

Archived: Friday, 4 November 2011 12:30:12 PM
From: Lisa Pienaar
To: Rhia Campillo
Cc: Raul Weychardt; Anita Lakeland
Subject: Sunshine Coast Council comments - Strategic Cropping Land Bill 2011
Importance: Normal
Attachments: [Submission_DERM_20110929.pdf](#) ;

Good afternoon Rhia,
Thank you for opportunity to comment on the Strategic Cropping Land Bill 2011. Sunshine Coast Council (Regional Strategy and Planning Department) have no further comment in regard to the Bill. We feel that past submissions to the draft policy have already covered areas of concern. Please find attached the most recent submission to DERM in regard to the draft State Planning Policy (Protection of Strategic Cropping Land).

Regards
Lisa

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-----Original Message-----

From: Rhia Campillo [<mailto:Rhia.Campillo@parliament.qld.gov.au>]
Sent: Friday, 28 October 2011 5:19 PM
Subject: Call for submissions to EAREC's inquiry into the Strategic Cropping Land Bill 2011

RE: Call for submissions - Strategic Cropping Land Bill 2011

I write to inform you of an opportunity to participate in a review of the Strategic Cropping Land Bill 2011 to be conducted by the Environment, Agriculture, Resources and Energy Committee (EAREC) of the Queensland Parliament.
The closing date for submissions is Friday 4 November 2011.

The committee must conclude its work and report back to the parliament by Monday 21 November 2011.

The objectives of the Bill are to protect quality cropping land by:

- * managing development impacts, and
- * preserving the productive capacity of the land.

The Bill<<http://www.legislation.qld.gov.au/Bills/53PDF/2011/StratCropLB11.pdf>> and explanatory notes <<http://www.legislation.qld.gov.au/Bills/53PDF/2011/StratCropLB11Exp.pdf>> are available online

The Bill would establish a new Act to be cited as the Strategic Cropping Land Act 2011 and amend the Environmental Protection Act 1994 <<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/EnvProtA94.pdf>> and the Sustainable Planning Regulation 2009<<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/S/SustPlanR09.pdf>> for particular purposes.

The committee will examine the policies to be enacted and the Bill's conformance with fundamental legislative principles as set out in s.4 of the Legislative Standards Act 1992 <<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/L/LegisStandA92.pdf>>.

The committee invites written submissions on the Bill. The closing date is Friday 4 November 2011. Guidelines on making a submission are available at:
<http://www.parliament.qld.gov.au/documents/committees/earec/2011/submissionguidelines.pdf>

Submissions should be sent to:

The Research Director
Environment, Agriculture, Environment, Resources and Energy Committee Parliament House George Street BRISBANE QLD 4000

Public hearing and departmental briefing on the Bill A briefing by officers of the Department of Environment and Resource Management and public hearing on the Bill will be held in the Parliamentary Precinct in Brisbane on Thursday 10 November 2011. As soon as the times have been decided, a program will be available from this website. If you wish to attend please advise me by phone or email (my contact details are listed below).

Live webcast of the hearing and briefing The hearing and briefing on 10 November will be broadcast live via the parliament's website at <http://www.parliament.qld.gov.au/work-of-assembly/broadcast>

About the committee

EAREC was appointed by the Legislative Assembly on 16 June 2011 as a portfolio committee with responsibility for food, agriculture, regional economies, mines, energy, water, natural resource management, environment and fisheries.

If you have any questions about the committee or its work, please contact the secretariat on 07 3406 7908 or 1800 504 022 for callers outside of Brisbane.

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Kind regards,

Rhia Campillo
Executive Assistant
Environment, Agriculture, Resources and Energy Committee

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Your Reference

29 September 2011

Strategic Cropping Land Draft SPP
Department of Environment and Resource Management

Email to: scenquiries@derm.qld.gov.au

Dear Sir/Madam,

Re: Protecting Queensland's Strategic Cropping Land - Draft Policy

Please find attached Council's response to the draft SPP - Protecting Queensland Strategic Cropping Land. Input into the submission has been provided by the Planning and Environment Branches of Council.

This submission addresses the questions on the response form and contains general comments in relation to the draft SPP, released 5 August 2011. Council is keen to discuss these issues further with the Department to progress the policy and deliver a good model in developing a whole of government approach to the protection of strategic cropping land.

Should you have any questions in regards to the comments attached please do not hesitate to contact Lisa Pienaar on the above details.

Yours sincerely



RAUL WEYCHARDT
Project Director Strategic Planning

Draft policy for strategic cropping land - general comments

1. Annex 3 - Application of Codes – This section should be clearer on when each code applies or a least be consistent with the Policy overview. Currently, the application of code section (SCMA) says that if Code A cannot be met, development should be assessed against Code B and where development cannot meet the requirements of these codes, it is then assessed against Code D. However, the Draft State Planning Policy Overview (August 2011) states that ‘SCMA *will only be able to be assessed against Codes A & D if SCL will be permanently alienated, or Codes A & B if a temporary development.*’ This latter approach is actually what is reflected in the Codes. It is suggested to amend the application of Codes section and include a flow chart where necessary to better explain the applicability of the Codes.

In answer to the questions posed by DERM:

Q 1. What are your thoughts on the outcomes sought by the proposed SPP under Section 1, 'SPP outcomes'?

1. The Queensland Government's policy position with its intent to protect strategic cropping land is weakened by the inclusion of the words "as a general aim" (Section 1.2).

“As a general aim, planning and approval powers should be used to protect such land from those developments that lead to its permanent alienation or diminished productivity.”

It is considered that the proposed policy position would be strengthened by deleting this phrase.

2. Section 1.4 – Although the policy is clear when there are conflicting State Planning Policies, there is no guidance for local government in terms of protecting, for example, SCL and extractive resource areas. These uses can be considered an **overriding need** in terms of public benefit. It is considered that agriculture and food production is a sustainable economic activity that produces food and fibre for our growing population and is considered in the "long-term public interest". An extractive industry in the short term may provide resources and employment in the public interest, but in the long term has a limited life and is not considered to be sustainable. Extractive Industry will permanently alienate SCL.

It is difficult in this instance to achieve outcome 1.4 when extractive industry sites are currently recognised (under local policy) on land identified as SCL. Would it then be decided by the Minister to decide which development would be the greater or most significant use as indicated in the definition for '**significant community benefit**'? Or does Section 3.2 (ii) clarify this, where it refers to areas where zoned for extractive industry will not be included in land identified as SCL, if a local planning instrument is created or amended? This section and the definition of '**development commitment**' indicate that extractive industry (along with urban development and permanent plantations) will be the overriding need over protecting SCL (where zoned under a local planning instrument). Improvement and cohesion between each of the policy sections with the draft SPP may clear up questions such as these. Also refer to comment made in Q5, Point 4 relating to the definition of '**development commitment**'.

3. The broad approach of the Strategic Cropping Land Policy Framework is generally supported as it is aligned with Action 7.11 of the *Sunshine Coast Climate Change and Peak Oil Strategy 2010-2020*.

Within the *Sunshine Coast Climate Change and Peak Oil Strategy 2010-2020*, Action 7.11 identifies the need to: 'Protect agricultural land and encourage local food production for local consumption to reduce food miles with particular emphasis on rural productive land close to centres' (Objective 7 from the Energy Transition theme).

- (i) This action is proposed in order to reducing oil dependency through innovative measures with a particular focus on facilitating the re-emergence of a robust food production sector on the Sunshine Coast in order to help to provide food security in light of peak oil and climate change.
 - (ii) The proposed Strategic Cropping Land Policy Framework has the potential to underpin and support the implementation of action 7.11 through the protection of agricultural land.
4. The broad approach of the Strategic Cropping Land Policy Framework is generally supported, as it aligns with the objectives of Council's Corporate Plan and Community Plan.

Q 2. Do you agree with the planning policies under Section 2, 'Application of the SPP'?

1. SCL identified on part of lot/s subject to an application.

Where for example, an application for MCU was proposed on a lot that partly contains SCL, but the MCU "development" was located on the part of the lot that did not contain SCL, would the SPP apply? Although the Guidelines for applying the proposed strategic cropping land criteria addresses this scenario to an extent (Example 1 on Page 3), the draft SPP, in particular Section 2, would be improved if it contained clarification in this regard.

Q 3. Do you agree with the planning policies under Section 3, 'Making or amending a planning instrument'?

1. In regard to 3.2 (v), it stipulates *"that land within 1km on land identified as SCL is not zoned for sensitive land uses....."*. One of the sensitive land uses listed in the definition is accommodation activities. The definition for accommodation activities within the draft SPP refers to the QPP. The QPP includes dwellings and short term accommodation within this definition. Does section 3.2 (v) suggest a dwelling house and short term accommodation such as a bed and breakfast cannot be approved within 1km of any SCL? Small scale accommodation activities such as a dwelling or bed and breakfast or eco-stays are traditionally found in rural areas, situated amongst different rural activities, such as cropping. In fact a dwelling house is associated with cropping activities. Therefore, consideration of including small scale housing within the 'sensitive use' definition and hence within the 1km buffer zone is required. Further consideration of the positive contributions of rural pursuits that complement cropping ie. tourism, short term accommodation and housing needs also to be scrutinised further, so that it aligns with the SEQRP.
2. The policies do not respond to cross sectoral issues.

The planning policies provide no guidance for local government with regard to the need to achieve SCL objectives and likely competing interests with regard to the implementation of the *SEQ Regional Plan and local plans and strategies*.

In effect, the planning policies have the potential to override local, regional, state and national policies with regard to protecting and enhancing natural values.

Basis for this comment

- (a) Based on the scope of the mapping and the limits of the criteria considered, the approach of the strategic cropping land framework has the potential to create conflicts with regard to current state and local planning responses with regard to protection, management and enhancement of:
- (i) significant lengths of waterways and associated riparian corridors
 - (ii) wildlife corridors
 - (iii) significant wetlands and associated buffers
 - (iv) significant areas of regrowth vegetation of local significance
- (b) Specific principles, policies and programs from the *SEQ Regional Plan* which are not recognised and integrated include:

2.1 Biodiversity	
Principle	Protect, manage and enhance the region's biodiversity values and associated ecosystem services and maximise the resilience of ecosystems to the impacts of climate change.
Policies	2.1.1 Avoid impacts on areas with significant biodiversity values in the regional Landscape and rural Production Area, including biodiversity corridors.
	2.1.2 Avoid or minimise impacts on areas with significant biodiversity values in the Urban Footprint or Rural Living Area, including biodiversity corridors
	2.1.5 Within biodiversity networks, protect significant biodiversity values, improve ecological connectivity, enhance habitat extent and condition, and rehabilitate degraded areas.
	2.1.6 Optimise biodiversity conservation outcomes by locating environmental and carbon offsets within identified biodiversity networks and other suitable areas, giving a high priority to the protection or rehabilitation of significant biodiversity values.
2.2 Koala Conservation	
Principle	Koala populations in the region are enhanced through the protection, management and the achievement of a net gain in bushland koala habitat and through managing conflict with urban development.
Policies	2.2.3 Ensure planning and development caters for koala movement between conserved areas of bushland koala habitat.
	2.2.4 Prioritise the protection and rehabilitation of koala habitat areas outside the Urban Footprint as a key source of long-term habitat for the region's koala population.
	2.2.5 Ensure planning and development seeks to maintain or enhance koala habitat values in areas of bushland habitat, areas suitable for rehabilitation and other areas of value to koalas.
11.4 Waterway Health	
Principle	Protect and enhance the ecological health, environmental values and water quality of surface and groundwater, including waterways, wetlands, estuaries and Moreton Bay.
Policies	11.4.1 Ensure that development is planned, designed, constructed and operated in accordance with best practice environmental management to protect environmental values and meet the water quality objectives of all regional surface waters, groundwater, wetlands and coastal waters.
Programs	11.4.8 Protect, manage and rehabilitate riparian areas to maintain and enhance their water quality, scenic, biodiversity, ecological, recreational and corridor values.
1.4 Natural hazards and climate change adaptation	
Principle	Increase the resilience of communities, development, essential infrastructure, natural environments and economic sectors to natural hazards including the projected effects of climate change.
Policies	1.4.2 Reduce the risk from natural hazards, including the projected effects of climate change, by establishing adaptation strategies to minimise vulnerability to heatwaves and high temperatures, reduced and more variable rainfall, cyclones and severe winds, and severe storms and hail.

Q 4. Do you agree with the development assessment requirements under Section 4, 'Development assessment'?

1. Section 4.14 – *“Section 4.14 to 4.22 applies only to land identified as SCL.....and where there is demonstrated cropping history.”*

What if there is no “demonstrated cropping history”? Does assessment against the SPP “stop” at this point? Is referral to DERM for concurrence agency assessment still triggered? Although the Guidelines for applying the proposed strategic cropping land criteria address this to a certain extent, (Table 2, Stage 5 on Page 6), clarification is sought in relation to whether the applicant would need to supply evidence of past cropping activities (where applicable). The draft SPP would be improved if it contained clarification in this regard and referral triggers (other than the map) clarified.

2. Section 4.3 and 4.15 – *“Development identified in Section 2.11(i) and (iii) achieves the policy outcomes in Section 1 if: (i) it is not located on land identified as SCL and does not contribute to.....”*

Under Section 2.11, the SPP is triggered for development proposed on land identified as SCL. Keeping this in mind, how then could the development ever satisfy Section 4.3(i) or 4.15(i) – i.e. it would always be located on SCL.

3. Section 4.8 and 4.21 – *“Development identified in Section 2.11 (ii) achieves the policy outcomes in Section 1 if no additional lots result (e.g. amalgamation of lots will not result in additional new lots) or it does not create new lots through subdivision where any one newly created lot contains land identified as SCL...”*

It is not clear how a boundary realignment (where no additional lots are created) is assessed under Sections 4.8 or 4.21. If a boundary realignment between two existing lots results in a lot containing SCL that is less than the applicable size mentioned in Section 4.8/4.21 (i), (ii), (iii) or (iv), does this mean that the boundary realignment does not comply with Section 4.8/4.21? What if the existing lots were less than the applicable size mentioned in Section 4.8/4.21 (i), (ii), (iii) or (iv)? This is an important issue that needs to be clarified within the draft SPP, as applications for rural boundary realignments are quite common in the Sunshine Coast local government area.

4. Section 4.8 (iii) and 4.21 (iii) “minimum rural lot size” and Section 5 (Glossary) – definition of “Zoned for urban purposes”.

It would appear that the land in the rural residential zone is not defined as land “zoned for urban purposes”. If this is the intent, does this mean that a proposed subdivision of land zoned rural residential in the planning scheme, that contains SCL, and where the proposed lots meet the minimum lot size included in the planning scheme, would comply with Section 4.8/4.21? In other words, for a rural residential zoned area, does the minimum rural residential lot size in the planning scheme mean the same thing as “minimum rural lot size” in 4.8/4.21(iii)?

5. Section 4.22 does not include anything about minimising and mitigating impacts. This section may benefit from the inclusion of the second paragraph of 4.15(iii) – *“If these conditions are met, the development must minimise the maximum extent impacts....”*

If Section 4.22 applies then which codes in the SPP apply? If it is intended that Codes A and D apply, then Section 4.22 needs to be referenced in the introductory paragraphs of these codes.

Q 5. Do you have any comments regarding the terms and definitions used in the glossary?

1. **Exceptional Circumstance** – In Annexure 3 (application of codes) it specifies that ‘Exceptional Circumstance’ applies to ‘Strategic Cropping Protection Areas’. Suggest that reference to this is reflected in the definition of ‘Exceptional Circumstance’ under Section 5.
2. **Permanent alienation and temporary development** definitions specify timeframes of longer than 50 years or less than 50 years. In some cases this is difficult to assess how long a particular development is expected to last. In the case of extractive industry or urban type uses, this may be relatively easy to estimate, but in the case of a ‘solar farm’ (or other renewable energy uses), it is difficult to ascertain a timeframe for a use of this type. Suggest that the policy addresses renewable energy uses within the definition of ‘significant community benefit’ or provide exemptions for certain renewable energy uses under a certain land size.
3. **Development commitment** – clarify if areas identified by an overlay code under a local planning instrument are classified as explicitly anticipated by and consistent with the specific relevant zone (*‘or equivalent’*) under second dot point (b). Please also refer to Q 1 Point 2.
4. **Demonstrated Cropping History** – include advice within this definition that provides direction as to the best way to gather this information and at what point? Clarification is sought as to whether this a trigger for concurrence agency involvement, in addition to land being included within the trigger maps? See also Q4 point 1.

Q 6. Do you have any comments regarding the exemptions specified in Annex 1?

No comment

Q 7. Do you have any comments regarding the temporary developments specified in Annex 2?

No comment

Q 8. Do you have any comments regarding development assessment ‘Code A: Protection and management of SCL code (development that is proposed on a lot containing SCL)’ in Annex 3?

No comment

Q 9. Do you have any comments regarding development assessment ‘Code B: Protection and management of SCL code (temporary development)’ in Annex 3?

1. PO4 – this refers to minimising impacts on soil, including not mixing soil profiles when removing, placing back in the same layer ordering as they were excavated etc... This would result in stockpiles of soil on site for a number of years, resulting in silt run off into waterways and the development site, aesthetic issues and general degradation of soil properties. The logistics of returning soil with agricultural qualities is not practical and may be costly. The practicality that inspection and follow up for this rehabilitation has been undertaken in the future (up to 50 years) is not realistic. Where will be the trigger or responsibility for the developer to fulfil their requirements for rehabilitation? There should be some measures implemented within the policy that address these concerns.
2. PO6 – temporary development minimises impact of erosion and run off and ensures impacts are of a *‘temporary nature’*. How are impacts of a ‘temporary nature’ defined?

Q 10: Do you have any comments regarding development assessment 'Code C: Protection of SCL code (development designated as an exceptional circumstance)' in Annex 3?

No comment

Q 11: Do you have any comments regarding development assessment 'Code D: Management of SCL code (development minimises and mitigates impacts on land identified as SCL)' in Annex 3?

No comment

Q 12: Do you think there are any acceptable outcomes that should be included in any of the codes to meet relevant performance outcomes?

Refer Q9

Q 13: Do you think that any sections in the draft SPP require further explanation?

As above

Q 14: What matters would you like to see addressed in the SPP Guideline?

1. Trigger/s for DERM (concurrency agency) involvement.