



Strategic cropping land submission

Submissions close

COB Friday, 12 March 2010

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12 March 2009



Environment
Institute of
Australia and
New Zealand

Strategic Cropping Land Framework
Strategic Projects Division
Local Government and Planning Group
Department of Infrastructure and Planning
PO Box 15009
City East Qld 4002

Dear Sir/Madam

RE: STRATEGIC CROPPING LAND SUBMISSION

The South East Queensland Division of the Environment Institute of Australia and New Zealand (EIANZ SEQ Division) wishes to acknowledge the Queensland Government's efforts to protect valuable natural resources from alienation and the invitation to make a submission in relation to its *Strategic Cropping Land Policy and Planning Framework Discussion Paper*.

In addition to providing a response to each of the 5 questions (see attachment A) the EIANZ SEQ Division is also providing other more specific comments on the Discussion Paper as it addresses in part one of its priority areas *the establishment of a strategic framework for planning, at a regional level, the preferred use of natural resources, both those in private and public ownership so as to achieve the following outcomes:*

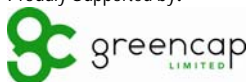
- *To increase future certainty of land use for an area.*
- *To minimise future land use conflict on land or adjacent lands.*
- *To recognise and address cumulative effects.*

Issue 1: The need for a new mechanism:

The EIANZ SEQ Division acknowledges the need for the State Government to ensure that the State's interest in agricultural land be given due consideration in land use planning and development decisions. However, the paper fails to indicate why a new mechanism is required when an existing mechanism, SPP1/92, with amendment, has the potential to achieve the same outcomes provided it addresses the deficiencies in the SPP 1/92 of:

1. Lack of clarity on the definition of good quality agricultural land [GQAL] (an issue, it would appear from Question 1 that the Government has yet to address).
2. The lack of consistency in the definition of GQAL across local government areas.

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3. The use of SPP1/92 to achieve other policy outcomes than the protection of the most productive cropping lands, especially of local government, of protection of open space and visual amenity.
4. The lack of adoption of a statutory basis for the protection of GQAL.

This is particularly the case as it is our understanding that the existing maps on GQAL are likely, with minor modification, to be used to delineate the Strategic Cropping Lands. This in itself is a concern as the accuracy of these maps (particularly outside of developed urban areas along the coast) is generally poor due to a lack of underlying data.

Further, it is not clear that mechanisms used by other jurisdictions to achieve the suggested policy outcome have been evaluated.

Issue 2: Scope of what is Strategic Cropping Land

It is understood from feedback at one of the briefings on the Discussion Paper that while the Strategic Cropping Land refers to productive agricultural land it is only to include cropping land and not other highly productive lands such as that used or could be used for improved pastures and horticultural and forestry tree crops. It is disappointing that the Discussion Paper doesn't make this clear. It is also disappointing that the Discussion Paper does not provide details on:

- What is meant by “best” cropping land?

Issue 3: The States interest in the protection of Strategic Cropping Land:

While the Queensland Government has announced that its policy position is:

The government considers that the best cropping land, defined as strategic cropping land, is a finite resource that must be conserved and managed for the longer term. As a general aim, planning and approval powers should be used to protect such land from those developments that lead to its permanent alienation or diminished productivity

it is not clear what are the “state interests” in agricultural land?

A statement of the “states interest” is important if the community is to be in a position to assess whether a balance is being achieved in the retention of land for cropping against competing alternative uses such as mining.

Regrettably, the statement that “best cropping land, defined as strategic cropping land, is a finite resource that **must** be conserved and managed for the longer term” is inconsistent with the wording of the policy principles which on the surface appears to be excessively, discretionary.

The EIANZ SEQ Division is of the view that the new policy might be more appropriate if amended to read:

The government considers that the best cropping land, defined as strategic cropping land, is a finite resource that must be conserved and managed for the longer term for the economic and food production demands of the community. To achieve this, planning and approval powers are to be used to protect such land from those developments that lead to its permanent alienation or diminished productivity unless it can be demonstrated at the time of Local Government Statutory Plan development, that there is an overwhelming long term public benefit in the alienation of such lands and any subsequent development, will only be approved where detailed assessment of the impact of the development on strategic cropping land values has been undertaken.

It should be noted that a definition of *diminished productivity* is also required.

Issue 4: Scope of the proposed planning framework:

The Queensland Government Policy acknowledges that there is competition for land for agriculture, development, mining and carbon forestry and that land-based industries often have specific site requirements and need to meet market and community needs. However, in spite of this recognition, the paper lacks a whole of government focus on the competition between all forms of alternative land use that may compete and hence alienate or degrade the most productive cropping lands

The EIANZ SEQ Division is of the view that there is an urgent need for an improved land use planning and development assessment processes for ALL uses for non-urban lands and to evaluate how any proposed process might address these criteria and to achieve a balance. To achieve this, the Government needs to provide details on the decision rules used by government in making land use related decisions. This is particularly the case where there are conflicting State and Local Government zonings/designations over a parcel of land (e.g. GQAL vs Key Resource Area over the same parcel of land). The EIANZ SEQ Division would be prepared to assist the Government in achieving an appropriate land use planning and development assessment processes for ALL uses for lands.

The EIANZ SEQ Division is also surprised that a decision-making framework has not been included in the Discussion Paper to objectively decide on the preferred fate of a particular area.

It is suggested that the Government needs to recognise community interests in setting up any decision-making framework, including:

- meeting future food needs;
- balancing high economic value industries (e.g. mining) with conserving strategic cropping land; and
- addressing the implications of their decisions on externalities such as the location of population growth and climate change.

Issue 5: Adequacy of the existing policy and planning framework:

SPP1/92 under *Sustainable Planning Act (2009)* seeks to protect cropping land from inappropriate development. However, mining development is exempt from regulation under the *Sustainable Planning Act 2009*, the EIANZ SEQ Division's agrees that this exemption needs to be removed and appropriate amendments made to the relevant legislation such as the *State Development and Public Works Organisation Act 1971*; *Mineral Resources Act 1992*; *Petroleum and Gas (Production and Safety) Act 2004*, the *Petroleum Act 1923* and *Environment Protection Act 1994* to ensure that common processes of strategic planning and assessment of development projects apply irrespective of whether a resource is in private or public ownership.

The EIANZ SEQ Division is of the view that the Government should not provide for a grant of tenure and issuing of environmental authorities and compensation without being subject to a publicly accessible planning process which undertakes an assessment of the costs and benefits of the alternative land uses and the externalities of any future development. The granting of exploration rights, leading to the commitment of funds by those receiving those grants, creates a not unreasonable expectation that, provided an appropriate impact assessment has been carried out with impacts identified that can be adequately addressed, a future right to exploit the natural resources.

The EIANZ SEQ Division sees merit in the proposed planning framework of 4 elements provided that adequate consideration is given to strategic land use planning under element 2 - "*Statutory planning instrument*". The EIANZ SE Division is prepared to assist the Government to achieve 4 elements with policy and operational effectiveness.

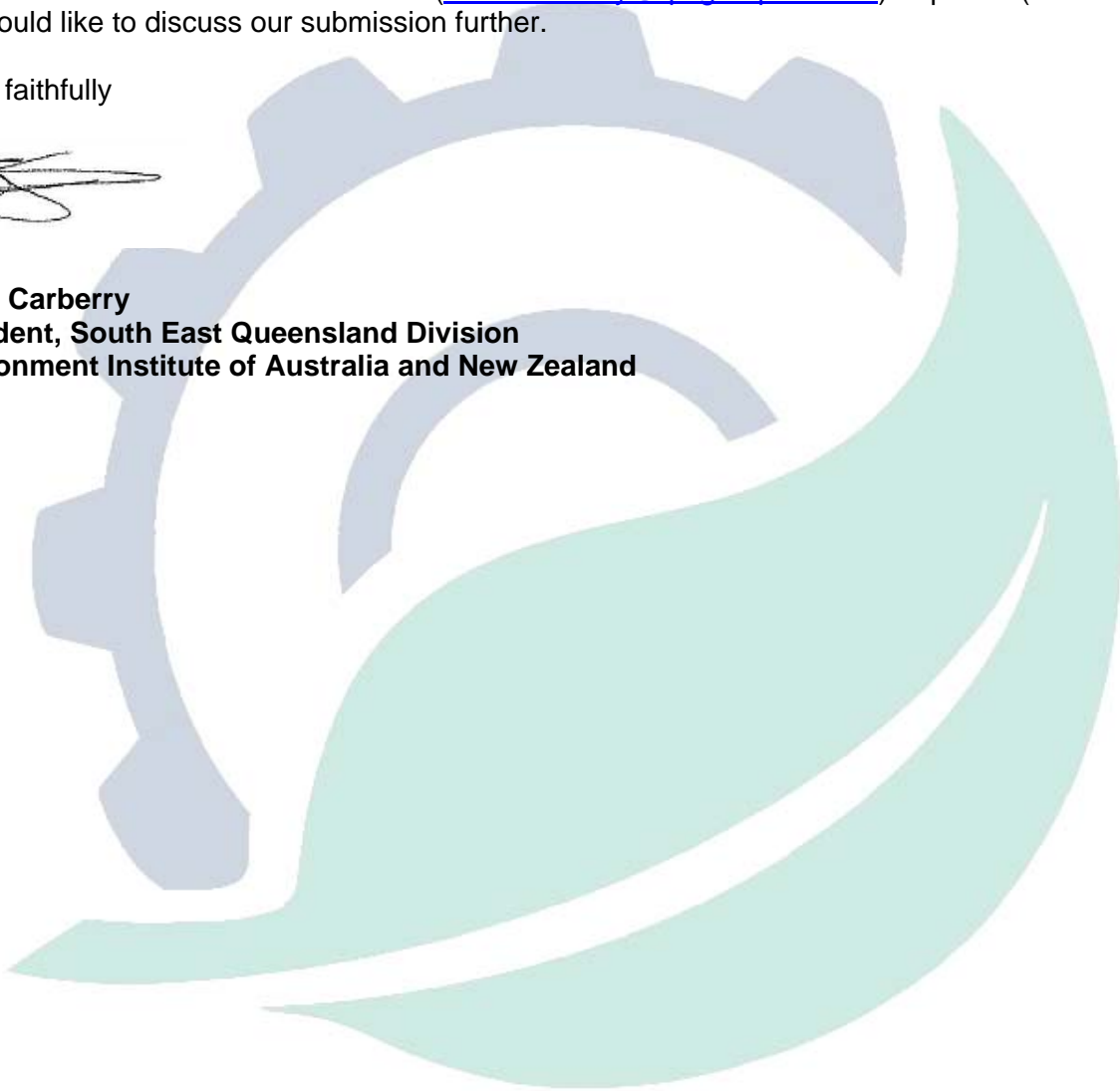
In closing, EIANZ SEQ Division applauds the government's initiative to address the conflicts that arise through mining so that the benefits of mining can be enjoyed by the community in the long term. However, regrettably it is not clear that the proposal in the Discussion Paper will actually be an improvement over the existing situation.

Do not hesitate to contact me via email (david.carberry@rpsgroup.com.au) or phone (4632 2511) if you would like to discuss our submission further.

Yours faithfully



David Carberry
President, South East Queensland Division
Environment Institute of Australia and New Zealand



QUESTIONNAIRE:

Q1: Are the above criteria appropriate for defining strategic cropping land?

Answer: Strongly disagree.

Reason:

The criteria are too general and primarily focus on soil, landscape, existing land use, access to water and legal and infrastructure constraints and do not adequately recognise those factors that affect economics and the crop versatility that largely determine their long term value to the community. Strategic Cropping Land needs to be defined and supported with background data otherwise it will be near impossible to make planning and development decisions in relation to competing land alternative uses. Economic criteria need to be included as there is no/little value in protecting small/currently alienated GQAL if it has no/little economic viability.

Q2: What planning principles should be included in a new state planning instrument for strategic cropping land?

Answer: This is not a simple question to answer and we suggest that inputs should be based on workshops where town planners and natural resource planners can discuss and extract relevant information on principles from a then informed public.

A number of planning based economic, social and ecological parameters could be suggested if given the opportunity. The earlier comments on the new policy and planning framework apply.

The discussion paper lacks detail on what the instrument might look like and only a few “principles” rather than a likely full suite of proposed principles. This is likely to lead to similar problems as occurred with the implementation of SPP1/92.

Lacks details on guidelines that might be provided in support of relevant strategic land use planning and doesn’t provide guidance on how decisions might be made to achieve a balance or to meet an “overwhelming public interest”.

Suggests principles might include “how development will avoid permanent impacts on the cropping capability of land and conflict with other rural activities”.

The focus still appears to rely on development assessment rather than strategic land use planning.

Q3: What amendments should be made to the *Mineral Resources Act 1989* and the *Petroleum and Gas (Production and Safety) Act 2004* to protect strategic cropping land?

Answer: This is not a simple question to answer and we suggest that inputs should be based on workshops where legislative drafters can discuss and extract relevant information from a then informed public.

A number of amendments should be made to the *Mineral Resources Act 1989*, *Petroleum and Gas (Production and Safety) Act 2004* and *State Development and Public Works Organisation Act 1971*:

- Removing exemptions from the *Sustainable Planning Act 2009*.
- Criteria to be taken into consideration when making planning or development assessment decisions.
- Introduce a single, more streamlined assessment process across all statutes.
- Making grounds for refusal (under *Mineral Resources Act 1989*) if mining leases impacting on Strategic Cropping Land/GQAL are not deemed to be within the public interest.
- Under the *Mineral Resources Act 1989*, (Governor in Council) to impose terms conditions on mining which are deemed to be in the public interest. Strategic Cropping Land/GQAL is one matter which if considered to be in the public interest, should mining lease be granted over such land. It is understood that this power currently applies.
- As the *Environment Protection Act 1994* requires that an EIS to be prepared to address impacts (unless the Minister overturns decision about EIS requirement); the guidelines and Terms of Reference for preparing a mining EIS which require GQAL/SPP1/92 to be addressed need to be amended to limit the Minister's ability to overturn decision about EIS requirement to those projects which do not impact on Class A and B Strategic Cropping Land/GQAL. This would require all projects on Strategic Cropping Land/GQAL to address Strategic Cropping Land/GQAL (A&B) as part of EIS, and allow the Government to condition the mining proponent should mining lease/environmental authority be granted. It would also allow the government to refuse an application which is deemed to be in the public interest.

Regrettably the focus in the Discussion Paper appears to rely on development assessment rather than strategic land use planning. This will lead to lengthy and potentially costly delays at a development approval stage when this could have been avoided by appropriate consideration at an earlier strategic planning stage when less commitment of resources by the various stakeholders would have occurred.

Q4: Should petroleum and gas activities under the Petroleum and Gas (production and Safety) Act 2004 be treated in a different manner to other mining activities?

Answer: Agree.

Reason:

The footprint of petroleum and gas activities is significantly smaller than for open cut mining activities. The cumulative effects of petroleum and gas activities however do need to be considered.

Q5: Should mining proposals be assessed on all classes of strategic cropping land?

Answer: Strongly agree.

Reason:

Only if a previous decision at a strategic planning level has determined that mining is a preferred use for the land or that mining and cropping can coexist.

Q6: Should all development proposals on strategic cropping land be assessed using common guidelines?

Answer: Strongly disagree:

Reason:

It is inappropriate to give a definitive answer to a question when exceptions that might apply are unknown. In general the proposition is supported provided the guidelines lead to an efficient and effective assessment and the guidelines indicate the criteria that will be used in deciding and conditioning any development approval. We propose that there should be a set of initial common guidelines and then development specific guidelines as a secondary component of assessment.

Regrettably, the discussion paper provides little information that permits informed input on the guidelines. Provided the guidelines are to be prepared in accordance with the policy principles which have yet to be enunciated then they will perform a useful role.

The cited examples of potential guidelines appear to have merit especially:

1. Impact of the proposed use.
2. Availability of alternative sites.
3. Assessment of public interest benefits of the proposal.
4. Impacts of proposals on adjacent rural land uses.
5. Potential to offset impacts.
6. Requirements for proponents to demonstrate feasibility of reinstatement.

Q7: How should permanent plantations for carbon sequestration on strategic cropping land be assessed?

Answer: This is an inappropriate question to ask in the absence, in the discussion paper, of background material including relevant government policies. It is suggested that the government prepare a separate submission on this matter and seek submissions on it.