



4 November 2011

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

E: earec@parliament.qld.gov.au;

Dear Sir/Madam

STRATEGIC CROPPING LAND BILL 2011 - SUBMISSION

We make a submission with respect to the above Bill before the Parliament as an organisation, p&e Law.

We note the following sections extracted from the Bill and highlight relevant sections:

4 How the purposes are achieved

(1) To achieve its purposes, this Act—

- (a) identifies areas in which land that is likely to be highly suitable for cropping may exist (called 'potential SCL');
- and
- (b) has provisions for deciding whether or not land is highly suitable for cropping (called 'strategic cropping land' or 'SCL'); and
- (c) establishes—
 - (i) protection areas and the management area for SCL and potential SCL; and
 - (ii) principles to protect land that is SCL or potential SCL and to manage the impacts of development on it.

(2) Management of the impacts on land that is SCL or potential SCL is achieved by—

- (a) an assessment under this Act for development under particular other Acts; and
- (b) imposing conditions on the development.

(3) To the extent the land is in a protection area and the impacts are permanent, this Act—

- (a) prevents the development, unless it is in exceptional circumstances; or
- (b) if the development is in exceptional circumstances, requires mitigation for the land.



- (4) To the extent the land is in the management area and the impacts are permanent, this Act requires mitigation for the land.

14 When development has a *permanent impact* or *temporary impact*

- (1) Carrying out development on SCL or potential SCL has a *permanent impact* on the land if—
- (a) the carrying out impedes the land from being cropped for at least 50 years; or
- Example—*
- drilling or wells under a resource Act carried out on the land at a level or density which, or the cumulative effects of which, impede it from being cropped for at least 50 years
- (b) because of the carrying out, the land **can not** be restored to its pre-development condition; or
- (c) the activity is or involves—
- (i) **open-cut mining; or**
- (ii) storing hazardous mine wastes, including, for example, tailings dams, overburden or waste rock dumps.
- (2) For subsection (1)(a), it does not matter whether the impediment is legal or physical.
- Example of a legal impediment—*
- a restrictive covenant impeding cropping

17 *Resource Act* and *resource activity*

- (1) A *resource Act* is any of the following—
- (a) the *Geothermal Energy Act 2010* and the *Geothermal Exploration Act 2004* (both a *Geothermal Act*);
- (b) the *Greenhouse Gas Storage Act 2009* (the *GHG Storage Act*);
- (c) the *Mineral Resources Act 1989* (the *Mineral Resources Act*);
- (d) the *Petroleum Act 1923* (the *1923 Act*);
- (e) the *Petroleum and Gas (Production and Safety) Act 2004* (the *P&G Act*).

- (2) A *resource activity* means, for a provision about—
- (a) a resource authority—an activity relating to the authority that its holder is entitled to carry out under the authority or the relevant resource Act; or
 - (b) a proposed resource authority—an activity relating to the proposed authority that, if it is granted, its holder will be entitled to carry out under the authority or the relevant resource Act.
- (3) In this Act, a reference to a resource activity includes a reference to the carrying out of the activity.
- (4) In this section—
- Relevant resource Act* means the resource Act under which the authority is granted, or the proposed authority will, if granted, be granted.

18 *Resource authority*

A *resource authority* is any of the following—

- (a) a permit or geothermal tenure under a Geothermal Act;
- (b) a GHG authority under the GHG Storage Act;
- (c) a mining tenement under the Mineral Resources Act;
- (d) a 1923 Act petroleum tenure under the 1923 Act;
- (e) a petroleum authority under the P&G Act.

76 Development with a permanent impact

- (1) A person must not wilfully carry out, or allow the carrying out of, development on SCL or potential SCL that has a permanent impact on the land.

77 Development with a temporary impact

- (1) A person must not wilfully carry out, or allow the carrying out of, development on SCL or potential SCL that has a temporary impact on the land.

Maximum penalty—

- (a) if the land is in a protection area—3000 penalty units; or
- (b) if the land is in the management area—1665 penalty units.

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- (2) A person must not carry out, or allow the carrying out of, development on SCL or potential SCL that has a temporary impact on the land.

78 Exemptions

- (1) Sections 76 and 77 do not apply to the carrying out of development that—
- (a) is authorised under a development approval; or
 - (b) is a resource activity for a resource authority.

We note from the above that there is conflicting information in section 14(c)(ii) regarding an open cut mine, particularly that when “a resource activity for a resource authority” is exempt from being a permanent or temporary impact. The outcome of section 78 is that this Bill does not protect any land deemed to be strategic cropping from resource activity. We therefore query how effective these aspects of the Bill contribute to the purpose of the legislation, except that to note it puts further constraints on the farming community.

In light of the fact that Queensland already has a State Planning Policy with respect to Good Quality Agricultural Land (SPP1/92) we query the function of creating another State Planning Policy with respect to strategic cropping particularly in light of the fact, as noted above, that it does not protect strategic cropping land from resource activities.

We make the above assertions despite the brief time we have had to consider the draft legislation. It is noted that less than a two week timeframe has been given in which submissions could be made regarding the Bill and relevant explanatory notes.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Lestar Manning', written in a cursive style.

Lestar Manning LLB
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