

17 March 2021

Mr Warwick Squires  
A/CEO  
GasFields Commission Queensland  
PO Box 15266  
CITY EAST QLD 4002  
Submitted online via : <https://www.surveymonkey.com/r/65YHKRP>

Dear Mr Warwick Squires,

## **Review of the Regional Planning Interests Act 2014**

Cotton Australia welcomes the opportunity to provide the GasFields Commission Queensland (The Commission) this brief submission on Review of the Regional Planning Interests Act 2014.

### **INTRODUCTION**

Cotton Australia is the key representative body for Australia's cotton growing industry, supporting up to 1,500 cotton farming families in NSW, Queensland and now into Victoria, Western Australia and the Northern Territory. Our members represent about 152 Australian regional communities and approximately 90% are family-owned farms. Our growers in Queensland reside through the south-west and central parts of the state, with the Western Downs being a significant cotton growing region.

Cotton Australia is an active member of the Queensland Farmers Federation (QFF) and has reviewed its submission to this review. Cotton Australia is broadly in alignment with QFF, but for the avoidance of doubt, if there is any divergence of positions, the position of Cotton Australia is the position in this submission.

Cotton Australia actively participated in the development of the Regional Planning Interest Act and the associated Darling Downs Plan and believes the Act and Plan increased landholder rights in determining whether Coal Seam Gas (CSG) resource activities could occur on their land. This was, and is, a positive outcome.

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## General Comments

Cotton Australia remains unclear on the exact purpose of this review, but it appears to be driven by the relatively low numbers of Regional Interest Development Approval (RIDA) applications. Further the Consultation Paper sheds little light on the perceived problems that the Review might be seeking to rectify.

Cotton Australia respectfully suggests that while the number of applications, and who is making them, might make interesting reading, it is not a great metric for determining whether the Act is working.

Cotton Australia believes there are two very important factors to consider, when assessing why RIDA applications have been limited:

- ) The Act and the Plans “incentivise” resource companies to genuinely negotiate with landholders, and make appropriate “Conduct and Compensation Agreements (CCA), rather than seeking approval through a RIDA application.

However, this is the greatest flaw with the current system, the existence of a CCA should not be a proxy for assurance that the resource activity will not have a significant impact on PAA or SCA, or a third-party landholder.

- ) Much of the CSG development since the introduction of the Act has either occurred on land that held pre-approvals and therefore was exempt from requiring a RIDA, or occurred on land that has not been identified as Strategic Cropping Land (SCA) or a Priority Agricultural Area (PAA) and therefore also exempt.

With increased CSG resource activity now occurring over some of the more intensively farmed Darling Downs areas, there is likely to be greater application of the Act, and this may be evidenced by an increase in RIDA applications, or it may just be that more Conduct and Compensation Agreements are successfully negotiated between landholders and resource companies, where the landholders are secure in the knowledge that the Act has enhanced their rights, and helped even the negotiation “playing field”.

Where we do not have any clarity is whether resource companies are avoiding making RIDA applications when they do not have a agreed CCA. There is some suggestions the companies are avoiding pursuing RIDA applications for development on land not owned by them, and where they have been unable to secure a CAA, because they are concerned the application may be denied or significant conditions may be placed on approvals.

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### ***Self-Assessment Provides Little Basis for Confidence***

As referred to earlier Cotton Australia does harbour serious concerns around the latitude the resource company has in determining whether the resource activity will have a significant impact on PAA or SCA, and whether the activity will impact other landholders. Under the current arrangements, if the resource company holds a valid CCA with the primary landholder, it then self-assesses whether it needs to apply for a RIDA based on impact, without even the need to formally notify the government that it has self-assessed that it is exempt. This is not acceptable.

### ***Protecting in Qld's Best Agricultural Land for Agriculture***

Cotton Australia also acknowledges that the Act, associated plans and regulations, does little, or nothing, to provide protection for the State of Qld of Priority Agricultural Land Use (PALU) areas or Strategic Cropping Land (SCL). As described in the previous paragraph, it appears once a resource company has secured a CCA, there is almost an automatic result that a RIDA is not required, and development can occur.

However, Cotton Australia is also very mindful that any increased powers granted to the State to control activities on freehold land, means an equal diminishment of the rights of the landholder, and any significant reform in this area should only be considered after widespread consultation.

### ***Cotton Australia's Coal Seam Gas Extraction Policy***

Cotton Australia has a comprehensive Coal Seam Gas Extraction Policy that reflects the diverse views of our growers and is built on the following principles:

- ) Protection of the sustainability of aquifers that underlie irrigated and dryland cotton production and their communities.
- ) Protection of high value agricultural land from CSG extraction activities.
- ) Any impact intended or unintended must be fully compensated by the CSG industry and guaranteed by government.
- ) That any decisions and approvals are made on best available scientific knowledge.
- ) Grower rights are respected during the land access negotiation process, with landholders receiving fair levels of compensation in recognition of the impacts of development.

As an industry that invests in research and development to achieve productivity gains and the ongoing profitability, we value the application of rigorous science by the Queensland Government in its decision-making process. Indeed, some of our members located in the Queensland gas fields have benefited from science determining legally safe and responsible alternative use of the extracted water for specific projects.

Furthermore, our members like other landholders are long-term residents of their communities. They are of the view that the land concerned is an asset that belongs to all of the community. This asset is 'loaned out' as a

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result of an approved resource extraction activity, be that mining or CSG. In that respect, landholders want a resource extraction neighbour who is compliant with regulatory requirement. Just as importantly landholders expect at the end of the project's life this neighbour returns their community's assets in fit and proper order for the community to continue to derive aesthetic or economic benefit from it.

These outcomes should not be inconsistent.

## Responses to Specific Questions

1. Do you think the referral processes associated with RIDA applications are effective and efficient in assessing the criteria to manage the impacts of CSG activities on high value agricultural land?

*Unsure*

If you agree is there anything you wish to add in regards to why you think the referral processes associated with RIDA applications are effective and efficient in assessing the criteria to manage the impacts of CSG activities on high value agricultural land?

If you don't agree please outline your suggested changes or enhancements in as much detail as possible.

*At this stage Cotton Australia does not believe there has been enough applications and transparency around applications to make an informed decision as to whether the process is working.*

*It would appear the right Departments are involved, but just how they are making input, the detail of that input, and the result of that input is unclear.*

2. Do you think that the assessment criteria associated with PAAs and SCAs adequately reflect the agricultural values that they seek to address?

*Unsure*

If you agree is there anything you wish to add in regards to why you think the assessment criteria associated with PAAs and SCAs adequately reflect the agricultural values that they seek to address?

If you don't agree please outline your suggested changes or enhancements in as much detail as possible.

*The prescribed solutions for Required Outcomes 1 & 2 appear reasonable, except there does not appear to be any guidance on what a "significant impact" is, and what would be a relevant "impact on land owned by another person".*

*Whether or not these criteria are working or not will only be apparent when there is a much greater requirement for notification and transparency around applications, self-assessments and approvals.*

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3. Do you think that the operational advice provided via the Statutory Guidelines is sufficient for stakeholders to understand the requirements of the RPI Act and associated RIDA assessment processes?

No

If you agree is there anything you wish to add in regards to why you think the operational advice provided via the Statutory Guidelines is sufficient for stakeholders to understand the requirements of the RPI Act and associated RIDA assessment processes?

If you don't agree please outline in as much detail as possible what actions you think government should undertake to make the assessment process more effective.

*Full understanding (and any deficiency in materials) will only ever become clear when there is far greater transparency self-assessments, applications and approvals.*

4. Do you think the overall RIDA assessment and referral process under the RPI Act (as described above) is effective in managing impacts of CSG activities on high value agricultural land and achieving coexistence?

Yes and No

If you agree is there anything you wish to add in regards to why you think the overall RIDA assessment and referral process under the RPI Act is effective in managing impacts of CSG activities on high value agricultural land and achieving coexistence?

If you don't agree please explain in as much detail as possible what actions you think government should undertake to make the assessment process more effective.

*Cotton Australia does believe the Act and the RIDA process has given individual landholders a lot more say when negotiating with landholders on what happens on their land, and to that extent it has been successful*

*However, there are still many issues including the process of self-assessed exemptions, the three year cropping test, the lack of notification, the lack of transparency and no real sense as to what sort of cumulative impact the State is prepared to accept, that has certainly limited the success of the RIDA process.*

5. Are there any other aspects of the assessment framework that you wish to raise or comment on? Please outline in as much detail as possible your suggested improvements/changes associated with other issues raised.

Yes

### *Avoiding PALU land use activity to be RIDA Exempt*

*There is a default exemption under the regulations that a RIDA application is not required if land has not been used for a prime agricultural land use (PALU) within three of the previous 10 years.<sup>1</sup> This exemption becomes an issue where resource operators own the land and can deliberately ensure the land has not been used for a PALU within this time-period.*

*There is a genuine risk that resource companies could deliberately use this exemption to avoid the need for a RIDA application, by purchasing PAA land and avoiding PALU type farming activities for three years.*

*The net result could be the loss of agricultural capacity.*

### *Notification*

*Cotton Australia believes all self-assessment exemptions and all RIDA application should be notifiable, including direct notification by email or mail to all adjacent landholders, advertisement in appropriate local media, and the maintenance of all notifications on a suitable government website (either the GasFields Commission or with a link to it from the GasField Commission site).*

*Transparency is critical.*

### **Exemptions from RIDAs and application**

6. Do you believe the current exemptions from the RPI Act that apply for PAAs and SCAs are appropriate?

**No**

If you agree is there anything you wish to add in regards to why you think the current exemptions from the RPI Act that apply for PAAs and SCAs are appropriate?

If you don't agree please advise in as much detail as possible what aspects of the exemptions you think would benefit from refinement.

### *Landholder Agreement*

*It is completely inadequate that the resource company, even in receipt of a CCA, can self-assess whether there is a significant impact on PAA or SCA, or an impact on another owner, without the ability for third-party scrutiny.*

*While Cotton Australia does not want to create any unnecessary "paperwork" when a genuine CCA is in place, there can be no confidence in the system if there is not some public record of the self-assessment process and a process for well-founded third-party appeals.*

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<sup>1</sup> Regional Planning Interests Regulation 2014 (Qld), sch 2.

*Cotton Australia proposes that in all cases where a resource activity is to occur on PAA or SCL the resource company must either formally apply for a RIDA or apply for an exemption based on self-assessment, but with publicly available documentation outlining the basis of the self-assessment, including all actions that will be taken to mitigate impacts.*

*Cotton Australia would propose that such an application for exemption would be largely automatically approved, with a random audit process ensuring integrity, but there would also be a third-party appeals process. If an appeal was deemed to have merit in the first instance, the self-assessment should lapse, and the resource company should be required to lodge a full RIDA application.*

#### *Pre-Existing activities and approval*

*Cotton Australia is generally against retrospective actions that may impose a sovereign risk. However, it is concerned that a resource company with a historical Environmental Authority, can have an exemption. Environmental Authorities are assessed and granted largely at a regional scale. The numbers of wells approved can be expressed as a range, and the exact location on infrastructure is often not identified.*

*A RIDA application should be much more localised, and deals with specific infrastructure and activities, and therefore it is appropriate that even when an Environmental Authority is held a RIDA application should be required.*

7. Do you believe that there is sufficient supporting information to provide advice to stakeholders on the use of the exemptions to the RIDA requirements (i.e. guidance on significant impact, guidance on how the 'pre-existing approvals' aspects apply)?

No

If you agree is there anything you wish to add in regards to why you think there is sufficient supporting information to provide advice to stakeholders on the use of the exemptions to the RIDA requirements? If you don't agree please advise in as much detail as possible what specific requirements you would like to see clarified or have additional guidance material developed for.

*Cotton Australia believes guidance material should be developed in a way that is meaningful to landholders, uses when ever possible real-life examples to demonstrate possible scenarios, and these scenarios build over time.*

8. Do you believe that self-assessment is appropriate in terms of the use of the exemptions to RIDA requirements?

No

If you agree is there anything you wish to add in regards to why you think self-assessment is appropriate in terms of the use of the exemptions to RIDA requirements?

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If you don't agree please specify in as much detail as possible your alternate views on the application of exemptions.

*As discussed in the answer to question six, the current approach to self-assessment without any public notification, reporting or appeals process is inadequate.*

### **Agricultural Land Classification**

9. Do you believe that the definition of PAAs, PALUs and SCAs appropriately reflect the agriculture land/industry values that they seek to protect?

*Cotton Australia believes the protection of the agricultural capacity of the land is very important, however, how the protection is achieved should be subject to much greater consultation than is possible through this process.*

If you agree is there anything you wish to add in regards to why you think the definition of PAAs, PALUs and SCAs appropriately reflect the agriculture land/industry values that they seek to protect? If you don't agree please explain in as much detail as possible how you think agricultural lands could be better classified.

10. Do you believe the multiple agricultural land use classification systems in Queensland are necessary to effectively manage agricultural lands across the state?

*Cotton Australia believes there would be justification of a review of the purpose for soil classification and the actual soil classification in Qld, but also believe such a review should include significantly more detail and consultation than possible through this process.*

If you agree is there anything you wish to add in regards to why you think the multiple agricultural land use classification systems in Queensland are necessary to effectively manage agricultural lands across the state? If you don't agree please explain in as much detail as possible how you think agricultural lands could be better classified.

11. In your opinion can the way in which agricultural lands are classified in Queensland be simplified to improve the effectiveness and clarity of how land is identified, managed and protected?

Please provide your suggestions in as much detail as possible.

*Similar to the response to Question 10 – There may be justification, but it would require a degree of technical expertise, consultation and consideration that cannot be achieved through this process.*

## **CONCLUSION**

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Cotton Australia recognises that the CSG and resource extraction industry offers potential economic benefits to Australia. However, without proper regulation and enforcement, the CSG industry, like other resource extraction activities, poses significant risks to the Australian cotton industry.

For more information on this submission, please do not hesitate to contact Jennifer Brown, Policy Officer, on 02 9669 5222 or [jenniferb@cotton.org.au](mailto:jenniferb@cotton.org.au).

Thank you,



Michael Murray  
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Cotton Australia

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