Submission to: SCL Review, Land and Mines Policy

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Property Rights Australia was formed in 2003 to provide a strong voice for landowners with regard to property rights issues. It aims to promote fair treatment of landowners in their dealings with government, other businesses and the community.

Our philosophy is that if the community (or other business) wants our resource for any other purpose such as environmental protection then the community must pay fair and unsterilised value for it.

The Strategic Cropping Land State Planning Policy was introduced by the previous government. Property Rights Australia participated in the submission process and made comment critical of the then proposed legislation.

> *"Our organisation is concerned that this SCL SPP will be unduly restrictive of farm diversity, farm value-adding and a range of common farming practices. It is a fruitless exercise to place costs and impediments to business flexibility on agriculture to protect it from itself; when industry supported SCL legislation, the major problem that it wished to alleviate was threats to farming from mining and the coal seam gas industries and other large scale external developments.*
>
> *This planning instrument punishes the very people it should be protecting*."

The previous government introduced the SCL SPP for reasons other than what were publically stated. The legislation was supported by rural industry as better than nothing in their wish to have premium land protected from mining, coal seam gas and large scale development. Instead of protecting landowner's property it removed some property rights to freely further develop what the land had been long used for; the production of food. SCL has imposed another layer of red tape and more restrictions on farming activities and associated value adding activities. Wished for protection from coal seam gas activities were non-existent and little protection was afforded from other extensive developments.

The Queensland Government has an agricultural strategy to double the State's agricultural production by 2040 (the 2040 Plan). The deputy director-general of the Department of Agriculture has stated that the plan will increase the amount of farm land across the state as well as the productivity of existing land.

The 2040 plan can only be achievable if the very best soils are protected by mining and the coal seam gas industries.

Comment on the Review of the Strategic Cropping Land Framework Discussion Paper

http://www.nrm.qld.gov.au/land/planning/pdf/strategic-cropping/scl-framework-review-discussion-paper.pdf

PRA wishes to make comment on some of the assumptions made in this discussion paper.

The following point was made on page 2 under the heading, Context of the review, about key government commitments that have been made since the introduction of the SCL Act.

"*ensuring the coexistence of the agricultural and resource sectors through a range of measures such as the GasFields Commission Queensland and improving land access provisions."*

PRA does not believe that coexistence can 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. The use of this term provides no legal or compensable protection for landowners.

On page 3 under the heading of Statuary Regional Planning the discussion paper states –

"The Central Queensland and Darling Downs regional plans provide additional protection for each region's highly productive agricultural uses through providing outcomes and policies to protect Priority Agricultural Land Uses (PALU) while supporting coexistence opportunities for the resource sector."

Far from providing "additional protections" the draft Darling Downs Regional Plan appears to limit the area of agricultural land that might qualify for protection. PRA will make further comment in its submission on Draft Darling Downs Regional Plan, due on September 20th.

Survey Questions from the Review of the Strategic cropping land framework discussion paper.

Question 1: Do you believe that the SCL framework and Act have achieved the stated policy intent and purposes?

No

Question 2: Are changes needed to these purposes in light of recent changes in policy?

Yes

Question 3: Do you have any suggestions on ways to improve the accuracy of the trigger map?

These soil types have already been identified in a land classification system called Good Quality Agricultural Land. This land classification system was developed from decades of work by soil scientists who were unimpeded from any other agenda other than good science. GQAL is a simple classification system of A, B, C and D class soils. Class A is top cropping country; B is land suitable for cropping and grazing; C is grazing only, unsuitable for cropping; and D is unsuitable for agriculture or reserved for environmental purposes.

QGAL is clearly defined; it has been successfully for many years and has been as standard in resolving matters in the courts. SCL is poorly defined; it has only been in operation for two years and was developed for the very dubious purpose of being seen to be doing something about protecting the very best soils.

When comparison is made between the maps developed by soil scientists for GQAL and the trigger maps an appreciation can be gained for the deficiency in the trigger maps.

http://www.dsdip.qld.gov.au/resources/policy/plng-guide-identif-ag-land.pdf

Question 4: Do the eight SCL soil criteria (slope, rockiness, gilgai microrelief, soil depth, drainage, soil pH, salinity and soil water storage) adequately reflect what should be considered Queensland's best cropping land? If not, what changes or additions are required?

The GQAL land classification system did not include slope or salinity. These criteria discriminate against some highly fertile soil types such as high sloping country around the likes of Kingaroy and for brigalow soil types to have suspended salts in their profile that do not inhibit plant growth. DPI and CSRIO trails have clearly shown that these low levels of salinity found in brigalow soils lower and disperse in the soil profile when cropped.

It was PRA's belief that when the previous government introduced SCL that at least one of these eight soil criteria were designed to catch the landowner out somewhere. It was not based on good science as is the previous well tested GQAL.

The SCL standards should be replaced by GQAL standards.

Question 5: **Is the process for identifying and validating SCL effective and can it be improved or streamlined?**

It is hardly surprising that landowners find the SCL validation process expensive when it has been imposed upon them by other industries and until very recently the very best outcome for another industry making use of the same area of land that the landowner had been using to produce food was to financially break even.

Table 3 on page 11 shows that out of 47 applications for assessment of SCL none have been adjudged SCL; a situation that would not give confidence in the process by landowners.

Question 6: Are the current definitions of temporary impact and permanent impact on SCL appropriate or should they be refined?

Coal seam gas activity is not considered a permanent activity under SCL. PRA agrees with the following statement made in the discussion paper –

"Stakeholders affiliated with the agricultural sector have commented that the less than 50 year timeframe associated with temporary impacts is inappropriate and that less than 50 years represents potentially an inter-generational impact on a farming enterprise."

The SCL Act made the wrong assumption that CSG activities have low impact on agricultural land. However especially in the situation of cropping on alluvial flood plains that account must be taken not just of the gas wells but also by the connecting roads and other associated infrastructure which combined has a high impact.

CSG production is not a temporary impact when it depletes or depressurises aquifers and brings long term impacts of the accessibility of quantity and quality of ground water for irrigation or for livestock. Also it may not be temporary if they leave salt or other contaminants on the ground or in the water.

Furthermore there is every indication that once the CSG is depleted that the resource companies will then drill deeper to the shale gas giving greater utilisation to very expensive infrastructure currently under construction. These combined gas sources could occupy good productive soil types for far greater than 50 years.

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, but with increased and better defined standards as currently contained in the SCL Act. 50 years cannot be considered temporary.

Question 8: Do you think the current concepts of protection areas and management areas are appropriate? If not, what changes are required?

Far from providing "additional protections" the draft Darling Downs Regional Plan appears to limit the area of agricultural land that might qualify for protection. PRA will make further comment in its submission on Draft Darling Downs Regional Plan, due on September 20th.

The mining and coal seam gas industries are not now or in any current proposed amendments to legislation made to be compliant to the SCL SPP or to any Regional Plans. They will not be until mention is made in the Mining Act and Petroleum and Gas Acts to be compliant to a clearly defined standard such as GQAL

The mining and coal seam gas industries should be subjected to a SPA process for their activities, whether temporary or permanent impacts are involved.

Question 9: Do you believe that the current exceptional circumstance test is too inflexible?

No. The question implies that the exceptional circumstances test should be removed or given a much looser definition. It is already a get out of jail free card. The use of the terms "there is no alternative site" and "community benefit" can already be used to the disadvantage of agricultural land use.

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?

Mitigation measures identify a community benefit or compensation to atone for damage to the state's resources.

PRA is adamant that where a farmer's productive capacity is damaged whether freehold or leasehold and whether temporarily or permanently then he should also be generously compensated unless the farm is owned by the mining company or an associate of the mining company. Individual farm businesses cannot be expected to bear the brunt of resource development or industrial accidents.

The Aquisition of Land Act offers a premium on compensation in recognition of the fact that the acquisition is not voluntary. Having a resources company on your land is also not voluntary and can damage efficiency and productive capacity. Compensation should be automatic if damage occurs and not contingent on a landholder's negotiating ability.

On page 8 of the discussion paper under the heading of, SCL standard conditions code, it states –

"The code seeks to protect SCL by conditioning resource activities to avoid and minimise the

impact on SCL. It includes conditions about potential impacts, including for example:

- *surface area disturbance*
- *mixing of soil layers*
- *compaction of soil*
- *erosion*
- *subsidence*
- *changing of soil structure; and temporary impedance of cropping"*

PRA believes that a further impact be listed of mining and coal seam gas industrial accidents, pollution and spillage of substances such as salt and chemicals.

The lack of retrospective application of the SCL to current authorities means that resource authorities and ERA approvals covering large swather of SCL will have no application other than to prevent farmer's applications on their land. If amendments are sought to existing approvals the impact will be limited to the matter to be changed.

Question 11: Should a more performance-based regulatory approach be adopted for the SCL Act and in particular the SCL Standard Conditions Code?

Question 12: Should the SCL assessment process for resource activities be de-coupled from the Environmental Authority?

Most definitely not! The Environmental Authority is the only avenue that landowners can take direct legal action to major impacts of their property by CSG and mining industries. It is the only avenue available where there is not a major power imbalance between the two sectors.

Question 13: Are there alternative application and assessment approaches that would reduce public and private sector costs for administration of the SCL framework while achieving the policy intent?

Question 14: Are there other forms of development that should be excluded from SCL assessment?

PRA believes that it was a worthy initiative of this government to introduce a range of exemptions from SCL assessment of agricultural activities that value adds; improves efficiencies or diversifies food production activities.

These activities should never have been caught up in the SCL Act.

Question 15: Do you think that the fees associated with SCL validation and assessments are too high?

This Submission has been produced in consultation with others on behalf of Property Rights Australia by

Dale Stiller

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