwise state, in any way in a document, that residents of the nearby regional community for the project are not eligible to be workers for the project.

Maximum penalty—400 penalty units.

- (3) The owner is taken to contravene subsection (2) whether it is the owner, a related body corporate of the owner, or an agent of the owner or related body corporate, that does a thing mentioned in subsection (2).

9 Requirement for owner of, or proponent for, large resource project to prepare a social impact assessment

- (1) This section applies to the owner of, or proponent for, a large resource project for which either of the following happens—
 - (a) the proponent makes a public notification about the draft EIS for the project under the *State Development and Public Works Organisation Act 1971*, section 33(1);

- (b) the proponent publishes an EIS notice for the project under the *Environmental Protection Act 1994*, section 51(2)(b).
- (2) The owner or proponent must, as part of the EIS for the project, prepare a social impact assessment that—
 - (a) provides for the matters mentioned in subsection (3); and
 - (b) includes the matters stated in the guideline made under subsection (4).
- (3) The social impact assessment must provide for the following in relation to the project—
 - (a) community and stakeholder engagement;
 - (b) workforce management;
 - (c) housing and accommodation;
 - (d) local business and industry procurement;
 - (e) health and community well-being.
- (3A) For subsection (3)(b), the social impact assessment must provide for the recruitment of workers for the project in the following order of priority—
 - (a) workers from local and regional communities;
 - (b) workers who will live in regional communities.
- (4) For the matters mentioned in subsection (3), the Coordinator-General must make a guideline stating the details that must be included in a social impact assessment and publish the guideline on the department’s website.
- (5) In preparing the social impact assessment under subsection (2), the owner or proponent must consult with the local government for the local government area in which the large resource project is situated.

10 Requirement for social impact assessment for large resource projects under the *Environmental Protection Act 1994*

- (1) This section applies to the owner of, or proponent for, a large resource project for which an EIS notice has been published under the *Environmental Protection Act 1994*, section 51(2)(b) after the commencement.
- (2) For the following provisions of the *Environmental Protection Act 1994*, the chief executive of the department administering that Act may allow the EIS to proceed only if the Coordinator-General has advised that the social impact assessment for the project may proceed—
 - (a) sections 49 and 49A;
 - (b) sections 56A and 56AA.

11 Coordinator-General may state conditions to manage the social impact of large resource projects generally

- (1) This section applies to a large resource project for which either of the following happens—
 - (a) a proponent makes a public notification about the draft EIS for the project under the *State Development and Public Works Organisation Act 1971*, section 33(1);
 - (b) a proponent publishes an EIS notice for the project under the *Environmental Protection Act 1994*, section 51(2)(b).
- (2) The Coordinator-General may, as part of evaluating the EIS for the project, state conditions to manage the social impact of the project.
- (3) If the Coordinator-General states a condition under subsection (2)—
 - (a) the stated condition is taken to be an enforceable condition for the project under the *State Development and Public Works Organisation Act 1971*, section 157A; and

- (b) the Coordinator-General must give a copy of the stated condition to—
 - (i) the proponent for the project; and
 - (ii) if the large resource project is a project for which the proponent has published an EIS notice under the *Environmental Protection Act 1994*, section 51(2)(b)—the chief executive of the department in which the *Environmental Protection Act 1994* is administered; and
- (c) the proponent for the project may apply to the Coordinator-General to change a stated condition; and
- (d) if the proponent makes an application under paragraph (c)—
 - (i) the *State Development and Public Works Organisation Act 1971*, part 4, division 3A, applies to the application; and
 - (ii) the application must be accompanied by the fee prescribed by regulation.
- (4) Except as provided in the *State Development and Public Works Organisation Act 1971*, part 7A, neither the Land Court nor the Planning and Environment Court has jurisdiction in relation to conditions stated under subsection (2).

12 Coordinator-General may nominate large resource project as a project for which persons employed during construction phase are workers for this Act

The Coordinator-General, as part of evaluating the EIS for the project, must decide whether to nominate a large resource project as a project for which a person employed during the construction phase of the project is a worker for this Act.

13 Publication of details of nearby regional communities and large resource projects

The Coordinator-General must publish the following on the department's website for each large resource project mentioned in section 6 or 8—

- (a) the name of each nearby regional community for the large resource project;
- (b) the name of the large resource project and the date the operational phase of the project started;
- (c) the name of the owner of the large resource project;
- (d) if the ownership of the large resource project changes, the name of the new owner, the previous owner and the date ownership changed;
- (e) if the project has been nominated under section 12, details of the nomination.

14 Owner of large resource project must advise Coordinator-General of particular matters

The owner of a large resource project that has a nearby regional community must immediately give the Coordinator-General written notice of the following—

- (a) the start of the operational phase of the project, including the date it started;
- (b) any change of ownership of the project, including the name of the new owner, the previous owner and the date ownership changed.

14A Coordinator-General may require relevant information

- (1) The Coordinator-General may give a notice under this section to a person requiring the person to give the Coordinator-General information relevant to the administration or enforcement of this Act.

- (2) The notice may be given only to a person the Coordinator-General suspects on reasonable grounds has knowledge of a matter, or has possession or control of a document dealing with a matter, for which the information is required.
- (3) The notice must—
 - (a) be in the approved form; and
 - (b) state the person to whom it is issued; and
 - (c) state the information required; and
 - (d) state the period within which the information is to be given to the Coordinator-General; and
 - (e) state the reasons the information is required.
- (4) A person given a notice under this section must comply with the notice unless the person has a reasonable excuse for not complying with it.

Maximum penalty—400 penalty units.
- (5) If the person is an individual, it is a reasonable excuse for the individual to fail to comply with the notice if complying with it might tend to incriminate the individual.
- (6) The person does not commit an offence against subsection (4) if the information sought by the Coordinator-General is not in fact relevant to the administration or enforcement of this Act.

14B Giving Coordinator-General a false or misleading document

A person must not, in relation to the performance of the Coordinator-General's functions, give the Coordinator-General a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—1,665 penalty units.

15 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the following—
 - (a) the fees payable under the Act;
 - (b) imposing a penalty for a contravention of a provision of a regulation of no more than 20 penalty units.

Part 3 Amendment of Acts

Division 1 Amendment of this Act

16 Act amended

This division amends this Act.

17 Amendment of long title

Long title, from ‘, and to amend’—
omit.

Division 2 Amendment of Anti-Discrimination Act 1991

18 Act amended

This division amends the *Anti-Discrimination Act 1991*.

19 Insertion of new ch 5B

After section 131A—

insert—

Chapter 5B Discrimination against residents of regional communities (complaint)

131B Definitions for chapter

In this chapter—

EIS see the *Strong and Sustainable Resource Communities Act 2017*, schedule 1.

fly-in fly-out worker, for a large resource project, see the *Strong and Sustainable Resource Communities Act 2017*, schedule 1.

large resource project see the *Strong and Sustainable Resource Communities Act 2017*, schedule 1.

nearby regional community, for a large resource project, see the *Strong and Sustainable Resource Communities Act 2017*, schedule 1.

owner, of a large resource project, see the *Strong and Sustainable Resource Communities Act 2017*, schedule 1.

principal contractor see the *Strong and Sustainable Resource Communities Act 2017*, schedule 1.

recruitment process, for a large resource project, means any process for considering and selecting a person for employment for the project.

related body corporate see the *Corporations Act*, section 50.

resident, of a nearby regional community, see the

Strong and Sustainable Resource Communities Act 2017, schedule 1.

resource project has the meaning given in the *Environmental Protection Act 1994*, section 112.

worker, for a large resource project, see the *Strong and Sustainable Resource Communities Act 2017*, schedule 1.

131C Prohibition on discrimination against persons in nearby regional communities in relation to work on large resource projects

- (1) This section applies to the owner, or the principal contractor, of a large resource project that has a nearby regional community.
- (2) The owner or principal contractor must not—
 - (a) discriminate against a resident of the nearby regional community when recruiting workers for the project; or
 - (b) discriminate against a worker by terminating the worker's employment because the worker is, or becomes, a resident of the nearby regional community and chooses to travel to the project other than as a fly-in fly-out worker.
- (3) The owner is taken to contravene subsection (2) whether it is the owner, a related body corporate of the owner, or an agent of the owner or related body corporate, that discriminates against a resident or worker.
- (4) The principal contractor is taken to contravene subsection (2) whether it is the principal contractor, a related body corporate of the principal contractor, or an agent of the principal contractor or related body corporate, that discriminates against a resident or worker.

[s 19]

- (5) For subsections (2)(a), (3) and (4), a person is taken to discriminate against a resident of the nearby regional community if—
 - (a) the person is recruiting workers for the project; and
 - (b) the resident is not offered work on the project, or is disadvantaged in the recruitment process for the project, because of being a resident of the nearby regional community.
- (6) If the principal contractor contravenes this section, both the owner and principal contractor are jointly and severally civilly liable for the contravention, and a proceeding under the Act may be taken against either or both of them.

131D Provisions of this Act that do not apply for this chapter

Sections 9, 10, 11, 124, 132, 133, 204 and 205 do not apply for this chapter.

131E Burden of proof—general principle

- (1) For this chapter, it is for the complainant to prove, on the balance of probabilities, that the respondent contravened a provision of the chapter.
- (2) However, this section applies subject to section 131F.

131F Reason for action to be presumed unless proved otherwise

- (1) This section applies if a complaint about discrimination under this chapter alleges that—

- (a) the complainant was not offered work during recruitment for a large resource project because the complainant was a resident of a nearby regional community for the project; or
 - (b) the complainant's employment on a large resource project was terminated because the complainant was, or became, a resident of a nearby regional community for the project and chose to travel to the project other than as a fly-in fly-out worker.
- (2) It is presumed the action mentioned in subsection (1)(a) or (b) was taken for the alleged reason, unless the respondent proves otherwise.

131G Evidentiary aid

In a proceeding about discrimination mentioned in section 131C, the matters published under the *Strong and Sustainable Resource Communities Act 2017*, section 13 are evidence of the matters.

20 Amendment of schedule (Dictionary)

Schedule—

insert—

EIS, for chapter 5B, see section 131B.

fly-in fly-out worker, for a large resource project, for chapter 5B, see section 131B.

large resource project, for chapter 5B, see section 131B.

nearby regional community, for a large resource project, for chapter 5B, see section 131B.

owner, of a large resource project, for chapter 5B, see section 131B.

principal contractor, for chapter 5B, see section 131B.

[s 21]

recruitment process, for a large resource project, for chapter 5B, see section 131B.

related body corporate, for chapter 5B, see section 131B.

resident, of a nearby regional community, for chapter 5B, see section 131B.

resource project, for chapter 5B, see section 131B.

worker, for a large resource project, for chapter 5B, see section 131B.

Division 3 Amendment of Mineral Resources Act 1989

21 Act amended

This division amends the *Mineral Resources Act 1989*.

22 Amendment of s 6 (Meaning of *mineral*)

Section 6(2)(f) and (3)(c)—

insert—

Note—

See chapter 12, part 4A for the moratorium relating to mineral (f).

23 Amendment of s 197 (Application for renewal of mineral development licence)

Section 197(3), definition *renewal period*, paragraph (a), 'permit'—

omit, insert—

licence

24 Amendment of s 208 (Adding other minerals to licence)

Section 208(3A)—

omit.

25 Amendment of s 232 (Eligible person may apply for mining lease)

Section 232(2)—

omit.

26 Amendment of s 334J (Access rights for particular activities)

(1) Section 334J(1)(a), ‘section 391B’—

omit, insert—

the Common Provisions Act, section 55

(2) Section 334J(5), definition *rest of this Act*, from ‘other than’—

omit, insert—

, other than this part, and the Common Provisions Act.

27 Amendment of s 334ZE (Persons who may apply for, or be granted, a mining tenement for land in the area of MDLA364)

Section 334ZE(2), ‘section 232(1)’—

omit, insert—

section 232

28 Amendment of s 334ZF (Persons who may apply for, or be granted, a mining tenement for particular land in the area of SL12/42239)

Section 334ZF(2), ‘section 232(1)’—

[s 29]

omit, insert—

section 232

29 Insertion of new ch 12, pt 4A

Chapter 12—

insert—

Part 4A Moratorium relating to mineral (f)

Division 1 Preliminary

334ZJA Purpose of part

This part provides for matters relating to a moratorium for mineral (f).

334ZJB Relationship with other provisions

- (1) This part applies despite any other provision of this Act or a mineral (f) development licence.
- (2) This part does not suspend, limit or otherwise affect rights or obligations of the holder of a mineral (f) development licence under—
 - (a) a relevant environmental condition for the licence; or
 - (b) the Environmental Protection Act; or
 - (c) the Petroleum and Gas (Production and Safety) Act, chapter 3; or
 - (d) another Act relating to mining tenements.

334ZJC Inconsistency with other provisions

If a provision of this part is inconsistent with

another provision of this Act, the provision of this part applies instead of the other provision to the extent of the inconsistency.

Division 2 Activities for mineral (f)

334ZJD Prohibitions relating to mineral (f)

- (1) A person may not apply for—
 - (a) the renewal of a mineral (f) development licence under section 197; or
 - (b) approval to add mineral (f) to a mineral development licence under section 208; or
 - (c) a mining lease for mineral (f) under section 232; or
 - (d) approval to mine mineral (f) under section 298.
- (2) The Minister must not—
 - (a) renew a mineral (f) development licence under section 197A; or
 - (b) approve an application to add mineral (f) to a mineral development licence under section 208; or
 - (c) grant a mining lease for mineral (f) under section 234; or
 - (d) approve an application to mine mineral (f) under section 298.
- (3) This section does not apply to the renewal of a mineral (f) development licence under section 334ZJG .

334ZJE Activities under mineral (f) development licence

- (1) Any activity relating to mineral (f) under a mineral (f) development licence, other than rehabilitation activities, is not authorised to be carried out under this Act or any other Act relating to mining.
- (2) **Rehabilitation activities** are—
 - (a) carrying out—
 - (i) rehabilitation or environmental management required under any relevant environmental requirement under the Environmental Protection Act; or
 - (ii) environmental monitoring; or
Example—
monitoring air, ecology, fauna, hydrology, soil or water
 - (iii) decommissioning activities that demonstrate the gas production process within a coal seam has stopped; or
 - (iv) improvement restoration for the mineral (f) development licence; or
 - (v) care and maintenance of disturbed areas; or
 - (b) maintaining, moving or removing equipment, machinery or plant; or
 - (c) any other activity that is reasonably necessary for, or incidental to, carrying out an activity mentioned in paragraph (a) or (b).

334ZJF Obligations under mineral (f) development licence

- (1) This section applies if the Minister is satisfied a mineral (f) development licence authorises only rehabilitation activities.
- (2) The Minister may, by written notice given to the holder of the licence—
 - (a) waive the holder's rent obligation for all or part of the term of the licence; or
 - (b) waive or reduce another obligation of the holder in relation to mineral (f) for all or part of the term of the licence.
- (3) In this section—

obligation means an obligation under—

 - (a) this Act; or
 - (b) a condition of the licence.

rent obligation means the obligation to pay rental on the licence.

334ZJG Automatic renewal of mineral (f) development licence

- (1) This section applies to a mineral (f) development licence to the extent the licence relates to rehabilitation activities.
- (2) The licence is taken to be renewed in relation to the rehabilitation activities, for the same term and on the same conditions, from the day after the licence's expiry day.

30 Amendment of s 363 (Substantive jurisdiction)

Section 363(2)(ha), at the end—

insert—

[s 31]

and

31 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *application transfer*, first mention, *conduct and compensation agreement*, first mention, *rehabilitation activities* and *restricted land*, second mention—
omit.
- (2) Schedule 2—
insert—

mineral (f) development licence means a mineral development licence for mineral (f), whether or not the licence is also for other minerals.

rehabilitation activities—

 - (a) for chapter 12, part 4A—see section 334ZJE (2); or
 - (b) for chapter 13, part 4—see section 344.
- (3) Schedule 2, definition *advanced activity*, ‘section 7A’—
omit, insert—

section 7B
- (4) Schedule 2, definition *preliminary activity*, ‘section 7B’—
omit, insert—

section 7A
- (5) Schedule 2, definition *proposed lease area*, ‘section 232(1)’—
omit, insert—

section 232

Schedule 1 Dictionary

section 5

agent, of an owner or a related body corporate of an owner, means a person who has actual, implied or ostensible authority to act on behalf of the owner or related body corporate.

EIS means an environmental impact statement under—

- (a) the *Environmental Protection Act 1994*; or
- (b) the *State Development and Public Works Organisation Act 1971*.

fly-in fly-out worker, for a large resource project, means a worker who travels to the project by aeroplane, or another means, from a place that is not a nearby regional community for the project to work on the operational phase of the project.

large resource project means a resource project—

- (a) for which an EIS is required; or
- (b) that holds a site-specific environmental authority under the *Environmental Protection Act 1994* and—
 - (i) has, or is projected to have, a workforce of 100 or more workers; or
 - (ii) has a smaller workforce decided by the Coordinator-General and notified in writing by the Coordinator-General to the owner of the project.

mineral see the *Mineral Resources Act 1989*, section 6.

mining lease means a lease granted under the *Mineral Resources Act 1989*.

nearby regional community, for a large resource project, means a town, the name of which is published on the department's website under section 13—

- (a) any part of which is within—

- (i) a 125km radius of the main access to the project;
or
 - (ii) a greater or lesser radius decided by the Coordinator-General and notified in writing by the Coordinator-General to the owner of the project;
and
- (b) that has a population of more than—
- (i) 200 people; or
 - (ii) a smaller population decided by the Coordinator-General and notified in writing by the Coordinator-General to the owner of the project.

operational phase, of a large resource project, means the period from the start to the end of production of coal, a mineral or petroleum for the project.

owner, of a large resource project, means the person who holds the mining lease or petroleum lease for the project.

petroleum see the *Petroleum and Gas (Production and Safety) Act 2004*, section 10.

petroleum lease means a lease granted under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*.

principal contractor, of a large resource project, means the person that operates all or a significant part of the large resource project for the owner of the project.

related body corporate see the Corporations Act, section 50.

resident, of a nearby regional community, means a person whose principal place of residence is in the nearby regional community.

resource project has the meaning given in the *Environmental Protection Act 1994*, section 112.

social impact, of a large resource project, means the potential positive and negative impacts of the project on the social environment of communities affected by the project.

social impact assessment, for a large resource project, means an assessment of the social impact of the project.

town, in relation to a large resource project, means an area listed as a locality or urban centre by the Australian Bureau of Statistics and published on its website.

worker, for a large resource project, means a person employed, or to be employed, to perform work—

- (a) during the operational phase of the project; or
- (b) for a large resource project nominated by the Coordinator-General under section 12 and the name of which is published on the department's website under section 13—during the construction phase of the project.

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