



# QUEENSLAND FARMERS' FEDERATION

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## Submission

1 February 2019

Financial Assurance Review  
Queensland Treasury  
PO Box 15216  
CITY EAST QLD 4002

Via email: [financial.assurance@treasury.qld.gov.au](mailto:financial.assurance@treasury.qld.gov.au)

Dear Sir/Madam

### Re: Managing Residual Risks in Queensland Discussion Paper (Part of the Financial Assurance Framework Reform Package)

The Queensland Farmers' Federation (QFF) is the united voice of intensive, semi-intensive and irrigated 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 farmers 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)
- Flowers Australia
- Pork Queensland Inc.
- Queensland United Egg Producers (QUEP)
- Queensland Chicken Meat Council (QCMC)
- Bundaberg Regional Irrigators Group (BRIG)
- Burdekin River Irrigation Area Irrigators Ltd (BRIA)
- Central Downs Irrigators Ltd (CDIL)
- Pioneer Valley Water Cooperative Ltd (PV Water)
- Theodore Water Pty Ltd.

QFF welcomes the opportunity to provide comment on the *Managing Residual Risks in Queensland Discussion Paper* (discussion paper). We provide this submission without prejudice to any additional submission from our members or individual farmers.

*The united voice of intensive agriculture*



QFF supports the government's endeavours to address the residual risks associated with the rehabilitation of resource facilities upon surrender of the Environmental Authority (EA) and also the clarification of obligations under the EA and post-surrender management requirements. QFF acknowledges the criticality of applying a residual risk framework across all resource industries, noting the existing guidance (*Guideline Rehabilitation Requirements for Mining Resource Activities* ESR/2016/1875 for example) is limited in both scope and advice, and that the guidance for petroleum and gas activities is less advanced.

QFF supports the alignment of the risk assessment process required with AS/NZ 31000:2019, as this is a recognised standard, applied by most organisations. Risk management is integral to effective corporate governance and effective governance involves embedding a corporate culture which supports openness, transparency, disclosure and honesty. Boards are now expected to have risk expertise and conduct third party reviews to obtain assurance<sup>1</sup> over the entire risk management framework. However, even existing risk governance standards for listed companies focuses predominantly on internal control and audit functions and financial risk, rather than on the comprehensive management of risk. Also, boards do not always place sufficient emphasis on potentially catastrophic risks, even if they are not likely to materialise. As such, better guidance is needed on managing risks that will potentially have widespread negative impacts on stakeholders, taxpayers, governments or the environment.

### **Data**

It would be useful to set the context of this framework in existing numbers of sites/Environmental Authorities (resources) which this framework would apply. For example, number of resource facilities, number of surrenders, number of abandonments etc. This data should be in the public domain (noting EAs are already on a public register), particularly pertaining to post-surrender information.

QFF understands that the Department of Environment and Science (DES) has increased data collection and monitoring driven by improvements to the financial assurance framework as outlined by the Audit Office<sup>2</sup>.

### **Cost Estimate Methodologies**

QFF supports the adoption of a methodology to determine a robust cost estimate to foster transparency and accuracy in residual risk-related decision.

Ongoing land management practices to achieve or maintain utilisation and stability are essential, particularly practices such as fire control to reduce fuel loads, installation of fire breaks, maintenance of fencing, weed and biosecurity management including the management of feral animals. These considerations must be factored into rehabilitation plans and post-site surrender arrangements.

### **Points for Clarification**

The paper appears to have limited consideration of the risks to adjacent land and natural resources from 'failed' rehabilitation including, but not limited to, possible impacts to water (ground and surface including overland flow which is critical for some farming operations where water plans permit) and the movement of contaminants.

Impacts to water flows within basins and aquifers for example, may not present themselves for some time – beyond the surrender process. QFF also notes that the DES may not be best placed to monitor or

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<sup>1</sup> assurance, an insurance concept, means taking all care to include all possible risk exposures

<sup>2</sup> Queensland Audit Office. Follow-Up of Report 15: 2013-2014 Environmental Regulation of the Resources and Waste Industries. September 2017

identify potential impacts to hydrological systems. The current framework does not appear to acknowledge the expertise or role of other organisations, notably the Department of Natural Resources, Mines and Energy (DNRME) and the Office of Groundwater Impact Assessment or the synergies to the existing and future designated Cumulative Management Areas. QFF queries if the residual risk framework proposed in the discussion paper, particularly in considering the risk assessment methodology, needs to consider additional factors for rehabilitation of resource activities within CMAs given the cumulative impacts.

QFF also suggests that 'credible risk events' (as listed on page 22) should include hydrological failures noting that inaccuracies in hydrologic and geochemical characterization can lead to a failure to recognize or predict water quality impacts as well as water flows. Hydrological failures occur for a variety of reasons, including but not limited to dilution overestimated, lack of hydrological characterization, amount of discharge overestimated, size of storms underestimated, failure of final land-form design. QFF is aware of several resource activities which have experienced hydrological characterization failures.

As such, QFF also suggests the inclusion of 'water-related' features into the calculation tool beyond simply water holding structures, which take into account water quality, water flows and water availability including water for cultural values and security of environmental flows.

QFF supports the quantification of predefined features and risk events as a starting point, if it does not preclude the inclusion of site-specific or emerging features.

### ***Applicability of Regime to Historic or Cumulative Impacts***

QFF seeks clarification on how this framework will be applied to situations into the future where there is a mixture of existing historic and cumulative contaminants. For example, on 22 March 2018, during a routine compliance inspection, staff from DES observed water seeping from the toe of the outer pit wall of the Baal Gammon Copper Mine into Jamie Creek. Water samples were taken, and an investigation was immediately triggered. It was unknown if the flow rate of the seep into Jamie Creek was consistent throughout the period the release was occurring and the total volume of water released into the creek was also unknown.

The water in Jamie Creek and surrounding waterways was of poor quality and exceeded Australian Drinking Water Guidelines for a number of heavy metals. These exceedances were due to historic mining and other factors separate to the release event. This includes areas upstream of the existing mine. Queensland Health advised that water from Jamie Creek should not be used for drinking or cooking, and recreational use ceased. This had significant impacts on irrigators in the area who were unable to take their water entitlements, suffering immediate financial loss but also who faced future uncertainty over the viability of their businesses, despite not being in direct proximity of the mines (current and historic).

### ***Payments***

QFF notes the discussion paper's question regarding a single payment at surrender or a possible counter-payment through the life of the operation. QFF acknowledges that the cost of making a counter-payment during the operational-life has a significant capital cost to the resources industry. That said, previous inaccuracies and inadequacies of the Financial Assurance (FA) program have seen insufficient funds available for rehabilitation where companies have entered liquidation<sup>3</sup>. Therefore,

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<sup>3</sup> Queensland Audit Office. Environmental Regulation of the Resources and Waste Industries. Report #15. 2013-2014. April 2014.

QFF suggests that financial risk should be a factor in considering if a counterparty payment is required to limit the state's liability, noting discussion on this subject previously by the Queensland Audit Office: -

*The scheme administrator will then determine a corresponding financial assurance arrangement specific to the risk profile of the company. The classification of a resource company is not static and can change in response to movement in the company's risk profile<sup>4</sup>.*

QFF supports the notion that surrender payments must be made in cash. Again, noting previous concerns raised by the Queensland Audit Office pertaining to the ongoing value of bonds, bank guarantees or other financial instruments.

QFF also supports a new independent body to administer the funds – the same entity that administers the financial provisioning scheme under the reforms introduced by the *Mineral and Energy Resources (Financial Provisioning) Bill 2018* should also administer the funds associated with the residual risk.

QFF does not support the residual risk payments being administered by DES or DNRME, noting disputes between the departments relating to financial assurance: -

*NRM banked the financial assurance. EHP and NRM have been in dispute since 2011 over responsibility for the administration and rehabilitation of the site. Neither NRM nor EHP is accepting responsibility for this site and no environmental rehabilitation has occurred<sup>3</sup>.*

QFF also supports the recommendation by the Queensland Treasury Corporation that the funds should be pooled to help manage the collective risk to the state.

### **Other**

QFF supports the principle that post-surrender land management requirements must be recorded to provide certainty and clarity on the required actions, and the role and responsibilities for those actions. QFF looks forward to reviewing the contents and requirements for the plan, particularly around responsibilities of the landowner and as well as a mechanism to ensure that those responsibilities are understood and agreed.

QFF understands that future land-use restrictions may be applied to rehabilitated land used for farming to ensure successful rehabilitation. And, that the landowner may be liable for any failure of the rehabilitation, resulting from a breach or exceedance of the terms of those restrictions. As such, prospective purchasers of rehabilitated land must be aware of potential restrictions on how they may undertake activities and management measures to address residual risk. As part of this, QFF recommends the maintenance of a public register for the land management plan connecting this to the land title. Linking this register to the Contaminated Land Register and the Environmental Management Register would provide synergies as it is likely that the land would already have been subject to a notifiable activity.

QFF notes that the information (land management plan) held on the public register would need to include details of all management issues – this is currently an omission.

The risk framework, subsequent guidance and site management plan must facilitate flexible landowner arrangements. For example, opportunities for *willing* land-owners to undertake monitoring, maintenance and make-good activities on their own land as is currently provided for under many Conduct and Compensation Agreements (CCA) and other similar arrangements. These arrangements not only provide a source of income to landowners but, more importantly, facilitate reduced impacts and

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<sup>4</sup> Queensland Audit Office. Follow-Up of Report 15: 2013-2014 Environmental Regulation of the Resources and Waste Industries. September 2017.



risks to land and farming operations from improved biosecurity and restraint of other on-farm risks associated with containing/limiting access.

If there are any queries about this submission, please do not hesitate to contact Dr Georgina Davis at [georgina@qff.org.au](mailto:georgina@qff.org.au).

Yours sincerely

Travis Tobin  
Chief Executive Officer