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4 November 2011

Dear Sir/Madam,

RE: SUBMISSION – STRATEGIC CROPPING LAND BILL 2011

Thank you for the opportunity to participate in the review of the Strategic Cropping Land Bill 2011 (SCL Bill), to be conducted by the Environment, Agriculture, Resources and Energy Committee (EAREC) of the Queensland Parliament.

Ipswich City Council Strategic Planning Branch have previously provided comments on the following documents released by the Department of Environment and Resource Management (DERM) in relation to Strategic Cropping Land (SCL):-

- Strategic Cropping Land Policy and Planning Framework Discussion paper dated 12 March 2010;
- Strategic Cropping Land Framework Policy and associated draft SCL trigger maps dated 30 September 2010;
- draft State Planning Policy (draft SCL SPP); and
- Strategic Cropping Land draft State Planning Policy overview.

It is advised that many of the matters previously raised still remain unresolved in the State's latest document release, being the draft SCL SPP. Notwithstanding the aforementioned, the following comments on the SCL Bill are provided for consideration.

1. Reference is made Chapter 1 Preliminary Part 3 Interpretation s9 and s10 of the SCL Bill, and the definition of 'land identified as SCL' in the draft SCL SPP, which are respectively provided below:-

s9 and s10 of the SCL Bill states:

Division 2 Key definitions

Subdivision 1 Definitions about cropping land

9 *Strategic cropping land, SCL and decided non-SCL*

- (1) *Strategic cropping land* is land recorded in the decision register as being SCL.
- (2) *SCL* is strategic cropping land.
- (3) *Decided non-SCL* is land recorded in the decision register as not being SCL.

10 *Potential SCL*

- (1) *Potential SCL* is land in an area shown on the trigger map as being potential SCL.
- (2) However, that land ceases to be potential SCL if, because of a validation decision it becomes SCL or decided non-SCL.

The definition of 'Land identified as SCL' in the draft SCL SPP:

<i>Land identified as SCL*</i>	<i>Land that is defined as SCL in the proposed SCL legislation (e.g. land that is confirmed as SCL against the SCL criteria, or land shown on the SCL trigger map).</i>
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** this definition will be updated in line with definitions adopted under the proposed SCL legislation.*

The SCL Bill does not include the definition 'land identified as SCL', and the draft SCL SPP did not include the term 'Strategic Cropping Land' and 'Potential SCL'. It is evident the term 'land identified as SCL' under the draft SCL SPP is significantly different to the term 'Strategic cropping land' under the SCL Bill, and the inconsistency in terms have significant implications upon the delivery of the draft SCL SPP, and the current forward land use planning in the Ipswich Local Government Area.

The definitions in the SCL Bill are intrinsic in the interpretation and delivery of the draft SCL SPP. If the term '*land identified as SCL*' in the draft SCL SPP were replaced with the terms 'Strategic cropping land' or 'Potential SCL' as defined in the SCL Bill, accordingly different interpretations and outcomes of the draft SCL SPP would result. The following three examples, which are extracts from Council's submission for the draft SCL SPP, identify the implications of applying the term 'land identified as SCL' in the draft SCL SPP.

Extracts from Ipswich City Council's submission for the draft SCL SPP:-

FIRST EXAMPLE:

Future Regional Plans

The draft SCL SPP may have significant implications upon the review of the SEQ regional plan, particularly in respect to section 3.1(iii):

'3.1 Future regional plans will achieve the policy outcome in Section 1 of the policy by:

....

*(iii) Setting the urban footprint boundary 1km away from **land identified as SCL.**'*

.....

*Section 3.1(iii) makes reference to the term '**land identified as SCL**', however in the absence of this term being properly defined, there is currently an inability to determine which areas within the Ipswich LGA may be affected in setting the urban footprint 1km away from SCL.*

The readjustment of the urban footprint at the review of the regional plan (e.g. retracting the Urban Footprint 1km away from SCL), would reduce the current identified capacity for urban development. Upon preliminary review areas such as Walloon-Thagoona, Rosewood, Pine Mountain and Purga may be affected based on the draft Strategic Cropping Management Area (SCMA) trigger map.

The possible reduction of the Urban Footprint may also affect future investigation areas i.e. Lanefield, Calvert and Grandchester. It is considered section 3.1(iii) may have significant implications on the current forward planning of the Ipswich LGA, including the planning of growth areas, current zonings at the interface with SCL, and the type of land uses in the interfacing zone/s, and in turn impact on Council's ability to meet other State Government policy objectives e.g. housing targets and housing affordability.

It is considered section 3.1(iii) is unreasonable and there is no basis (scientific) to impose a 1km separation distance between the Urban Footprint and SCL has been provided. It has been indicated in the draft that the SCL SPP does not apply to the existing Urban Footprint in the regional plan, and as such

there is a community expectation that development can occur in the Urban Footprint including at the fringe. Investment decisions will have been made on the basis of land being included in the Urban Footprint.

It is therefore requested that the requirement for the regional plan to setback the Urban Footprint 1km from land identified as SCL is removed from the SCL SPP.

SECOND EXAMPLE:

New or amended Local Planning Instruments, structure plans or master plans

The draft SCL SPP may have significant implications in preparing or amending the Ipswich Planning Scheme, structure plans and other local planning instruments. Section 3.2(iv) and (v) of the draft SCL SPP states:-

‘3.2 New or amended local planning instruments, structure plans or master plans will achieve the policy outcome in Section 1 of the policy if:

.....

(iv) areas zoned for rural residential purposes does not include land identified as SCL

(v) land within 1 km of **land identified as SCL** is not zoned for sensitive land uses to the extent possible to provide a buffer to minimise land use conflict with any current or future agricultural use of the **land identified as SCL.**’

.....

Section 3.2(iv) potentially impacts on the Rural C (Rural Living) Zone however, without a defined term for ‘**land identified as SCL**’, the extent of impact cannot be currently determined, although it may be significant. The Rural C (Rural living) Zone is critical to the continued operation of the transferable development rights under the Ipswich Planning Scheme to facilitate the non implementation of single dwelling development rights on land identified as Good Quality Agricultural Land (GQAL).

Section 3.2(v) may impact on the fringe of urban areas of the City through necessitating zone changes, and limiting the type of land uses (i.e. to non-sensitive land uses) in areas that adjoin SCL, resulting in the loss of land use rights in those areas which were previously considered acceptable.

It is considered section 3.2(v) of the draft SCL SPP is unreasonable and there is no stated basis (scientific) for limiting land uses (non-sensitive uses) within 1km of land identified as SCL will effectively address land use conflict.

Furthermore section 3.2(v) states the provision of a 'buffer' to minimise land use conflict, however the buffer type and minimum width has not been identified. For instance, is it expected that a vegetation buffer is provided to minimise land use conflict, and it is noted that vegetation buffers will result in the loss of land use rights. Accordingly, further clarification is required with respect to the nominated 1km distance and the provision for a buffer.

THIRD EXAMPLE:

Strategic Cropping Management Area (SCMA) Trigger Map

The draft SCL SPP has not clearly identified how local governments will address the SCL mapping in their planning scheme e.g. will the Strategic Cropping Protection and Management Area trigger maps be used as the basis for a planning scheme overlay map?

It is unclear whether the adopted SCL SPP will require the local government to carry out the on-ground assessment, or demonstrate cropping history to determine whether land contains 'validated' SCL (refer to section 3.2(v) of the draft SCL SPP) for the purpose of preparing or amending a planning scheme (or other local planning instruments). It is considered that any requirement for Council to undertake on-ground assessment and demonstrate cropping history would be overly onerous, costly and effectively unachievable.

With consideration of the aforementioned, it is evident the use of the term '*land identified as SCL*' in the draft SCL SPP did not provide certainty in the interpretation of the draft SCL SPP. If the terms '*Strategic Cropping Land*' or '*Potential SCL*' were applied in the draft SCL SPP, the interpretation and the delivery of the draft SCL SPP objectives would be different. Accordingly, it is requested that the submissions received for the draft SCL SPP are considered in the refinement of the definitions '*Strategic cropping land*' and '*Potential SCL*' in the SCL Bill, as the draft SCL SPP and the SCL Bill are interlinked instruments.

It is also appreciated that Local Governments are consulted with any amendments to the definitions of '*Strategic cropping land*' and '*Potential SCL*', before the SCL Bill becomes effective as legislation.

- *the industries are feedlotting*
 - *intensive horticulture*
 - *landing*
 - *outdoor lighting*
 - *roadside stalls*
 - *a winery*
2. *A domestic housing activity*
 3. *A building, structure or activity supporting cropping on SCL or potential SCL*
 4. *An urban area*
 5. *An area zoned under a planning scheme for rural residential or future rural residential purposes*
 6. *An area described as urban footprint under a regional plan or State planning regulatory provision*
 7. *A key resource area.*

Annex 1 of the draft SCL SPP states:-

Annex 1: Development and activities the SCL SPP does not apply to Exemptions

For Section 2.11 (i) and (iii), this SPP does not apply to the following developments:

- (i) advertising device*
- (ii) animal husbandry*
- (iii) animal keeping*
- (iv) cropping*
- (v) development that is for a single dwelling on a lot that does not contain an existing dwelling where no new lot has been created*
- (vi) free range production systems*
- (vii) infrastructure required for cropping on SCL*
- (viii) intensive animal feedlotting*
- (ix) intensive horticulture*
- (x) landing*
- (xi) outdoor lighting*
- (xii) roadside stalls*
- (xiii) rural industry for the purposes of supporting agricultural practice undertaken on the subject lot with a maximum ground floor area of 750m²*
- (xiv) small-scale permanent environmental plantings*
- (xv) winery.*

This SPP also does not apply to infrastructure that is required to deliver essential services to the community where the infrastructure is being developed under the Transport Infrastructure Act 1994 and the Electricity Act 1994.

- The ‘excluded matters’ identified under Schedule 13A of the SCL Bill, and ‘Development Activities’ listed under Annex 1 of the draft SCL SPP should be consistent, particularly with respect to the listing of land uses defined under the Queensland Planning Provision (draft QPP version 3.0).

For example, Annex 1 - Exemptions (v) states:

‘development that is for a single dwelling on a lot that does not contain an existing dwelling where no new lot has been created’.

Exemption (v) is not identified as an ‘excluded matters’ under Schedule 13A of the SCL Bill. It is imperative the ‘Development and Activities’ listed as ‘Exemptions’ in Annex 1 of the draft SCL SPP, are also identified as ‘excluded matters’ under Schedule 13A of the SCL Bill, to ensure there is consistency in the referral and assessment of a development application to the SCL chief executive – as a concurrence agency.

- Schedule 13A does not include the term ‘dwelling house’ as defined under the draft QPP version 3.0. It is imperative that a dwelling house, which is considered low impact in nature, remain as ‘exempt development’ under the draft SCL SPP, and as an ‘excluded matter’ to ensure there is no referral agency trigger under the SCL Bill. It would be overly inefficient and impractical for the State to assess applications, which would have minimal impact upon land that contained SCL. Accordingly, it is requested a ‘dwelling house’ as defined under the draft QPP version 3.0, is listed under Schedule 13A of the SCL Bill, and is consistent with Annex 1 of the draft SCL SPP.
- The ‘excluded matters’ no. 2, 4 and 7 under Schedule 13A are not defined terms under the draft QPP version 3.0, and the terms are also not included in the Dictionary of the SCL Bill. Accordingly, ‘excluded matters 2, 4 and 7’ should be defined in the Dictionary of the SCL Bill to provide clarity with the use of the terms.
- Council also provided submission comments on Annex 1 and Annex 2 of the draft SCL SPP during the State Planning Policy’s public notification period. Extracts of the Council’s submission are provided below for consideration to the amendment of Schedule 13A:-

‘Question 6: Do you have any comments regarding the exemptions specified in Annex 1?’

The land uses identified in Annex 1 are QPP (version 2.0) compliant, however Ipswich City Council is currently not undertaking a planning scheme review to make a QPP compliant scheme. As such clarification is sought as to how, where there are references to QPP terms that are inconsistent with the definitions contained in the Ipswich Planning Scheme (which is an Integrated Planning Act 1997 (IPA) compliant scheme), how the differences in the

references should be resolved in applying the SCL SPP. Accordingly, Annex 1 needs to clarify as an interim measure which land uses are exempt, if a planning scheme is not QPP compliant.'

Schedule 13A only identifies land uses that are defined under the standard planning scheme provisions, accordingly the draft SCL SPP submission comments (provided above) also apply to the drafting of the SCL Bill, such that the SCL Bill needs to identify which land uses are exempt, if a planning scheme is not Queensland Planning Provision (QPP) compliant.

Question 7: Do you have any comments regarding the temporary developments specified in Annex 2?

Further clarification is required as to why the 'temporary development' uses identified in Annex 2 are not consistent with the definition of 'temporary use' under the Queensland Planning Provisions (QPP).

This difference in what is defined as a temporary use in the QPP and the proposed SPP may lead to confusion. It is suggested that the matter needs to be addressed to ensure clarity and minimal potential for confusion.

The inclusion of 'outdoor sport and recreation', 'parks' and 'constructing under ground pipes' as temporary development will lead to significant problems in delivering currently planned infrastructure. Outdoor sport and recreation and parks are community infrastructure, and contribute to the liveability of an area. If these land uses are required to cease operation after 50 years, this will have significant adverse impacts upon Council's ability to construct and embellish the planned infrastructure, and on the liveability of communities.

Further to the above, identifying 'parks' as a temporary development will have significant implications on Council's Public Parks Strategy, which supports the open space network policy e.g. Planning Scheme Policy 5 (PSP5) and the future Priority Infrastructure Plan (PIP). This may have implications for the development of Council's park network (particularly for sporting purposes) as parks are identified as a temporary use when located on SCL.

It is therefore requested these land uses are removed from Annex 2 and included in Annex 1 as development activities that the draft SCL SPP does not apply to.

Accordingly, it is requested that 'outdoor sport and recreation', 'parks' are also listed as 'excluded matters' under Schedule 13A of the SCL Bill.

With consideration of the comments provided above, it is requested that Council officers are consulted if amendments are proposed to the definitions in the SCL Bill, and updates on the SCL Bill and its passage through Parliament are provided. Should you require further clarification of the above content please do not hesitate to contact me on 3810 6823.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Genevieve Lee', written in a cursive style.

Genevieve Lee

SENIOR PLANNING OFFICER (STRATEGIC)