PROTECTING QUEENSLAND’S STRATEGIC CROPPING LAND

Comments on the Policy Framework

from

Friends of Felton Inc

September 2010
Background

Friends of Felton (FOF) was formed in February 2008 for the purpose of defeating a development proposal by Ambre Energy to establish a large open cut coal mine and petrochemical plant in the Felton Valley – see Map 1. Since that time the Queensland Government has put in place a land use planning process that will ultimately result in protection of the State’s ‘best’ cropping country from developments that would cause the land’s permanent alienation from agriculture. The Government is advancing the planning process under the banner of ‘protecting strategic cropping land’ and so-far two major planning documents have been released for the purpose of indicating the government’s ‘thinking’ and for garnering feedback from stakeholders.

In February 2010, the Government released: “Strategic Cropping Land: policy and planning discussion paper”. (The Discussion Paper)

In August 2010, the Government released: “Protecting Queensland’s Strategic Cropping Land: a policy framework”. (The Policy Framework)

FOF is highly supportive of the approach being taken by the Government and its declared aims. We are greatly encouraged by ‘progress to date’ and wish to commend the Government for its dedication to saving top quality farming country. The Policy Framework recognises the scarcity of top quality farming country and will perpetuate balanced regional economies and the wellbeing of future generations. We are aware, however, that final decisions will sometimes be a combination of technical merit and ministerial discretion. The need for such powers is understood but they should be reserved for very exceptional circumstances’ and must always be open to public scrutiny and judicial review. Thus there must be an optimal balance between due process and reserve powers with a heavy emphasis on transparency and professionalism.

Before providing detailed comment on the recently released Policy Framework it will be useful to look quickly at how things have changed since release of the Discussion Paper. First the idea of class 1, 2 and 3 strategic cropping land (SCL) has been dropped for just one class. Secondly, the old concept of good quality agricultural land (GQAL) (SPP 1/92) has been retained for the purpose of narrowing the scope of SCL policy. This means SCL assessments will be triggered mostly by the submission of mining lease applications (MLA) that could alienate SCL. Thirdly, confining the SCL qualifying criteria to soil, rainfall and topography is an over-simplification since it ignores (at this stage) the possibility of exceptional existing social and economic circumstance that might defeat a MLA. Fourthly, no account is taken of the size of the development proposal and therefore the totality of externalities that it might generate.

We appreciate that the question of externalities will still be handled by the EIS process and as such might fall outside the scope of SCL assessment. On the other hand, the quantum of externalities in a given situation will be directly proportional to the size of the mine and the number of households affected. In these terms there has never been a more contentious mine in Queensland than the one now being proposed by Ambre Energy at Felton. It is imperative, therefore, that the Ambre proposal be exposed to the full gamut of assessment processes and techniques.
Map 1 – Proposed Ambre Energy project area (July 2010)
Permanent and Continuous Protection of Strategic Cropping Land

Implications of the Policy Framework

The Policy Framework has proposed that Strategic Cropping Land be defined initially in terms of an area’s capacity to grow more than one crop e.g., wheat / sorghum / chickpeas / cotton / etc. In Queensland, land with this capacity is likely to be characterised by:

1. ‘Good’ soil such as that found in parts of the brigalow belt, or the Darling Downs or riverine flats. Soils capable of growing a range of crops are generally deep with high water holding capacity. This criterion would rule out areas with poor quality soil with low water holding capacity.

2. Sufficient moisture availability to grow a range of crops; this will be a function of rainfall and evaporation. The Policy Framework nominated an average rainfall of 500mm per year with no consideration of evaporation. We suggest summer temperatures should be taken into account for the sake of more accurate mapping. Unless they have access to irrigation water, the ‘moisture availability’ criterion would tend to rule out areas with low and highly seasonal rainfall – despite their soil and topographical suitability.

3. Topography that permits sustainable cropping by proven means. This criterion is not designed to differentiate between areas that can be sustainably cropped using best farming practices. Expressed the other way around, ‘topography’ would only rule out areas that could not be sustainably cropped by proven means.

The above simplifications push much of the determination onto case by case assessment but this has the advantage of confining the SCL policy to determining the conditions under which agriculture and mining will both exist in Queensland. Thus case-by-case assessment, within the scope of relatively prescriptive guidelines would appear to be the best way of coping with the complexity of achieving the objectives of the SCL policy. Given the importance of successive decision points to the Government’s case-by-case assessment system, it is reproduced in Table 1 and supplemented with ‘issues’ we see as potentially contentious. It is presumed from the outset that ‘the development’ is for the purposes of extracting minerals. In this case the subject area or site will be covered during the assessment period by a Mining Lease Application (MLA).

Table 1: Assessment questions and related issues

<table>
<thead>
<tr>
<th>Primary question</th>
<th>Sub questions</th>
<th>Contentious issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Does the area sought for mining meet the definition of SCL?</td>
<td>a) Is the MLA on land shown on the trigger map?</td>
<td>Any MLA containing or adjoining SCL as defined must be assessed within the terms of the SCL policy. A buffer of 10km taken from the MLA boundary must apply to large open cut coal mines.</td>
</tr>
<tr>
<td></td>
<td>b) Does the land meet the on-site criteria for SCL?</td>
<td></td>
</tr>
<tr>
<td>2. Would the mine impact on the SCL?</td>
<td>a) Is the development likely to impact on SCL?</td>
<td>In practice some land within the MLA might not be SCL and not all land within the MLA might be mined. The case by case assessment should be guided by pre-determined trigger points.</td>
</tr>
<tr>
<td>3. Would it be</td>
<td>a) Can permanent alienation of</td>
<td>Mining industry will try to answer ‘yes’ to</td>
</tr>
</tbody>
</table>
The questions and associated issues identified in Table 1 will be the central focus of this submission. To this end the Queensland Farmlands Assessment Template (proposed by FOF’s March submission) may still have relevance to case-by-case assessment, especially in terms of maximising merit, objectivity and impartiality.
Initial concern with approach

The Policy Framework is meant to protect the State’s best cropping land from encroachment by mining. Feedback from the mining industry since release of the Policy Framework suggests that it has not yet embraced the spirit of the reforms; it appears the mining industry is still working hard to maximise its access to mineral resources where ever they occur.

From the perspective of shaping the Policy Framework to make it efficient, effective and workable, FOF sees question 3 (Table 1) as the major stumbling block. Our problem with the current approach is explained below.

The SCL ‘trigger map’ published in association with the Policy Framework shows that SCL, as defined, covers 4.1% of the State. The definition of SCL (question 1) and whether or not it will be impacted by mining (question 2) are not seen as particularly contentious. But question 3 suggests that protection of impacted SCL will depend in practice on the case by case assessment of the chances of the site’s successful restoration post mining. So despite the existence of impacted SCL, a miner could enter and establish on SCL by claiming (or convincing someone) that they can satisfactorily restore the land to its original condition. FOF sees the ‘restoration question’ as a ruse that, if left in place, will undermine the credibility of the whole assessment process. Our reasons are thus:

1. **Clayton’s protection.** Promising to protect SCL after it has been mined is not protection. While ever question 3 remains part of the assessment process, miners will construe SCL as simply another little road bump on the way to gaining access. Question 3 would be seen as an invitation to dredge up every conceivable argument for why restoration of mined land is possible and doable. In fact question 3 misses the point; the SCL we are talking about is already occupied and a 50 year ‘mining interlude’ – whether the land can be restored or not – would mean violation of the land’s primary status and *ipso facto* the SCL policy itself. Unless the policy lends permanent and continuous protection to all SCL it will fail by its own standards. The SCL policy must present in legislation as unequivocal and uncompromising.

2. **The approach is too risky.** History is littered with false promises about land restoration and rehabilitation. The coal mining industry has an abysmal record when it comes to restoration (witness Acland) and does not deserve an elaborate dispensation that can only add to the cost, credibility and effectiveness of the policy. Indeed there is no solid proof at this time that Australia’s cropping soils can be restored to their original status post mining – this applies particularly to the vertisols found on the Darling Downs.

3. **Perpetuation of uncertainty.** Question 3 takes the focus away from protecting SCL and puts it on restoration of mined land. This is not what farmers expect from the policy; such an outcome would be intolerable in terms of new stresses, disappointment and tension.

4. **The time period being talked about (50 years) is far too long.** Traceability of the processes would surely be lost over the space of 50 years along with corporate knowledge of the target land and all local associations. We want to see question 3 removed completely from SCL assessment but if it ever re-appears in other farm land
situations, the maximum period allowed for effective rehabilitation should not be more than 15 years.

5. The cost of assessing every MLA in terms of its ability to rehabilitate the land would be prohibitively expensive and divisive. For the sake of a system that is demonstratively efficient and effective it should be kept simple; not turned into a technocratic play-thing for consultants. Given the small proportion of the state that is SCL, the policy deserves a decision making framework that delivers unconditional protection from ‘day 1’.

On the basis of these objections FOF believes question 3 should be deleted – at least in the case of open cut coal mining. This approach would achieve the central aim of the policy – protection of SCL from permanent and temporary alienation – and lend certainty to both farmers and miners. It is most unlikely the policy would ever result in more than 4% of the state being protected from mining.

Blasting at Acland mine
The example of Felton

Despite the high coincidence between the qualifying land capability criteria and the circumstances in the Felton Valley, Ambre Energy remains under the impression that its development proposal would not be refused under the current SCL framework (see press release Box 1). It seems Ambre has this impression because not all of the land within its MLA\(^1\) is SCL, thus leading to some confusion about how the definition of SCL will apply in practice. Given this situation FOF will field test the methodology, as developed so far, for protecting SCL.

Consistent with the FOF March 2010 submission, the Government is proposing that Development Proposals are assessed using the sequence of four questions shown in Table 1 (also see the ‘decision tree’ illustrated in Figure 3 page 12 of the Policy Framework). Thus a response sequence of yes/yes/no/no would result in the development proposal being refused. But all other responses (including yes/yes/yes) could potentially result in the development proposal being granted access to the land parcel – depending on the outcome of ‘other’ assessment processes.

The first question in the Policy Framework decision tree reads: “Is it strategic cropping land?” The answer to this question will be ‘yes’ if the MLA falls within the ‘trigger map’ or if the criteria spelt out above clearly applies to some or all of the land. Only if all the land area within the MLA is SCL would it be possible to progress directly to the second question: “will the development impact on strategic cropping land”?

Ambre’s MLA in the Felton valley includes some SCL and some non-SCL as shown by Map 2. The Felton valley is in fact an intensive cropping and livestock production precinct. This means all the juxtaposed ridge country is an invaluable complement to the cropping land. In addition to providing natural pastures, the ridge country acts as habitat for native flora and fauna and a vital recharge zone for groundwater aquifers. Table 2 provides an assessment of the Ambre proposal in relation to the development assessment decision points. The table includes a critical assessment of how well the process copes with the actual circumstances applying at Felton.

\(^1\) The terms Mining Lease Application and Development Plan/Proposal can be used interchangeably in the present context. Normally, Development Proposal is a more generic term but the issue of protecting SCL is now very much focused on how agriculture and mining coexist within the boundaries of Queensland.
Map 2 – Strategic Cropping Land within Ambre Energy project area. Green indicates land currently under crop, blue indicates land that has been cropped recently

View to the north across proposed project site from Pittsworth-Felton Rd
Table 2: Application of Decision Points to the Ambre MLA in the Felton Valley

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer for Ambre MLA</th>
<th>Issue and proposed modification</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Is it SCL?</td>
<td>Some is, some isn’t</td>
<td>1. Ambre’s MLA covers some ridge country that does not meet the current SCL definition but at least 50% of the area would meet the definition of SCL. Moreover, the MLA is surrounded by SCL that falls within 10km of the mine. To adequately protect SCL and invoke the concept of a buffer (essential in the event of large proposals) the first question should be changed to read: <em>Does the MLA include strategic cropping land or adjoin farming country dominated by SCL?</em></td>
</tr>
<tr>
<td>2. Will the development impact on the SCL?</td>
<td>Yes. Open cut coal mine meaning removal and mixing of top soil</td>
<td>3. While eminent scientists have already stated that Felton’s cropping soils could not be restored to their original condition after massive disturbance, the mere existence of this question could be used by Ambre to confuse and delay refusal of their application.</td>
</tr>
<tr>
<td>3. Can permanent alienation be avoided or temporary impacts mitigated?</td>
<td>No. Vertisol soils cannot be rehabilitated to original condition (ref, Clive Bell)</td>
<td></td>
</tr>
<tr>
<td>4. Do the conditions for exceptional circumstances exist to support the DP?</td>
<td>No. Coal is abundant in Qld</td>
<td>4. At the current rate of extraction, Queensland has 300 years of coal reserves. An additional question is needed to cover the possibility of existing Exceptional Circumstances inside or close to the MLA. See below.</td>
</tr>
<tr>
<td>5. Do exceptional circumstances exist that go against the DP?</td>
<td>Yes. If Ambre goes ahead Qld would lose one of its largest egg producers</td>
<td>5. Around 35% of the State’s eggs are produced at the Felton egg farm adjacent to Ambre’s proposed site. If Ambre gets the go-ahead, the operation would be threatened and finding an alternative site would be extremely difficult. The advantages of the Felton site include labour supply, road network for requisites and markets, water, feed and waste disposal.</td>
</tr>
</tbody>
</table>

The exercise in Table 2 suggests a need to re-word question 1, remove question 3 and add a question as follows:

1. **Does the Mining Lease Application include any strategic cropping land or sit within 10km of other SCL areas?**
2. **Would the development impact on the strategic cropping land?**
3. **Are there exceptional circumstances that support the development?**
4. **Are there exceptional circumstances that act to defeat the development?**

The Felton Valley is an extremely valuable food production region. Its fertile soils, reliable rainfall and relatively cool climate have fostered the development of a sustainable agricultural industry, which co-exists with the natural environment, affording a remarkable level of biodiversity. Felton’s agriculture draws on the knowledge and experience of the community built up over many generations. Around 35% of the State’s eggs are produced at the Felton egg farm located adjacent to Ambre’s proposed site. If Ambre gets the go-ahead, the egg farm would be threatened and finding an alternative site would be extremely difficult. The advantages of Felton for egg production include a reliable work force, a road network for accessing requisites and markets and sufficient water, feed and waste disposal.
How will population density be captured?

The issue of population density would normally be captured by the EIS process. But to the best of our knowledge there have been few coal mine assessments in Queensland where the community impacts would be in the same order of magnitude as they would be at Felton. Consequently we are including in this submission a few brief comments about the significance of externalities.

FOF has over one hundred financial members and it is attracting more support by the week. While many people are concerned about global impacts, the main reason for our popularity is the fear people have of living close to a large open cut coal mine with a petro chemical plant attached.

FOF recently conducted a survey of households located within 10km of the proposed mine site. The survey found that more than 4,000 people live within 10km of the Ambre mining development proposal, including the entire town of Pittsworth (population 3,000) plus 1,000 rural residents comprising a mix of farmers, retirees and life stylers who have elected to live on the inner Darling Downs for its proximity to facilities, natural beauty, tranquillity and abundance of wild life. If the Ambre proposal is allowed to precede, a large number of Felton Valley inhabitants (possibly as many as 1,000 individuals) would suffer the following externalities without any compensation:

- Loss of the amenity associated with a vastly altered landscape
- Dust that would pollute crops, feed, water and the air – with health implications
- Threats to native species – both flora and fauna
- Threats to groundwater integrity and the quality of runoff water
- Increased road maintenance and loss of safety\(^2\)
- Loss of tranquillity associated with noise, vibrations and heavy traffic.

None of these effects would be material if it wasn’t for the high number of people who live close to the proposed mine site. Thus the size of the Ambre development proposal is relevant to the Felton case but the Policy Framework does not appear to have any capacity to take project size into account. We believe a development proposal that includes only some SCL, but is a large generator of externalities, should be assessed over a protection zone covering 10km in every direction from the edge of the proposed mining activity. Map 3 shows from the air the intense cropping and livestock production pattern located within 10km of the proposed mine site.

---

\(^2\) One of the most demonstrative externalities being suffered by mining areas throughout Queensland is destruction of local road surfaces. Heavy traffic is destroying roads and related infrastructure and effectively passing the bill onto the local council. It is not yet possible for Regional Councils to rate mines hard enough to recover costs and the State Government is not returning enough in royalties to affected areas. The gap is being filled by local residents – both current and future generations. Far from generating local benefits, mining in regional Queensland is giving rise to huge secondary costs that might never be recovered.
Map 3 – 10km radius of proposed project site

Packing organic celery, Brookfield Farm, Felton. Sept 2010
Summary

- FOF commends the Government for the progress being made with this difficult but vital initiative. We believe the policy framework, once it becomes legislation, will result in outcomes that are mutually acceptable. In addition, the policy will set an example for preservation of top quality farming land throughout the nation and possibly internationally. For this to happen, every aspect of the policy will have to be optimally conceived and applied in practice. The actual assessment process will have to be robust enough to ‘do the job’ yet workable, transparent and efficient.

- A critical failing of the existing EIS process is the presumption that all projects can be made acceptable by the application of impact mitigation strategies. SCL policy can avoid this failing by deleting question 3 (see table 1) thereby denying the mitigation ruse before it can start. It is imperative that the SCL assessment processes not get side-tracked by whether or not SCL, subjected to open cut coal mining, can be restored to its original condition. The whole idea of making SCL policy specific to the agriculture/mining nexus is to avoid the ‘mitigation trap’ that has so totally destroyed the credibility of the EIS approach. Only by placing absolute and uncompromised limits on where mining can enter, will meaningful coexistence be possible.

- More work needs to be done on the first question of the decision tree. In areas such as Felton it is essential to incorporate the intensity and high incidence of cropping and intensive animal production throughout the region. FOF suggests that the first question should include recognition of three land categories:
  - alienated land within the MLA,
  - intensive animal production inside and adjoining the MLA and
  - SCL within a 10km buffer of the site.

- Integral to the high productivity of Felton agriculture is the existence of intensive animal production – most particularly poultry and pigs but also dairying and beef cattle feedlotting. Without the prevalence of cropping on the Downs, it would not be Australia’s premier intensive animal production precinct. There is absolutely no doubt that the entry of mining into Felton Valley would threaten the continuity of local egg production. Re-location of this production to an acceptable alternative site would be extremely difficult. Any alternative location would certainly involve efficiency compromises and higher costs of production with knock-on consequences for consumers.

- A failure to understand the connectivity between Felton farmland and all the agribusiness on the inner Darling Downs is a failure to understand the power and complexity and fragility of a local economy. Putting a coal mine in the middle of Felton would take critical mass and momentum away from a complex web of economic interactions that place the Darling Downs among Australia’s most dynamic and vital agricultural regions. These interactions take in intellectual capital, continuity, grain growing and handling, feed processing and intensive animal feeding and meat, milk, and egg processing and distribution.
In addition to intensive animal production, the area is a large producer of vegetables for metropolitan markets. We believe it is no exaggeration to say that the Ambre proposal is a direct and significant threat to Queensland’s food security and the future wellbeing of its people. It is difficult to think of another place within the State where a coal mine would pose such a danger to basic food supplies as well as intrinsic values associated with the natural environment, people’s quality of life and the region’s reputation.

Proposed mine site: chickpeas foreground, previously cropped land centre, remnant vegetation behind. Sept 2010

Oats crop, proposed project site. Sept 2010