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Submission to:

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

[**via email:** sdiic@parliament.qld.gov.au]

Submitted by: Basin Sustainability Alliance

Date: 17 January 2014

Submission on the Regional Planning Interests Bill 2013 by the Basin Sustainability Alliance ("BSA")

About BSA:

The Basin Sustainability Alliance (BSA) is a Queensland-based group representing the concerns of landholders and rural communities.

BSA's charter is focused on ensuring the sustainability of land and water resources for future generations - particularly highlighting the risk CSG development poses to the Great Artesian Basin. It also plays a role as an advocate for landholders who are facing uncertainty and frustration in relation to CSG development on their land and in their communities.

More information about BSA and its official charter can be found at: www.notatanycost.com.au.

Introduction:

The stated intent of the Bill is endorsed and embraced by BSA and in particular the comments of the Deputy Premier and Minister for State Development, Infrastructure and Planning in introducing the Bill to the effect that it is designed to "empower landholders", to give them "certainty", and ultimately to ease land use conflicts by "managing the impact of resource activities".

As always however, it is only on consideration of the full detail of the ultimate framework within which the Bill will operate, that the attainment of those objectives can be gauged.

BSA is concerned that the stated objectives can be easily undermined and in fact completely eroded if, for instance, coexistence criteria is adopted within Regional Plans or elsewhere that facilitates

resource activity at the cost of the priority land use said to be protected. The Bill must not become a Trojan Horse.

Further, this submission necessarily follows earlier submissions in respect of the Strategic Cropping Land Framework Review and the Darling Downs Regional Plan (including BSA's submissions in respect of the proposed coexistence criteria).

BSA reiterates the importance of a general approach to the coexistence criteria reflected in its submission to the Community Cabinet entitled "Coexistence Criteria for Agriculture and CSG Mining".

Because of the unfolding development of the framework we take the opportunity of placing this submission in context by providing as backgrounding material (included as attachments):

1. BSA's submission on the Strategic Cropping Land Framework Review;
2. BSA's submission on the Darling Downs Regional Plan; and
3. BSA's submission on the Coexistence Criteria.

General Submissions:

BSA makes the following general comments:

1. The need for Individual Property Designation

Perhaps consistent with the "regional" approach, the Bill presently only requires an RIA to be obtained if land is located within an area of regional interest, a priority agricultural area, a priority living area, a strategic cropping area or a strategic environmental area. That does not allow for the protection of small pockets of such areas that might not be captured in the relevant regional plan nor does it address the issue of properties that might not come within the relevant regional plan areas or the protected concepts but might still be highly productive (e.g. feedlots, intensive poultry or piggery operations etc.). BSA sees no reason as to why a mechanism could not be inserted into the Bill that also protects, adopting a new concept, a "high productivity operation".

Tenure holders could be required to obtain an RIA where it is reasonably considered that land on which it wishes to conduct its operations involves a "high productivity operation" or involves land highly suitable for cropping. This would also enable a landowner to assert in response to a RIA application that their land so qualifies notwithstanding that it is not within a relevant regional area. Appropriate definitions could be inserted into the Bill. Subject to our submissions in respect of the exemption clauses that follow (22 – 26), the exemptions would still apply.

2. Confusion as to Priorities and Authorities

Involving regional planning considerations in the regulation of resource development is a novel approach. Clause 5 of the Bill makes clear that its provisions are to apply despite any Resource Act, the Environmental Protection Act 1994 (EPA), the Sustainable Planning Act 2009 (SPA) and the Water Act 2000. Clauses 50(2), 56(1) and 100 make that intent even clearer.

BSA's charter is particularly focussed on the importance of underground water sources and the need for general preservation of existing environmental values.

The challenge for the legislature is to avoid rendering the protection of the EPA and the Water Act useless and for the Bill to lead to the regionalisation of State interests. The EPA, the SPA and the Water Act are all legislation that apply state-wide principles on a state-wide basis. The vesting of too much power in local authorities or departments that are not charged with the administration of that legislation is dangerous.

Failure to meet this challenge could see the objectives of the EPA, the SPA and the Water Act not only overridden but could also see local interest groups within local authority areas effectively taking charge of development within their local authority area in a way that leads to extensive inconsistency across the State.

Presumably the Queensland Plan, and state planning policies will temper the extent to which individual local authority areas can become maverick in their approach however the extent to which Regional Interest Authorities (**RIA**s) will have to observe critical aspects of the EPA and Water Act in particular is as yet unclear and the extent to which the relevant assessing agency will have the appropriate qualifications, experience and insight to ensure the EPA and the Water Act are not perverted is as yet unclear.

The EPA in particular is a mature legislation that has evolved over a lengthy period to address the many important considerations that arise with developments – including addressing application requirements, public notification processes, conditioning, compliance, amendment and variation procedures etc. to ensure the objectives of the EPA are attained.

RIAs are a new concept but are to be given precedence over EAs. There must be careful thought given to how that interaction is to occur and the same level of detail given to RIAs if the objectives of the Act are to be attained – and in particular to avoid RIAs simply becoming a means of undermining the EPA and/or the Water Act.

For instance, RIAs must not become a means of authorising environmental harm. It is important that similar provisions to those contained in the EPA that protect the State against environmental harm are imported into the Bill. Similar considerations arise in respect of many other aspects of the EPA and need to be restated or reframed otherwise RIAs may have unintended consequences.

Critically also, protection afforded landowners under section 804 and 537DB of the PAG Act must not be diluted or ameliorated nor overriding power given to local authorities or the Chief Executive at the expense of landowner rights.

3. Inability to consider cumulative impacts

If there is one lesson to be learned from the Queensland experience with the development of resource activity in recent years, it is the need to be able to assess cumulative impacts and to limit the loss of agricultural land by incremental development. This will be particularly so in areas of high potential resource value. There must be an ability to say "enough" in regional areas where extensive resource activity is likely to occur and where the priority areas that drive the Bill must be protected. The Bill does not yet allow consideration of cumulative impacts and it must do so when the tipping point is reached.

4. Identity of Assessing Agencies

The Bill currently lacks clear identification of who assesses applications for RIAs. Clause 27 provides that the Chief Executive is an assessor. BSA was unable to easily ascertain which Chief Executive is referred to in Clause 27, but assumes it is the Chief Executive State Development, Infrastructure and Planning (who is more commonly referred to as the Director-General). Whilst the current Director-General is highly regarded by BSA, the department itself does not necessarily have a history of clear identification with the objectives of the EPA and has a history of enthusiasm for the development of industry (as is its charter). This renders even more acute the concern expressed at 2 above.

Likewise, the Bill also allows other assessors to be prescribed under a regulation. It is clearly intended that a Local Authority (**LA**) will be an assessor as indicated in the example to Clause 27(1). These assessors need to be appointed and constrained having regard to concern 2 above.

5. General Regional Plan Issues

It is unclear as to how often Regional Plans (**RP**s) will be reviewed but they obviously assume significant importance to Landowners if the Bill is enacted. There appears to be no current ability to appeal the drafting of a Regional Plan notwithstanding that amendments or content could have extensive implications for a landowner. Amendments to town plans under the SPA can entitle a landowner to compensation if they are adversely impacted by a change in zoning. If being excluded from a priority agricultural area in a later RP lessens a property's value in the market place, will a Landowner be compensated?

Significant power is vested in the architects of the DDRP who may or may not be appropriately qualified to make the relevant decisions. It is respectfully submitted that appropriately qualified people and an objective criteria must be enshrined in the Bill if the objectives are to be obtained and future Regional Plans are to maintain consistency.

BSA makes the following Specific Submissions:

Clause 5:

Clause 5 must be read in conjunction with clauses 50(2), 56 and 100. The combined effect is to allow LA's and the Department of State Development, Infrastructure and Planning (**DSDIP**) to rewrite Environmental Authorities and override the EPA and the Water Act.

The extent to which protection is afforded landholders and the environment, by the environmental authorities and the EPA, is of enormous concern to your submitters.

Regional Plans are necessarily focussed on matters quite separate to considerations under the EPA and the Water Act. They are necessarily devised by Regional Planning Committees with limited input from Departments familiar with the provisions of the EPA etc.

The adaptive management regime used by the EPA and Government to date was designed to address unfolding problems associated with CSG development in particular. Given that the RIA processes are so uncertain, BSA has enormous concerns as to how this ability to override and/or ignore the EPA might work and/or the extent to which coexistence criteria could completely undermine the protection EAs and the EPA generally afford.

For instance, there appears to be no mechanisms for the assessing agency, a landowner, or any other affected party other than the applicant to be able to amend an RIA after it is granted.

That is of significant concern given the unfolding understanding of the environmental, health and other risks that CSG, for instance, poses.

What if best management practices change? What if new processes or techniques are undertaken by resource companies that pose a greater threat than previous ones? Can a landowner, a concerned citizen, or even the original assessing agency apply to have an RIA amended under some kind of adaptive management regime parallel?

The Bill does not adequately ensure the protection of the community or the environment in granting RIAs – resolving land use conflict should never be an excuse to override community health, and/or environmental and safety concerns and there is inadequate protection for those things in the current drafting for as long as the terms of an RIA can override the provisions of the EPA or even the Water Act.

Until the coexistence criteria are properly drafted and understood and until there are adequate mechanisms to ensure the foregoing concerns are not realised, BSA will retain significant concern in respect of the current approach in Clauses 5, 50(2), 56 and 100 of the Bill.

Unless these matters are adequately addressed it is quite possible that areas outside the "protected areas" will ultimately be better protected than the areas the Bill is designed to protect.

Clause 5 also provides that the Bill applies, notwithstanding any other resource authority. It must be clearly provided that nothing in the Act detracts from a Landowner's rights under sections 804 and 537DB or any other provision of the PAG Act nor in respect of the Make Good entitlements of a landowner under the Water Act. Without that amendment there is likely to be extensive confusion

as to the role of the court under section 537DB (where it can restrict activity on a particular property as opposed to the permission to undertake an activity in a Priority Agricultural Area or in a Strategic Cropping Area).

Clause 8:

BSA remains concerned at the lack of criteria to identify and define Priority Agricultural Areas and/or Strategic Cropping Lands as per our submission in respect of the Darling Downs Regional Plan. In particular, we remain concerned that areas of productive dry land cropping have been excluded from the DDRP and there is no ability to have individual properties, that may have a long history of proven productivity, protected if they are not within the relevant area or not within strategic cropping land areas. There appears to be no current ability to appeal the drafting of a RP in that regard.

There appears to be no equivalent to Section 40 of the SCL Act to have individual properties identified or validated as SCL properties. The Bill should be amended to allow equivalent provisions to those which existed under the SCL Act.

In particular, BSA reiterates General Submission 1 above, and urges the adoption of an ability to address individual situations which might involve high cropping or high productivity operations. This must be a ground on which to object to an RIA being granted.

Clause 9:

BSA remains concerned at the approach of protecting cities, towns or communities and not individual residences or even closely settled areas where rural communities might have houses close together but have the protection of buffer zones. The experience of the development of CSG gasfields within the Tara estates should not be repeated in Queensland.

There should be a specific provision that infrastructure for a resource activity, that has any potential for the emission of volatile organic compounds, must not be located within 800 metres of an existing occupied dwelling. This is a lesser area than the buffer afforded towns and Priority Living Areas but according to current health concerns is the likely appropriate minimum buffer required.[1] As more and more evidence emerges as to the potential health impacts of CSG and in particular fracking (especially with tight gas, shale gas etc.), that minimum area should be capable of expansion.

[1] See: Roxana Witter *et al*, 'Potential Exposure-Related Human Health Effects of Oil and Gas Development: A Literature Review (2003-2008)' University of Colorado Denver, Colorado School of Public Health and Colorado State University Department of Psychology. 1 August 2008; Dr Wayne Somerville, 'CSG and Your Health: A Report on the Health Impacts of CSG and Shale Gas Mining' (2013) 1 – 54.

Clause 10:

It is difficult to comment in respect of the definition "highly suitable for cropping" because that is left to a regulation. Obviously the definition is critical and BSA reiterates its earlier submissions in that regard.

Because the Strategic Cropping Land Act will be repealed the question arises as to whether the areas identified in the SCL Trigger Map are permanently fixed or whether there will be an ability on the part of the Chief Executive to be able to change the Trigger Map. Relevant criteria to preserve the protection throughout any further Trigger Maps, Regional Plans or amendments etc. should be inserted.

Clause 15:

It is imperative that the Bill ensure that not only the authority holder but also those acting through, for or on its behalf are also liable for any breaches of the Act and likewise, that authority holders are responsible absolutely for the actions of those people. The practice of contracting out of liability must be avoided and protected against, particularly where subcontractors are companies of little value or structured to avoid liability. This will also ensure that companies do not avoid liability or defend prosecution on the basis of misconduct of subcontractors or other delegates.

RIAs should be no less sophisticated than EAs in their approach to ensuring compliance and facilitating enforcement, given the potential power and importance they assume. Consideration should also be given to imposing liability on Directors.

Clauses 18 - 20:

It is respectfully submitted that a penalty of 6250 penalty units ($687,500.00) is grossly inadequate. A maximum penalty should accommodate the worst possible scenario. With so much money at stake, such an inadequate maximum will only provide an incentive to the companies to "cop the fine".

The extent of potential impacts on prime farming soil and/or precious underground water supplies could lead to millions of dollars in damage and the maximum penalty should reflect that. The current penalty undermines the importance attached to the legislation.

Further the current drafting of the alternative charges does not adequately ensure the ability to prosecute the tenure holder where the relevant breach is undertaken by a subcontractor or employee etc. It is imperative that the tenure holder be responsible for all the conduct of those undertaking activities on their behalf, or to their benefit, and clauses 18 – 20 must be amended to ensure full accountability in that regard.

Clause 22:

The order in which a resource company would apply for all relevant authorities would presumably be to either negotiate a Conduct and Compensation Agreement (**CCA**) or enter into a written agreement with the landowner before applying for an RIA (otherwise clauses 22(2)(a)(i)(A) and 22(2)(a)(ii) are ineffective). This may increase pressure between landowners and companies and could improve the bargaining power of landowners. It could also however aggravate the existing problems with bargaining inequality and lead to unjust outcomes where landowners do not avail themselves of legal advice or other professional assistance provided for under the PAG Act. BSA believes there must be adequate consumer protection provisions built into clause 22 or elsewhere in the Bill.

Further, the existing drafting of clause 22(2)(b) provides that an exempted activity must still not be "likely to have a significant impact on the priority agricultural area". Likewise, the activity must still not be "likely to have an impact on land owned by a person other than the landowner" under clause 22(2)(c).

Notwithstanding those important requirements, there is no process in the draft to have that assessed before activities commence. If this amendment is not made the intention of the Bill can be defeated because an exemption applies such that there is no scrutiny as to whether in fact the activities will be likely to have the relevant impacts. Certainty could be equally important for tenure holders however.

To achieve this, provision could be inserted requiring the assessing agency to certify that clauses 22(2)(b) and 22(2)(c) respectively are considered to be satisfied before the activity commences. Landowners and the community generally should be entitled to public notification and input in respect of a proposed certification before it issues - similar to the existing provisions in the Bill for a non-exempt RIA application.

Further, the Bill should contain specific provision to the effect that a landowner cannot be charged as an accessory or accomplice to a breach of clauses 18 – 20 by virtue of entering into a CCA or written agreement under clause 22 (or anywhere under the Bill for that matter).

Additionally, the current drafting only relates to CCAs entered into with the Landowners. The PAG Act requires occupiers to be parties to a CCA as well. There is no immediate logic as to why occupiers should not have a commensurate position under clause 22 although it is understandable that many occupiers would only have a limited interest. Occupiers with legitimate interests (perhaps registered lessees) should perhaps also be addressed, otherwise there is a danger that landowners will unwittingly cooperate in giving the exemption under clause 22 but then be liable to occupiers for detracting from the occupier's rights. Again it is imperative that landowners be empowered and protected against unintended consequences.

BSA also refers to the concerns in respect of the definition of "owner" appearing hereafter.

Finally, there is currently no provision under the Bill for the assessing agency to consider cumulative impacts. BSA repeats General Submission 3 above. The Bill should be amended to empower the

agency to reject applications where the impact considered cumulatively with existing applications would be unacceptable or undermine the intent of the legislation.

Clause 23:

Again, BSA would prefer an approach where the criteria under 23(1)(a)-(d) are certified as applicable before activity commences. This would be achieved in the same manner proposed in respect of clause 22(2)(b) and 22(2)(c) above (i.e. Chief Executive certification after public notice and input etc.)

Again, and critically, there is currently no provision under the Bill for the assessing agency to consider cumulative impacts. BSA repeats General Submission 3 above. The Bill should be amended to empower the agency to reject applications where the impact considered cumulatively with existing applications would be unacceptable or undermine the intent of the legislation.

Clause 24:

In light of the provisions of clauses 91 and 92 of the Bill, the benefit of clause 24 will be diluted if the Bill takes long to be enacted. It is respectfully urged that the exemptions for SCL decisions should only exist up to and including the date of publishing each relevant Regional Plan. Resource companies have been "on notice" since those Plans were implemented.

Clause 25:

BSA repeats its concern in respect of the need to consider impacts cumulatively. The exemption could mean a thousand applications are made each taking up only nineteen hectares and individually being exempt. That could completely undermine the intention of the Bill.

Further, small scale mining can presumably still have "big scale" impacts – especially where overtop underground water resources. Individual consideration must apply and/or perhaps the consensus of the assessing agency that the exempted activity will not be "likely to have a significant impact on the priority agricultural area" should still be necessary.

Again, clause 25 could be amended to require that small scale mining activity must still satisfy the criteria in clause 22(2)(b) (activity not likely to have a significant impact on priority agricultural area) and 22(2)(c) (activity not likely to have an impact on land owned by a person other than the land owner).

Clause 26:

Consistent with the submissions in respect of clauses 22, 23 and 25 clause 26 would need to be amended to accommodate the further process urged by BSA. Importantly certification of exemption

must not permit environmental harm (refer to General Submission 2) and must be obtained before activities are commenced.

Clause 27:

BSA urges the appointment of appropriately qualified and experienced assessing agencies. Without identification of the intended agencies it is difficult to comment further other than to repeat the concern that the RIA process must never become a means of circumventing the EPA, the SPA or the Water Act.

It is clear that local governments will become prescribed assessment agencies. That combined with the ability to override EA conditions is of significant concern.

Clause 50(2) even requires the Chief Executive to give precedence to any local government recommendations without any insight into what they may be. Whilst that might be appropriate where the local government recommends refusal it might also lead to perverse outcome if a LA recommends approval but subject to conditions that might be inappropriate.

That necessarily puts enormous power in the hands of a LA that would be completely inexperienced and unqualified when considering environmental or Water Act matters and would lack the insight of the Chief Executive. Whilst RIAs are able to be appealed against, the current drafting does not allow the Chief Executive to remedy patently inappropriate conditioning before Appeals.

Clause 43 does put such a power in the hands of the Minister. That power would seem to be better placed in the hands of the Chief Executive (given the desirability of separation of powers) or at least shared with them.

Vesting such power in a LA must also bring with it a responsibility to fully educate and resource those LA's in the areas of the EPA, the SPA and the Water Act especially if they have power to override those Acts.

Clause 30:

The clause provides very little detail or guidance as to what is required in an application.

If the RIA process is to have the capacity to override the EPA then there must be commensurate obligations to identify impacts and penalties for failing to provide proper detail.

At this stage there is completely inadequate provision to ensure that applications will be sufficiently detailed and truthful to ensure not only that the objects of the Bill are achieved but also to protect assessing agencies and to enable proper public submissions. Clause 49(1)(a) provides better insight but much greater criteria should be identified.

Clause 31:

BSA believes that immediate neighbours to the Lots of land the subject of the application should also be served with the Application. Given the importance the Bill attaches to "regional interests", ideally also an advertisement should be inserted in a local paper to draw attention to the fact that an application has been made and to alert the general community.

Clause 32:

Because of the importance attached to the LA recommendation under clauses 50(2), 56 and 100, clause 32(1)(b) should refer to the assessing agency's ability to consider the application. Further, the expression "minor amendment" is not defined and should be limited to truly minor amendments.

Clause 34:

BSA is concerned to leave identification of the circumstances in which public notification is required, to future regulation - or the ability for the Chief Executive to grant exemptions. The Bill does not allow us to make meaningful submissions save to say that all applications should be notifiable.

BSA also believes that exempt resource activities should still be subject to a requirement that the Chief Executive must certify in each case (and before activities commence) that the activity is not likely to have a significant impact on the priority agricultural area nor on land owned by a person other than the landowner.

BSA also urges a process whereby such certifications also allow public notification and submissions to the CE as to whether confirmation of exemption should be granted.

Clause 35:

BSA believes that immediate owners should be notified.

Clause 37:

BSA urges a clear ability for submissions that do not strictly comply with the requirements to still be a valid submission if the Chief Executive or the assessing agency so determine. Landowners are not always familiar with the formal requirements, or able to afford legal representation however their ability to assist in the decision making process is imperative.

Clauses 39-40:

It is difficult to make submissions on matters that are to be subject of future regulations.

Clause 41:

It is respectfully urged upon the Committee that assessments must be able to be determined on a cumulative basis (refer to the General Submission 2 above).

Clause 42:

We repeat General Submissions 2 and 4 above and our comments in respect of clauses 5, 50(2), 56 and 100 – but especially in relation to the implications of clauses 56(1) and 50(2), both of which, without amendment of the Bill in the manner urged in this submission place extensive power and responsibility in the LA.

Further, a time limit of twenty business days may well prove impractical.

Clause 43:

The extent of power to be vested in the Minister and the circumstances in which that is to be exercised needs consideration and elaboration.

Clause 44:

We repeat the concern expressed in respect of Clause 30 above. Clause 44 places an onus upon the assessor (a department that does not invoke the provisions of the EPA, the SPA or the Water Act) to determine an appropriate level of information but with limited insight within the legislation as to what is required. Whilst the power must remain, it is urged that clause 30 needs expansion so as to compliment it (see comments at clause 30 above).

Clause 46:

Given the concerns in respect of LA involvement some clearer empowerment of the LA to acquire the necessary insight to be making good decisions is imperative.

Clause 49:

As indicated above, clause 49(c) should allow for the consideration of submissions made, but not technically "properly made submissions", where they are accepted by the assessing agency under the proposed amendments to clause 37 above.

Clause 52:

BSA submits that immediate neighbours should also be notified consistent with the proposed amendments to clause 31 above.

Clause 53:

It is urged that word "or" in clause 53(1)(a) should be changed to "and". Landowners and regional citizens generally are highly unlikely to ever visit the department's website and many do not access the internet in any event. Further, the appeal rights should not be limited to affected landowners if regional interests are truly the object of the legislation.

Further, it is important that notices be required to adequately describe the land in a way that is commonly understood and not purely by Lot and Plan reference – ideally a map showing the geographical location should be required identifying commonly known locations. Many landowners are not informed by advertisements that do otherwise.

Clause 56:

General Submission 1 is repeated. There is considerable danger that important provisions of the EPA and the Water Act could be undermined by LA conditions which are necessarily binding on the Chief Executive under clause 50(2).

Part 4 – Clauses 57 – 66:

BSA is concerned with the SCL mitigation fund approach generally because it has the potential to reduce focus on the need to preserve good quality agricultural land. It is difficult to see how the money could be applied other than towards research and development. In fact the DERM brochure in respect of it states "*Guidelines will consider how the implementation of the National Research Development and Extension Framework will link with the allocation of mitigation funds to research and development projects in a particular local government area*". (emphasis added)

LAs could be seduced by the prospect of Universities or Agricultural Colleges being located within their local authority area and become more likely to approve resource activity in those circumstances or to lose focus on the intent of the Bill.

Part 5 – Clauses 68 – 72:

The purpose of the legislation in clause 3 speaks of the importance of the State's interest and logically the maintenance of agricultural capacity is in the interests of not only landowners but the community generally. The right of appeal and the right to see to enforcement should apply for all members of a regional community and the broader community generally. This is an approach

reflected in the EPA because the communal interests are also acknowledged. It will be no less important here – and especially if the EPA is to be overridden.

Clause 37 enables any party to make a submission so it is difficult to justify restricting appeals to landowners only. Further, without broader community input and rights there is a danger of LA areas providing widely inconsistent outcomes and/or the assessing agencies being inadequately equipped to absolutely protect the communal interests.

Clause 69 (and all associated provisions) should enable any submitter to appeal.

Division 2 – Clauses 72 – 78:

BSA urges clear provision to protect landowners against exposure to liability as accomplices or accessories as detailed in our comments concerning clause 22 above.

Clause 100:

For the reasons indicated above (General Submission 2 clause 50(1) and clause 56, BSA is particularly concerned by the proposed amendment to section 212A of the EPA.

Schedule 1 – Dictionary

The definition of "owner" is confusing and it is difficult to understand why the definition adopted under the PAG Act would not apply. The current definition could mean registered owners of leasehold land are not "owners" for the purposes of the Bill (notwithstanding they may be entitled to a Conduct and Compensation Agreement or have other rights).

Dated this 17th day of January 2014.

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David Hamilton

BSA Chairman

on behalf of the Basin Sustainability Alliance
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Submission to:
The Hon. Jeff Seeney MP
Deputy Premier, Minister for State Development
Infrastructure and Planning

Department of State Development, Infrastructure and Planning
via email DDRegionalPlan@dsdip.qld.gov.au

Submitted by: Basin Sustainability Alliance

Date: 20 September 2013

Feedback on Draft Darling Downs Regional Plan
from Basin Sustainability Alliance

The Basin Sustainability Alliance welcomes the opportunity to provide feedback and comment on the Draft Darling Downs Regional Plan (DDRP).

About BSA

The Basin Sustainability Alliance (BSA) is a Queensland-based group representing the concerns of landholders and rural communities in relation to the unprecedented scale and pace of development underway in the coal seam gas (CSG) industry in Queensland.

BSA's charter is focused on ensuring the sustainability of land and water resources for future generations - particularly highlighting the risk CSG development poses to the Great Artesian Basin. It also plays role as an advocate for landholders who are facing uncertainty and frustration in relation to CSG development on their land and in their communities.

BSA members feel strongly that the Coal Seam Gas industry is steaming ahead in Queensland with an alarming lack of monitoring and research. Under the current systems, there is a real danger that CSG development will impact on health and communities and damage vital natural resources, and food and fibre production for future generations.

More information about BSA and its official charter can be found at: www.notatanycost.com.au.

Summary of BSA's concerns with draft DDRP

Lack of Overall Explanation as to Interplay – In order for the community, and not-for-profit organisations groups such as ours to have meaningful input , we find it very difficult to have overall context within which to appraise this Plan and how it is said to fit into overall impacts on our community, what relevance it has to us moving forward , and how it will realise the many media-release stated aims it is said to be designed to achieve.

As at the 24th July 2012 the Honourable Minister's press release suggested that the plans would be tied in with a roll back of strategic cropping land and would *"help resolve conflict between the agriculture and resource sectors"*. That is certainly what many landholders in affected areas have been looking for.

In a media release in June of 2013, the Honourable Minister likewise said *"the strategic cropping land legislation will be reviewed and amended to facilitate the implementation of a new Regional Plan and processes will be streamlined to remove unintended consequences for landholders"*. Again, this raised hope of balance being achieved.

Clearly others within government expect it to attain a similar outcome. Member for Toowoomba North Trevor Watts commented in a press release:

"The draft plan safeguards the Toowoomba districts most productive agricultural assets through mapped Priority Agricultural Areas ("PAA"), while ensuring the state can benefit from the abundance of coal, natural gas and other resource deposits". Again, many landholders felt buoyed.

However, the Department of State Development Infrastructure and Planning on its website, in introducing the Regional Plan said:

"While land use planning to primarily be the responsibility of local government (sic), the State has an interest in ensuring that broader regional outcomes are achieved through the application of state policy in local planning".

That, and our subsequent reading, suggests that the plan is really only about Town Planning procedures and nothing to do with planning resource activities in the usual sense of that expression. Certainly the current information provided lacks any reason at all to think this is anything about resource and agriculture "co-existing" but is simply about town planning .

Without proper insight into the interconnection between these amendments and any overarching plan to amend the Strategic Cropping Land Act in a way that could meaningfully address the Honourable Minister's clear desire to ensure co-existence between agricultural and the resource industry, we can only be persuaded that the Regional Plan will have very little relevance to doing so . On our current reading it only relates, and can only impact, on the very limited power of local government to influence "resource development". Local authorities (and therefore the DDRP) has absolutely no say in the environmental Impact assessment and approvals process applicable to "resource development" so to a large extent the stated aims

are simply cannot be attained for anything other than some very limited type of infrastructure resource developments where town planning is relevant.

To expand:

1. The DDRP is only relevant in Town Planning approvals;

2. The only Town Planning approvals required by resource companies are things such as permanent accommodation, airports, or other infrastructure that is not considered either an "authorised activity" or an "incidental activity" to a resource tenure (ie. A Mining Lease, a Petroleum Lease, etc);

3. Recent amendments to the Sustainable Planning Act removed SCL application to those kind of activities anyway;

4. The SCL legislation does not apply to any of the currently approved CSG projects (APLNG, QCLNG, and GLNG) nor even to Arrow's as yet unapproved SGP project and nor does the DDRP because it is only part of the Sustainable Planning Act process and town planning – and they just don't apply to resource tenures save in very limited circumstances;

5. There seems precious little infrastructure left that the DDRP can protect PAA land from, short of the very limited exceptions to points 2 and 4 above. On the other hand all landholders and non-resource development now face the potential restrictions the DDRP will place on them.

We certainly applaud the aims and concepts as expressed by the government and the Honourable Minister and would be more than happy to be corrected in our understanding of the relevance of the DDRP beyond town planning issues and to have clear direction as to what existing and future resource infrastructure the DDRP may capture . There are glimmers of potential relevance to broader resource development in the document but they are more in the nature of "teasers" than having any substance . For instance, whilst the Appendix 1 to the DDRP makes mention of "resource development " potentially being captured and might therefore give some hope for perhaps broader application coming in the future , it is clearly stated not to be part of the DDRP and, in any event, it is difficult to see how it can overcome the approvals already given. Further, the draft clearly says "Appendix 1 will not form part of the final Regional Plan and provides further information on the regulatory instruments being considered to assist in the implementation of the regional policies". Again , the DDRP is apparently only ever to be talking about town planning issues – which are simply largely irrelevant to resource development overall, let alone those already approved. Are we to embrace this process full of hope only to find later that it means very little to the protection of PAA and PALs really?

We proceed to respond to the draft in the earnest hope we are mistaken as to it's overall utility – and to address whatever relevance it may have generally. The stated aims make it important that we do.

Lack of focus and support for agricultural industry - On face-value it might seem like the draft DDRP has a goal of protecting and sustaining agricultural development in our region, but upon closer inspection, BSA is extremely concerned that this plan does the opposite. The plan seems more like a tool to facilitate resource activities at the expense of farming.

Too much grey: Its lack of detail in terms of definition concerns BSA as we believe that if this plan proceeds many of the definitions will be unclear until tested by the courts.

Timing: We query the timing of developing this regional plan when the State Plan is still be developed. As we understand, the state plan will provide overarching policy and direction to regional plans, so in our view, this regional plan puts the cart before the horse.

Leaving significant areas of productive agricultural and grazing country from the Priority Agricultural Areas: We are concerned to the point of alarm, that by designated some areas PAAs, the Government is in effect creating even less protection for farmers in non-PAA areas. We are fearful that this will see a "free for all" of mining and CSG development in non-PAA areas – some farming areas which have been in families for generations, are planning growth and development for future production will be significantly impacted by a lack of any kind of protection.

Creating a greater city vs country divide: While we see the importance of placing a buffer around townships, we feel that people who choose to live in smaller communities and more isolated areas – often because this is an intergenerational property – are granted less protection than those in larger towns. Why are rural people considered less worthy of such protection?

Definition of Coexistence: We are disappointed with the attempting to define coexistence in a way that leaves so many grey areas for interpretation. The definition appears to heavily favour coal seam gas development. BSA believes coexistence is a jointly agreed situation where both parties come to the table willingly and on even ground. The way the DDRP reads - coexistence is about primary producers finding a way to adapt their businesses to accommodate the CSG activities.

BSA wishes to convey its position that true coexistence cannot be achieved in all instances. For example:

 in areas where broad areas and large scale machinery are the lynchpin of efficiency, having to reduce either or both of these to accommodate either of these will cause a permanent decrease in efficiency.

 where irrigation entitlements to aquifers have been reduced and will be reduced in future often resulting in loss of crops, the notion that resources companies can have unimpeded access to that water is abhorrent .

 CSG wells, roadways, pipeline and other associated infrastructure on alluvial flood plains that are cropped.

Furthermore the use of the word coexistence or the alternative sustainable coexistence has never been satisfactorily defined. The reality is that the "measures" for coexistence are opening doors for exploration and resource extraction. Landowners have never felt any comfort that any such arrangement would allow for full farming production and efficiency.

There is also concern that the use of this term could lessen legal or compensable protection for landowners. That is, coexistence infers some kind of mutually beneficially arrangement. However, the members and farmers that communicate with BSA are not experiencing the joy of a mutually beneficial arrangement, rather they are facing stress, heartache, loss of time, loss of amenity, impacts on land, business, lifestyle, and fear for the future of underground water impacts, from an industry thrust upon them.

The following outlines specific comment and questions in relation to the content of the DDRP.

Name of the Plan

Traditionally the 'Darling Downs' region has been known as the districts close to Toowoomba like Dalby, Pittsworth and Chinchilla. However the State Government's draft Darling Downs Regional Plan affects a much broader geographical region. BSA is concerned that people living in and around St George, Dirranbandi, Westmar, Moonie, Goondiwindi, Warwick and Roma may not be aware that their future is being mapped out on this new region plan. We feel that the misnaming of the document may have resulted in a flawed consultation process as people who are directly impacted may not be aware they have the opportunity to make a submission.

Foreword by The Honourable Jeff Seeney MP

"This plan aims to identify Priority Agricultural Areas (PAA's), which are strategic areas of the most regionally significant agricultural production. Within these areas, agriculture is the priority land use. Any other land use that seeks to operate in those areas must co-exist with agriculture."

"PAA co-existence criteria are being developed to ensure that any resource development seeking to operate within a PAA meets four important criteria. These include: no material loss of land; no threat to continuation of agricultural land use; no material impact on overland flow; and no material impact on irrigation aquifers."

Chapter 2 – Application and effect: Interpretation states that *the terms used in this plan*

(a) have the meaning given in schedule 2, or

(b) if not defined in schedule 2, have the meaning given in the Sustainable Planning Act 2009.

The words 'co-exist' and 'material' are not found in either schedule 2 or the Sustainable Planning Act(SPA). It is therefore extremely difficult to comment on the draft plan in a meaningful way without knowing what the government's interpretation of these words are. We are therefore forced to adopt our own definitions.

BSA assumes the definition of 'coexistence' is something that is stable or beneficial, but not detrimental, since the four co-existence criteria being developed describe situations where resource development does not negatively impact on land, land use, overland flow and irrigation aquifers.

BSA assumes 'material' definition is as according to the dictionary definition of this adjective, as 'physical'.

Executive Summary

"The Darling Downs Regional Plan (the plan) is one of the Queensland Government's statutory regional plans providing strategic direction and policies to deliver regional outcomes which align with the state's interests in planning and development.

The state interests in planning and development are identified in the draft State Planning Policy (draft SPP) which closed for public consultation on 12 June 2013 and is currently being finalised."

According to the draft SPP, the state interests in planning and development include housing and liveable communities, economic growth (through the 4 pillars including agriculture and mining), environment and heritage, hazards and safety, and transport and infrastructure.

Page 20 of the draft SPP clearly states that mining and petroleum activities are not regulated under the SPA. How then, can the regional plan when finalised, determine coexistence criteria for resource authorities in PAA's?

From our understanding there is a hierarchy of planning documents whereby the State Planning document- the Queensland Plan (yet to be finalised) is superior to the Statutory Regional Plan. A mining or resource company does not need to make application for development under the SPA, therefore in its current form the Draft DDRP does not constrain a resource company's development on any land it merely constrains the landowner.

The way the Draft DDRP is written implies there is extra protection for agricultural areas and for priority living areas. However, without a mineral and resource development making

application under the SPA, this is not the case as the DDRP does not apply.

BSA is concerned that the Draft DDRP gives the impression that certain agricultural areas and living areas are protected yet it is designed to allow mineral and petroleum resource developments.

It is stated within the DDRP that there will be other legislative changes for the DDRP to apply (to the Mineral Resources Act, Petroleum and Gas Act and Environmental Protection Act) yet without knowledge of these other legislative changes, it is difficult to have meaningful consultation on the DDRP.

Protect Priority Agricultural Land Uses while supporting co-existence opportunities for the resources sector

"PAA Co-existence Criteria are being developed to enable compatible resource activities to co-exist with high value agricultural land uses within PAA's."

The draft DDRP does not consider that regardless of the development of co-existence criteria, resource activities may not be able to co-exist with certain agricultural land uses. There is no provision in the draft DDRP for the potential for co-existence to not be possible, merely that the development of co-existence criteria will somehow enable co-existence to occur. This is especially concerning since resource activities are not regulated under the SPA.

Chapter 1 – Introduction

Key drivers for preparing the plan

"The key drivers for preparing the plan are the Queensland Government's intention to:

- *protect areas of regionally significant agricultural production from incompatible resource activities while maximising opportunities for co-existence of resource and agricultural land uses*

BSA is seeking further explanation and clarification on how the Queensland Government proposes to protect areas of regionally significant agricultural production from incompatible resource activities when (1) resource activities are not regulated under the SPA and (2) the draft DDRP does not account for the potential for areas of significant agricultural production to be incompatible with resource activities, regardless of the identification of co-existence criteria?

We are concerned that the plan does not clearly define when/how an activity is deemed "incompatible" and we are unsure of the intent of the word co-existence in this context.

Chapter 2 – Application and effect

The Queensland Plan

" The Queensland Plan is currently being prepared and will set a 30 year vision for Queensland. Views and feedback received as part of developing the Queensland Plan will inform the final Darling Downs Regional Plan."

If the Queensland Plan is to inform the DDRP, and since state plans are superior instruments to regional plans, then why is the Queensland Government undertaking this regional planning process before the state planning process has been finalised?

State Assessment Provisions

Editor's note

"It is proposed that the following provisions will apply to state government assessment processes for resource activities where a proposal relates to land located within a PAA or a PLA:"

The draft DDRP does not indicate which state government assessment processes will be affected, or the relevant legislative amendments that will be required for resource activities within PAA's or PLA's.

Effect

"Appendix 1 will not form part of the final regional plan, and provides further information on the regulatory instruments being considered to assist in the implementation of the regional policies."

A significant focus of the draft DD regional planning process is the development of co-existence criteria. If Appendix 1 is not to form part of the regional plan, then the state government must make it clear how the co-existence criteria will inform regulatory instruments, which regulatory instruments are being considered, and how this will ultimately assist in the implementation of regional policies.

Chapter 4 – Regional outcomes and policies

Editor's note

"Regional policies 1 and 2 are implemented by:

- *defining PALU's*
- *mapping the region's PAA's*
- *developing PAA Co-existence Criteria which protects PALU's within a PAA from the impacts*

of incompatible resource activities while maximising opportunities for the co-existence of resource and agricultural land uses

- *local planning instruments incorporating planning and development provisions that reflect Regional Planning Policy 1: protecting PALU's within PAA's.*

Unfortunately, Regional policy 1 is not implemented through the above. Agricultural land and agricultural land uses are not protected by identification, mapping, developing co-existence criteria or through local planning instruments.

Defining and mapping PALUs and PAAs merely serves to identify these areas and nothing more. This draft RP has already stated that the Co-existence Criteria will not form part of the final plan, and no definitive information has been provided to properly explain how the developed co-existence criteria will be included within the state regulatory framework. Further, the development of co-existence criteria does not in itself provide protection for PALUs and PAAs from resources development and there is no consideration for situations where co-existence between agriculture and resource activities is not possible. Local planning instruments will be ineffective in achieving Regional policy 1 since these are subordinate legislations to the already existing superior legislations which allow resource activities unfettered interference to agricultural resources (e.g, P&G Act s185, SCL Act s78).

Map 1: Priority Agricultural Areas

In the executive summary, Priority Agricultural Areas are defined as follows:-

"Priority Agricultural Areas (PAA) are identified in the plan and comprise the region's strategic areas containing highly productive agricultural land uses."

The draft DDRP does not explain the methods used to identify PAAs. The draft DDRP does not define what "the region's strategic areas" means. When one looks at the map, no obvious pattern emerges to inform the criteria used to determine PAAs. Clearly, the irrigation cropping communities around St George and Goondiwindi have been included, but there are also areas on the map not part of an irrigation scheme.

Whilst some areas of productive dry land cropping have been included, other extensive areas of equally productive dry land cropping right across the mapped area (with a proven history of cropping) have been excluded.

Whilst the Draft DDRP is silent on the fate for land not deemed PAA, it follows that if areas deemed PAA are ostensibly afforded protection under the regional outcomes and regional policies, then areas not deemed PAA's are not afforded such protection. Specificially without any ostensible protection, vast areas of dryland cropping not deemed PAA's will potentially have the following impact from resource activity:

- a material loss of land
- a threat to continuation of agricultural land use
- a material impact on overland flow

- a material impact on aquifers

Further, many of these dryland cropping areas are located outside the traditional "Darling Downs" region. Those stakeholders in these areas have not been adequately consulted in the Draft DDRP process because they have traditionally thought of themselves as not residing in the Darling Downs Region and therefore the Draft DDRP not applicable to them. The lack of direction (silence) of the Draft DDRP for land not deemed PAA also restricts consultation with potentially affected stakeholders.

The draft coexistence criteria are extrinsic material and are not part of the regional plan. They are supposedly to be introduced under different legislation. There is no opportunity to determine their application in this void.

The state government has given the commitment to doubling agricultural production by 2040. By reducing the cropping area in Queensland via the current PAA mapping, the government is compromising is capacity to meet this target and further it is constraining future productivity gains to certain areas. Past experience has shown that a wider geographical base of agricultural production in Queensland is an important risk management tool against severe weather events. The Draft DDRP p16; states that one of the goals of the Queensland Government for the growth of the agricultural sector within the Darling Downs region is to protect resources on which agriculture depends. However the Draft DDRP excludes both critical and water resources on which agriculture depends and fails to recognise the supply chain and ecological implications of failing to protect these resources.

The state government must clearly articulate the methodologies employed to determine the priority agricultural areas included in the map, and explain why other comparable areas have been excluded. Further, consideration must be given to incorporating other dryland cropping areas which meet the PAA criteria.

Chapter 5 – Infrastructure

Introduction

"This section outlines the priority outcomes sought for infrastructure in the region. Delivery of the priority outcomes is not intended to be assigned to State or local government."

Who then is to deliver the priority outcomes relating to infrastructure, if not the State or local government?

Schedule 2. Glossary and abbreviations

***"Priority Agricultural Land Use (PALU)** means a land use included in class 3.3, 3.4, 3.5, 4 or 5.1 under the Australian Land Use and Management Classification Version 7, May 2010."*

BSA is concerned at the omission of intensive animal husbandry (class 5.2) from the PALU

definition. Priority Agricultural Areas are defined in this draft DDRP as containing "highly productive land uses". Intensive animal husbandry land uses are highly capital intensive and highly productive, both in terms of the quantity of produce and the value of the produce per unit area. In fact, the productivity of intensive animal husbandry land uses within the Darling Downs region would outstrip that of some of the other PALUs included under the definition. Intensive animal husbandry land uses also have the potential to be significantly impacted by resource activities and have limited scope to modify their agricultural practices in response to these impacts. Intensive animal husbandry land uses must therefore be included in the definition of PALUs for the purposes of this draft plan. Additionally the groundwater resources on which feedlots and other intensive livestocking industries rely should be afforded the same protection as the shallow aquifers for irrigation.

Case in point – Darling Downs Feedlot Industry
[Information courtesy of Australian Lot Feeders Association – ALFA]

There are approximately 400 accredited feedlots in Australia located in areas that are in close proximity to cattle, grain, water and processing facilities. Queensland is the largest feedlot state representing around 63% of lot feeders, 60% of feedlot cattle numbers and 53% of potential feedlot infrastructure capacity in Australia. The Darling Downs region contains more feedlots, feedlot cattle and feedlot capacity than any other area in Australia. In fact the region contains 45% of the feedlots in the state and 31% of the feedlots in Australia. It also accounts for 67% of the feedlot capacity in the state and 35% of the capacity in Australia. This is undoubtedly a reflection of the ability for lot feeders in the region to access;

- A consistent supply of cattle from grass fed producers and saleyards;
- Grain and other crops due to the fertile soils and reliable rainfall which enables the production of high yielding winter and summer crops;
- High quality above and below ground water;
- A number of beef processing facilities. (ALFA, 2013)

There is a significant infrastructure investment in feedlots with a feedlot typically costing $1.2-1.6 million per 1,000 head (excluding land).

Further, a typical 15,000 head feedlot is estimated to generate $7.3 million each year and 91 direct and indirect jobs for the regional economy (Yates, WJ et al (2003), Regional Impact of Feedlot Development). Given that there are 262 feedlots on the Darling Downs with 10 exceeding 10,000 head, this means that the cattle feedlot sector in the region generates in the vicinity of $200 million each year and employs around 2,700 people in direct and indirect jobs.

Appendix 1. Supporting information

"The information contained in this appendix does not form part of the regional plan."

A significant focus of the draft DD regional planning process is the development of co-existence criteria. If Appendix 1 is not to form part of the regional plan, then the state

government must make it clear how the co-existence criteria will inform regulatory instruments, which regulatory instruments are being considered, and how this will ultimately assist in the implementation of regional policies.

A) Priority Agricultural Areas / Priority Agricultural Land Uses

"Within these PAAs high value, intensive agricultural land uses identified in the plan as PALUs will be recognised as the primary land use and given priority over any other proposed land use."

"PAAs have been identified in the plan to give land use priority to:

- *proven highly productive agricultural areas, or*
- *agricultural land uses with significant infrastructure investment, or*
- *agricultural land uses that have the potential to be significantly impacted by resource activities and have limited scope to modify their agricultural practices in response to these impacts."*

BSA is concerned at the omission of intensive animal husbandry (class 5.2) from the PALU definition. Priority Agricultural Areas are defined in this draft DDRP as containing "highly productive land uses". Intensive animal husbandry land uses are highly capital intensive and highly productive, both in terms of the quantity of produce and the value of the produce per unit area. In fact, the productivity of intensive animal husbandry land uses within the Darling Downs region would outstrip that of some of the other PALUs included under the definition. Intensive animal husbandry land uses also have the potential to be significantly impacted by resource activities and have limited scope to modify their agricultural practices in response to these impacts. Intensive animal husbandry land uses must therefore be included in the definition of PALUs for the purposes of this draft plan.

A) Priority Agricultural Areas / Priority Agricultural Land Uses

"The continuation of the existing PALUs will be ensured through the development of PAA Co-existence Criteria which will need to be met by potential resource industry land users wherever a PALU exists within a PAA

The intention is to achieve co-existence within the PAA between the existing agricultural land uses and any potential resource industry proposal wherever it is possible to do so.

To achieve co-existence within the PAA, the PAA Co-existence Criteria will need to be met as a condition of approval by resource industry proposals within areas where agriculture has been identified as the priority land use."

If the co-existence criteria are not to form part of the DD regional plan, then under what instrument will the co-existence criteria sit in order for resource industry land users to give regard to them wherever the resource industry encounters a PALU?

Will the DDRP and the co-existence criteria have retrospective powers, or will only future resource activities need to meet the co-existence criteria?

The intention is to achieve co-existence, however it is likely that co-existence is not possible between all resource activities and all agricultural land uses. Will the DDRP and the co-existence criteria allow for the situation where co-existence is not achievable, and therefore resource activities are unable to proceed in these areas?

A) Priority Agricultural Areas / Priority Agricultural Land Uses

"For the Darling Downs region, the agricultural land uses that have been determined to be PALUs are defined in the glossary to the plan, but generally include the following:

1. *Continual cropping*
2. *Horticulture*
3. *Irrigated agriculture"*

The definition of PALUs above, does not correspond to the area defined as Priority Agricultural Areas as per Map 1. There are areas of continual cropping not identified as PAA in Map 1. If the definition of a PALU includes areas which are cropped every season, then the mapping process must be revisited, and all areas of continual cropping included as PAAs.

A) Priority Agricultural Areas / Priority Agricultural Land Uses

"It is anticipated that the PAA policy position presented in the draft plan will be implemented through a range of measures including amendments to the Strategic Cropping Land Act 2011 to ensure a single streamlined process for resource proponents and mirrored through approval processes such as environmental authority, development assessment, environmental impact assessments and conduct and compensation agreements."

The four major resource proponents in the DDRP area enjoy complete and/or significant exemptions from the SCL Act. It is highly likely therefore, that any amendment to the SCL Act to implement the PAA policy position will have little or no bearing on any of these four resource proponents. BSA is concerned that in streamlining the process for resource proponents, the result will actually be a further erosion of land owner and current land users rights under law.

C) Priority Living Areas

"To ensure the protection of PLAs from encroaching resource activities, amendments will be required to existing legislative frameworks and associated processes, including:

- *various resource acts*
- *Environmental Protection Act 1994*
- *Sustainable Planning Act 2009"*

BSA is concerned that amendments to the above acts have been identified to ensure the protection of PLAs from encroaching resource activities, however, there was no mention of amending these acts with regard to ensuring the protection of Priority Agricultural Areas from resource activities. People residing in the major towns described in schedule 1 of the DDRP as "priority living areas" are apparently worthy of having a 2klm buffer zone around their residences in which no mining or CSG infrastructure is allowed to be built. However farming and grazing dwellings and rural residential communities outside the listed "priority living areas" are not afforded the same consideration or protection.

Conclusion

In conclusion, if anything, farmers rights appear to have been further eroded by the DDRP. Because the government has not yet enacted State legislation to which the DDRP will be subordinate we see the possibility of even further erosion of farmers rights in the future - which sadly does not seem to be consistent with State Government's vision to double agricultural production.

PAAs/PALUs

BSA is disappointed in the lack of detail provided generally in the draft DDRP for consultation. It is unclear how the Priority Agricultural Areas in Map 1 were identified.

There is an inconsistency between the definition of PALUs, which includes continual cropping, and the area identified as Priority Agricultural Area in Map 1. In reality, there are more areas under continual cropping than those identified in the Map.

BSA is concerned that some high value, capitally intensive land uses with a significant infrastructure investment have been omitted from the definition of PALUs as per the Australian Land Use and Management Classification Version 7, most notably, intensive animal husbandry.

Legislative Framework

BSA is concerned with the lack of clarity around how the DDRP will relate to other relevant legislations and how the plan and co-existence criteria will be enacted, given the very subordinate position the plan has within the legislative framework.

It is confusing that the regional plans are being developed prior to the state plan, given the recent proposed amendments under the Local Government and Other Legislation Amendment Bill which elevates state plans and policies above regional plans. It would have made more sense to finalise the State plan prior to developing the regional plan.

BSA is concerned at the mention of excluding the co-existence criteria for resource activities from the regional plan, without indicating where in the regulatory framework the co-existence criteria will in fact operate. Only vague references are made about the co-existence criteria

needing to be met by resource proponents seeking to operate within PAAs.

Amendments to the SCL Act are indicated in order to streamline approval processes for the resource proponents. Historically, such streamlining which favours resource proponents, usually has a negative impact on land owners and current users of the land. The most recent amendment to the Strategic Cropping Land Regulation now provides an exemption to the location of so-called community infrastructure on Strategic Cropping Land. This will have very grave consequences for PAAs and PALUs.

It is concerning that amendments to the resource acts, the Environmental Protection Act and the Sustainable Planning Act were indicated as necessary to protect PLAs, but similar language was not used in the draft plan regarding PAAs.

Co-existence Criteria

The word “coexistence” is being used increasingly by industry and government with regard to the interaction between resource activities and agriculture. However, “coexistence” is not readily defined. Even the newly created Gas Fields Commission, whose objective is to facilitate “sustainable coexistence” is unable or unwilling to define the term. BSA has defined coexistence as either a beneficial or stable interaction between resource proponents and the current land and agricultural resource users.

BSA is concerned that there is an implicit assumption in the draft plan that since co-existence criteria are to be developed, then co-existence will be achieved, even though it is made clear that the co-existence criteria will not form part of the final plan. Moreover, it is not stated in the draft plan how or where within the regulatory framework, the co-existence criteria will be applied.

As stated in the introduction, there appears to be no allowance for the fact that co-existence may not in all circumstances be achievable. BSA has therefore refrained from commenting on the co-existence criteria for fear that doing so will erode any rights land owners and occupiers might currently enjoy under s121, s804 and s805 of the Petroleum and Gas (Production and Safety) Act 2004.

Recommendations

1. That the Draft Darling Downs Regional Plan consultation process be suspended until the State Plan is finalised;

2. That the Queensland government provide a clear, concise definition of co-existence;

3. That the Queensland government clearly state whether this regional planning process allows for the possibility that co-existence cannot be achieved in all circumstances;

4. That the Queensland government clearly identify how the co-existence criteria will be implemented within the regulatory framework and properly explain what existing legislative frameworks will require amendment to implement the regional plan;

5. That the Queensland government provide detail about the creation of a single streamlined process for resource proponents (what are the limitations of the current system? How does the DDRP affect the current process for resource proponents under the SCL Act?);

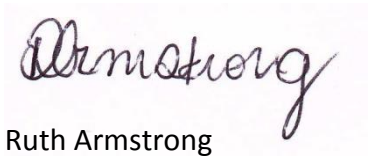
6. That the Queensland government provide the information used to identify Priority Agricultural Areas in Map 1 of this draft for consultation;

7. That Map 1: Priority Agricultural Areas is amended to include **all** PAAs which meet the PAA criteria as specified on p57 of Draft DDRP (proven highly productive agricultural areas, or agricultural land uses with significant infrastructure investment, or agricultural land uses that have the potential to be significantly impacted by resource activities and have limited scope to modify their agricultural practises in response to these impacts).

8. That all land uses that fulfil the criteria as a PALU according to this draft for consultation be identified as PALUs, for example Intensive Animal Husbandry 5.2;

9. That a second draft DDRP be prepared for consultation after the State Plan is finalised, incorporating the necessary changes as recommended above.

Submitted by



Ruth Armstrong
BSA Secretary
On behalf of the Basin Sustainability Alliance (BSA)
Date: 20 September 2013

9 September 2013

Basin Sustainability Alliance Submission on the Review of the Strategic Cropping Land Framework Discussion Paper

SCL Review
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Introduction

Basin Sustainability Alliance (BSA) welcomes the Queensland Government's recognition of the global demands on the natural resources required for increasing food production and that there is a need to protect high quality soils for agriculture. Furthermore, that Queensland's agricultural sector is currently facing major challenges in the form of access to and security of the natural resources critical to food production.

Context for the review

In light of the above, it is disturbing to BSA then that this early statutory review of the SCL framework has arisen as a result of concerns about the SCL framework on development proposals on these critical natural resources.

The SCL framework acknowledges the finite nature of the land resource but inherent in that is its capacity for continued use into the future. Preserving the soil therefore means our community can benefit repeatedly. On the other hand resources, whilst finite, once used are lost. They do not have ongoing benefits. Priority must therefore be given to soil considerations above resource extraction considerations until the two are equally imperative. Where there is doubt as to the impacts of resource extraction upon the soil and in particular where there are other energy resources available in other areas of the state they must surely be accessed first or at least until there is an absolute imperative for resource extraction matching the imperative of the preservation of the soil. The SCL framework, whilst apparently based on similar considerations is currently being used in a way that actually undermines that intent and entrenches resource extraction over SCL preservation.

BSA is concerned that further weakening of the framework may work against achieving the goal of protecting good quality agricultural land for food and fibre production.

Streamlining regulatory frameworks and providing regulatory certainty to stakeholders

This discussion paper provides no information on the numbers of the various stakeholder categories that have provided significant comment about the additional administrative processes, delays and costs associated with the implementation of the SCL framework.

It is difficult to comment without proper insight into those comments. Proper community discussion makes it imperative that your submitters have access to comments from the resource industry in particular but also from all stakeholders. We urge ready access in the ongoing process to all submissions.

As current experience reflects, there is a real danger that the current SCL framework, implemented as it has been to date and at a time of limited understanding of the extensive issues facing the farming sector's co-existence, will in fact act to undermine the intent of the legislation. It adds to the perception that extensive preference is given to resource development and extraction in a way that completely undermines the stated intent.

Single State Planning Policy and State assessment and Referral Agency

If a single State Planning Policy is currently being developed which will replace the current SPP 1/12 (Strategic Cropping Land) Policy, BSA is unclear why a review of the SCL framework is being undertaken earlier than is statutorily required? Are the outcomes of this SCL framework review going to be incorporated into the single State Planning Policy? BSA has some concern that the development of a streamlined process underplays the importance of the SCL considerations and the preservation of SCL generally. Refer to the response to Question 1 in this regard.

Statutory Regional Planning

BSA has doubts that the Statutory Regional Planning (SRP) process will provide any additional protection to agriculture. There is confusion in the language used in the draft regional plans and the SCL framework. The SCL framework seeks to protect valuable soils from inappropriate development, whilst the draft Darling Downs Regional Plan aims to support "coexistence" of agriculture and resource activities over a very small subset of SCL, whilst the remaining area is not considered to be Priority Agricultural Land.

This is a significant watering down of the protections that SCL purports to afford, and regardless, both the proposed State Planning Policy and the Regional Plan are subordinate legislations and do not enjoy any retrospective power, so many current and future resource developments are exempt from these policies anyway. Does the government intend to amend the superior legislations to give the SCL framework and the draft Regional Plans the power they will require to achieve their stated objectives of protecting valuable agricultural resources?

Outcomes sought by the review

The Queensland government must provide a clear definition of 'protect' and 'protection'. Since the aim of the SCL framework is to protect SCL it must be made clear what this actually means.

Similarly, greater clarity must be given to the term 'coexistence'. Unfortunately, the development needs and the rights of landholders are quite often the direct opposite to the

development needs and rights of the resource sector, and balancing the two, under the current legislative framework is not possible. The resources sector currently enjoys significant power and is afforded in some instances unfettered rights, at the landholder's expense.

BSA gladly welcomes the Queensland Government's goal to achieve a balance between landholders' and resource sector needs and rights through this review process and strongly encourages the government to give real meaning and power to this balance by amending other legislations as is necessary. It is imperative that the SCL framework achieve the stated intent given the importance that government itself attaches to it. The current framework unfortunately appears to be completely unsuccessful for the reasons outlined in the answers that follow.

Question 1:

Do you believe that the SCL framework and Act have achieved the stated policy intent and purposes?

The SCL Framework has not achieved the intent and purpose because of a number of things:

1. Sections 286 and 287 of the Act effectively exempted all the foreseeable intended CSG activity in most areas of the Surat Basin into the foreseeable future. These are the sections that excluded the APLNG, QCLNG and GLNG projects and even Arrow's Surat Gas project from scrutiny under the legislation. Those exemptions relate to a wide area of SCL land throughout southern Queensland.

2. This arises by virtue of the provisions of Section 78 of the SCL Act which exempts any activities conducted under a resource authority.

3. Even in respect of the few CSG activities that are not already exempt in the Surat Basin, the new standard conditions code for resource activities enables things as intrusive as sample pits and geotechnical pits, well leases, laydown areas, chemical and fuel storage, sumps, access tracks (formed or gravelled) can be undertaken by mere reference to compliance with a code. That is not an approach reflective of protecting SCL. It requires extensive policing if it is to be effective but given the exceptionally sensitive nature of the receiving environment whereby leaks into the underlying aquifers or contact of salty water with clay soils can have permanent and untold damage, the better approach is simply to not allow activity on the relevant soils at all. The implementation of the code in fact undermines and belittles the importance of the SCL considerations.

4. The only relevance of the SCL framework to the extensive CSG impacts on strategic cropping land through the Surat Basin is in respect of the very limited activities that will impact on SCL land that are not automatically permitted under the relevance authority. The P & G Act authorises "authorised activities" and "incidental activities" under that legislation so no Sustainable Planning Act approval is required for any of the existing projects referred to at 1 above save for limited infrastructure for those

projects such as office or residential accommodation etc – see for instance Section 403(4) of the P & G Act.

5. Even those activities are now effectively exempt from the sustainable Planning Act / SCL considerations by virtue of amendments made under the Sustainable Planning Amendment Regulation (No. 4) 2013 which in turn amended the Sustainable Planning Regulation 2009. These amendments came into being on 2 August 2013.

6. Whilst these amendments looked comparatively innocuous by reference to "community infrastructure" being exempted, in fact they have significant implications for the further loss of protection of SCL. In particular the definition of community infrastructure was amended to include a whole host of things relevant to the CSG projects and future CSG activity and meant that even those limited CSG activities that could be captured by SCL are now effectively removed from its import.

7. In particular the definition of community infrastructure was broadened to include airports, oil and gas pipelines, power, gas wells, light rail, state roads, operating works under the Electricity Act and the like. This has meant that projects that support the CSG projects will effectively also be exempted from the usual concurrence agency process and from planning considerations which would otherwise necessarily involve SCL assessment. Because such matters would ordinarily have a permanent impact, but for these amendments, they would surely have fallen foul of SCL protection criteria.

8. Referring to such matters as "community infrastructure" belies the benefits conferred by it upon the individual project operators – i.e. in the sense of protecting SCL they override any consideration of the issues that gave rise to SCL protection that are to be underpin the legislation. The nature and extent of this infrastructure was not disclosed in the original EIS procedures for the projects and only further entrenches the perception that CSG activity overrides the stated intent of the Act. Because the footprint is potentially so extensive, without serious constraints and protection of SCL in appropriate areas from CSG, the purpose and intent of the legislation will not be realised.

9. This exemption also accentuates concerns in respect of the broader impacts of the CSG projects on underground water resources not only generally but also specifically in respect of highly productive areas where water is accessed for intensive livestock activities or for irrigation enabling double cropping and maximum food and fibre productivity from the lands overlying them in various areas.

The following comments relate substantially to planning considerations. As indicated above, unless a proposed resources development is classed as assessable development, then resources developments are exempt from the SCL framework anyway, which basically neutralises the objective of the SCL framework in so far as it interacts and seeks to protect SCL from resources development:

- Prior to the introduction of the SCL framework, productive arable lands were classified under the Good Quality Agricultural Land (GQAL) Policy. Good quality

agricultural lands in Queensland were classified by experts in the field according to their ability to grow crops and this classification system was well regarded and successfully used to make determinations about development and planning. The SCL framework limited those areas recognised as GQAL by introducing eight soil criteria to measure SCL, as opposed to the outcomes based approach of GQAL.

- The policy intent is muddied because of the uncertainty surrounding the definition of 'protect'. Protection is defined as keeping from harm, and according to this definition, no activities should occur on SCL, particularly permanent or irreversibly damaging activities. However, there are a number of exemptions to this under the current framework, and therefore one must conclude that either the government's definition of protect is different from this, or the policy intent has not been achieved.
- The Queensland Government has recently amended the SCL Regulation to exempt "community developments" from the SCL framework. This can only be seen as a dilution of the policy intent.
- The definition of permanent impact is not strong enough. A 50 year timeframe as the definition of permanent impact is too long, particularly given the acknowledgement of urgent requirements to double global food production within the next 30 years.
- Unless a proposed resources development is classed as assessable development, then resources developments are exempt from the SCL framework anyway, which basically neutralises the objective of the SCL framework in so far as it interacts and seeks to protect SCL from resources development.

Question 2:

Are changes needed to these purposes in light of recent changes in policy?

The answer to this question depends on the policy change being referred to. The discussion paper alone refers to two separate and opposing policy changes.

If the policy change referred to relates to concern about the protection of Queensland's agricultural resources as per the Introduction on page 2, then the changes needed are to strengthen the power of the framework so that it can meaningfully influence resources development on SCL.

If the policy change referred to relates to the concerns by stakeholders that the framework negatively impacts on development because the legislation is prescriptive and inflexible and adds significant costs and time delays to projects and development proposals as per the context for the review on page 2, then the answer is no. To make changes to the framework on this basis will serve to completely undermine the intent and objective of the SCL Act and framework.

Question 3:

Do you have any suggestions on ways to improve the accuracy of the trigger map?

Yes. More consideration should be given to reverting to the GQAL maps and definitions – which have longstanding meaning and application by local authorities, courts and the

community generally. The SCL criteria makes incorrect assumptions about what constitutes arable land that is suitable for repeated cropping. For example, lands with a slope greater than a certain threshold are not considered SCL. However, during periods of flooding, these sloping lands are more productive than flatter cropping country, and the increased drainage that sloping country promotes is more suitable to growing particular crops than flatter land with less drainage. If the emphasis is on preserving agricultural productivity, then the productivity of the land should be the measure of SCL, not some arbitrary soil characteristics. Therefore, BSA sees no reason why the GQAL maps and definitions shouldn't be reinstated.

Furthermore, changes in technology and farming practices have seen vast improvements in yield and cropping opportunities from all different soil types. It is impossible to predict all future advances.

Question 4:

Do the eight SCL soil criteria adequately reflect what should be considered Queensland's best cropping land? If not, what changes or additions are required?

The eight soil criteria do not adequately reflect what should be considered Queensland's best cropping land. Please see Question 3 for explanation.

Question 6:

Are the current definitions of temporary impact and permanent impact on SCL appropriate or should they be refined?

BSA has concerns with the current definitions of temporary and permanent impact.

Temporary – It is at this time not possible to conclude for many of the resource activities that are currently occurring on SCL whether they have a temporary impact. Because many of these activities have not yet been rehabilitated, (e.g. a well head on heavy, black vertosol soils) we are unable at this time to conclude whether they can be successfully rehabilitated, or whether these activities will have a longer lasting impact.

Permanent – The timeframe for permanent impact of 50 years is too long. This is 2 generations, and much longer than many resource activities will actually last, thus allowing resource authorities a very long time to restore SCL to its previous productive abilities. This may cause a delay in rehabilitation past that which is necessary or desirable.

Further BSA is concerned at the approach to permanent impact. Considerations of soil compaction appear to be underplayed and little assessment of the permanence of impact could have been made on the basis of the limited knowledge of CSG implications for the particular soil and water conditions in SCL areas as at the date that the CSG projects were given exemption. The same now applies – there are very few worldwide situations that compare with the situation in Queensland and nor the scale and extent of the intended activity. As better understanding has arisen so too should there now be capacity to revisit the consideration of permanent impacts.

BSA seeks detailed disclosure of the basis on which conclusions were reached and the logic behind the conclusion regarding CSG activity such as wells and pipelines.

Question 7:

Should greater clarity be provided about the type of activities that are considered to have a permanent and temporary impact on SCL?

Yes. Not only should greater clarity be given, but the determinations as to what constitutes a temporary or permanent impact should be done scientifically. BSA is concerned with the way certain activities have been arbitrarily deemed to be either temporary or permanent. BSA would like to have science determine what constitutes a temporary or permanent impact.

Question 8:

Do you think the current concepts of protection areas and management areas are appropriate? If not, what changes are required?

There should not be a distinction between protection areas and management areas. If the lands are suitable for multi-year cropping, then there should be no need to distinguish between protection areas and management areas, if the policy intent is the preservation of productive capacity. GQAL maps should be used.

Question 9:

Do you believe that the current exceptional circumstance test is too inflexible?

No. BSA believes the test should be tightened to provide agriculture with more certainty. Exceptional circumstances must be a highly unusual and rare event, not some loose criteria that could be used as a loop hole or ready means of subverting the SCL intent.

Question 10:

Is the mitigation process effective in addressing the loss of agricultural productivity to the State that occurs where permanent impacts on SCL are authorised?

BSA thinks that the mitigation process is ineffective for several reasons.

- It appears that mitigation occurs through payment to government into a fund. Therefore actual, physical mitigation of impacts to SCL does not occur. This provides no incentive for the developers to adopt best practice to minimise disturbance and harm.

- The mitigation payment is paid to the government, and not to the landholder, who may be an independent third party to the development. This is a most unsatisfactory situation.
- If developers are concerned about the cost of providing funds to a mitigation fund, then there needs to be even greater emphasis on restricting activities on SCL

Question 11:

Should a more performance-based regulatory approach be adopted for the SCL Act and in particular the SCL Standard Conditions Code?

The discussion paper does not make clear the difference between performance-based and outcome-based approaches. It is BSA's understanding that resource companies seek far more generalised conditioning than the prescriptive approach sometimes adopted. Any generalised conditioning has the risk of undermining the protection it is meant to afford. BSA rather supports site specific evaluation and conditioning, or at least setting the general conditioning to capture the best protection. For instance at condition that merely requires "minimal interference" is inadequate as it is open to misuse and misinterpretation.

There is debate as to whether many activities that are proposed for SCL and are occurring on SCL are capable of being rehabilitated. There is no science and no evidence that temporary activities can even by rehabilitated so that the lands impacted can be restored to their formed productive capacity. And as mentioned in the notes explaining Question 10 above, the mitigation of impacts to SCL is currently in the form of a monetary payment to the government. History has shown, that once we move toward a performance based approach, then we move from a situation where we are protecting something of value, to attempting to manage the impacts. Where such a limited but crucial resource as food producing soils are concerned, a performance based approach to regulation is unacceptable.

Question 12:

Should the SCL assessment process for resource activities be de-coupled from the Environmental Authority?

This question assumes that EAs still have relevance to the resource activities. It is assumed that EAs will still be required even where a code can be observed however that is not immediately clear. The standard conditions code may mean that EAs become largely meaningless.

The full extent of the SCL regime, and the interplay of the various approaches, is very confusing to the general public. It must be better explained to be understood by the community it is to serve. In so far as the EAs are assumed to remain relevant to the CSG projects and all resource activities, it is the BSA's view that the SCL assessment process must not be de-coupled from the EA. The EA is currently the only way that compliance by resource authorities can be measured. If the SCL assessment process is separated from the EA, then the ability to require a set standard, and the ability to punish non-conformance is removed. The EA specifies the limits to environmental harm that are acceptable. Without

certain conditions in an EA imposing limits to harm of SCL, then there is no capacity to regulate effectively, and the situation may arise as for groundwater, where there are no limits to the amount of harm that can occur. This is unacceptable in light of the fact that even currently, mitigation is provided to the state in the form of a monetary payment and the third party on whose lands these activities may be occurring has no right of recourse and has no ability to refuse the proposed activities.

Question 14:

Are there other forms of development that should be excluded from SCL assessment?

Yes. A landholder's activities proposed on his/her own farm that are essential to his/her business or will enhance agricultural production should be exempted from SCL framework.

Question 15:

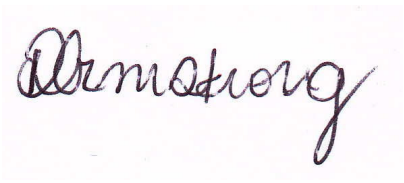
Do you think that the fees associated with SCL validation and assessments are too high?

If the applicant is a landholder who is seeking a SCL determination on his property specifically in response to proposed resource sector activities, then the fee should be waived. After all, the law does not give landholders the right to refuse resource sector developments from occurring on his property. It is a different case if the landholder proposes a development of his own, however see response to question 14. Agricultural related developments that will improve agricultural production or are essential to the farm property should also be exempted.

In closing

The Basin Sustainability Alliance committee is available to be contacted to discuss any matters raised in this submission.

Submitted on behalf of BSA by



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Coexistence Criteria for Agriculture and CSG Mining

Coexistence criteria should never be a "one-size-fits" all approach. Every land use and farming enterprise is unique and every situation will require specific consideration e.g. Intensive livestock or organic farming cannot be treated just like extensive grazing and conventional farming.

bsa

basin sustainability alliance

BSA's overarching principles of Coexistence

"10 Commandments of Coexistence"

1. Resource activity must not occur unless landholder agrees.

Comment: We recognise that the community owns the underground resource and it should be developed to benefit all Queenslanders. However, the current and proposed CSG activity in the Surat Basin will have an enormous impact on our land and water resources and landholders have been greatly disempowered in the negotiation process for land access and compensation. Giving the right to landholders to negotiate on an even footing (by being able to "walk away" from negotiations) will ensure the CSG companies offer a fair and reasonable business proposition for land access and compensation. True landholder agreement can only be achieved if there is full disclosure of all planned activities by the resource authority holder.

If the landholder does agree, then the following applies:

2. CSG activity must not endanger the long term productivity of the land. The CSG industry must restore land to full agricultural productivity consistent with original 'land capability' classification once CSG operations are completed. (Therefore the original land may require classification).

Comment: This requirement to fully restore agricultural productivity should be a requirement of all mining activity on productive agricultural land.

3. CSG development must address relevant neighbour impacts e.g. overland flow issues so that activities or infrastructure on one property do not unreasonably impact neighbouring properties.

Comment: In agriculture, neighbours work together to ensure they don't adversely impact on one another. CSG companies should act in the same way.

4. There must be no net detrimental impact on underground water supplies for agricultural or domestic use. i.e. No net negative result – CSG industry must ensure sustainability of underground water.

Comment: Water is our most precious resource. By purifying CSG water and substituting this water for current uses, and by also ensuring no water is wasted, the adverse impact of the water depletion from aquifers can be minimised.

5. Critically, water quality must at all times be assured.

Comment: Current "Make Good" requirements relate to supply of water quantity. They should also apply when the water extracted for CSG operations causes a detrimental effect on water quality.

6. CSG Development should avoid high quality soils that are suitable for cultivation.

Comment: CSG wells and other CSG infrastructure such as roads and pipes should not be located on cultivated lands or lands that are suitable for cultivation. That is any lands classed A & B in the good quality agricultural land classification system (or the land classified 1 and 2 in the capability classification international standard). Such infrastructure could be located adjacent to but away from such areas. We understand that directional drilling etc. make this possible. CSG infrastructure on farmed land unreasonably interferes with farming activities.

7. Coexistence guidelines should apply to all rural land – such protections should not only be afforded to PAAs and PALU.

Comment: Regardless of whether land is classified as Strategic Cropping Land or Priority Agricultural Areas, the coexistence criteria we propose should apply to all mining operations on all agricultural land. Land classification alone does not define the value of an agricultural enterprise.

8. Agricultural activities/operations must have priority over resource activities. (i.e. Where there is any conflict, agriculture has right of way, except for genuine safety emergencies).

Comment: Many agricultural operations are highly time sensitive. Farm efficiency and productivity depends on being able to carry out critical operations on time. Operations such as mustering, crop planting, harvest and spraying must take precedence over mining activities, except where the mining operation is for emergency safety reasons.

9. CSG development must not compromise human health and safety.

Comment: Human health and safety must be paramount. This applies to physical and mental health.

10. Compensation must recognise and address all impacts including social, financial, amenity and lifestyle.

Comment: Landholders want to be treated fairly and with respect. Compensation must at all times must be related to the level of impact - including from off-property activities (ie. affected persons should be compensated for the 'authorised nuisance', not just the signatory to the CCA). We expect reasonable recompense in Land Access and Compensation agreements. CGG Companies (and the Government) who have operated in a fair and reasonable manner have found landholders generally to be fair and reasonable in return. Agreements must be able to be reviewed.

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