

21 January 2022

Mining, Exploration and Geoscience
Dept of Regional NSW
Electronically: meg.policy@regional.nsw.gov.au

Proposed Mining Act and Petroleum (Onshore) Act amendments

Dear Madam or Sir,

Cotton Australia is the national peak body representing over 1,400 cotton growers and ginners across 152 rural communities, the majority (approx. 66%) are in New South Wales. Notably, 90% of cotton operations are family farms that also grow other crops like sorghum, soybeans, wheat, and have livestock. While cotton production does vary considerably from season to season the crop generates for the annual national economy between \$1.5 and \$2.5 billion.

As an industry we strive to be Viable, Valuable and Advanced.

We welcome the opportunity to comment on the Proposed Mining Act and Petroleum (Onshore) Act amendments and recognise that the mining industry offers potential economic benefits to Australia. However, without proper regulation and enforcement the mining industry also poses significant risks to the Australian Cotton Industry.

Our submission is brief focusing on the amendment concerning agricultural land, reflecting Cotton Australia's view that paramount to the sustainability of agricultural production is the protection of land and water resources in our State.

Cotton Australia in principle supports the proposed Schedule 1[172] amendment concerning the Mining Act's Schedule 2 clauses 5 & 6 that enable:

- experts to be commissioned to assist in determining if the land in question is agricultural land;
- submissions made by the landholder, the mining lease applicant and the notice server; and
- the landholder to consider and respond to the other submissions made.

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This is because they are consistent with our long-held policy principles which include:

- Protecting the productive capacity of agricultural land from mining extraction activities.
- Opposing any mining development unless and until it can be definitively proven, that the development will have no impact on the productive capacity of the land.
- That any existing or approved mines are rehabilitated, within five years of ceasing production to their pre-development productive capacity. (This is in terms of quality of soil, landform and catchment hydrology, including surface and ground waters.)

Cotton Australia suggests as a further refinement that the process for identifying who these experts are and how they may be appointed should also be articulated. This could be as simple as enabling the respective expertise with the NSW Government's departments for agriculture and planning to oversee this process. It would also be prudent to establish a reference to the resources that resides within government such as the NSW Agricultural Land Commissioner, the Biophysical Strategic Agricultural Land mapping and the forthcoming State Significance Agricultural Land map.

We also note these amendments include changes to the time frame for related actions. Firstly, proposed amendment [172] concerning Schedule 2, clause 5 which changes the 28 day time limit to "a reasonable period" in which the landholder has to provide their submissions objecting to a mineral claim over their land. Also that for consistency "a reasonable period" of time in clause 6 for the Parties who are able to make submissions.

Secondly, the proposed amendment [166] to Schedule 1 23(3) that will require the Minister to be satisfied "mining operations under the lease are able to be carried out without causing, at any time, unreasonable damage or interference with the use or productive capacity of the agricultural land".

Cotton Australia particularly welcomes the inclusion of "at any time" in this revised clause as in our view the enhancement and maintenance of landholder land access rights is of utmost importance. Furthermore, for the landholder and their community they consider the land in question to be the community's asset which is being 'loaned out' during the assessment and prospecting process. Consequently, the land needs to be returned in a fit and proper order for the community to continue to derive benefit (aesthetic or economic) well after the proposed activities have ceased.

However, if our understanding is correct, Cotton Australia is disappointed the Minister can sidestep this if the land is perceived "necessary to give access to other land to which the lease applies" as per amendment [166] Schedule 1 23(4). There will be occasions where the land itself may be the 'open space' buffer purposely planted with introduced species or set aside as it hosts native species. These areas can have several purposes despite the absence of infrastructure, they may:

- be a refuge of useful insects and bats that feed on pests and weeds in adjacent perennials or
- screen the view thereby reducing potential visual amenity impacts as required by the local council,
- be a biosecurity measure to reduce dust and noise etc. entering the agricultural land such as from neighbours or adjacent transport corridors.

It is also not clear whether such buffer areas would fall under the proposed revision to agricultural land's definition proposed including Schedule 2 - 1(c) (i) relating to 'other land described'

- (i) *at the relevant date, trees are growing that provide shade or shelter or a windbreak to other land described in this definition, or*

The NSW Agricultural Land Commissioner's recent "Improving the Prospect for Agricultural and Regional Australia in the NSW Planning System" discusses the issue of agricultural buffers (Section 5.5.3) and provides a suitable definition to resolve this:

Agricultural buffers are areas of land set aside to provide separation between agricultural and sensitive land uses to minimise the impacts of the land uses on each other. These buffers can be vegetated to form a physical and visual barrier to mitigate impacts and improve amenity

Source - Glossary on p13 see: https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0019/1361611/Improving-the-Prospect-for-Agriculture-and-Regional-Australia-in-NSW_NSW-Ag-Commissioner.pdf

If you would like more information concerning the matters raised in this submission, please do not hesitate to contact me on 02 9669 5222 or jenniferb@cotton.org.au.

Yours sincerely,



Jennifer Brown
Policy Officer
Cotton Australia