



4 December 2011

The Research Director  
Environment, Agriculture, Resources and Energy Committee  
Parliament House  
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To Whom It May Concern,

**RE: Australian Soil Science Society Incorporated (ASSSI) Queensland Branch Submission – Draft Strategic Cropping Land Bill 2011**

I am writing to make a submission on behalf of the Australian Soil Science Society Inc. (ASSSI) as part of the consultation process for the Draft Strategic Cropping Land Bill 2011 currently being undertaken by the Environment, Agriculture, Resources and Energy Committee. ASSSI applauds the Queensland Government for drafting the Strategic Cropping Land Bill but believes that a number of areas require further clarification, which could impact the application of the Bill.

ASSSI welcomes the opportunity to make a submission to the Queensland Government on the Strategic Cropping Land Bill and offers to make itself available for follow-up consultation should the Queensland Government consider this necessary.

#### **Nature of ASSSI**

The ASSSI is a not-for-profit organisation that serves as the peak body for in excess of 1000 soil scientists across Australia. Members are drawn from all States and Territories of Australia and work in government departments, research organisations and universities as well as the agricultural and mining industries. Nationally, the ASSSI was founded 1955 to 'advance soil science in the professional, academic, and technical fields'. Many members have contributed significantly to the current knowledge of rehabilitation of mined land in Australia. ASSSI is a professional body that seeks to advance soil science in the professional, academic and technical fields. The principal objectives of the Society include: promoting the field of soil science, increasing government and community awareness of soil science, and promoting the wise management of the soil resource throughout Australia.

All ASSSI members are also members of the International Union of Soil Sciences (IUSS) which is made up of 65 national societies representing approximately 40 000 soil scientists from around the world.

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On behalf of the IUSS, ASSSI organised the 19<sup>th</sup> World Congress of Soil Science, which was held in Brisbane in 2010.

## **Background**

Queensland Branch of the Australian Society of Soil Science Inc (ASSSI) has previously made submissions on the draft criteria (21 July 2011) and on the implementation of the criteria through a State Planning Policy (26 September 2011). These Submissions were made on the understanding that the criteria and SPP were to be used in drafting the Strategic Cropping Land Bill (SCL-Bill).

### ASSSI indicated in its 21 July Submission that:

While ASSSI applauds the Government's initiative to address this issue so that the benefits of various types of development can be enjoyed by the community while protecting agricultural productivity, it is dismayed at:

- the creation of yet new criteria to identify the most productive cropping land;
- the onus being placed on the landholder (or the company wishing to undertake a particular development) to use the proposed criteria to identify SCL when maps have already been produced, for good quality agricultural land (GQAL in many instances but not all mirrors the SCL indicative mapping) under the Queensland Government's State Planning Policy 1/92, Development and Conservation of Agricultural Land;
- the confusion that is likely to exist when making the assessments due to critical errors of fact in Table 3 on water holding capacity in Protecting Queensland's strategic cropping land – Proposed criteria for identifying strategic cropping land.

ASSSI is also concerned, because of the need for scientific interpretation of the criteria that any assessment is initially undertaken and subsequently reviewed by a competent person accredited by an appropriate professional body. In addition, validation of the assessment within the government agency responsible for decision making should be undertaken by a competent person accredited by an appropriate professional body.

While in part addressed in the documentation ASSSI is still concerned at the reference to "strategic cropping land" as this implies that it is an outcome of a planning process which includes the consideration of other factors such as access to irrigation water. Further, ASSSI is concerned at the lack of a clear and transparent framework when further determinations are needed to be made on the use or management of SCL when competing and potentially incompatible uses are involved. ASSSI believes that all lands currently mapped as GQAL should be deemed to be SCL on the trigger maps (effectively those lands deemed to be SCL until an assessment has been made to determine otherwise using the proposed criteria) but with the data for water holding capacity amended to reflect the actual situation.

### ASSSI indicated in its 26 September 2011 Submission that there needs to be clear evidence:

1. That there is justification for continuing with two SPPs to protect the most productive cropping land from alienation (the SCL SPP and SPP 1/92). By continuing down this path, questions of unnecessary confusion and red tape arise.
2. That amendment of the Sustainable Planning Act 2009 includes details on the decision-making framework to be used when deciding, at a strategic planning level, between the preferred uses of natural resources including land.

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3. That the relevant mineral resource statutes will be appropriately amended to ensure that permits to explore are only made after a planning assessment has been made. This could be achieved by removing the exemption of mining development from regulation under the regional planning provisions of the Sustainable Planning Act 2009.
4. That appropriate amendments made to the relevant legislation such as the State Development and Public Works Organisation Act 1971; Mineral Resources Act 1992; Petroleum and Gas (Production and Safety) Act 2004, the Petroleum Act 1923 and Environment Protection Act 1994) to ensure that common processes of strategic planning and assessment of development projects apply irrespective of whether a resource is in private or public ownership.
5. That subsequent Strategic Cropping Land legislation will require those making the initial assessment of SCL and signing off on any subsequent development proposal and those within Government to assess any initial assessment of SCL and any subsequent development proposal .be a competent person accredited by an appropriate professional body.

### Comments on the provisions in the Draft Bill

ASSSI have six general comments are on those provisions within the Bill:

#### Comment 1: Definitions

ASSSI believe a number of definitions, both within the main text and the definitions, that require further clarification to avoid confusion once implemented. For example:

- Chapter 1 Part 2.3: we suggest an amendment to the 3(a) “land that is highly suitable for cropping” to “land is highly suitable for cropping because of its soil, climatic and landscape features and its suitability for growing a range of crops”
- addition of a more appropriate definitions of :
  - **exceptional circumstances for a development** and clarification as to what is what is **reasonably practical** (under avoidance principle) so as to have **exceptional circumstances** consistently applied and to explain why alternatives sites for the development cannot be utilised.
  - **competent persons** involved in undertaking assessments, setting conditions and making decisions and a suitable framework being in place to decide on competing uses
  - **what is possible** (under minimisation principle) so as to have the principle transparent and consistently applied; the collection of baseline data on the existing situation against which a subsequent determination of **return to pre-development condition** can be made;
  - **what can be reasonably avoided** so that the principle will be transparent and consistently applied. It is surprising that off-setting is not required in relevant circumstances rather than one of “compensation” as implied. There appears to be overlap between the productivity and the protection and avoidance principles].
- As **development** is defined in Section 13 of the Bill as applying to any activity, it is questioned why there are a number of specific references to mining when reference is made to development.

#### Comment 2: Section 6 Exclusions from this Act

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Exclusions under Section 6 provide many opportunities to reduce its powers to bind the State including under Section 6 (viz. Subject to section 6, this Act applies despite any resource act [e.g. Mineral Resources Act 1992; Petroleum and Gas (Production and Safety) Act 2004, the Petroleum Act 1923 and Environment Protection Act 1994 but not the State Development and Public Works Organisation Act 1971 (except Part 4)] or the Environmental Protection Act 1994). The rationale for excluding the State from legislative action (even in cases of clear negligence) is questioned as this is inconsistent with the principle of accountability.

### Comment 3: Technical competencies

Section 228 The Science and Technical Implementation Committee is welcomed and ASSSI is prepared to contribute to any such Committee as required such as:

- To provide expert advice.
- To advise on whether a person is appropriately qualified where that person is not already a certified person by a relevant professional body.
- The content of technical guidelines in support of the Bill once brought into effect.

The former issue is again raised as there is no indication of the qualification requirements of a person making a decision on whether a parcel of land is SCL or whether actions taken to assess impacts or means to address impacts are reasonable and appropriate. As the SCL requires assessment of soil characteristics (e.g. soil texturing) ASSSI recommend a person should be a Certified Practising Soil Scientist Stage 2 or above (CPSS2) to undertake either the assessment or assess an application.

Although the responsible agency can seek expert advice there is currently no requirement for the State agency to have competent staff with particular competencies to advise the Minister. As there are cost implications for both the Government and the development industry ASSSI believes those making decisions relating to SCL should be prepared to sign-off on these. Hence the need for that person to be technically competent and accredited by an appropriate professional body (such as CPSS2 or greater).

Further, ASSSI has real concerns with on-going resourcing for suitable qualified persons to undertake assessment works as limited numbers of individuals are qualified to undertake such work and we have concerns as to numbers undertaking soil science studies at Universities.

### Comment 4: Information storage

While the provision of information and access has merit and Section 242 provides details on access to the register, there is no indication that information collected on SCL will be publically made available to major land resource data bases such as The Australian Collaborative Land Evaluation Program (ACLEP). ASSSI believe that Queensland has a unique opportunity to collect soil data, which is of value to the entire community and all soil and land attribute information should be made publicly available.

### Comment 5: Compensation

Within the Bill compensation relates to losses due to actions by an authorised (State person). There appears to be no provision nor definition of compensation, in particular the loss in the productive capacity of land while it is impacted upon by mining or subsequent to rehabilitation after mining. Further clarification is recommend on who would be liable to pay compensation considering the State granted the approval to develop.

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Section 99 provides an example of a protection condition “An SCL protection condition requires the land to be restored to its pre-development condition”. ASSSI recommends that this protection condition be applied to the development of any SCL land for mining purposes.

It is not clear that the Sustainable Planning Act 2009 is being amended to provide for resource acts coming under IDAS. In particular that the accountable Minister will issue an authority to explore or receive funds to explore without a prior assessment of whether the lands are or are potentially SCL without an application being subject to a public planning process.

Comment 6: The fate of SPP1/92

It is not clear how productive agricultural lands that are not cropping lands that are currently being recognised through SPP1/92 are to be handled.

**Conclusion**

ASSSI applauds the government’s initiative to address the conflicts that arise through development of agricultural land. ASSSI is prepared to contribute and assist in any further development and implementation of this policy and its processes. Please do not hesitate to contact me via email or phone if you would like to discuss our submission further. My contact details follow.

Yours faithfully

**Dr Louise Cartwright**

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