Submission No. 001
10 January 2014
11.1.14

Submission to the Parliamentary Committee for State Development, Infrastructure and Industry on the Regional Planning Interests Bill, 2013.

1.0 Names of Submitters:

Dr Bob Morrish – Chairman, Cooper's Creek Protection Group, [redacted]

The Cooper's Creek Protection Group was formed in 1995. Its members are traditional owners, workers, pastoralists, town residents, local business owners and people with an interest in, or a connection with, the Channel Country and the Lake Eyre Basin.

Its goal is to preserve the ecological integrity and biodiversity of the Lake Eyre Basin's rivers, wetlands and landscapes, recognizing that the Region's human communities and sustainable industries depend on the maintenance of this integrity.

Mr Terry Korn PSM – President, Australian Floodplain Association, [redacted]. Email - ausfloodplain@bigpond.com

The Australian Floodplain Association is a non-government organisation that was formed in 2005 to protect the rivers, floodplains and wetlands for the people who rely on them for their livelihood. It has members throughout the Lake Eyre and Murray Darling Basins.

The Association also links landholders (mainly dry land farmers and graziers) and their communities to scientists, politicians and conservation groups to sustainably manage riverine environments.

This is a joint submission by the Australian Floodplain Association (AFA) and the Cooper's Creek Protection Group (CCPG) on behalf of the landholders who manage the natural resources of the catchments of the Cooper Creek and Georgina and Diamantina Rivers and the communities who live in the Lake Eyre Basin.

2.0 The Underlying Reasons for this Submission:

In 2009, the Bligh government announced that it would extend the protection of the Wild Rivers Act 2005 to protect the natural values of the river systems in the Lake Eyre Basin. This resulted in the Wild Rivers Act being amended in 2010 to restrict development on the floodplains of the Cooper Creek and the Georgina and Diamantina Rivers. The Cooper Creek and the Georgina and Diamantina Wild River Declarations were both gazetted on the 16th December, 2011.

During the campaign for the 2012 Queensland election, the Honourable Andrew Cripps MP – Minister for Natural Resources and Mines stated that the government had "no plans to repeal the western river declarations and that the LNP government would work with locals and other stakeholders about appropriate environmental protections for the Western Rivers of their Region" Subsequently, following the election Minister Cripps decided to establish a Western Rivers Advisory

Panel (WRAP) to seek community input into the development of "alternative strategies" for the protection of the Western Rivers.

The Terms of Reference for the establishment of the WRAP outlines that the Charter Letter from Premier Newman to Minister Cripps contains a first term task to: "commence development of alternative strategies to protect Western Rivers, while still allowing sustainable development to proceed, in cooperation with the Minister for Environment and Heritage Protection". The Terms of Reference also outline that the Cooper Creek, Georgina and Diamantina Rivers, which form Queensland's part of the Lake Eyre Basin (LEB) are regarded as Queensland's "Western Rivers".

At the inaugural meeting of the WRAP, Minister Cripps indicated that the Newman government did not support the Wild River declarations for the Cooper and Georgina/Diamantina Basins and that the government would definitely develop an "alternative framework" for the protection of these Western Rivers. He outlined that the current Wild River declarations would not be withdrawn until an alternative framework was ready to be implemented and that the future framework would include non-regulatory options and partnerships. To assist the Minister to progress this agenda, the WRAP was requested to provide advice on what natural assets and values in the Lake Eyre Basin the local community saw as being appropriate to protect, and to provide local input on the potential expansion of "small scale" irrigation in the Basin. The WRAP subsequently provided a Report on its views and a number of recommendations to Minister Cripps in late May, 2013.

In response to the WRAP's views and specific recommendations on an "alternative framework" for the protection of the Western Rivers, on 31st July, 2013, Minister Cripps publicly announced in Longreach the core principles of the management framework that his department has been developing for the Georgina and Diamantina Rivers and the Cooper Creek. He publicly stated "There will be no cotton grown on the Cooper Creek and no further water released for irrigation purposes from these systems. Open-cut mining will not be allowed in the Channel Country and oil and gas development will be strictly controlled under strengthened conditions to be contained in the *Environmental Protection Act*. This will mean proposed petroleum and gas developments will be subject to stronger environmental conditioning than in any other part of Queensland." He also stated that "A special Channel Country Protection Area will be created which will protect a greater area of riverine channels and flood plains than the existing Wild Rivers legislation." (Source – Minister Cripps media release - 31st July, 2013).

In a briefing of the Lake Eyre Basin Ministerial Forum on 6th November, 2013, Minister Cripps advised that the Department of Natural Resources and Mines has been conducting further work with other Queensland government agencies on the detailed strategies for implementing these core principles through relevant legislation. He also advised that the Queensland government will not be developing Lake Eyre Basin specific legislation or implementing a regulatory framework that simply mirrors and has the same impacts as the Wild Rivers framework.

Minister Cripps also advised the Lake Eyre Basin Ministerial Forum that "the Queensland government recognises that large open cut mining presents the greatest risk to the environmental values of the Channel Country and the major rivers of the region, and it is an incompatible land use in this highly productive grazing area. He advised that open cut coal and metalliferous mining will therefore be prohibited in an area which is defined spatially and named the Channel Country Protection Area. The Channel Country Protection Area covers the Channel Country, associated floodplains and the major rivers of the region. It incorporates more floodplain areas and river

channels than the existing wild river declarations covering approximately 13% of the Queensland portion of the Lake Eyre Basin.

Minister Cripps further advised that within the Channel Country Protection Area, petroleum and gas developments will be subject to site-specific assessment and mandatory conditions. This approach recognises the significant environmental values of the area and will focus on achieving outcomes such as maintaining river-floodplain linkages and water quality. Interruption of overland flows can occur with roads and pipelines and this will also be addressed through mandatory conditions to apply to resource projects." (Source – Queensland Briefing Note to Lake Eyre Basin Ministerial Forum – 6th November, 2013). However, no detail was provided on how this would be achieved once Wild Rivers protection was removed.

Since the submission of the WRAP Report in late May 2013, there has been no consultation whatsoever, between the stakeholders who live in and manage the natural resources of the Queensland part of the Lake Eyre Basin and the Queensland government on the "alternative strategies" for the Western Rivers. This is despite multiple forums of western Queenslander's, convened over the past three (3) years, all firmly rejecting mining and coal seam gas projects in or near watercourses and floodplains and also rejecting any increase in irrigation in the Basin. These forums included a community roundtable, two (2) Aboriginal forums, the local government peak body of RAPAD and a science based conference. Regrettably, the Newman government does not have a good track record for effective consultation with the grassroots stakeholders and prefers to listen to the views of peak bodies such as the Queensland Resources Council on such matters.

To date there has been no detailed information on the specific provisions of the proposed "Channel Country Protection Area" or a replacement framework provided to the local Lake Eyre Basin stakeholders. The local stakeholders have no direct knowledge of the Newman government's plans or timelines in regard to these matters, only what has been stated in sparse detail by Minister Cripps in media releases and to the Lake Eyre Basin Ministerial Forum!!!

It is quite evident from Minister Cripps public announcements and the advice included in the Lake Eyre Basin Ministerial Forum Briefing Note, that the Queensland government has largely ignored the views and recommendations of the WRAP and the numerous other community processes established to discuss this issue over the last three (3) years, and that it is seeking to implement an "alternative strategy" for the Western Rivers that expands a wide range of prospects for mining and oil and gas extraction.

It has been discovered that the Newman government appears to have included a "legislative head of power" for the "Channel Country Protection Area" in a Regional Planning Interests Bill 2013, which is currently out for public consideration and submissions. While the Bill and accompanying Explanatory Notes contain no details of the Newman government's intentions for the "Channel Country Protection Area", it is understood that an accompanying Regulation to the Regional Planning Interests Bill may contain these details, when it is proclaimed as law.

Accordingly, in an attempt to protect the interests of the landholders and residents who manage the natural resources of the Queensland part of the Lake Eyre Basin and the communities who live in the Lake Eyre Basin, the AFA and the CCPG have decided to lodge a submission to this Parliamentary Committee outlining their views on the Regional Planning Interests Bill 2013. We respectfully submit our views for the consideration of the Committee.

3.0 Comments on the Bill:

3.1 Objective of the Bill:

The Explanatory Notes accompanying the Bill outlines that it provides the ability to manage the impacts of resource activities and regulated activities in areas of regional interest that contribute, or are likely to contribute, to Queensland's economic, social and environmental prosperity.

3.2 Purposes of the Bill:

The Explanatory Notes outline the purposes of the Bill are to:
• identify areas of Queensland that are of "regional interest" because they contribute, or are likely to contribute, to Queensland's economic, social or environmental prosperity;
• give effect to the policies about matters of State interest stated in regional plans
• establish a process to manage the impacts of resource activities and regulated activities in these areas of regional interest and provide for the coexistence with the preservation of the feature, quality, characteristic or other attribute of the land that resulted in its identification as an area of regional interest.

After reading and reflecting on the provisions of the entire Bill it is the view of the AFA and the CCPG that the Bill's primary focus is more about providing the Minister and the Chief Executive of the Department of State Development, Infrastructure and Industry with the mechanisms to "fast track" project proposals (in particular Resource Industry projects and regulated activities) and to minimise the opportunity for objections and appeals to stop, delay or impose more stringent conditions on project approvals, than protecting the areas of Queensland that are contributing to the State's economic, social and environmental prosperity. Accordingly, the AFA and CCPG do not believe the Objective and Purposes of the Bill reflect the true intent of the Bill.

3.3 Areas of Regional Interest:

Clause 7.0 of the Bill defines an area of "Regional Interest" as:

- a priority agricultural area,
- a priority living area,
- a strategic cropping area, or
- a strategic environmental area.

The Explanatory Notes indicate that an area of land that has been identified as a "regional interest area" must be shown on a map in a regional plan or prescribed under a Regulation that will accompany the Bill.

The "priority living area" and the "strategic environmental area" designations are the two categories that are likely to have an impact on landholders and communities in the Queensland part of the Lake Eyre Basin. The specific provisions of these two areas of "regional interest" are:

A Priority Living Area:
A priority living area is described in the Bill as an area that includes an existing settlement area and an area surrounding or adjacent to the settlement area that is identified as necessary or desirable to provide for the future growth of the settlement area. A priority living area is intended to provide a buffer between the settlement area and resource activities.

A Strategic Environmental Area:
A strategic environmental area is described in the Bill as an area with strategic environmental value. Environmental value has the same definition given under the *Environmental Protection Act 1994* which is:-
(a) a quality or physical characteristic of the environment that is conducive to ecological health or public amenity or safety; or
(b) another quality of the environment identified and declared to be an environmental value under an environmental protection policy or regulation.

The Explanatory Notes to the Bill outline that a "strategic environmental area" **may** include:
- **The channel river areas of western Queensland;**
- Landscapes that provide an important bio-physical function for sensitive plant and animal species; or
- An ecological corridor and habitat connection.

This is a very oblique and imprecise reference and the only reference in the entire Bill and the Explanatory Notes to what is potentially a "statutory head of power" for a framework for the "Channel Country" or the "Channel Country Protection Area" of the Western Rivers.

As this submission has previously outlined, the Newman government has been quite disrespectful in its lack of consultation with the local stakeholders in the Queensland part of the Lake Eyre Basin on the fine detail of its intentions in regard to the "Channel Country Protection Area" framework as a component of the "alternative strategies" for the protection of the Western Rivers. The AFA and CCPG contend that a full clarification of the real intent of the Newman government in respect of this matter is required, before the Bill and accompanying Regulation is further progressed.

3.4 Regulations:

The Explanatory Notes to the Bill states that the Governor in Council is able to make regulations under the Bill that establish—
a) the fees that are payable under the Act and the matters for which they are payable; and
b) a maximum penalty of 20 penalty units for contravention of the Regulation.

The Explanatory Notes to the Bill also outlines that the Bill provides for the making of an accompanying Regulation that can prescribe an area of "regional interest", who the assessing agencies are and their specific jurisdiction, the scale of fees and the notification requirements including requirements for a properly made submission and assessment criteria if a person wishes to appeal a regional interest decision. However, it is interesting to note that the majority of these matters are not listed in Clause 88 of the Bill.

The AFA and CCPG have assumed that any "fine detail" in regard to the "the channel river areas of western Queensland" or proposed "Channel Country Protection Area" would be incorporated into the accompanying Regulation which is normal practice. However, there is no mention of this in either the Draft Bill or the Explanatory Notes. The AFA and CCPG contend that there needs to be a

full disclosure of information on these matters to affected local stakeholders in the Queensland part of the Lake Eyre Basin before both instruments are further progressed. It is imperative that the Regulation details are discussed with local landholders in the Queensland part of the Lake Eyre Basin and officials of the South Australian government before they are approved by the Queensland government.

Under the Statutory Instruments Act 1992 (SIA), a Regulation is defined as a Statutory Instrument which is Subordinate Legislation and it is required to be approved by either the Governor or Governor in Council. There is no requirement under the SIA (1992) for the government to consult with stakeholders in the development of a Regulation. However, section 49 of the SIA requires that Subordinate Legislation must be tabled in the Legislative Assembly within 14 days of the notification of Governor in Council approval of the instrument in the Government Gazette. Section 50 of the SIA (1992) also outlines that the Legislative Assembly may pass a resolution of disallowance of Subordinate Legislation, if the notice of a disallowance is given within 14 days of the legislation being tabled in the House. Such a motion would be debated and voted on along party lines and on the current split of numbers in the Legislative Assembly, is likely to be lost.

The AFA and the CCPG contend that the use of a Regulation statutory instrument, to define a lot of the "specific detail" of the Bill, provides a significant degree of latitude to the Queensland government to include provisions and make changes to the Regulation, without spelling out the fine details to impacted stakeholders and without undertaking stakeholder consultation. With the recent history of the Newman government's display of a total lack respect for landholder's groundwater access rights in the Galilee Basin; this introduces a "high level of risk" exposure for Queensland's landholders in the Channel Country of south-western Queensland.

For the benefit of the members of the Parliamentary Committee - the Newman government has approved the Environmental Impact Statement process (with conditions) for three mine proposals in the Galilee Basin which will collectively extract 1020 Gigalitres of water from the local groundwater aquifers over their mine life. This is equivalent to 2.0 "syd harbs" or 525 years of domestic and livestock supplies for the local primary producers. The attitude of the Newman government is that this level of water extraction will have limited impacts on the local landholders, and if it does, then it is up to them to negotiate "make good agreements" with the mining companies!!!! This is an appalling state of affairs which the AFA and CCPG do not wish to see extended into the Queensland part of the Lake Eyre Basin.

3.4 A Regional Interests Authority:

The Bill applies to resource activities authorised under a resource Acts being: the *Mineral Resources Act 1989, Petroleum and Gas (Production and Safety) Act 2004, Petroleum Act 1923, Greenhouse Gas Storage Act 2009, Geothermal Energy Act 2010* in addition to other regulated activities in an area of "regional interest". Clause 5 of the Bill establishes that **any restriction or requirement under this Bill, applies despite** any *resource Act, the Environmental Protection Act 1994, the Sustainable Planning Act 2009 or the Water Act 2000*. Clause 56 of the Bill also makes it clear that a **condition of a "regional interest authority" prevails over any condition of another authority or permit to the extent of any inconsistency.** It is the view of the Queensland government that the introduction of a stand-alone decision under this Bill provides the applicant with greater flexibility in determining the sequencing of permits for a project that is within an "area of regional interest" under the provisions of this Bill.

Given that the Newman government is proceeding with actions to revoke the Cooper Creek and Georgina and Diamantina Basins Wild River Declarations and ostensibly provide protection to the Western Rivers through the Areas of Regional Interest – "strategic environmental area" mechanism, the AFA and CCPG are perplexed that there is no mention of the Wild Rivers legislation in the Bill. The AFA and CCPG are unsure of whether this is a deliberate action by the Newman government or a genuine oversight. The AFA and CCPG contend that if the Newman government intends to use this Bill as the vehicle for the "Channel Country Protection Area" framework, then it needs to be honest with the stakeholders and ensure that there is full disclosure of what is intended.

3.5 Criteria for decision making:

The Explanatory Notes outline that the Bill requires the Chief Executive to consider the following criteria when deciding an assessment application:
• the extent of the expected impacts on the carrying out of the resource activity or regulated activity on the area of regional interest;
• any criteria for the decision prescribed under the regulation to the Bill;
• if the decision is for a notifiable assessment application—all submissions received about the application that were properly made;
• if the decision is for a referable assessment application—any advice about the application included in an assessing agency's response.

The Bill also requires the Chief Executive to give effect, in the decision, to the recommendation of a local government where their recommendation is in accordance with **clause 41(2)(i) or 41(2)(ii).**

These Explanatory Notes references to the recommendation of a Local Government in the Bill are incorrect – clause 41 (2) has subsections (a), (b), (c) and (d) and not subsections (i) and (ii). The Explanatory Notes should state "clause 41(2)(a)(i) and 41(2)(a)(ii) as per page 29 of the Bill. Furthermore – on page 24 of the Explanatory Notes there is a heading which reads "What is What are Mitigation Measures". It should read "What are Mitigation Measures". The AFA and CCPG contend that information of this nature released into the public domain needs to be factually and typographically correct.

3.6 Exempt resource activities:

At this point, the Explanatory Notes outlines that the Bill allows for exemptions for **certain resource activities** in **particular areas of regional interest from requiring a "regional interest authority"**. This provision will allow some resource activities to proceed without securing a regional interest authority. The exemptions include:

- a) where the landholder and the resource activity authority holder have a negotiated agreement for compensation.
- b) where the resource activity is not likely to have a significant impact on the priority area.
- c) where the resource activity is to be carried out for less than 12 months.
- d) where the resource activity has a pre-approved **resource activity work plan**.
- e) where the resource activity is a small scale mining project activity as defined under the *Environmental Protection Act 1994*.

A **resource activity work plan** includes**:**

• **for exploration activities - a works program** in the case of the Mineral Resources Act 1989 is a statement (which includes a work program) about the activities to be carried out by a resource authority holder that has been approved by the Minister; or
• **for production activities - a plan of operations** that has been submitted by the resource authority holder with the administering authority of the *Environmental Protection Act 1994*. Both a works program and a plan of operations provide detailed information about the resource activities to be carried out at a property level. Both are considered to provide a clear intention from a resource authority holder that a resource activity is either being carried out or will be carried in the near future.

The Bill clarifies that this exemption does not apply to the holder of a *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* tenure*,* if the area of that tenure is within a Cumulative Management Area (CMA) as defined under the *Water Act 2000.*

The impacts on underground water in a cumulative management area in the Surat Basin are being monitored and are identified through an Underground Water Impact Report prepared under the *Water Act 2000*. For example, the Surat Cumulative Management Area has identified a number of petroleum tenure holders who are currently impacting groundwater as a result of exercising their underground water rights under the *Petroleum and Gas (Production and Safety) Act 2004*.

The AFA and the CCPG acknowledge that this provision currently only applies to Priority Agricultural Areas or Strategic Cropping Areas and should have little or no impact on the Lake Eyre Basin catchments. However, the AFA and the CCPG have observed on numerous occasions when the Government of the day has introduced last minute amendments that could potentially extend this provision to include other areas of "Regional Interest". The AFA and the CCPG are totally opposed to any extension of these provisions without appropriate consultation with the local stakeholders of the Queensland part of the Lake Eyre Basin.

3.7 Appeals to decisions:

The Bill provides for **"appeal rights" for applicants, owners of land and affected land owners** to a "regional interests" decision.

The Explanatory Notes outline that an affected land owner is a person who owns land that may be negatively affected by a resource activity because of the proximity of the affected land to the land the subject of the decision and the effect the resource activity may have on the values and amenity of the affected land.

The Bill provides for the applicant, or the owner of the land (where the applicant is not the owner of the land), or an affected land owner to appeal to the Planning and Environment Court about a regional interest decision.

The appeal period for a regional interest decision is within 20 business days after:
• for the applicant – a decision notice was received;
• for the owner of the land – a copy of the decision notice was received;
• for an affected land owner – the Chief Executive published the decision in the required manner.

The Bill will make the Chief Executive the respondent for an appeal and also establishes who may be a co-respondent for the appeal. The Chief Executive may apply to the court to withdraw from an appeal if an appeal is only about an assessing agency's response. In this case, the assessing agency becomes the respondent for the appeal.

The AFA and the CCPG have two issues with these provisions. The first issue is that there are no appeal rights to "non-impacted" third parties and it is the view of the AFA and CCPG that this locks out the opportunity for the "community" to have their say on a "regional interests" decision. The AFA and CCPG hold the view that this may be a breach of the following fundamental legislative principles:

Principle - 7.2.10 Does the legislation have sufficient regard to Aboriginal tradition and Island custom? ***In the view of the AFA and CCPG, the Indigenous peoples of the Lake Eyre Basin will be prevented from appealing a "regional interests" decision.***

Principle - 7.2.12 Does the legislation in all other respects have sufficient regard to the rights and liberties of individuals? ***In the view of the AFA and the CCPG, the Bill only provides rights and liberties to some individuals and not all individuals who may have an interest it a "regional interests" decision.***

The second issue is that the provision of an appeal period of 20 business days is an extremely short time for an owner of land or an affected owner to prepare an appeal – given that they will most likely have to secure the services of a legal practitioner to prepare such documentation. The AFA and CCPG are of the view that this period should be a minimum of 40 business days.

The AFA and the CCPG urges the Committee to consider these matters.

3.8 Ministerial directions - to assessing agency and to investigate:

The Explanatory Notes outline that the Bill will enable the Minister to give a direction, by notice, to an assessing agency where:
- the Minister is satisfied the assessing agency's response is not within its jurisdiction; or
- the Minister is satisfied the assessing agency has not assessed the application under the Bill.

This provision enables the Minister to give a direction under this clause even if the assessing agency's assessment period for the application has ended. If given, the Ministerial direction must include the reasons for the direction and the Minister must give a copy of the direction to the applicant.

The Ministerial Direction provision outlines that if the Minister gives a direction, the Chief Executive (or his/her delegate) cannot decide an assessment application until the assessing agency's response is reissued.

The Bill will also contain a provision that enables the Minister to give a notice directing the Chief Executive to require an authorised person to exercise their compliance functions under Bill.
Any such direction given by the Minister is to be detailed in the Department's annual report for that year.

The AFA and the CCPG contend that the allowance of Ministerial Direction provisions in the Bill is a power that has a high potential to encourage political interference in the decision making processes and apply unnecessary pressures on the decision maker. The AFA and the CCPG are also

of the view that allowing Ministerial intervention in what are essentially operational matters for the department administering the Bill, is not necessarily in the best interests of protecting those areas of Queensland that are contributing to the State's economic, social and environmental prosperity.

3.9 Enforcement provisions:

The Bill proposes to include provisions that enable enforcement action to be undertaken where resource activities have commenced without a regional interests authority under the Act, or where there is non-compliance with the conditions attached to a regional interest authority under the Act.

The Bill includes penalties for offences for undertaking a resource activity in particular "areas of Regional interest" in the State, without the activity being allowed under a regional interests authority issued under the Bill. The maximum penalties for wilfully carrying out a resource activity in these circumstances are 6250 penalty units ($687,500) or 5 years imprisonment. The maximum penalty for the lesser offences that do not include an element of wilfulness is 4500 penalty units ($495,000).

The AFA and the CCPG would like to bring to the Committee's attention that while it is all well and good to highlight penalty provisions for a breach of the provisions of the Bill, the provisions are mere window dressing unless enacted. The record of the Newman government in regard to compliance and enforcement of environmental measures in regard to big business is not good. In 2013, the Newman government had to be publicly embarrassed into initiating action against Clive Palmer's Galilee Coal mine proposal for non -compliance with environmental conditions relating to exploratory drill holes for the proposed project. This matter is still ongoing.

3.10 Consistency with fundamental legislative principles:

One of the requirements of Queensland legislation is its compliance with fundamental legislative principles which are set out in Part 7 of the Queensland Legislative Handbook. The Explanatory Notes for the Bill indicate that it is generally consistent with fundamental legislative principles.

Potential breaches of the fundamental legislative principles are addressed below.

• The Bill authorises the amendment of an Act only by another Act – Legislative Standards Act 1992.

o The Bill provides that a resource activity cannot be an exempt resource activity where the activity is being carried out under a Cumulative Management Area (CMA) tenure prescribed under a Regulation. As a result, the holders of a CMA tenure prescribed under a Regulation will be required to apply for a regional interest authority under the Bill. In this way the Bill allows for a Regulation to modify the application of the Act. Care was taken during drafting to define and limit the scope of the tenures that can be excluded from this exemption by a regulation. ***The AFA and the CCPG acknowledges that this issue has no direct impact on the Lake Eyre Basin at this stage.***

o The Bill also provides for other regulated activities to be prescribed in a Regulation, allowing the Regulation to modify the application of the Act. The scope of regulated activities is restricted to those activities that have an impact on an area of regional interest. ***This issue is of significant concern to the AFA and the CCPG – especially as the Regulation accompanying the Regional Planning Interests Bill can be amended by government without any recourse to stakeholders. The AFA and the CCPG contend that this matter must be appropriately addressed to prevent the amendment of the Regulation without a full and effective consultation with the local stakeholders.***

• Legislation should have sufficient regard to rights and liberties of individuals—extremely high penalties – *Legislative Standards Act 1992.*
o The Bill includes extremely high penalties for offences for undertaking a resource activity in particular areas of the State without the activity being allowed under a regional interests authority issued under the Bill. The maximum penalties for wilfully carrying out the resource activity in these circumstances is 6250 penalty units ($687 500) or 5 years imprisonment. The maximum penalty for the lesser offences that do not include an element of wilfulness is 4500 penalty units ($495 000).

The Explanatory Notes outline that it is the view of the Newman Government that these high penalties are considered to be necessary to deter mining companies from undertaking mining activities in "areas of Regional interest" in the State where such activities may cause significant and possibly irreparable damage to the contributions these "areas of regional interest" make to the State's economic, social and environmental prosperity. ***The AFA and the CCPG contend that this view is not consistent with the behaviour of the Newman government to date. An example is the potential impacts of the proposed Galilee Basin coal mines on landholder's continued access to groundwater for their domestic and livestock supplies – see a reference to the impacts of these mines in the AFA and CCPG response in section 3.4. The AFA and CCPG have also raised concern about the Bill's compliance with fundamental legislative principles in the response in section 3.7.***

3.11 Repeals:

The Explanatory Notes outline that the enactment of the Bill will repeal the *Strategic Cropping Land Act 2011*. ***There is no mention of a potential repeal of the Wild Rivers Act or the revocation of Wild River Declarations as an outcome of the Bill. Given that Wild River Declarations are subordinate legislation - the AFA and CCPG are of the view that this is a significant omission in the documentation on the Bill that has been publicly released. If the Bill is to provide the legislative vehicle for the "Channel Country Protection Area", and given the Newman government's clear intent to revoke the Wild River Declarations (subordinate legislation) covering the Queensland part of the Lake Eyre Basin, then the AFA and CCPG are of the view that the Wild River Declarations should also be listed in the Repeals section.***

3.12 Consultation:

The Explanatory Notes to the Bill outline that "confidential briefings" on the proposed Bill have been undertaken with key stakeholder groups. The Notes indicate that stakeholder groups were provided with a copy of the Bill and provided the opportunity to offer feedback direct to the Minister.
The Explanatory Notes also indicate that:

- a stakeholder briefing was held with representatives of the agricultural and mining sectors to discuss key aspects of the legislation and that consultation has occurred during the course of the development of the Bill with relevant State agencies.
- the Local Government Association Queensland (LGAQ) was briefed in relation to key aspects of the legislation.
- whilst the LGAQ did not raise any issues, their representatives have requested regular informal briefings as the assessment criteria are developed for inclusion in the Regional Planning Interests Regulation.

As previously highlighted - there has been no consultation whatsoever with local stakeholder bodies in the Lake Eyre Basin on including the "Channel Country Provisions" into the Regional Planning Interests Bill or the reference to "the channel river areas of western Queensland" being

considered as a component of the "strategic environmental area" designation of an area of Regional interest in the Bill. It is the view of the AFA and CCPG that this is symptomatic of the Newman government's track record of failing to deal with sustainable resource management issues in a collaborative and balanced way, in Queensland.

Queensland is a signatory to the Lake Eyre Basin Intergovernmental Agreement. A key part of this Agreement is for the signatories to work collaboratively to achieve the outcomes of the Agreement. Clause 2.1 of the agreement states " **The purpose of this Agreement is to provide for the development or adoption, and implementation of Policies and Strategies concerning water and related natural resources in the Lake Eyre Basin Agreement Area to avoid or eliminate so far as reasonably practicable adverse cross-border impacts.**"

Furthermore, clause 4.10 of the Agreement states that "**Each State will assist in the encouragement and promotion of research and monitoring to facilitate informed decision making for the Lake Eyre Basin Agreement Area, and the sharing of access to the results of such research and monitoring so far as either State may control such access."**

The AFA and the CCPG are aware that the Queensland government agreed at the Lake Eyre Basin Ministerial Forum on 6th November, 2013 to provide information to South Australian officials to allow them to assess the impacts of Queensland's proposals for the replacement of the Cooper Creek and Georgina and Diamantina Basin Wild Rivers Declarations with "alternative strategies". To date, the AFA and CCPG understand that no such information has been provided to the South Australian officials. The AFA and CCPG also understand the Honourable Ian Hunter MP, South Australian Minister for Water and the River Murray is continuing to call on the Queensland Government to formally consult with South Australia as a co-signatory to the Lake Eyre Basin Intergovernmental Agreement regarding any Queensland proposals that potentially impacts flows into South Australia.

The AFA and the CCPG call on the Parliamentary Committee to ensure that the Queensland government meets its obligations as a co-signatory of the Lake Eyre Basin Intergovernmental Agreement and accordingly provides the agreed information to, and consults with, the South Australian Government in good faith on its plans for "alternative strategies for the Western Rivers, prior to the Bill and any accompanying Regulation being approved.

The AFA and CCPG contend that progress on the matters raised in this Submission would be greatly facilitated by the Queensland government consulting with the AFA or the CCPG as key industry stakeholders with the same status as AgForce, the Mining Industry and Local Government.

4.0 Conclusion:

Principle 7.2.11of the fundamental legislative principles states: "Is the legislation unambiguous and drafted in a sufficiently clear and precise way?" The AFA and CCPG have formed the view that the legislation is not sufficiently clear in a number of areas that have been raised in this submission and that it requires some substantial changes before it is considered by the Queensland Legislative Assembly.

The AFA and CCPG contend that progress on the matters raised in this Submission would be greatly facilitated and the image of the Queensland government enhanced in the Channel Country region by

the Queensland government including either the AFA or the CCPG as key industry stakeholders with the same status as AgForce, the Mining Industry and Local Government.

The AFA and the CCPG would like to thank the Parliamentary Committee for the opportunity to raise their issues and concerns on this Bill.

Mr Terry Korn PSM – President – Australian Floodplain Association.

Dr Bob Morrish – Chairman – Cooper's Creek Protection Group.