



## **Resources Legislation (Balance, Certainty, Efficiency) Bill 2011**

### **Submission**

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individuals' needs. The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

## **1. Introduction**

The LGAQ welcomes the opportunity to provide feedback on the Resources Legislation (Balance, Certainty, Efficiency) Bill 2011 (the Bill). It is understood that the proposed changes generally relate to the legislation collectively known as “resources legislation”, however this submission specifically discusses Urban Restricted Areas (URAs).

Overall, the Association is supportive of the aim of the Bill to balance the goals of a strong resources sector whilst maintaining livability by restricting resource exploration activities in and near urban areas in Queensland.

## **2. Comments in relation to the proposed legislative amendments**

The LGAQ understands that the Bill, together with a proposed State Planning Policy (SPP), will implement Urban Restricted Areas (URAs) to achieve an ongoing framework to restrict resource activities in close proximity to urban centres. Until the SPP is released and a permanent policy position in relation to how URAs will be defined and identified is available, the LGAQ is unable to provide specific comments. However, general comments in relation to the proposed legislative amendments have been provided below. Further, it is requested, during the development of the SPP and the ongoing framework, Local Government is acknowledged as a valuable and necessary stakeholder to achieve the best possible outcomes in relation to the implementation of URAs.

### **2.1 Cost Implications for Local Government**

The Bill proposes that local governments will be required to provide consent on applications for resource activities within URAs and identifies broadly how this process will be undertaken. What is not understood or detailed to-date are the potential resource and cost implications to local governments undertaking this additional assessment. Similarly, the draft SPP, which has yet to be consulted on with local governments, may also include additional resource and cost implications by way of identification and mapping of: existing resource activities; potential locations for resource activities; and any URAs within a planning scheme. The LGAQ requests that the State Government recognises these additional requirements for local government and provides commensurate resources and support to ensure a timely and seamless transition and implementation.

### **2.2 Challenges in relation to Conflict of Interest**

In many instances, local government elected officials are also property owners affected (positively or negatively) by resource activity. This may result in conflicts of interest within a council in relation to decisions about URAs. The LGAQ provides the elected officials of our member councils with resources and support in order to handle decisions ethically and without bias. Nonetheless, conflict of interest declarations could be a significant challenge in determining allowable resource activities within a URA without guidance provided by the State Government through appropriate documentation, resources and tools.

### **2.3 Transparency of Decision-making**

Some local governments have also identified a concern in relation to the ability for council decisions about new resource activities or the continuation of existing resource activities in a URA to be appealed through the Land Court. Given that it is proposed the relevant Minister may override Land Court recommendations, a potential lack of certainty and transparency in relation to these decisions arises, as there is limited detail outlined in which these decisions will be based on. This identified concern is exacerbated through the transfer of powers from the Governor in Council to the Minister.

### **2.4 Appropriateness of Legislation included in the Bill**

Finally, it is noted that the Geothermal Energy Act 2010 is excluded from the URA policy framework, as a close proximity to the 'end-user' is required. Similarly, industrial minerals have been excluded from the URA policy framework to prevent negative impacts on the building and construction industry. The LGAQ acknowledges and accepts these exclusions as appropriate.

## **3. Comments in relation to the Current Temporary Solution**

The LGAQ has identified concerns with the current temporary solution under which URAs were first implemented. These have been included in the LGAQ's submission to assist in understanding the policy position of the Association in relation to URAs.

### **3.1 Effectiveness of the Buffer**

Some of the LGAQ local government members have suggested that the methodology to create a '2 kilometre buffer' forming the URA is unclear. It is also suggested that in some circumstances communities experience impacts such as dust from a distance of between 4 and 5 kilometres, potentially reducing the proposed buffer's effect.

### **3.2 Applicability of Population Size**

Local governments also identified varying opinions in relation to the requirement that a community must have a population of 1000 or greater to be eligible for an URA. In some instances, small rural communities existed prior to resource activities in the area and, despite the population size would seek the protection an URA would provide. Alternatively, many communities have developed around resource activity and would not consider an URA a benefit, as evident with eight councils opting out of the temporary framework.

### **3.3 Option to Opt-in or Opt-out**

In respect of the option to 'opt-in' or 'opt-out' of an URA, this is considered by the LGAQ as a positive element of the temporary policy and would be welcomed as part of the ongoing policy framework. It should be noted however, that in order for an 'opt-in/opt-out' solution to be effective it will be necessary to allow sufficient time for councils to sit in full committee and weigh the views of their constituents. It is also suggested that an option for opting in or out on a whole of local government

area basis is not sufficient. Discrete communities within a local government area need to be considered individually, allowing Councils the opportunity to *partially* opt-in or opt-out.