



QER Pty Ltd
ABN 48 072 908 966

Level 8, 200 Mary Street
Queensland 4000 Australia

GPO Box 5214 Brisbane
Queensland 4001 Australia

Telephone: +61 7 3222 0600

Fax: +61 7 3222 0611

Website: www.qer.com.au

Our Ref: D11/16757

The Research Director
Environment, Agriculture, Resources and Energy Committee
Parliament House
George Street
BRISBANE QLD 4001

By email: earec@parliament.qld.gov.au

4 November 2011

Submission on the Strategic Cropping Land Bill 2011

QER Pty Ltd is a member of the Queensland Resources Council and we support the submission lodged today by QRC with the Committee. In addition, QER has a specific, unusual transitional issue to raise with the Committee, addressed in this submission.

QER is a shale oil company. We have an operating mine and technology demonstration plant located at Stuart near Gladstone and also numerous mining tenements elsewhere in Queensland, including the McFarlane tenements which are located between Mackay and Proserpine.

We have previously raised with the Department of Environment and Resource Management (DERM) that there is an unusual transitional situation with our McFarlane tenements. The transitional arrangements in the Bill (previously outlined in the transitional arrangements factsheet) provide a set of milestones for undecided applications for resources projects to have achieved, in order to be eligible for transitional protection, including for mining lease applications and petroleum lease applications.

Part 7AAB of the *Mineral Resources Act 1989* ('Provisions for McFarlane oil shale deposit') imposed a moratorium on development of our McFarlane tenements. Section 318ELAD provides that, during the moratorium period, an oil shale mining tenement cannot be granted for the land. Various other provisions were included to try to preserve the *status quo* for McFarlane during the moratorium period, for example, automatic renewals,¹ suspension or waiver of rental and performance obligations, and provisions to facilitate access for care and maintenance.²

¹ Section 318ELAK Mineral Resources Act 1989.

² Section 318ELAF Mineral Resources Act 1989.

In the meantime, a State government review and reporting process is underway in relation to oil shale, including looking at the effectiveness of the *Paraho* technology at our 'technology demonstration plant', which has been constructed at our Stuart mining lease near Gladstone and is currently undergoing detailed commissioning.

If the moratorium and review process had not been underway, QER would have reached the stage nominated for transitional protection for strategic cropping land in Section 279 of the Bill, that is, we would have at least finalised EIS terms of reference and obtained a certificate of application under Section 252 of the *Mineral Resources Act 1989*, in relation to a mining lease application. Strategic cropping land was not an issue that was on the horizon at the time we negotiated the existing *status quo* arrangements under Part 7AAB in August 2008.

Our McFarlane project is also expected to require a petroleum facilities licence under the *Petroleum and Gas (Production and Safety) Act 2004*, but, similar to our Stuart facility, it would not require a petroleum lease. The current transitional arrangements do not mention any type of petroleum authority apart from petroleum leases. Refer to the numerous references to 'petroleum leases' throughout Chapter 9 Part 3 Division 2, for example, in Section 275. We have also previously raised this issue with DERM.

Parts of our McFarlane tenements are trigger mapped in the draft mapping on the DERM website (within a 'management area', not a 'protection area'). There is a mix of caneland and grazing land in this area. In practical terms, QER's proposal for McFarlane has always involved progressive rehabilitation which includes back-filling and the careful restoration of topsoil, with particular attention to restoring both agricultural and grazing land so that it is again suitable for those productive purposes. (This is unlike most open-cut mines and relates to a particular series of site-specific advantages which are particularly conducive to progressive rehabilitation.) Therefore, in reality, our McFarlane project is not proposed to involve 'permanent alienation' in any case. However, Section 14 of the Bill makes a factually incorrect statement that open-cut mining automatically causes a 'permanent impact' - even where the land is being restored so as to be suitable for cropping (and grazing, where applicable) again, during the nominated period of 50 years. It is really only because of this legal fiction in Section 14 that QER needs to raise the transitional issue with the Committee, because otherwise, we could have clearly demonstrated that in fact, our project will not cause a permanent impact.

QER supports the submission of the QRC that this legal fiction about 'permanent impact' should be removed, as an obvious starting point. However, leaving this aside, it is suggested that the appropriate place to deal with the transitional issue for McFarlane would be to add this issue to the existing *status quo* provisions in Part 7AAB of the *Mineral Resources Act 1989*, as it is highly specific to the implications of the McFarlane moratorium.



QER would welcome the opportunity to provide witnesses to the Committee to respond to any questions on this submission. QER's normal contact for this submission is Company Secretary and General Counsel, Mr David Pegg. (However, Mr Pegg is unavailable today, 4 November 2011, so please contact me if there are any questions today.)

Yours faithfully

A handwritten signature in blue ink, appearing to read 'John Parsons', written over the typed name.

John Parsons

Director Environment & Marketing