AgForce Queensland Farmers Limited
ABN 57 611 736 700

Second Floor, 110 Mary Street, Brisbane, Qld, 4000
PO Box 13186, North Bank Plaza, cnr Ann & George Sts, Brisbane Qld 4003

Ph: (07) 3236 3100
Fax: (07) 3236 3077
Email: agforce@agforceqld.org.au
Web: www.agforceqld.org.au

GS/DM/GGxxx

18 March 2019

Dr Jacqui Dewar,
Committee Secretary
State Development, Natural Resources and Agricultural Industry Development Committee
Parliament House
George Street
Brisbane Qld 4000

By Post & By Email: sdnraidc@parliament.qld.gov.au

Dear Dr Dewar

Re: Natural Resources and Other Legislation Amendment Bill 2019

Thank you for the opportunity to make a submission to the Committee concerning your consideration of the Natural Resources and Other Legislation Amendment Bill 2019 (the Bill).

AgForce Queensland Farmers (AgForce) is the peak rural group representing beef, sheep & wool and grain producers in Queensland. The broadacre beef, sheep and grains industries in Queensland generated around $7.2 billion in gross farm-gate value of production in 2016-17. AgForce's purpose is to advance sustainable agribusiness and exists to facilitate the long-term growth, viability, competitiveness and profitability of these industries. The producers who support AgForce provide high-quality food and fibre to Australian and overseas consumers, manage around 40 per cent of the Queensland agricultural landscape and contribute significantly to the social fabric of rural and remote communities.

The policy objectives of the Bill are to improve administrative efficiency and ensure regulatory frameworks remain effective and responsive; enhance the water compliance frameworks; and implement measures to improve performance of the resources tenure management system. Of specific interest to AgForce, the Bill:

- amends the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991* to reduce the regulatory burden and clarify the interpretation and application of these Acts.
- amends the *Aboriginal and Torres Strait Islander Land Holding Act 2013* to provide a more efficient process for the transmission of leases where the original lessee dies intestate (without a will) and to extend the statutory review period of the *Aboriginal and Torres Strait Islander Land Holding Act 2013* from five to ten years.
- removes the requirement to create and table an annual report on foreign ownership under the *Foreign Ownership of Land Register Act 1988.*
- amends the *Land Act 1994* to improve administrative efficiency and reduce the regulatory burden. The amendments provide an effective mechanism to facilitate the resolution of disputes between leaseholders and sublessees; ensure access to inaccessible State land;

close roads; and transfer certain administrative approvals from the Minister to the chief executive.

- amends the *Land Title Act 1994*, corresponding provisions of the Land Act 1994 and the Land Title Regulation 2015 to facilitate operational improvements and streamline and clarify processes.
- amends the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* to implement measures to continue to improve performance of the resources tenure management system and correct minor errors.
- amends the resource Acts to correct errors, clarify the application of provisions and improve the administration of the Acts.
- amends water legislation to improve operational efficiency, strengthen compliance and enforcement provisions; ensure consistency with local government infrastructure charging notices; facilitate balanced gender representation on category 2 water authority boards and modernise the selection and appointment process for directors; reduce regulatory burden; and clarify the application of a number of provisions applying to category 1 and category 2 water authority boards.

This submission, including the detailed comments overleaf, highlight the specific issues and concerns that AgForce has identified with what is proposed in the Bill. The absence of comment on a specific provision should not be read as our endorsement.

AgForce would like to thank the Committee for the opportunity to comment on this Bill. Any questions on this submission or the Bill should be addressed in the first instance to Dr Dale Miller, General Manager Policy on [redacted] or [redacted]

Yours sincerely,

Michael Guerin
CEO

Detailed Comments on Natural Resources and Other Legislation Amendment Bill 2019

Amendment of Foreign Ownership of Land Register Act 1988 – Omission of s16 (Annual Report)

As noted in the Explanatory notes, AgForce does not support the removal of the requirement for an annual Foreign Ownership of Land Register (FOLR) report to be prepared by the Registrar and tabled by the Minister in the Legislative Assembly. Whilst there is a report produced by the Australian Commonwealth, that report fails to make detailed comment on the following important aspects:

1. Definition of who is considered to be foreign, in particular respect to corporations
2. Difference in what interest in land are required to be reports, in particular with respect to leases in terms between 5 and 25 years
3. The value of annual acquisitions
4. Acquisitions aren't broken down to a foreign state level for all reporting metrics. Rather there is a one total figure of land holding across the country as to which foreign states own how much land. It fails to break down the figures related to each Australian state.

Overall the Commonwealth's report is very high level whereas the state's FOLR report provides useful and comparable information at a Local government level on changes in foreign ownership levels. This level of reporting is important to informing public discussion about the value of foreign investment and our national interest, particularly around agricultural land in the regions. No estimate of cost savings to government have been provided in the Explanatory notes.

With the proposed removal of s16 in the Act it is unclear how the Minister will inform the Legislative Assembly and the Queensland public about investment trends over time. AgForce supports the continuation of the current public reporting.

Public Notice of Closure

AgForce supports strengthened, consistent guidelines where roads are shut. The proposed list of notifications for road closures appears to be complete. AgForce recommends that the advertisement for appropriate public notice also contain consistent time periods for advertisements referred to in s100(5)(a).

Determining Tenure - amendment of s16 Land Act 1994

AgForce has no issues with this proposal.

Requirements for subleases – Dispute Resolution

AgForce understands from the Department that there are very few pastoral subleases that have been issued over State Land. Prima facie, the Land Act dispute resolution process set out in the Bill appears to be a more efficient way of managing dispute in these instances.

Access to areas of State Land

The Bill introduces a new power of entry for authorised persons to traverse adjacent freehold, leasehold and trust land to access state land to carry out activities where entry cannot be negotiated in the first instance and there is no other reasonably practical route for entering the state land. The new section 431ZB clarifies that the power to enter adjacent land is linked to a statutory power under the *Land Act 1994* that allows an authorised person to enter particular land to carry out authorised activities.

The *Land Act 1994*, Section 400 (2) indicates that the authorised person must enter freehold land only with the agreement of the occupier or, if there is no occupier, the registered owner. On leasehold land, entry still requires agreement of the occupier or, if there is no occupier, the lessee, licensee, permittee or trustee; or to give at least 14 days' notice to the owner of the authorised

person's intention to enter on the land, the proposed purpose in entering on the land, and the day and time when the person proposes to enter the land.[1]

To claim that the new power introduced in this Bill to enter land continues existing requirements under the *Land Act 1994* is misleading. This Bill provides that the chief executive has the power to provide authorisation for persons to access land, either freehold or leasehold. This Bill is evidence of further socialization and diminution of property rights with no compensation back to the landholder. If the State created and/or acquired lots that were not supported with easement or gazetted access provisions for maintenance or compliance requirements under legislation, such as the *Vegetation Management Act 1999* or the *Environmental Protection Act 1994*, there should be budget allocation provided for either surveying easements or paying adjoining neighbours for entry.

It follows then that this Bill breaches fundamental legislative principles by providing the chief executive with powers to authorize access with insufficient regard to the rights and liberties of landholders. For example, current issues with the Queensland Herbarium involve authorized persons entering private landholdings, collecting information while there and passing this on to staff administering the *Vegetation Management Act 1999* and the *Natural Conservation Act 1992*. An incident threat is that landholders who allow access to authorized Government staff are at risk of having their properties included in databases triggering legal implications and possible compliance costs. The issue of trust between landholders and staff or authorized persons by Queensland Government, has longer term ramifications on effective and sustainable management of land. Supplying the chief executive with increased powers to access freehold and leasehold land without compensation, further erodes this trust.

Strengthening landholder and Queensland Government relations and collaborative management of land in relation to this Bill may be facilitated by development of access agreements that provide protections for landholder information and a schedule for funding authorized entry. Further to this, clear evidence that Queensland Government is undertaking management activities (such as biosecurity practices and weed and erosion control) on State land that are required by freehold and leasehold landholders will demonstrate that the State Government is abiding by its own legislation.

Prescribed Terms

The Department has stated that these amendments are to amend the existing mandatory standard terms document process – setting requirements for holders of derivative leases on issues such as public liability and indemnity, duty of care and occupation of the land upon the interest ending. As legislated lease conditions, they will be applied by the State unilaterally. While the Department indicates this provision merely narrows the application previously introduced in the *Land and Other Legislation Amendment Act 2017,* scant information has been made on the interpretation and application of this provision and why the amendment in the current Bill is necessary. Further facts and figures are required to make an assessment on whether this amendment is fair and reasonable – particularly given the unilateral application of any new conditions.

Resource authorities and other miscellaneous resource Acts amendments

Amendment of *Mineral and Energy Resources (Common Provisions) Act 2014* to specifically define the terms advanced activity and preliminary activity and align these with definitions of the same within other Resource Acts are proactive steps to enable coherency and consistency for landholders.

Some proposed amendments to the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* are practical and improve certainty for landholders. Providing a

[1] http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/qld/consol_act/la199448/s400.html?context=1;query=entry;mask_path=au/legis/qld/consol_act/la199448

cap for the overall life of a mineral and coal exploration permit to 15 years helps provide this certainty, as does streamlining the relinquishment (reduction of area) requirements for exploration authorities. An area of concern relating to outcomes-based work programs for exploration authorities is the risk that compliance issues that would ordinarily be noticed in regular scheduled reporting, may be delayed until an outcome is achieved. This may result in potential damages escalating further than under existing reporting requirements.

Release of unallocated water reserves

AgForce supports the clarifying amendments concerning the processes of release of unallocated water to be under the process prescribed by regulations (public auction, tender, fixed price sale, or grant), but also supports more transparent and frequent releases of reserves to ensure sustainable water supplies are available to meet demand.

Water compliance and enforcement

The independent audit of Queensland non-urban water measurement and compliance in 2018 and the Murray-Darling Basin Authority Water Compliance Review identified opportunities to improve information systems, governance and compliance concerning rural water management.

Primary production businesses and producer's livelihoods are built around access to water. To instill the confidence needed for making significant financial and personal investments, agricultural water users must know that their access to water is secure and that their share of the available water is certain.

Clear provisions and robust compliance requirements and enforcement is a necessary element in delivering that confidence to all water users and should be applied in a fair and reasonable manner. AgForce does not oppose the proposed deterrents to non-compliant water use.

Joint liability for take of water through a shared meter

The Bill proposes to make clear that joint and separate entitlement holders who share a meter are jointly and severally liable, respectively, for ensuring that the water taken under the entitlement and the taking of water through the works is lawful and can be accounted for. This is due to difficulties or impossibilities for the Department in identifying the actual person(s) responsible for unlawful take. The provision includes a reasonable excuse element and allows for a voluntary written admission, or the chief executive's satisfaction concerning the committing of the offence, to remove liability from other innocent parties.

AgForce considers these safeguards against holding innocent parties liable to be reasonable and preferable to enforcing installations of separate meters, with the associated significant costs of installation, maintenance and record keeping.

Processes for ensuring faults with meters are identified and repaired

Clause 336 amends s1014 to add a new head of power to support additional processes under the regulation, including directions by the Chief Executive, for ensuring faults in meters are identified and repaired.

AgForce has identified a common problem encountered in ensuring timely repairs to meters once faults are identified, often taking months to have meters repaired and returned, despite prompt reporting of a fault and of taking steps to rectify it. The amended regulation provides a period of 3 days to report to the Chief Executive of becoming aware of a faulty meter and then 60 business days to have the meter repaired and provide a validation certificate. The regulation allows requests for extensions to the 60-day period where reasonable.

AgForce are not opposed to the steps taken to ensure meters are working, however the implementation of the new regulations by government must be reasonable in allowing for delays in repairs outside of the control of the water user, and in including suitable alternative evidence of

use being collected while repairs are undertaken so that use can be made of what are often short periods of water availability for harvesting into storages.

Continued effect of former s213A

AgForce supports the clarification that in relation to water licences of a term through until 30 June 2111, that this extended period continues to apply following the changes under the *Water Reform and Other Legislation Amendment Act 2014*.