



QUEENSLAND FARMERS' FEDERATION

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Submission

8 October 2018

Mineral and Energy Resources Policy
Department of Natural Resources, Mines and Energy
PO Box 15216
City East QLD 4002

Via email: ResourcesPolicy@dnrme.qld.gov.au

Dear Sir/Madam

Re: Consultation - Improving Resource Approval Efficiency

The Queensland Farmers' Federation (QFF) is the united voice of intensive agriculture in Queensland. It is a federation that represents the interests of peak state and national agriculture industry organisations, which in turn collectively represent more than 13,000 primary producers across the state. QFF engages in a broad range of economic, social, environmental and regional issues of strategic importance to the productivity, sustainability and growth of the agricultural sector. QFF's mission is to secure a strong and sustainable future for Queensland farmers by representing the common interests of our member organisations:

- CANEGROWERS
- Cotton Australia
- Growcom
- Nursery & Garden Industry Queensland (NGIQ)
- Queensland Chicken Growers Association (QCGA)
- Queensland Dairyfarmers' Organisation (QDO)
- Australian Cane Farmers Association (ACFA)
- Flower Association
- Pork Queensland Inc.
- Queensland United Egg Producers (QUEP)
- Bundaberg Regional Irrigators Group (BRIG)
- Burdekin River Irrigation Area Irrigators Ltd (BRIA)
- Central Downs Irrigators Ltd (CDIL)
- Pioneer Valley Water Cooperative Ltd (PV Water)
- Queensland Chicken Meat Council (QCMC)

QFF welcomes the opportunity to provide comment on the consultation – 'Improving Resource Approval Efficiency' by the Department. QFF provides this submission without prejudice to any additional submission provided by our members or individual farmers.

The united voice of intensive agriculture



QFF understands that the Department is seeking to identify and implement more efficient and effective ways of supporting the resources industry; while retaining the environmental protection framework and maintaining social licence. As such, this consultation has opened a dialogue with landowners, industry and the community to identify areas in the assessment and approvals processes for mineral and energy resources projects where duplication of effort occurs, or efficiencies can be achieved.

QFF supports the need to increase efficiency and reduce unnecessary administrative burden from industry, if there is no risk of reducing or diminishing the rights of impacted landowners, their communities or reduction in environmental values.

QFF also notes a number of outstanding matters to ensure the protection of farm assets from resource activities from the 2016 *Mineral and Other Legislation Amendment (MOLA) Bill* which amended the *Mineral and Energy Resources (Common Provisions) Act 2014 (MERC Act)*.

Protection of High-Quality Agricultural Land from Non-Agricultural Uses (including Resources)

QFF supports the provision of clearly identified and articulating ‘no go areas’ to protect the limited, high-quality agricultural land within Queensland.

The inability of the current, overly-complicated planning framework to properly protect the state’s small amount of truly prime agricultural land (about 3 per cent) has been consistently raised by QFF. Solutions have been put forward and well received. However, verbal commitments from ministers and senior bureaucrats acknowledging the issue has yet to result in a commitment to undertake meaningful change and progress a simplified and consistent planning framework to protect high-quality agricultural land from non-agricultural uses.

By 2050, the global population is set to grow to 9 billion, 2 billion more than today. To feed, clothe and grow amenity for this increased population, the planet will have to produce more in the next four decades than all farmers in history have harvested over the past 8,000 years. Farmers in Australia are among the world’s best at growing produce for our nation and many more, feeding about 60 million people every year. It is widely accepted that we have a fundamental national and global obligation to continue doing this and meet the growing produce deficits in other countries.

To achieve this, it is critical that we preserve and sustainably intensify production on the nation’s limited prime agricultural land. In Queensland, we continue to see the permanent loss of the best farm land in the state from manufacturing, industrial uses, urban sprawl, services, utilities, resources (including gas) and mining. Further, the pressures on prime agricultural land continue to mount and QFF contends that the current application of the ‘contestability of land’ by urban-focused planners is misguided.

Queensland’s 2018 exploration program highlighted that this year, an additional 44,300km² has been made available for mineral, petroleum and gas, and coal resource exploration – more than double the 19,140km² of land that was opened up in 2017.

The uncoordinated approach to planning has already resulted in at least 113,690 hectares of Queensland’s best agricultural land being lost to alternative uses since 2000. Long term planning for agriculture is necessary to ensure the best agricultural land remains available for food, fibre, foliage and increasingly fuel production. This land is rare and irreplaceable and its long-term value and contribution to the state’s economy are not being appropriately considered.

There have been examples where the resource industry has previously exaggerated the economic benefits of gas field and mining developments to local regions while not (financially) costing the real economic, environmental and social externalities. A recent report by the Australia Institute¹ has

¹ The Australia Institute (2018). Gas and the Wide Bay Burnett Economy. September 2018.

indicated that for every job created in the gas industry, 1.8 jobs in agriculture are lost while studies of other gas areas reveal that 155 coal seam gas wells on 11,500ha of agricultural land reduced farm output by 7 per cent on average, indicating the potential size of direct externalities on agriculture from gas development.

The *Regional Planning Interests Act 2014* (RPIA) is supposed to offer protection for ‘priority agriculture areas’ and ‘strategic cropping areas’ through State Government prepared Regional Plans. However, this legislation is not sufficiently robust and there are exemptions which allow petroleum and gas projects to still be approved in these ‘priority and strategic areas’. Further, many regional plans are outdated and do not contain the necessary protections for agricultural land. A robust planning framework which identifies areas where resource development is prohibited definitively would provide certainty to landowners (including the agricultural community) and the resources sector.

QFF has previously recommended a review of the RPIA and other legislation pertaining to the protection of agricultural land and quantification of their overall effectiveness.

QFF also suggests that the Queensland Government exploration process needs to move beyond simply an engagement activity by government to include a high-level right of appeal by landowners and/or the peak bodies which represent them, particularly if there are concerns that the mapping or data or decision making process is incorrect.

Protection of Farm-Assets from Resource Activities

In 2016, QFF made a detailed response to the Mineral and Other Legislation Amendment (MOLA) Bill which amended the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act) (see <https://www.qff.org.au/wp-content/uploads/2017/04/MOLA-Response-FINAL-5-April-2016.pdf>).

QFF had concerns around the limited definition of ‘restricted land’: The application of definitions from the Environmental Protection Regulation 2008. Clause 7 (MOLA Bill) amended the definition of restricted land provided in section 68 of the MERC Act to include the distance from an area, building or structure where restricted land applies. It also amended the section to include selected agriculture infrastructure within the definition of restricted land.

Section 68(1)(a) was amended to provide that where the resource authority is an exploration resource authority or a production resource authority, land within 200 metres of a permanent building used for particular purposes, or within 200 metres of an area used for particular purposes, is restricted land. This section provided that for the purpose of applying restricted land: - a permanent building used for the purpose of a residence, a childcare centre, a hospital, a library – or for community, sporting or recreational purposes or a place of worship or business; and - an area used for the purposes of a school, aquaculture, intensive animal feedlotting, pig keeping or poultry farming within the meaning provided under the Environmental Protection Regulation 2008, Schedule 2, Part 1.

QFF noted in its 2016 submission that Environmentally Relevant Activities (ERAs) are defined under section 18 of the *Environmental Protection Act 1994* (EP Act). An activity may be prescribed as an ERA if it will or may release a contaminant into the environment when the activity is carried out, and the release of the contaminant will or may cause environmental harm. Noting that provisions of the Reef Protection Program include cane farming and grazing land as ERAs within designated catchments (see section 65, EP Act) which were not to be included within the 2016 MOLA Bill. These regulatory definitions (as defined under the ERA framework) are limited to facilities which have the potential to negatively impact the environment, as opposed to critical farming activities and related infrastructure which may be impacted by incompatible or unsympathetic land uses. As such, the use of these ERAs omits other critical agricultural infrastructures which require the same protections.

For example, ERA 1 (Aquaculture), 2 (Intensive Animal Feedlotting), 3 (Pig Keeping) and 4 (Poultry Farming) as defined in the Environmental Protection Regulation 2008, are considered ERAs due to the risk of release of contaminants in to the environment when the activities are carried out. This is reflected by the Environmental Emission Profiles (EEPs) which were used to calculate the 'Annual Environmental Emission Scores'² which, in turn, inform annual fees. EEPs also inform the application of thresholds levels to these ERAs. QFF notes that the Green Tape Reduction Initiative in 2012-13, deleted some of the smaller thresholds for critical farming activities from these ERAs. For example, the minimum 'pig keeping' threshold was increased to 400; minimum sheep threshold (intensive farming) was increased to 1,000; and cattle to a minimum of 150. By limiting the definition of agricultural infrastructure or agricultural businesses to these four single ERAs, smaller farms (aquaculture, piggeries and poultry farming) and other farm infrastructure (not classed as a 'business' within the legislation) are excluded from these protections. QFF further notes that the definition of 'birds' within ERA 4 (Poultry Farming) omits emu and ostrich farms which are increasing across Queensland and also have critical infrastructure which requires the same protections.

QFF reiterates the need to amend section 68 to include other critical farming infrastructure (see Attachment 1) within the definition of restricted land.

Definitions of Restricted Land

Well drafted regulation leads to less frequent litigation and less burden on individuals, businesses and the court system. QFF notes that the definitions of restricted land still omit critical agricultural infrastructure and assets, including, but not limited to:

- critical water infrastructure including irrigation channels and drainage (head ditches and tail drains);
- new technology buildings;
- other on-farm management infrastructure for controlling surface water flows including contour banks, graded banks, levees and land which has been subject to 'laser levelling';
- renewable and clean energy infrastructure including PV arrays.

With new technologies, eco-efficiency tools and material-productivity drivers being increasingly utilised across the agri-sectors, the historical definitions in the MERC Act do not offer the required protections for all agri-sectors now or into the future. The methods utilised for high-intensity farm production and nursery growing are also rapidly changing. For example, traditional greenhouses constructed with glass panel rooves and walls which may have historically satisfied the definition of a 'permanent building used as a business', are now being constructed using plastic sheeting due to increased polymer durability and reduced costs. The growth of hydroponic enterprises, particularly in intensive horticulture and production nurseries, has resulted in the growing number of 'high technology structures' utilising fully-automated environmental controls. These structures typically have a wall height of at least three (3) metres with the roof peak being up to eight (8) metres above ground level, mostly clad in polymer or polycarbonate cladding. Such structures (particularly those set up for hydroponic growing) are not relocatable due to the investment/cost, level of fragility of the equipment and locality of the connected services.

The nurse industry also utilises 'growing buffers' as well as temporary (rather than permanent) growing structures to manage biosecurity and pest control measures. Additionally, other agri-industries have deliberately moved away from permanent buildings to mobile infrastructure due to the nature of their production. For example, the free-range egg and chicken meat production industries. Poultry sheds are mobile to keep the bacteria count down, to maintain grass cover and to meet regulatory standards for free-range egg and meat production and for those producers seeking low-stocking densities. QFF notes that ERA 4 does not apply to those facilities farming under 1,000 birds. As such, additional dispensation

² Environmental Emission Profiles: Environmental Protection Regulation 2008. December 2008. Environmental Protection Agency (now the Department of Environment and Science).

for various activities is required within the regulation to ensure that the intent of the regulation is extended to these businesses and their critical infrastructure, eliminating any unintended consequences.

Provide Post-Approval Court Merits Appeal Power for Government Decisions

Currently, the Land Court undertakes a full merits review of the evidence on the application and the concerns of objectors, but then is only empowered to make recommendations to the government decision makers who have the final decision. Essentially, the Land Court only has an administrative role as opposed to a judicial role.

Despite the limitation of the Land Court's decision-making role, the process is still required to be robust, essentially wasting the benefit of having a court merits appeal process, being an impartial, unbiased forum for analysis of the evidence available to help determine the best decision. The government of the day can disregard the Land Court findings and recommendations, wasting Court, government, and limited community and landowner resources.

The current review process is also complex, whereby the Land Court decision, the decision on the environmental authority and the decision on the mining lease, can all be subject to separate judicial reviews. This complexity and risk associated with multiple rights of review creates uncertainty for all stakeholders.

Improve Ease of Access to Information

Improving the ability of the community to access timely information on resource applications will improve the timeliness and quality of submissions and reduce timeframes for preparing for any appeals.

Currently, Right to Information (RTI) legislation is inadequate for this purpose due to considerable time lag in receiving documents requested; making it clearly unsuitable for responding in the 20-40 day timeframes provided for responding to Terms of References, Environmental Impact Statements, Draft Approvals and similar.

The best practice model, enshrined in the preamble to the RTI Act, is a 'push model' by which key documents are proactively published on a publicly accessible website so that all the community and industry can readily access the information without time wasted in processing RTI requests. Resulting in access to necessary information for more efficient and informed assessment.

QFF also reiterates its concern regarding access to information by electronic means in regional and remote areas due to limited or intermittent telecommunications access. This continues to be an impediment to regional and remote communities.

If you have any questions regarding this submission, please do not hesitate to contact Dr Georgina Davis at georgina@qff.org.au.

Yours sincerely

Travis Tobin
Chief Executive Officer

Suggested Amendment of s.68 *Mineral and Energy Resources (Common Provisions) Act 2014*
(suggested amendments tracked in red)

68 What is *restricted land*

(1) ***Restricted land***, for a production resource authority or exploration resource authority, means—

- (a) land within 200m laterally of any of the following—
 - (i) a permanent building used for any of the following purposes—
 - (A) a residence;
 - (B) a childcare centre, hospital or library;
 - (C) a community, sporting or recreational purpose or as a place of worship;
 - (D) a business;
 - (ii) an area used for any of the following purposes—
 - (A) a school;
 - (B) a prescribed ERA, under the Environmental Protection Act, that is aquaculture, intensive animal feedlotting, pig keeping or poultry farming;
 - (C) a production nursery;
 - (D) intensive horticulture structures;
 - (E) a vineyard or orchard;
 - (iii) an area, building or structure prescribed by regulation; or
- (b) land within 50m laterally of any of the following—
 - (i) an area used for any of the following purposes—
 - (A) an artesian well, bore, dam or water storage facility;
 - (B) a principal stockyard;
 - (C) a cemetery or burial place;
 - (D) a levee or levee bank, graded bank, contour bank;
 - (E) irrigation infrastructure;
 - (F) renewable energy infrastructure;
 - (ii) an area, building or structure prescribed by regulation.

irrigation infrastructure-

means water infrastructure or other infrastructure constructed, erected or installed for the supply of water or the storage and distribution of water for the irrigation of crops or pastures (see Water Act 2000)

Examples of irrigation infrastructure – A supply channel, head ditch or tail water dam.