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Ms Erin Pasley
Research Director
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Pasley,

Re: Submission to *Land and Other Legislation Amendment Bill 2014*

AgForce wishes to thank the State Development, Infrastructure and Industry Committee for the opportunity to make comment on the Land and Other Legislation Amendment Act 2014 – which we believe is an excellent step in the right direction of delivering tenure security.

AgForce is the peak body for Queensland's cattle, sheep and grain industries. These industries cover almost 80pc of Qld and by land area are the largest group of stakeholders affected by this review. As AgForce has previously outlined to the Parliamentary Committee, relevant Ministers and this government, we believe this committee has a once-in-a-generation opportunity to address many issues facing rural lessees and in turn increase the profitability and productivity of our industry. These broader issues have previously been the subject of a suite of recommendations by your Committee to which this Bill in part implements.

The attached document contains AgForce's comments on the *Land and Other Legislation* Amendment Bill 2014 of which we are supportive.

Importantly however, this Bill alone will not fulfil the desired tenure outcomes of the Queensland pastoral sector due to the omissions of a practical pathway forward for the conversion of term leases. Given these leases cover approximately half of Queensland and therefore a significant portion of the pastoral sector, this omission and the lack of a clear communicated plan and process to achieve tenure conversion for these leases will perpetuate the current confusion and uncertainty about their fate and future. As such, we request the Committee make inquiries as to the status of this work and communicate this progress and plan.

Again, AgForce would like to thank the Committee for the opportunity to make comment on this important issue and for your long term commitment to this area. If you have any questions regarding the submission please contact General Manager, Policy Lauren Hewitt on 3236 3100 or email hewittl@agforceqld.org.au

Yours sincerely,

I. W. Burnett.

Ian Burnett
General President

Part 3, *Forestry Act 1959* Amendments

Clause 9 amends the granting of term leases, PTO's and stock grazing permits such that:

- A term lease (s35(5)) 'must not be granted, and, if granted, must not be extended or renewed, unless the Chief Executive is satisfied the objects of this Act would not be prejudiced or opposed by the lease, including any conditions to be included in the lease' and
- 'If a term lease granted under subsection 5 is a rolling term lease under the *Land Act 1994,* its term may be extended under that Act only with the agreement of the chief executive and only after the chief executive considers the extension under subsection 6.'

Term leases are for graziers the preferred form of tenure upon forestry land as they usually offer better terms and conditions than permits. The new rolling lease structure is of particular interest to term lessees on forestry given their history of insecurity; therefore AgForce supports the move to this new lease category. Further, we seek involvement with the Chief Executive of the Forestry Act to ensure that lessees are provided this security wherever possible.

Clauses 15 and 16. Forest Consent Agreements (s61JA)

This clause introduces a new concept of 'forest consent areas' in which a lessee converting to a freeholding lease or deed of grant under the Land Act 1994 may enter into an agreement which provides for amended rights and obligations in relation to forest products within that forest consent area (FCA). The FCA, when registered as a profit a prendre has effect regardless of any consideration and that fact that forest products will remain the property of the State.

AgForce is supportive of an arrangement under which lessees who are converting have the option of either:

- Purchasing timber as part of the freeholding lease and rights
- Allow the state to retain their interest in commercial timber.

AgForce's only query on this clause relates to the definition of 'forest products.' The current definition includes 'all vegetable growth and material of vegetable origin whether living or dead and whether standing or fallen, including timber' and in practice the species included in this definition can change according to what the relevant forestry department deems as commercial and of interest at the particular time. The ridiculous nature of this provision is demonstrated by the fact that it would include pasture species and forage plantations like leucaena which may have been established by the lessee.

This definition could leave lessees unknowingly open to breach when thinning or clearing species that they are unaware are at the time commercial forest products – this has recently been the case under the *Vegetation Management Act 1999* amendments. AgForce submits that this could be redressed through the FCA confirming at the time which particular forest products it pertains to.

Part 4, *Land Act 1994* Amendments

Calculating the Value of Leasehold Land

Clauses 23, amends the ability of the Minister to set the values for disposal of reservations by sale under s24. AgForce agrees that there are a number of ways in which to calculate the value of land (other than purely unimproved land value) which the Minister may need to adjust for. AgForce has previously submitted that other jurisdictions have implemented other freeholding cost methodologies which may better represent a lessee's interest in that land. In saying this, AgForce seeks that the regulation will prescribe a fair and transparent value based on information which is understood and justifiable.

Removal of requirements to have Land Management Agreements

Clauses 26 and 33 remove the previous mandatory requirement to enter Land Management Agreements (LMAs) for lease sales and for the subsequent lessee to comply with the conditions of that LMA. In place of this, the new provision will allow the Minister to require LMAs only where he is concerned that the land suffers from, or is at risk of land degradation. AgForce believes that this is a reasonable requirement.

Clause 61 inserts a new section relating to the cancellation of LMA's (176XA). AgForce for more advice on what circumstances the Minister will agree to cancel LMA's.

New Extension Provisions Available for Term Leases

Clauses 46 and 53 which previously provided for short term extensions of leases have now been replaced by a new extension provision under Clause 88. AgForce supports the continuation of this extension provision.

Rolling Leases

AgForce is supportive of the new rolling lease structure provided for under Clause 46. Whilst the ultimate aim of nearly all lessees is to freehold their land, until this is legislated for, the rolling lease will offer a cheap and simplified renewal. In AgForce's previous submission to the Committee on this issue we advocated that any new renewals process should:

- Significantly simplify and shorten LMAs.
- Reducing the timeframes for renewal.
- Removing the need for lessees to resurvey for lease renewals.
- Reinvestigating more appropriate incentives for additional terms.
- Removing the current FCA process.
- Removing the need for desktop biodiversity assessments.
- Writing LMAs that allow for new science to be implemented and that do not penalise producers for implementing science which may later be proven to be incorrect.
- Better integration of other legislative requirements into LMAs where it provides efficiencies for lessees and the department.
- Removing the 80pc rule for tenure upgrade applications

AgForce therefore believes that the Department has fulfilled these requirements.

As there is likely to be confusion about the commencement of the rolling leases and how they will operate in relation to the original term length, existing renewal applications and previous arrangements, AgForce submits that the Department would be advised to:

- create a series of simple and also more detailed fact sheets; and also
- conduct a series of workshops and/or webinars.

explaining the changes given the confusion that currently exists in rural Queensland regarding the myriad of lease renewal changes that have occurred over the last decade.

Regarding s164A, AgForce seeks further information about which applicants may be able to see rolling lease arrangements and requests information about how/if the Department will proactively communicate these changes to these lessees.

Regarding s164(5) AgForce supports the principle that all lessees can apply for a rolling lease at any time of their term rather than just in the last 20 years. Whilst we acknowledge that this is an improvement on the previous 20pc rule, we believe that by allowing all lessees to avail themselves of this opportunity we could further increase security of these leases, a stated goal of Government.

AgForce supports the inclusion of s164H which provides a process for term lease renewals to become rolling leases which we believe will reduce paperwork.

Ability to Convert Directly from Term Lease to Freehold

Clause 47 allows a term lease to convert directly to freehold – a move which AgForce strongly supports along with the ability for this to occur at any time during the lease term.

Ability of Chief Executive, Forestry to set Conditions

Clause 48 allows the Chief Executive, Forestry to set conditions as part of a freehold offer where the land is to include a forest consent area. AgForce is supportive of the FCA process but seeks involvement with the Forestry department to ensure that clear and reasonable conditions as part of this process.

Setting of Purchase Price through Regulation

Clause 51 – Purchase Price if Deed of Grant Offered – allows the purchase price for lease conversions to be set by the Chief Executive in regulation and will not necessarily be unimproved value. AgForce agrees that there are a number of ways in which to calculate the value of land (other than purely unimproved land value) which the Minister may need to adjust for. AgForce has previously submitted that other jurisdictions have implemented other freeholding cost methodologies which may better represent a lessee's interest in that land. In saying this, AgForce seeks that the regulation will prescribe a fair and transparent value based on information which is understood and justifiable.

Removal of Corporations & Aggregations Restrictions

Clause 53 removes the restriction on corporations and trustees holding grazing homestead freeholding leases.

As AgForce has noted in previous submissions to the Committee, the restrictions have been a contentious issue for AgForce with many family-owned members opposing any change to the policies and some (particularly corporate members) in favour of a less-restrictive tenure approach.

Historically, AgForce and its predecessors (including the United Graziers Association) have supported the retention of the restrictions on the grounds that they continue to support the family-farm unit which is representative of the general pastoral industry profile. Since the formation of AgForce, the organisation has come under pressure from some members to approach government seeking removal of the provisions, particularly given the changing modern structure of vfamily farms. However despite reconsideration of this policy upon numerous occasions, AgForce remains in support of prohibitions being maintained on corporations holding perpetual and freeholding leases.

Amalgamation of Leases

Clause 176K allows amalgamations of two or more leases where each lease is either a term lease for pastoral purposes or a perpetual lease for pastoral purposes. AgForce supports this provision but questions the ability of pastoral lessees to do this given Clause 57 will require that a term and perpetual amalgamation will be for a perpetual lease.

Removal of all Rental Arrangements Provisions in Preparation to Set under Regulation

Clause 64 completely removes the entire chapter dealing with rents and rent categories. AgForce is generally adverse to the placement of significant legislative sections into regulation given the lesser level of certainty, scrutiny and consultation that is associated with regulation amendment as opposed to primary legislation.

In saying this, AgForce has been advocating for an alternative (and affordable) rental regime be put in place since the current formula was struck in 2007. Since that time, pastoral lessees have experienced seven consecutive 20pc rent hikes - at a time when industry profitability has declined due to a range of compounding factors largely outside of individual's control.

In 2013 AgForce sat on the Ministerial Round Table for Rents and in that forum outlined a series of alternative rental methodologies but has to date received no feedback on them. AgForce is hopeful that one of these preferred methodologies will be chosen for the new but as yet unreleased regulation. However at this stage given we have not seen the regulation the potential outcome could range from being very positive (acceptable to grazing lessees) to very negative (resulting in a reduction in value of leases and/or the potential for a walk off from leases). It is difficult for an industry to have a clear unconditional position of support under these circumstances.

Whilst, as we note above, it is important to have significant provisions located in primary legislation, the foremost concern facing lessees today is whether they will be able to afford to keep their leases – therefore we stress that a sustainable decision on rents must be reached.

Standard Review of Lease Conditions

Clause 69 allows the minister to carry out a standard review of lease conditions at least once every 15 years after the lease is started. AgForce believes this is reasonable.

Regulated Conditions

Clause 70 inserts a new Chapter 5, pt 2, div3A into the Act which deals with regulated conditions however there is limited detail in the explanatory memoranda about what such conditions could be. Therefore AgForce seeks an explanation about the purpose behind this clause and how and when the department proposes to utilise it.

Regulation about the Payment and Collection of Rent and Instalments

Clause 100 inserts a new Schedule 1B relating to regulation about the payment and collection of rent and instalments. The new section will allow a later regulation to make rules regarding:
setting of rent periods;

- categories of authorities for rental purposes
- calculation of rents payable
- allowing the Minister to apply an alternative way of calculating the rent payable for a category of authority so that a lower rental amount may be applied in prescribed circumstances
- ending the requirement to pay rent for leases subject to conversion to freehold
- setting when and where any rent or instalment must be paid before objections or appeals are finalised
- refunding of overpaid rent or instalments and the extent to which interest is payable on overpaid amounts
- payment of penalty interest on unpaid rent or instalments
- actions relation to non-payment of rent

Again, without access to the associated new regulation, it is difficult to make any comment about the effectiveness of the proposed regulatory changes. This again highlights the limited consultation that is associated with setting such provisions in regulation – industry is placed in a situation where we cannot comment on provisions that have the potential to undermine the effectiveness of any primary legislation. As undertaken by the Deputy Premier for the *Regional Planning Interests Act* process we would seek a 60-day period of consultation on any supporting regulations.

In saying this, the amendments above combined with some comments made by Minister Cripps in his introductory speech lead AgForce to believe he does intend to take on board many of the comments that industry has made regarding rents and hardship arrangements.

Part 11 Amendment of *Water Act 2000*

The Bill proposes amending Section 24 of the *Water Act 2000* to enable the Chief Executive in cases of a shortage of water to limit or prohibit the taking of water, including from a watercourse, lake or spring, for a relevant purpose, namely the domestic purpose of watering a garden or for stock purposes generally. This is proposed to occur via the publishing of a notice. AgForce Queensland are

concerned that such further restrictions to the taking of water for livestock purposes may result in adverse animal welfare outcomes, particularly as water shortages are already in place when such a restriction or prohibition is applied. Such a decision is likely to impose significant additional costs and pressures on livestock owners in having to destock the area, or transporting in or establishing alternative water supplies. AgForce would request that the Government remove the reference to stock purposes under this proposed amendment.

AgForce supports the security of property rights of landholders and so supports the Government in delivering certainty around the validity of previously issued water licenses, while allowing the exercise of any existing appeal rights.