7 November 2011

The Research Director
Environment, Agriculture,
Resources & Energy Committee
Parliament House
George St
Brisbane QLD 4000

Dear Sir/Madam,

Re: Strategic Cropping Land Bill 2011

Origin in its own right, and as the upstream operator of the Australia Pacific LNG (APLNG) project, welcomes the opportunity to comment on the *Strategic Cropping Land Bill 2011 (the Bill)*.

Origin has more than 18 years experience in coal seam gas (CSG) field development, the longest track record of any major CSG company in Australia.

Origin understands there is genuine concern about conflicts between land use for food production and energy resource development. However experience with the development of the CSG industry over the past decade and arrangements being put in place in consultation with farmer representative groups demonstrate that CSG and farming interests can genuinely co-exist.

Based on consultation materials and trigger maps released by the Government it had been estimated that out of a total 840,000ha tenement area covered by the APLNG project, during the construction phase between 2296ha and 3864ha of potential SCL could be temporarily affected. This would reduce following initial rehabilitation to 426ha to 718ha during the operations phase of the project (the timing of which will vary area by area depending on development schedule). At the end of economic CSG extraction in each area, final rehabilitation would occur which would then return much of the areas impacted during the operations phase to productive agricultural uses. However, Origin is concerned that figure will increase due to the following;

- the broad purpose of the Bill
- the weakening of the test of what constitutes a history of cropping
- the short term nature of the exemptions for existing projects and tenures
- the ability to establish new zonal criteria or amend zones or protection areas by regulation
- restrictions applying to exceptional circumstances applications.

Origin would also like some clarification of;

- the definition of permanent activities as it applies to CSG.

Origin also requests recognition under the legislation of the limitations applying to directional drilling which has been identified as a means of minimising impacts on SCL.

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Origin would like to place on the record its support for the provision enabling the establishment of a Science and Technical Implementation Committee to provide advice to the Minister.

Definition of Strategic Cropping Land

Sections 3(a) and 4(1)(a) &(b) suggest that land that is highly suitable for cropping is strategic cropping land. This is a significant shift from the Government's stated intent to protect 'the best of the best cropping land' when it released its initial discussion paper on the issue in February 2010. Similarly, the documents *Proposed criteria for identifying strategic cropping land* published in April 2011 and *Guidelines for applying the proposed strategic cropping land criteria* published in September 2011 refer to intent to protect Queensland's best cropping land.

Section 14A of the *Acts Interpretation Act 1954* requires, where there is more than one possible interpretation of a provision, the interpretation that best achieves the purpose of the Act to be applied. Given this, Origin requests that sections 3(a) and 4(1)(a) &(b) be amended by deleting the words 'land that is highly suitable for cropping' and inserting the following: 'land that is the best of Queensland's cropping land'.

Cropping history

The Government has previously stated that in order for land in the management area to be classified as SCL, the land would need to have a history of cropping in addition to meeting the SCL criteria. Origin had understood, from its reading of consultation material and guidelines that the history would apply to individualparcels of land (ie. individual lots).

S.49 of the legislation applies the requirement to a property instead of land. The term 'property' is defined in section 46 as a contiguous area consisting of a lot or lots that are owned by the same person, or have one or more common owners, or are managed as a single architectural unit. Origin is concerned such a blanket requirement does not sufficiently identify areas which truly are suitable for cropping but instead allows for larger areas of land to be sterilised from future resource development. It should be noted that there are large areas of Queensland where properties consisting of contiguous lots cover significant land areas. Origin requests that the Bill be amended to require that cropping for the harvesting of grain has to have physically occurred on individual parcels of land for a period of more than three years.

Exemptions for existing projects and tenures

Origin supports the Government's intent to provide transitional arrangements for projects which are well advanced such as the APLNG Project. However, Origin is concerned that the transitional arrangements may be short-lived given that S.20, when read in conjunction with S.22 (b) indicates an application for an amendment of an Environmental Authority can trigger the SCL assessment criteria in relation to the project.
For example, APLNG is seeking to amend the EA which was issued on 10 June 2011 for its Condabri development which forms part of the Project. If Origin is interpreting these clauses correctly, the SCL criteria will apply to the Condabri development. This combined with the weaker test of what constitutes a cropping history, increases the regulatory burden on project activities. It also undermines the Minister's statement when introducing the Bill on 25 October 2011 that 'these arrangements manage sovereign risk.'

Origin submits that, at a minimum, there should be an exemption for applications to amend an existing environmental authority where the proposed amendment / change will not result in a material increase in adverse impacts on strategic cropping land above those already permitted under the existing environmental authority.

Establishment of new zonal criteria or amendment of zones or protection areas

Origin is concerned that provisions for new zones S.35(1) to establish new zonal criteria and the ability of the Minister to amend any zone or protection area by regulation will allow the expansion of SCL areas without adequate legislative scrutiny. Origin submits that the establishment of any new zones should be dealt with by way of a proposed amendment of the Act and that amendments to a protection zone should require the approval of Governor-in-Council.

Exceptional circumstances applications

The explanatory notes to the Bill (p.49) state that 'if the resource can be located elsewhere in the State, the decision-maker must decide that the "no alternative site" criteria cannot be met and therefore exceptional circumstance do not exist. The notes explicitly state that in the case of coal seam gas, ownership of the resource is irrelevant as the fact that it could be legally obtained from the alternative site means that the 'no alternative' criteria does not apply. Such a ruling takes no account of the quality of resources which may be considered alternative, the lack of infrastructure to enable the resource to be transported to market or other market factors such as contractual obligations may impede proponents from purchasing gas from another source. It also displays a misunderstanding of the way in which reserves and resources area assessed and the basis on which commercial arrangements for CSG to LNG projects have been entered into. This issue needs further consideration.

Permanent activities

In relation to what constitutes *permanent impact* S.14 (1)(a) gives an example of '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.'
Origin is unsure what is meant by 'level or density' and how such an example applies to CSG activities as the average life-span of a CSG well is 30 years. Origin requests clarification of what is meant by this example.
Section 14 contains a regulation-making provision which allows for activities to be deemed as having permanent impacts. If utilised, this power could have significant ramifications. Origin submits that this regulation-making provision should be removed. If the Government wishes in the future to prescribe / deem certain activities as having permanent impacts, this should be dealt with by way of a proposed amendment of the Act which would be subject to full legislative scrutiny. Alternatively, there should be a legislative process that provides for review and appeal rights, and a provision limiting the exercise of the power to instances where the proposed prescribed activity will in fact impede the land from being cropped for at least 50 years.

Directional drilling

The explanatory notes (p.14) state that where developments cannot avoid SCL, alternative methods such as directional drilling could be adopted to access a resource and minimise impacts. Origin requests that the explanatory notes be amended to acknowledge that directional drilling may not be technically appropriate in some areas due to geological limitations.

Should the Committee wish to discuss any aspects of this submission in further detail please contact Anne Syvret, Government Relations Manager (QLD) on 3867 0323.

Yours sincerely,

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