

Overview of Changes to Environment & Planning Laws - North Queensland

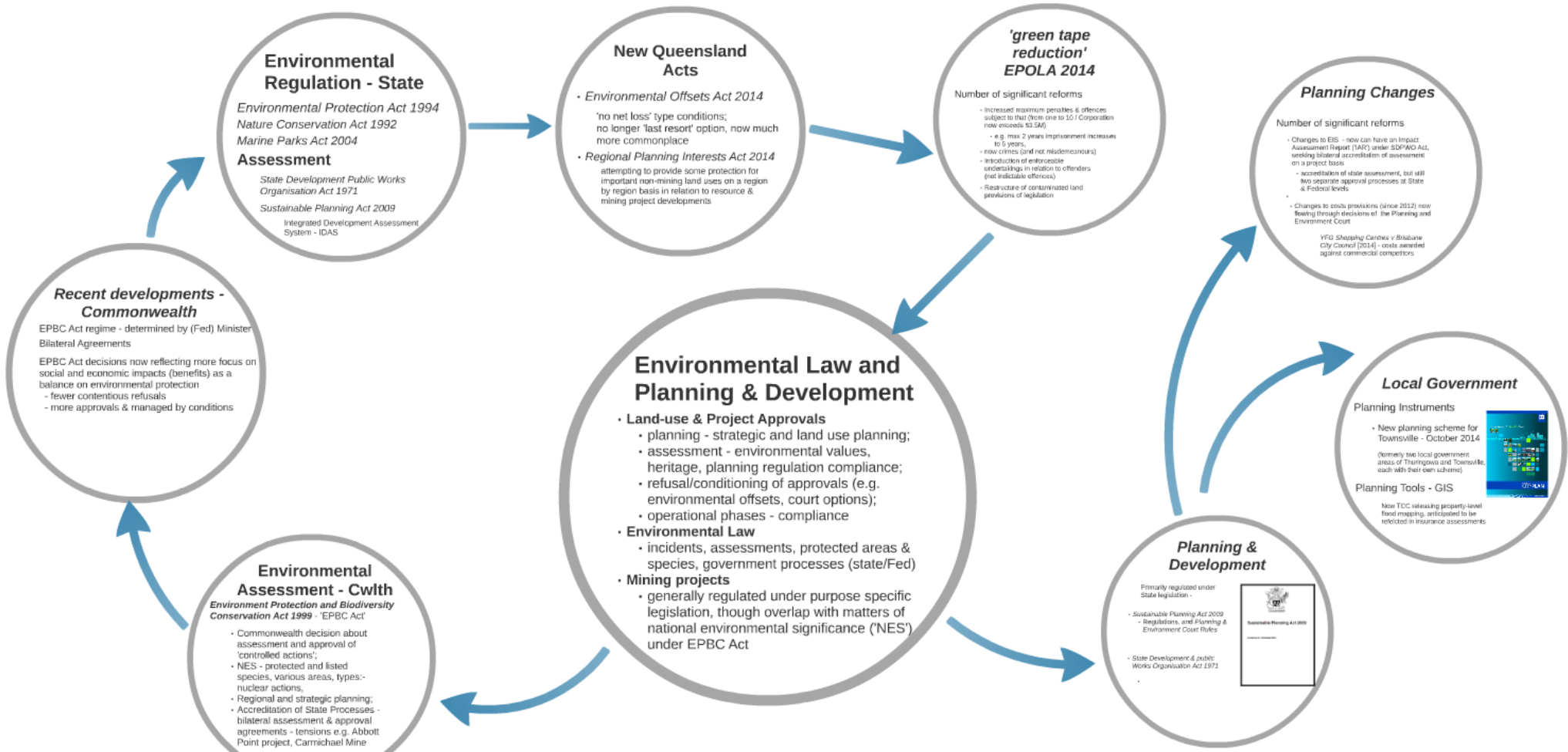
April 2015 Update

Stuart Watson - Solicitor

N Q LEGAL

Presentation for:





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Environmental Law and Planning & Development

- **Land-use & Project Approvals**
 - planning - strategic and land use planning;
 - assessment - environmental values, heritage, planning regulation compliance;
 - refusal/conditioning of approvals (e.g. environmental offsets, court options);
 - operational phases - compliance
- **Environmental Law**
 - incidents, assessments, protected areas & species, government processes (state/Fed)
- **Mining projects**
 - generally regulated under purpose specific legislation, though overlap with matters of national environmental significance ('NES') under EPBC Act

Environmental Assessment - Cwlth

*Environment Protection and Biodiversity
Conservation Act 1999* - 'EPBC Act'

- Commonwealth decision about assessment and approval of 'controlled actions';
- NES - protected and listed species, various areas, types:- nuclear actions,
- Regional and strategic planning;
- Accreditation of State Processes - bilateral assessment & approval agreements - tensions e.g. Abbott Point project, Carmichael Mine

Recent developments - Commonwealth

EPBC Act regime - determined by (Fed) Minister
Bilateral Agreements

EPBC Act decisions now reflecting more focus on
social and economic impacts (benefits) as a
balance on environmental protection

- fewer contentious refusals
- more approvals & managed by conditions

Environmental Regulation - State

Environmental Protection Act 1994

Nature Conservation Act 1992

Marine Parks Act 2004

Assessment

*State Development Public Works
Organisation Act 1971*

Sustainable Planning Act 2009

Integrated Development Assessment
System - IDAS



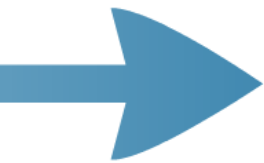
New Queensland Acts

- *Environmental Offsets Act 2014*

'no net loss' type conditions;
no longer 'last resort' option, now much more commonplace

- *Regional Planning Interests Act 2014*

attempting to provide some protection for important non-mining land uses on a region by region basis in relation to resource & mining project developments




'green tape reduction' ***EPOLA 2014***

Number of significant reforms

- Increased maximum penalties & offences subject to that (from one to 10 / Corporation now exceeds \$3.5M)
 - e.g. max 2 years imprisonment increases to 5 years,
- now crimes (and not misdemeanours)
- Introduction of enforceable undertakings in relation to offenders (not indictable offences)
- Restructure of contaminated land provisions of legislation





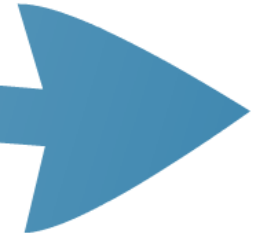
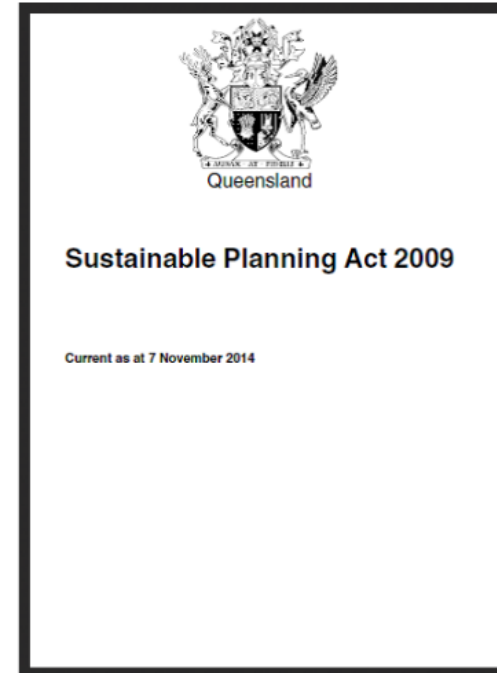
Environmental Law and Planning & Development

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Planning & Development

Primarily regulated under State legislation -

- *Sustainable Planning Act 2009*
 - *Regulations, and Planning & Environment Court Rules*
- *State Development & public Works Organisation Act 1971*
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Planning Changes

Number of significant reforms

- Changes to EIS - now can have an Impact Assessment Report ('IAR') under SDPWO Act, seeking bilateral accreditation of assessment on a project basis
 - accreditation of state assessment, but still two separate approval processes at State & Federal levels
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- Changes to costs provisions (since 2012) now flowing through decisions of the Planning and Environment Court

YFG Shopping Centres v Brisbane City Council [2014] - costs awarded against commercial competitors



Local Government

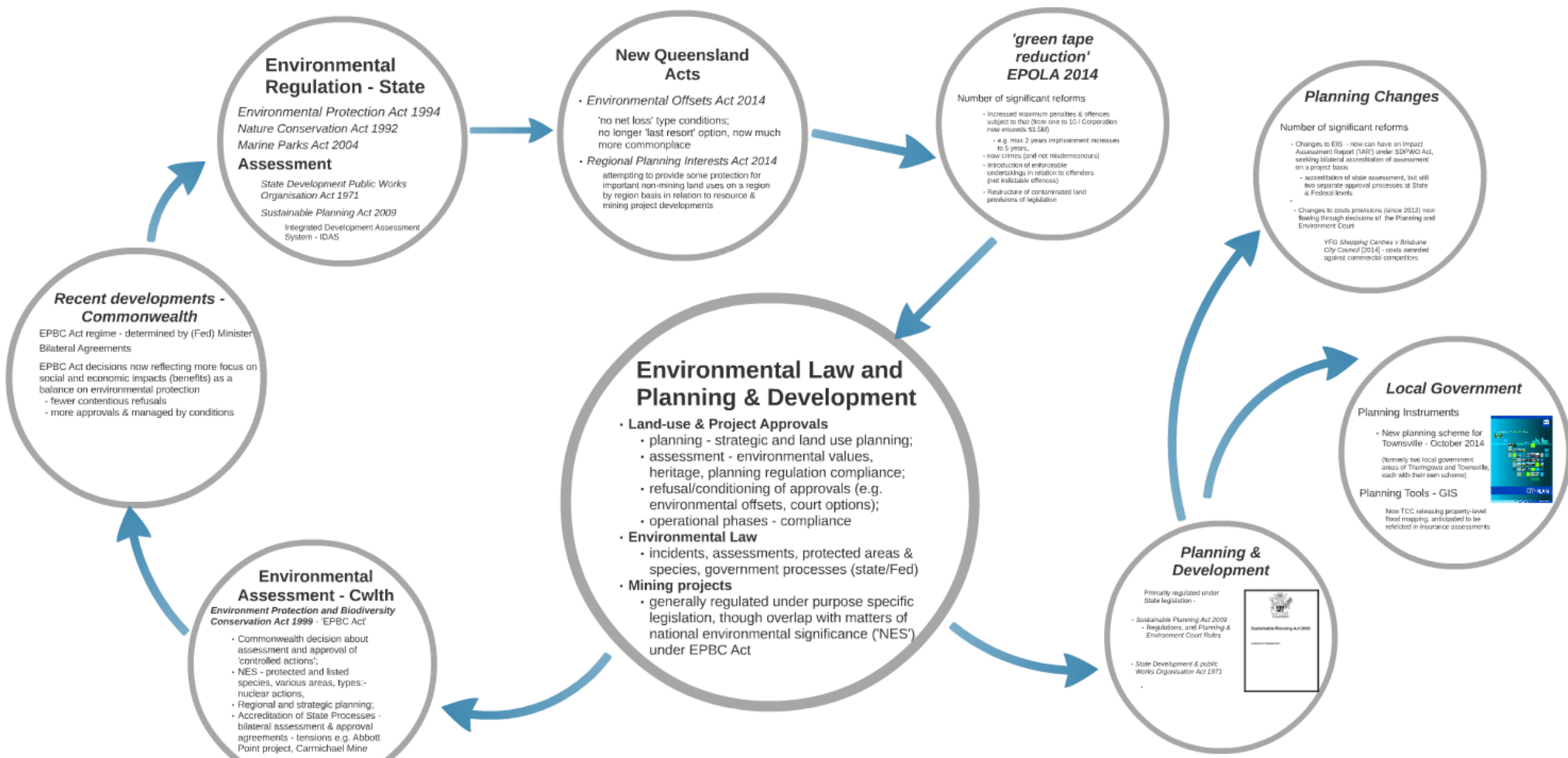
Planning Instruments

- New planning scheme for Townsville - October 2014
(formerly two local government areas of Thuringowa and Townsville, each with their own scheme)

Planning Tools - GIS

Now TCC releasing property-level flood mapping, anticipated to be reflected in insurance assessments





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