

Submission No. 050
17 January 2014
11.1.14



17th January 2014

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

To whom it may concern,

Letter of Endorsement- Queensland Farmers Federation Submission.

Cotton Australia is the key representative body for the Australian cotton growing industry. It helps the industry to work together to be world competitive and sustainable, and also tell the good news about the industry's achievements. Cotton Australia determines and drives the industry's strategic direction, retaining its strong focus on R&D, promoting the value of the industry, reporting on its environmental credibility, and implementing policy objectives in consultation with its stakeholders.

The Australian cotton industry directly employs thousands of Australians and this year will contribute over \$2 billion to the Australia economy.

Cotton Australia (we) endorse the submission provided by the Queensland Farmers Federation (QFF) in response to the *Regional Planning Interests Bill 2013* (the RPI Bill). Cotton Australia is a member of the QFF and concurs with the comments and suggestions raised in their submission.

General Comments

Cotton Australia (we) welcome the opportunity to provide a submission on the Regional Planning Interest Bill (RPI Bill). We note the wide applicability of the RPI Bill on areas of regional interest to Queensland. Whilst we note that the Bill provides the Government power to decide regulated activities that are 'likely to have an impact on an area of regional interest, we believe the Explanatory Notes do not currently provide enough information on the intent of the provisions. Furthermore, we note several references in the Bill to the currently unreleased Regulation. As there is no Regulation or more detailed Explanatory Note available for comment, we are precluded from making more meaningful and detailed comment on the efficacy of the operation of the Bill. We would urge the Government to release the Regulation for comment prior to the finalisation of the Bill.

Cotton Australia has previously made a joint submission with the QFF and AGForce to the Queensland Government in December last year proposing a framework for implementation of the objectives regarding conflict between resource and agricultural industries in the Darling Downs (DD) and Central Queensland (CQ) Regional Plans as well as identifying objectives regarding the protection of Strategic Cropping Land (SCL). Please find a copy of this submission attached for your consideration.

As noted in the joint submission, the proposed attached Framework appears to be broadly

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consistent with the RPI Bill. The key elements of the Framework align with the RPI Bill as follows:

- The exemption for resource activities impacting less than 12 months would be consistent with Section 23 of the RPI Bill
- The exemption for resource activities carried out in accordance with an agreement with the landholder would be consistent with Section 22 of the RPI Bill, subject to additional safeguards outlined in Points 4 and 5 below.
- The decision process as outlined in the Framework (the alternative outcome) could be considered to be aligned with the consideration and granting of a *Regional Interests Authority* as proposed in Part 3 of the RPI Bill
- The independent panel proposed in the Framework could potentially be considered as an assessing agency in accordance with Division 5 of the RPI Bill and referral to the panel could be prescribed in the Regulation
- Priority agricultural areas (PAA) and strategic cropping areas (SCA) would define the areas (Protected Land) in which the Framework would apply. However QFF suggests consolidation of these regional interests to avoid confusion.
- Criteria for the identification of Protected Land as well as co-existence criteria for guidance and use by the independent panel and the decision maker could be prescribed in the Regulation attached to the RPI Bill.
- The process of appeal and the staying of a *Regional Interests Authority* decision in Section 72 of the RPI Bill seems consistent with that proposed in the Framework. (see point 9 regarding the relevant court).

We believe the broad alignment of our earlier joint submission on our proposed framework to the Bill and ensuing Regulation highlights the transferability of our recommendations and potential for consensus on this issue. We would encourage the full adoption of our joint submission to provide the necessary rigour to this important legislation.

Should you have any queries, please contact Cotton Australia's Mining and Coal Seam Gas Policy Officer Mr Sahil Prasad via email at sahilp@cotton.org.au or (02) 9669 5222.

Yours faithfully,



Adam Kay
Chief Executive Officer



ATTACHMENT 1 to QFF submission on Regional Planning Interests Bill

Proposed Framework for Implementation of SCL and Regional Planning Objectives

DISCLAIMER

This document represents the considered thoughts of the cross-agricultural group that commissioned it. It has been provided as a recommended way forward, but prior to incorporation into legislation/regulation it should be subject to a full public consultation process.

This proposed framework is largely at a principle level, and it is recognised that much more work needs to be done to develop mechanisms for implementation and administration.

PURPOSE OF REPORT

The purpose of this report is to present a potential framework for implementation of the objectives of the Darling Downs (DD) and Central Queensland (CQ) Regional Plans as well as identified objectives regarding the protection of Strategic Cropping Land (SCL).

KEY PRINCIPLES ESSENTIAL TO THE PROPOSED FRAMEWORK

The framework proposed in this report relies on adherence to the key principles outlined below. If any of these principles are changed or modified then the proposed framework would need to be reconsidered by those involved in its preparation to ensure it still achieves the required objectives. The proposed framework should not be considered in its current form if any of the principles are modified or removed.

- It is the absolute intention of all those involved in preparing this document that the adoption of the proposed implementation framework cannot lead to any loss of existing landholder rights.
- No permanent impacts to SCL or PALU's within a PAA are allowed
- Landholders should have an equal say in decisions regarding how activities proceed on PALU or SCL on their land and reasonable attempts must always be made to negotiate with landholders in the first instance.

- The proposed framework recognises that for effective co-existence there should be negotiations between landholders and resource companies regarding the amount of SCL or land used for PALU's that can be temporarily impacted by a resource activity.

IDENTIFICATION OF LAND THAT IS TO BE PROTECTED

The proposed framework applies to any land that is either a Priority Agricultural Land Use (PALU) on a property that is located within a Priority Agricultural Area (PAA) or Strategic Cropping Land (SCL) both within or outside a PAA.

It is anticipated that definitions/criteria that allow for the identification and determination of PALU & SCL would require development. It is proposed that no distinction is made in the protection afforded to either PALU within a PAA or SCL that is either within or outside a PAA. That is, both SCL (wherever it occurs) and PALUs (within a PAA) would be considered to be 'Protected Land' and no further differentiation between the two would be necessary. Protected Land would include any areas of SCL, PALUs within a PAA and any land on a property integral to the operation of a PALU.

It is proposed that trigger maps of Protected Land would be developed and used for the purposes of implementing the proposed framework. The process for modifying the trigger maps to either include or exclude land could be based upon a similar process to that which exists for SCL.

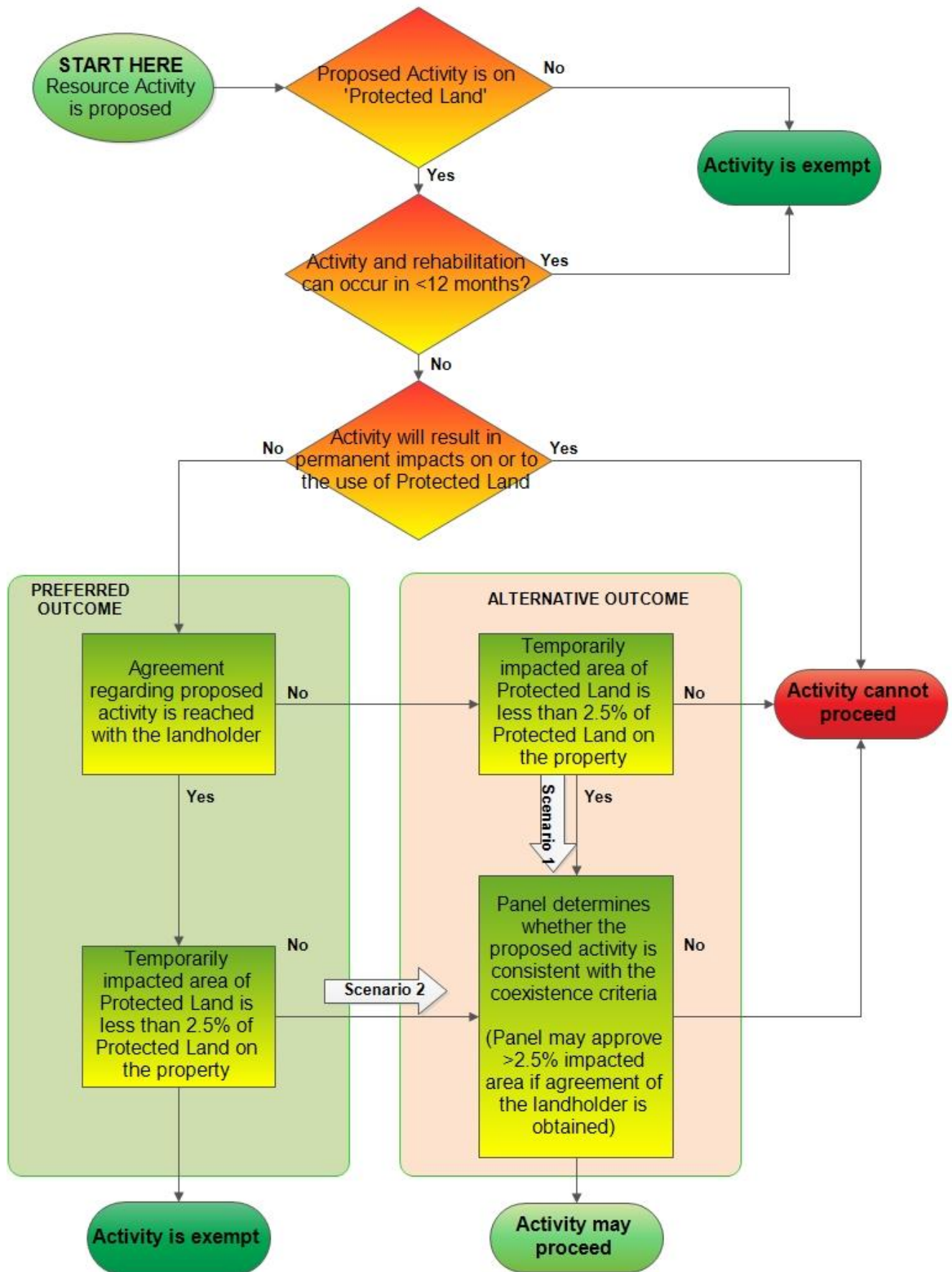
PROPOSED FRAMEWORK

The framework in this report focusses on encouraging landholders and resource companies to reach agreement in relation to any proposed resource development on Protected Land which has a temporary impact of less than 2.5%¹. If agreement cannot be reached, then application for a Regional Interests Authority could be made to the State government for referral onto an independent panel of suitably qualified² people to assess whether the proposed resource development was consistent with a set of co-existence criteria. Further detail is provided in the following flowchart and sections.

¹ This percentage is based on work done on the SCL Standard Conditions Code.

² Composition and operation of the panel requires further development in consultation with relevant stakeholder groups, but must be in accordance with principles of equity of representation, and transparency in appointment and decision making.

FLOWCHART FOR CONSIDERATION OF RESOURCE ACTIVITIES UNDER PROPOSED FRAMEWORK



Preferred Outcome – Negotiated Agreement

Landholders and resource companies should be allowed to reach agreement regarding proposed resource developments on Protected Land on a landholder's property where the temporary impact on Protected Land is less than 2.5%. If agreement is reached regarding the proposed resource activities (as well as the extent and placement of any associated infrastructure) then no further action is required and the resource activity can progress in line with the agreement and any existing legislative requirements.

Similar to the land access framework, there should be compulsory mediation required if negotiations to reach an agreement are not successful. It would be mandatory that mediation occurs prior to consideration of the alternative outcome as described in the following section.

Under this preferred outcome, it is considered absolutely essential that a negotiated agreement is in place prior to any resource activity occurring on the property. The form of this agreement would need to be determined and may require further consultation.

It is proposed that no 'permanent impacts' would be allowed on or to the use of Protected Land. Adherence to this principle would be considered a mandatory requirement and would need to apply to any negotiations and subsequent agreements between resource companies and landholders that may occur in accordance with the proposed framework.

If the landholder and resource company were willing to agree to temporary impact greater than 2.5%, then then an application would be required in accordance with the alternative outcome described in the next section.

Alternative Outcome – Application to an Independent Panel for a Regional Interests Authority

It is proposed that this outcome would only be available under the following scenarios:

- **Scenario 1:** If negotiations between a landholder and resource company had failed to reach an agreement (including following any mandatory mediation) and the proposed resource activity would result in an 'impacted area' of less than 2.5% of existing Protected Land on the property
- **Scenario 2:** If a resource company and landholder were able to otherwise reach an agreement but the agreement related to a proposed development that exceeded the maximum limit of 2.5% 'impacted area' as described in the previous section

Copies of any application would need to be provided to affected landholders and the independent panel would be required to consider any submissions that may be received from these landholders.

The panel would consider whether reasonable efforts had been made to reach agreement with the landholder and whether the proposed development was consistent with the established co-existence criteria and any other relevant considerations. The proposed resource activity would not be allowed to commence until a decision allowing it to do so had been made by the panel.

Parties would retain the right to appeal the decision of the panel through existing legal channels. In line with the *Regional Planning Interests Bill 2013* it is proposed that the decision of the panel is stayed while an appeal is being considered. It is proposed that the Land Court be the appropriate court of appeal to ensure consistency with the existing land access framework.

Co-existence Criteria/Principles

Co-existence criteria are proposed to inform negotiations between landholders and resource companies and to be used for assessing applications made to the independent panel. A summary of proposed co-existence criteria is as follows:

REQUIRED OUTCOME	Co-existence Criteria/Principles
No material loss of Protected Land	<ul style="list-style-type: none"> • No permanent impacts on or to the use of Protected Land are allowed; and • All planned impacts to Protected Land are able to be rehabilitated to restore the land to the productive capability (or greater) for the Protected Land that existed prior to the resource activity occurring; and • The resource activity is designed and carried out in a way that ensures the total and cumulative areas of protected land impacted by the resource activity are minimised'; and • The landholder agrees with the size and extent of the temporarily 'impacted area' that will result from the proposed resource development; or <ul style="list-style-type: none"> ○ The temporary 'impacted area' of Protected Land does not exceed 2.5% of existing Protected Land on the property
No material impact on continuation of a PALU	<ul style="list-style-type: none"> • The landholder agrees with the proposed level of temporary impact of less than 2.5% on the continuation of the PALU, and the resource activity will not result in a level of subsidence that would have a material impact on the continuation of the PALU • or: <ul style="list-style-type: none"> ○ The resource activity must not cause permanent impacts to a PALU that is occurring on Protected Land within a PAA. ○ Where temporary impacts on a PALU are unavoidable, the resource activity must utilise existing infrastructure corridors within the area of PALU where possible; and ○ The resource activity must not unreasonably interrupt or diminish the landholders use of infrastructure corridors; and ○ The resource activity should be located in such a manner as to have the least impact upon the PALU and existing farming systems necessary to conduct the PALU; and ○ The resource activity must not unreasonably impede the adoption of necessary and predictable technology changes supporting the PALU (e.g. adoption of lateral move irrigators); and ○ The placement and use of infrastructure on land within a PAA that is not Protected Land must not unreasonably impact upon the continuation of a PALU; and ○ The resource activity must not result in a level of subsidence that would have a material impact on the continuation of the PALU ○ Other relevant considerations
No material impact on the overland flow of water	<ul style="list-style-type: none"> • Material alterations to existing overland flow patterns are avoided, including effects on neighbouring or 'downstream' landholders • All reasonable actions are taken to ensure no material disturbance to the overland flow of water or its harvesting for a PALU, including minimising and avoiding the location of infrastructure on flood plains wherever reasonably possible • Linear infrastructure should be buried and the surface reinstated so as not to interfere with overland flow; or the linear infrastructure should be constructed parallel to existing overland flow lines

To assist in application of the co-existence criteria, definitions or guiding material will be required for terms such as 'material', 'reasonable', 'un-reasonable', 'permanent impact' and 'impacted area'. Guidance material will also be required regarding what is required to demonstrate and/or assess that "the resource activity is designed and carried out in a way that ensures the total and cumulative areas of protected land impacted by the resource activity are minimised". Development of these definitions/guidelines would need to occur in consultation with the relevant stakeholders and the agricultural groups involved in this submission.

EXEMPT ACTIVITIES

- Resource activities that do not occur on Protected Land
- Resource activities that will have an impact of less than 12 months on or to the use of Protected Land
- Existing resource activities that may be considered exempt through application of transitional provisions at the time of implementation of the framework (see next section)

APPLICATION TO EXISTING PROJECTS (TRANSITIONAL PROVISIONS)

It is recognised that transitional provisions for existing resource projects would need to be developed and this would need to occur in consultation with all affected stakeholders. As a starting point it is considered that the date of tabling of the draft *Regional Planning Interests Bill 2013* would be a logical point from which to consider the application of transitional provisions.

It is considered essential that regardless of the transitional provisions adopted, any increase in proposed activity or amendments that are required to any existing agreements or approvals would be subject to the framework proposed in this submission.

ASSETS OF REGIONAL SIGNIFICANCE

It is proposed that important regional sources of water, or infrastructure for supplying water, necessary for the conducting of PALU's on Protected Land within a PAA are able to be identified as regional assets requiring additional levels of protection.

For example, it is considered that the Condamine Alluviums and relevant Sunwater irrigation channels would be identified as regional assets under this proposal.

It is considered that any regulatory regime that ensures protection of the Condamine Alluviums (or other identified aquifers) would be separate to the framework proposed in this report but may include the following:

- Legislated/conditioned requirement to undertake re-injection or substitution to net out the expected volumetric impacts (plus a factor of safety) over the life of the impacts on the Condamine Alluvium as a result of a proponent's activities.
- Reference to the Surat CMA (or other relevant) UWIR in relation to the volumes required to be substituted/injected into the Alluviums over the anticipated life of the project. (i.e. OGIA would identify the volume required to be netted out over the life of the project and this volume could be stipulated in the UWIR)
- The need to submit a plan to an assessing authority demonstrating how the conditions above are going to be achieved.
- The requirement to update the plan every three years or as otherwise required by the Chief Executive to ensure it is updated in accordance with revisions of the Surat CMA UWIR. (This would allow for revision of the volume required to be substituted/injected as the predictions from the model improve over time)

- The need to have an approved plan in place within a specified timeframe or prior to authorised activities occurring on any land within the PAA.

For Sunwater irrigation channels and other regional supporting irrigation infrastructure, it is anticipated that specific conditions or criteria could be mandated at a project or regional level to ensure protection of these regional assets.