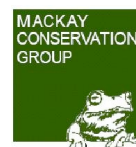


Submission to *Strategic Cropping Land: policy and planning framework*

Submission of the Six Degrees Coal and Climate Campaign, Friends of the Earth Brisbane on behalf of:

Brisbane Regional Environmental Council
Capricorn Conservation Council
Householder's Options to Protect the Environment (HOPE) Queensland
Logan and Albert Conservation Association
Mackay Conservation Group
North Queensland Conservation Council
Queensland Conservation Council
Sunshine Coast Environment Council
Toowoomba and Region Environment Council
Wide Bay Burnett Conservation Council
Wildlife Preservation Society Queensland



Thank you for the opportunity to contribute to this important review of the protection of agricultural land. This submission has been compiled by Friends of the Earth Brisbane in consultation with regional environment councils and other key organisations across Queensland. In this submission we will focus on the following areas:

1. A moratorium on new mining leases must be declared until such a time as statutory protection of good quality agricultural land is in place and guidelines for development assessment have been legislated.
2. The areas proposed for protection in the discussion paper fall far short of what is needed to protect food security and the viability of agriculture in Queensland in the long term. The approach to the protection of productive lands must undertake a regional planning perspective that allows for the establishment and preservation of Strategic Productive Land Precincts.
3. The proposed process for assessment gives no certainty to landholders or developers. A key outcome of the review should be to give certainty to stakeholders rather than prolong assessment processes. This would include outright protection of some lands and a strong and transparent assessment of the circumstances under which the requirement for “overwhelming long-term public interest” would be satisfied.
4. Options for offsets and rehabilitation should not be included in legislation to protect good quality agricultural land from mining.
5. At a minimum, storage ponds for wastewater from coal seam gas production should be prohibited on and around good quality agricultural land.

Background

As the deteriorating climate restricts viable food-producing land in Australia, the encroachment of inappropriate development on these precious and vulnerable landscapes highlights a clear policy failure. Under the current arrangements, protection of prime agricultural land is a policy of the state government, but this position does not have the force that would be provided under a statutory provision. The State Planning Policy (SPP) 1/92 “Development and Conservation of Good Quality Agricultural Land” under the Integrated Planning Act 1997 (Qld) provides a rigorous standard for measures that ensure the preservation of agricultural land in Queensland. This policy has been maintained by successive Queensland governments, and is based on the fundamental principle that:

The Queensland Government considers that good quality agricultural land is a finite national and State resource that must be conserved and managed for the longer term. As a general aim, the exercise of planning powers should be used to protect such land from those developments that lead to its alienation or diminished productivity.

In its current form, due to the climate change impacts of mining – particularly coal production and use – and other resource extraction activities, the threats to food security, and the marginal agricultural status of rehabilitated mining sites, applications for coal mining on Good Quality Agricultural Land can not meet the “public benefit” test mandated under Principle 1 of the State Planning Policy. If this policy were implemented consistently, such applications for mining and exploration leases over prime farming lands would never be permissible.

However, we are not aware of a single mining exploration license or development application that has been refused on the basis of this planning provision to date.

As the policy in its current form provides ineffectual protection, it is essential, and consistent with the objectives of land use planning in Queensland, that statutory protection from mining and mining related development for agricultural lands be enacted.

We are encouraged that the Government is looking at steps to correct this policy failure but the discussion paper *Strategic Cropping Land: policy and planning framework* contains a series of shortcomings that have the potential to negate the potential of these reforms. We urge the Government to implement strong and broad measures in order to ensure that this important resource is protected now and into future.

1. Moratorium

During the period of policy development, there is a high likelihood that there will be a rush on mining lease applications especially on areas of potentially designated good quality agricultural land. The initiation of this process is likely to lead to a large increase in the applications for mining leases, particularly from applicants who perceive that their current exploration permits and minerals development licenses may be impacted by the protection of strategic cropping land. As a consequence, the announcement of the policy development will be likely to rapidly and dramatically increase the exploration and mining development on strategic cropping and other strategically productive lands, thereby producing the exact opposite effect of what the policy has been designed to achieve. In order to avoid this perverse outcome, we recommend that an immediate moratorium be placed on new mining leases in Queensland until the required legislative changes have been made.

The establishment of a development moratorium during a policy development phase has an established precedent in Queensland natural resource planning. For example, the use of development moratoriums during the period of water resource planning is a well-defined standard and publicly accessible stage of the planning process, in order to establish a stable baseline and to ensure future decision-making is made in accordance with the resulting plan.

The rationale for a development moratorium is identical in this instance, where there is a clear need for the assessment of strategic cropping land and other productive landscapes including those with high biodiversity and environmental values to be completed prior to the granting of mining leases which may negate the protection created through this process and accompanying statutory amendments.

2. Areas to be protected

Agriculture is of great importance to Queensland's economy and to our food security. In a scenario of increasing population, peak oil and a changing climate it will become ever more important. We recommend that the definition suggested in the discussion be broadened significantly to take a landscape, or whole of region approach, to planning. Protecting isolated pockets of cropping land defined on the basis of soil quality or water availability will likely result in fragmentation of productive rural landscapes and the rural economies based on agriculture.

The value of strategic cropping land is not only due to the physical properties of the land itself, but the capacity of the region to support and sustain production on these landscapes. Protecting strategic cropping land must also provide equivalent protection and legislative intervention to prevent inappropriate fragmentation of land, protect and promote productive activities within a rural amenity precinct, maintain transport routes, access to markets and other shared infrastructure (packing sheds, mills, gins and so forth) and support the benefits derived from economies of scale in rural precincts. This includes providing protection and promotion of the secondary interests that are dependant upon and necessary to the productivity of rural landscapes, including soft infrastructure, business networks, access to labour and skills, public and social services, and the network of public utilities supporting and supported by the identified production values.

We recommend the use of the 'rural precinct' planning definition and provisions as provided in SEQ Regional Plan as an appropriate framework for the protection of strategic cropping lands and other productive landscapes. Within the SEQ Regional Plan, the designation of rural precincts was specifically devised in order to protect and promote rural and regional landscape values and the sustainability of agriculturally dependant economies through:

- implementing strategies and actions that remove or minimise land use conflicts
- encouraging development that complements or benefits regional landscape values
- placing land-use controls on activities within a rural precinct.

The broad and encompassing approach to landscape protection demonstrated in the SEQ Regional Plan should inform and structure the approach to the protection of productive lands across Queensland generally. This framework is articulated in the SEQ Regional Plan Implementation Guideline 6.

As part of the need for protection of productive lands at a landscape scale, buffer zones must be established around areas designated as strategic cropping lands. Buffer zones are critical at the interface between incompatible land uses, for the purposes of:

- 1) ensuring the preservation of ecosystem services and landscape values necessary for the continuation of productive and ecologically integral agricultural lands, and
- 2) minimisation of conflicts derived from the impediment to practices by incompatible land uses.

In the determination of the appropriate extent of buffer zones, priority should be given to the stated planning aim of the discussion paper; that is, the buffer zone should be established to protect productive land from those developments that would lead to its permanent alienations or diminished productivity. The scale of buffer zones should be determined on the basis of best available evidence of mining impacts on surrounding land uses, and refer to airborne particle dispersal and areas of groundwater recharge.

Groundwater recharge areas that feed strategic cropping land must be protected as a matter of priority. Groundwater discharge from mining operations and impacts on water supplies for farming must also be considered prior to the granting of mineral exploration permits, mineral development licenses and mining leases.

As such, additional to those areas already defined in the discussion paper we would like to see the outright protection of:

- All lands currently used for cropping, including small farms producing for the local market and those on slopes,
- Areas that would form buffer zones around cropping land to protect it from airborne particle dispersal, light and noise pollution and other impacts of near-by mines. These should also be designed to protect whole agricultural regions from fragmentation.
- Underground and surface water including rivers, aquifers and their recharge areas that support the continuation of those cropping lands, and
- Other areas demonstrating irreplaceable productive value, including conservation zones and private lands demonstrating sustainable agricultural practices.

The scope of this policy should not be limited only to cropping land, but should offer similar protection to other productive and irreplaceable lands. This definition would encompass Strategic Cropping Land as outlined in this paper (as agriculturally productive) but would also include ecologically productive lands, such as nature refuges or private land-holdings under conservation covenants, and areas under agricultural production that demonstrate sustainable farming practices

(such as mixed conservation/agricultural use). In particular, nature refuges and areas under conservation covenants are currently afforded no protection from mining despite large amounts of public and private money having been invested to manage them for biodiversity protection. We recommend that these lands also constitute a resource that must be managed for the long term and should be afforded outright protection from mining through amendments to the *Nature Conservation Act 1992*.

Conservation agreements and covenants on private lands form an integral part of the Australian National Reserve System (NRS) and part of our commitment under international law to preservation of biodiversity and ecological integrity. The strength of the NRS in Australia derives from the partnership approach which combines state and federal reserves with the voluntary actions of landholders and communities, in an adaptively managed and scientifically robust system of landscape scale conservation.

In Queensland, the key mechanisms for assisting conservation on private landholdings are established through the Nature Refuge Program. Under this program, voluntary agreements are negotiated between landholders and the Queensland Government for the preservation of land with significant ecological values. Nature Refuges are recognised as a class of protected area under the Nature Conservation Act 1992, and currently comprise the second largest expanse of Queensland's protected areas under the National Reserve System.

Unlike protected areas established under state and federal legislation, there are no regulatory protections for landholders to ensure the maintenance of environmental values of land under conservation agreements against inappropriate development. Specifically, designation as a nature refuge does not prevent or limit mineral or petroleum exploration and extraction in any way.

This is a perverse policy position. Both private funds and significant public money have been invested into the identification, establishment, maintenance and monitoring of conservation covenants on private lands. Taxpayer money is directly invested into these areas, through Queensland's Nature Refuge and Nature Assist Programs, in the form of direct incentives and support mechanisms.

Both the environmental values and the public investment in nature refuges in Queensland face significant threat from the expansion of the coal mining industry in this state.

Under the Natural Resource Management Ministerial Council's Directions for the National Reserve System, the Queensland Government is required to investigate relevant laws to assist in the protection of values on Private Protected Areas, such as those established under Queensland's Nature Refuge program. In accordance with these directives, there is a clear obligation on the State Government to provide statutory protection to designated sites subject conservation agreements on private lands, specifically from coal mining and other extractive industries.

Clearly, the value of the preservation of biodiversity and refugia provided by private and public investment in conservation management exceed the public benefit requirement that should be used in consideration of land-use assessments. Further, the protection of ecosystem functionality at a landscape scale is a crucial climate change response of both mitigation and adaptation. The forecasted impacts of climate change are likely to significantly disrupt the delivery of ecosystem services, and the environmental resilience maintained by the contribution of private landholders to the NRS. Landscape scale conservation is a key component of a strategic climate change policy.

Statutory protection of lands under conservation agreements from mining similarly provides appropriate recognition of the contribution made by private landholders to the protection of extant

biodiversity and to Australia's international obligations.

Based on the above considerations, we recommend the establishment of Strategic Productive Lands Precincts (with sub-categories of Agriculturally Productive and Ecologically Productive) across Queensland that have outright protection from mining or urban encroachment.

3. Certainty to stakeholders and transparent assessment processes

A key aim of this policy must be to provide certainty to both landholders and developers. Wording in the discussion paper such as "*As a general aim*, planning and approval powers *should* be used to protect such land from those developments that would lead to its permanent alienations of diminished productivity", suggest a high degree of Ministerial or administrative discretion, and that certainty will not be provided to stakeholders. Rather, this process will require another extended process of assessment that will be imposed on communities and development proponents without any actual positive outcome for areas of good quality agricultural land or ecologically significant landscapes.

We believe that this policy will only be successful if outright protection from mining is afforded to the areas outlined above.

If an assessment process is deemed necessary, this must be established by the proponent rather than by those seeking to maintain the values of agricultural lands. A determination of whether a project is in the "overwhelming long-term public interest" must be independently assessed using transparent criteria and based on a rigorous and open public consultation period. These criteria will be fundamental to the effectiveness of this entire policy, and should include consideration of the role of fossil fuels in causing climate change, a long term cost-benefit analysis of all development alternatives, the cumulative effect of developments in the region, and assessment of the full cost of mining on waterways, biodiversity, communities and the climate.

The time-scale of this assessment is critical, particularly in relation to the benefits derived over the short-term from mining and the long-term public value provided by the preservation and continued productivity of agricultural landscapes. We recommend that the cost-benefit analysis undertaken pursuant to a 'public benefit' assessment have, at a minimum, a one-hundred-year planning horizon. This long-term view is consistent with the land-use planning activities undertaken in Queensland to date, such as the regional infrastructure and growth management plans.

The current environmental impact assessment process is not an appropriate vehicle for the provision of evidence in the determination of whether a given application is consistent with this 'public interest test'. Alternatively, we recommend the establishment of an independent and ongoing Assessment Commission, modelled on the federal Resource Assessment Commission (RAC). The RAC was established in July 1989 under the Resource Assessment Commission Act as an independent body to hold public inquiries into matters referred to it by Prime Minister. Under the Act, specified matters to be dealt with in the conduct of the inquiry included the requirement of the Commission to:

1. identify the resource with which the matter is concerned and the extent of that resource;
2. identify the various uses that could be made of that resource;
3. identify:
 - the environmental, cultural, social, industry, economic and other values of that resource or involved in those uses; and
 - the implications for those values of those uses, including implications that are uncertain or long-term;

4. assess the losses and benefits involved in the various alternative uses, or combinations of uses, of that resource, including:
 - losses and benefits of an unquantifiable nature; and
 - losses and benefits that are uncertain or long-term; and
 - give consideration to any other aspect of the matter that it considers relevant.

The policy principles to be observed by the RAC were listed as:

- There should be an integrated approach to conservation (including all environmental and ecological considerations) and development by taking both conservation (including all environmental and ecological considerations) and development aspects into account at an early stage.
- Resource use decisions should seek to optimise the net benefits to the community from the nation's resources, having regard to efficiency of resource use, environmental considerations, ecological integrity and sustainability, ecosystem integrity and sustainability, the sustainability of any development, and an equitable distribution of the return on resources.
- Consequent decisions, policies and management regimes may provide for additional uses that are compatible with the primary purpose values for the area, recognising that in some cases both conservation (including all environmental and ecological considerations) and development interests can be accommodated concurrently or sequentially, and, in other cases, choices must be made between alternative uses or combinations of uses.

In its operation, the RAC demonstrated and modelled a transparent and accountable approach to the assessment of public benefit in the conduct of resource assessments, through such measures as:

- the independent composition of the Commission and appointment of Commissioners;
- the ability of the Commission to determine its own investigation methodology subject to the terms of the inquiry;
- the legal protections afforded to the Commissioners in the conduct of the inquiry;
- the capacity of the Commission to receive oral and written evidence and to sponsor additional research where necessary to assist in the determination of that inquiry;
- the core objective of the Commission to provide an opportunity for all levels of Government, interested groups, and individuals to have their views taken into account before major land-use decisions; and
- the adequate provision of resources, staff and information to facilitate an independent and transparent inquiry.

As such, we recommend that the statutory amendments suggested in the discussion paper be appended to include provisions for the establishment of an Assessment Commission, substantially modelled on the RAC, to undertake independent assessments where the proponent of a mining development or resource extraction enterprise seeks to demonstrate that such a development is in the “overwhelming long term public interest”.

4. Offsets and rehabilitation

In light of consistent failures to adequately rehabilitate mined land, and a lack of evidence that areas of good quality agricultural land can be rehabilitated to their previous productive capacity, is justification that mining must not take place on good quality agricultural land. The promise of future rehabilitation of mined land to good quality agricultural land is a high-risk strategy and should not be pursued. This clause in the discussion paper represents a major flaw in the proposed policy and should not be included in any final assessment process.

The failure of Government to adequately regulate the mining industry's impacts on the environment is a cause for major concern. Recent events such as the release of mine flood waters into rivers and the levels of lead, mercury and other toxic emissions related to mining in Queensland's mineral province have severely degraded the public's confidence in the ability of industry and the government to manage the impacts of mining on the surrounding environment and human health. Insufficient resources have been committed for the effective monitoring and enforcement of environmental requirements upon mine operators. Until these concerns are adequately addressed, there can be no guarantee of the appropriate rehabilitation of mine sites to the level of previous productive capacity; consequently, there can be no development by the mining industry into our precious food producing regions.

Good quality agricultural land is formed over millions of years by geological processes. It is illogical to include any reference to offsetting impacts of mining on scarce good quality agricultural land. Recently Governments have implemented a range of offset policies as measures to counterbalance negative environmental impacts that cannot otherwise be avoided or minimised. To be effective, these offset programs require the exchange of 'like for like' and a site of equal or greater value. With regard to good quality agricultural land, productive capacity must be identified, restored and protected in perpetuity to balance the diminution of agricultural productivity from mining or urban development. As is clearly identified in the discussion paper, the area of Queensland which would meet the criteria of good quality agricultural land is both finite and scarce. As the discussion paper articulates:

Areas which meet all of these criteria are scarce – just 2.2% of Queensland's land area is currently cropped. The amount of cropping that occurs on land considered to be good quality cropping land is even smaller, approximately 1.5%.

Given that there is no equivalent substitute for the remaining areas qualifying agricultural land (a necessary pre-condition for the establishment of an offset program), including provision for offsets in the development application process is inappropriate, and demonstrates an inadequate understanding of the nature and purpose of offsets as a policy tool. It is in the public interest that these lands are instead afforded outright protection from mining, urban development and other land uses which alienate their productive capabilities.

5. Mining Coal Seam Gas

The coal seam gas industry is rapidly expanding in southern Queensland. Little to no heed has been paid to the environmental legacy of this industry. Considering the significant areas required for the storage of saline water pumped alongside the gas from the coal seam, and the proximity of these mines to areas of good quality agricultural land we recommend that the storage of bi-product water and brine be prohibited on areas of good quality agricultural land and buffer zones as specified above. The re-use of treated coal seam gas water on these areas and its re-injection into aquifers that support productive landscapes should be prohibited.

Introducing large quantities of salt into the Darling Downs is a cause for major concern with regard to the productive capacity of the region. The increased salt levels in the Condamine catchment would be detrimental to already susceptible biodiversity and the watercourses on which agricultural industries depend.

The Queensland government should thoroughly assess the full cost of an expanded coal seam gas industry in the Darling Downs.