

Submission No. 008

11.1.17

8 April 2016

Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
Brisbane Qld 4000
via email: ipnrc@parliament.qld.gov.au

5 April 2016

Dear Ms Pasley,

Re: Mineral and Other Legislation Amendment Bill 2016

Cotton Australia welcomes the opportunity to provide comment on the *Mineral and Other Legislation Amendment Bill 2016* that will introduce changes to the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERC Act).

Cotton Australia is the key representative body for Australia's cotton growing industry. The cotton industry is an integral part of the Australian economy, worth over \$1.25 billion in export earnings in the 2014–15 season, and employing on average 10,000 people. The industry's vision is: *Australian cotton, carefully grown, naturally world's best.*

We are broadly supportive of the reforms which repeal many of the yet to be implemented changes to the MERC Act introduced by the previous Queensland Government. However we wish to highlight that the buffer distances to 'restricted land' are vastly inadequate and in conflict with the Queensland Government's Eligibility Criteria and Standard Conditions (hereafter referred to as the Eligibility Criteria) for Petroleum Exploration Activities¹. Cotton Australia additionally supports the expansion of the definition of restricted land in recognition that significant improvements such as irrigation infrastructure and laser levelled paddocks should not be subject to negotiations within land access arrangements.

Cotton Australia offers its broad support for the Queensland Farmers' Federation (QFF) submission to the Parliamentary Committee. QFF identifies support of the reforms, namely the inclusion within Section 68(1)(a) and 68(1)(b) of separation distances for agricultural infrastructure. However, QFF notes that the current definition of 'restricted land' excludes certain industries from protections offered by the MERC Act and the inadequacy of the recommended buffer distances. Cotton Australia wishes to highlight where there is any divergence of the views

¹ Department of Environment and Heritage Protection (2015). Eligibility criteria and standard conditions: Petroleum exploration activities – Version 2 October 2015.

expressed by Cotton Australia and QFF, then it is the position given in this submission that reflects the position of Cotton Australia.

Cotton Australia made submissions to both the bill changes and the regulations in July 2014 and January 2015 respectively. Issues that were highlighted within these earlier submissions include:

- exemptions from notice provisions,
- rights of objection,
- land access to restricted land,
- right to elect to opt-out, and
- legacy bore remediation.

We are encouraged to see that the exemption of notice provisions and rights of objection have been repealed. While we very much support the inclusion of key agricultural infrastructure within the definition of restricted land, including a principal stockyard, dam or artesian well and artificial water storage, we encourage the Government to reconsider its proposed distance of 50m in the definition of restricted land.

In the event that the previous Government's legislative provisions had been implemented, many of the restricted land protections would have been lost. This includes the ability of the Minister for State Development and Natural Resources and Mines to override any 'constraints' imposed by restricted land such as allowing a mining lease over restricted land where coexistence is not possible or access consent and compensation has not been agreed. However, the provisions that are currently in place apply a 600m distance from infrastructure and improvements to be defined as restricted land. The changes proposed by the Amendment Bill (where a distance of 50m has been applied) represents a loss in protection of Queensland's agricultural assets.

Landholders have made significant investments in infrastructure and we believe that 50m will not provide the necessary protection to farm infrastructure. We believe that the imposition of such short distances will leave landholders exposed, requiring them to negotiate extended separation distances as part of land access and compensation arrangements. In the event that a resource company was to construct infrastructure right at the 50m land exclusion zone, our members are concerned that this could generate issues with the structural integrity of dam infrastructure or artesian wells.

Land access and compensation agreements are designed to develop effective, long term contractual arrangements with resource companies. Legislation is required to provide protections in the event that such agreements do not occur and we see that the amendments do not go far enough to provide these protections for landholders.

In terms of the Eligibility Criteria, we point the Committee to two sections that indicate more appropriate separation distances (see PESCC 35²; PESCC 9³). The document nominates set backs of 2km (horizontally) from groundwater bores where well stimulation activities are to occur or 200m set back from lakes and 100m from all other water sources.

Cotton Australia asks that the provisions that currently occur within the Eligibility Criteria be upheld within the MERCP Act. We would suggest that at an absolute minimum the 200m set back or exclusion zone from dam or artesian well and artificial water storage should be implemented. We note that in instances where well stimulation is to occur the 200m set back or exclusion zone will be insufficient according to the Eligibility Criteria. We would recommend further amendments to the legislation to support these industry best practice mechanisms.

Cotton Australia is disappointed to see that the definition on restricted land will omit critical irrigation infrastructure including irrigation channels and drainage; land improvements to manage surface water flows including contour and graded banks, levees and laser levelled paddocks. Given the critical nature of these infrastructure improvements to farm operations we would like to see these placed on the definition of restricted land in the first instance, with the landholder able to permit access should they wish to negotiate such an arrangement. We believe that the threat infrastructure being exposed or at risk due to exploration or development will only serve to impede a fair and reasonable land access negotiation process.

Cotton Australia also seeks to clarify the legislative provision of 220 'Existing entry notices' (3) that states that 'The notice is valid event if the notice does not comply with section 39 (2) (a) or 57 (2)'. We question whether 220 (3) invalidates the requirement to provide entry notices and seek clarification regarding the intention of this provision.

We note that the Amendment Bill appears to generate a requirement for the development of a new land access code. Given our interest in the recommendations and requirements generated by a Code, we request that we be included in stakeholder consultation during the development of the new Code.

As per our July 2014 submissions on the MERCP Act, we encourage the Government to consider legislative provisions regarding right to elect to opt-out and legacy bore remediation.

² PESCC 35. The petroleum activities must not involve well stimulation activities at a well located within 2 kilometres laterally of a landholder's active groundwater bore and sourced from a formation within 200 metres vertically of the stimulation impact zone.

³ PESCC 9. Petroleum activities that require earthworks, vegetation clearing and/or placing fill, other than that associated with the construction of linear infrastructure, are not permitted in or within:

- (a) 200 metres of any wetland, lake or spring; or
- (b) 100 metres of the outer bank of any other watercourse.



Advancing Australian Cotton

Should you have any questions regarding our submission please do not hesitate to contact me

[REDACTED]
Kind regards,

A handwritten signature in cursive script, appearing to read "F M", followed by a horizontal line.

Felicity Muller
Policy Officer
Cotton Australia