



# Cotton Australia Submission on the Productivity Commission Draft Report into Non-Financial Barriers to Mineral and Energy Resource Exploration

July 2013



### **Cotton Australia**

Cotton Australia is the key representative body for the Australian cotton growing industry. It helps the industry to work together to be world competitive and sustainable, and also tell the good news about the industry's achievements. Cotton Australia determines and drives the industry's strategic direction, retaining its strong focus on R&D, promoting the value of the industry, reporting on its environmental credibility, and implementing policy objectives in consultation with its stakeholders.

Cotton Australia works to ensure an environment conducive to efficient and sustainable cotton production. It has a key role in Best Management Practices (*MyBMP*), an environmental management program for growers. This work has seen a significant improvement in the environmental performance of the industry, with huge improvements in water use efficiency, significant reductions in pesticide use, and millions of dollars invested into R&D.

The Australian cotton industry directly employs thousands of Australians and this year will contribute over \$2 Billion to the Australia economy.

For further information or discussion on the content of this submission please contact Cotton Australia's Mining and Coal Seam Gas Policy Officer Sahil Prasad



## Submission

Cotton Australia is pleased to provide comment on the Productivity Commission Draft Inquiry Report into Mineral and Energy Resource Exploration. Cotton Australia (we) note the inquiry focus on non-financial barriers to mineral and energy resource exploration and frame our comments with this objective in mind. The content of our submission is primarily focused on the following elements of the draft report:

- Exploration Licencing and Approvals
- Land Access Issues
- Environmental Management

## Preliminary Comments

### Emphasis on Industry

Cotton Australia understand the need for this inquiry and note the benefits the resource industry can deliver to our state and federal economy, however, a lack of emphasis has been paid to the ability of the resources industry (mining and gas) to increase their own productivity. A recommendation to the commission is that a specific chapter addressing areas of improvement for the mining and gas industry productivity be included in this report. We draw to the Commissions attention findings from research conducted by Associate Professor John Steen, Dr Martie-Louise Verreynne and Jerad Ford of UQ Business School, in conjunction with Ernst & Young and the UQ Centre for Coal Seam Gas, who identified three primary drivers of industry productivity: innovation, collaboration and deepening competitive capabilities.

The report highlights that whilst important impediments to productivity include the high dollar, skills shortages, industrial relations and wage costs, regulatory complexity- additional levers are available to hedge against falling productivity, namely, innovation, collaboration and deepening competitive capabilities:

- **Innovation:** the study showed companies that implemented at least one innovation in the past three years were 40 times more likely to increase productivity than those that didn't.
- **Collaboration:** research revealed that companies that collaborate were eight times more likely to see an increase in productivity. For example, sharing project risks, co-developing new processes and sharing infrastructure with other industry players were correlated with productivity gains. And there's a positive link between collaboration and innovation.
- **Competitive capabilities:** the ability for a company to take on its market rivals could be achieved with a better hit rate on its wells. Similarly, an engineering company could design better solutions.

Additional report content focused around the need for companies to measure productivity. These factors were found to offer the best opportunities for companies to achieve the returns expected by international capital markets and promote growth in the industry into the future. We recommend broadening the scope of the report to include these important factors that place a spot light beyond regulation and third parties.

### **Failure to properly acknowledge agriculture or water in the Report**

There is little attention paid to either water or agriculture in this report. Given that much of the regulation of mining and gas projects has been driven by a need to improve land access arrangements for farmers and address the scientific uncertainty associated with water impacts from mining and gas projects- it seems short-sighted not to address these two key drivers in the final report. We recommend that agriculture and water issues be addressed in this report in either joint or individual chapters.

### **Exploration Licensing and approvals**

#### **Draft Recommendation 3.1:**

*Governments should ensure that their authorities responsible for exploration licensing:*

- *Prepare and publish information on the government's exploration licensing objectives and the criteria by which applications for exploration licenses will be assessed*  
*Support*
- *Publish the outcome of exploration licence allocation assessments, including the name of the successful bidder and the reasons why their bid was successful.*

Cotton Australia supports Recommendation 3.1 of the Draft Report. We make note however that whilst publishing exploration licensing objects, assessment criteria, outcomes and reasoning would assist in community understanding, there is a gap in knowledge of regulatory language by the public in general. Plain English should be used with the assistance of visual aid (where applicable) to assist the community understanding. We recommend amending Draft Recommendation 3.1 by inserting reference to 'plain English' and 'visual aids' when publishing outcomes.

#### **Recommendation 3.2**

*Where possible, governments should not allocate exploration licences for tenements that would be too small or too irregular a shape for an efficient mine or production wells to be established. The release of exploration tenements should be deferred until tenements of appropriate size and shape can be issued.*

*Supported.*

#### **Draft Recommendation 3.3**

*If an Act requires the Minister to notify person of a decision regarding an exploration licence, the Act should require that the notice include the reasons for the decision*

We note the need for notification of a grant of exploration licence and associated reasons. However, based on consultation with our constituents, it has been widely reported that there has been a lack of knowledge about projects until exploration was underway or attempts were being made to gain access. To bolster current systems and to ensure equity for landholders who may miss the opportunity to engage at the exploration application stage- we recommend expanding personal notification requirements to include project applications for mining and gas projects.



#### **Draft Recommendation 3.4**

*Where not already implemented, governments should ensure that a minimum their lead agencies responsible for exploration, coordinate exploration licensing and related approvals (such as environment and heritage approvals). This should include the provision of guidance on the range of approvals that may be required and on how to navigate the approvals process.*

We conditionally support this recommendation, however, we do not support any promotion of concurrent approvals (for example, with environment and heritage approvals). A coordinated approvals system should never undermine the power of an additional agency to make assessments.

#### **Recommendation 3.5**

*Governments should ensure that their regulators publish target timeframes for approval processes, including exploration licensing and related approvals (for example environmental and heritage approvals). The lead agency for exploration should publish whole-of-government performance reports against these timeframes on their website.*

Cotton Australia supports this recommendation though we are not confident how successful implementing this recommendation will be on resource industry productivity. Whilst we note the need for further understanding of approval processes and the importance of whole-of-government performance reports- this will not improve processing times for applications, nor will it ensure thorough assessment of exploration license applications.

#### **Land Access Issues.**

##### **Draft Recommendation 4.1**

*Drawing on the guiding principles of the Multiple Land Use Framework endorsed by the Standing Council on Energy and Resources, Governments should, when deciding to declare a new national park or conservation reserve in recognition of its environmental and heritage value, use evidence-based analyses of the economic and social costs and benefits of alternative or shared land use, including exploration.*

*Governments should, where they allow or consideration of exploration activity, assess applications by explorers to access a national park or conservation reserve according to the risk and the potential impact of the specific proposed activity on the environmental and heritage values and on other users of that park or reserve.*

Whilst cotton producing land does not currently exist in conservation reserves or national parks, we urge that a consistent triple bottom line assessment be adopted in every land use decision across the country to ensure environmental and social integrity of decision making across the board. This should extend to all national parks and reserves that are connected to agricultural land through surface and subsurface waterways.



#### **Draft Recommendation 4.2**

*State and Territory governments should ensure that landholders are informed that reasonable legal costs by them in negotiating a land access agreement are compensable by explorers.*

Cotton Australia supports this recommendation however we note that in some circumstances, reasonable legal costs is not afforded to landholders in all forms of negotiation of land access agreements. For example, in New South Wales, reasonable legal costs are not extended to arbitration. Cotton Australia has advocated for the need to legal representation of landholders at arbitration given the inherently legal nature of these discussions and the imbalance of negotiation experience between landholders and resource companies. We recommend that specific reference be made to the need for legal representation and reasonable legal costs payable by the explorer in the final report. We recommend inserting “(including legal representation at arbitration)” after the term “access agreement”.

#### **Draft Recommendation 4.3**

*Governments should ensure that the development of coal seam gas exploration regulation is evidence based and is appropriate to the level of risk. The regulation should draw on the guiding principles of the Multiple Land Use Framework endorsed by the Standing Council on Energy and Resources to weigh the economic, social and environmental costs and benefits for those directly affected as well as for the whole community, and should evolve in step with the evidence.*

Cotton Australia cannot support such a recommendation until the detail of regulation is proposed. Furthermore, we hold reservations with the ability of state governments to weigh economic, social and environmental costs and benefits “for” those directly affected by mining and gas projects. It has become clear that many state governments do not understand or appreciate the triple bottom line effects of such projects on agricultural stakeholders and as such, any attempt by regulators to extend their powers of consideration on behalf of farmers is completely unacceptable.

### **Environmental Management**

#### **Recommendation 6.1**

*The Commonwealth should accredit the National Offshore Petroleum Safety and Environmental Management Authority to undertake environmental assessments and approvals under the Environment Protection and Biodiversity Conservation Act for Petroleum activities in Commonwealth waters.*

This Recommendation is not relevant to Cotton Australia.

#### **Draft Recommendation 6.2**

*The Commonwealth should improve the efficient of environmental assessment and approval processes under the Environment Protection and Biodiversity Conservation Act by*





*strengthening bilateral arrangements with the states and territories for assessments and establishing bilateral agreements for the accreditation of approval processes where the state and territory processes meet appropriate standards. The necessary steps to implement this reform should be properly scoped, identified and reviewed by jurisdictions and a timetable for implementation should be agreed.*

Cotton Australia does not support any bilateral arrangement between state governments and assessments made under the Environment Protection and Biodiversity Conservation Act on the basis that current state assessments are inadequate. Cotton Australia has provided several submissions on the inadequacy of several projects in NSW and QLD (to be provided upon request) only to see projects approved without serious considerations of the concerns for our industry.

### **Draft Recommendation 6.3**

*State and Territory governments should reconsider the option of conferring their existing petroleum-related regulatory powers in state and territory waters seaward of the low tide mark, including islands within those waters, to the National Offshore Petroleum Safety and Environmental Management Authority*

Not relevant to Cotton Australia.

### **Draft Recommendation 6.4**

*Governments should ensure that their environment-related regulatory requirements relating to exploration;*

- *Are the minimum necessary to meet their policy objectives*
- *Proportionate to the impacts and risks associated with the nature, scale and location of the proposed exploration activity*

This recommendation is not supported by Cotton Australia. In order to provide confidence to the community (who are often the party challenging the approval of mining and gas projects), that all regulatory requirements are of the highest level available to allay fears of social, environmental and economic impacts. Furthermore, Cotton Australia is not confident that state government in its current form is sufficiently understands the impacts of resource exploration on the Australian agriculture sector.

### **Draft Recommendation 6.5**

*Governments should ensure that their environment-related regulation of exploration activities should be focused towards performance-based environmental outcome measures and away from prescriptive conditions, in order to better manage risk and achieve environmentally sound outcomes.*

Supported.

### **Draft Recommendation 6.6**



*Governments should ensure that when there is scientific uncertainty surrounding the environmental impacts of exploration activities, regulatory settings should evolve with the best-available science (adaptive management) and decisions on environmental approvals should be evidence based.*

Cotton Australia supports the principles of ecologically sustainable development and most relevantly here- the precautionary principle<sup>1</sup> when making decisions regarding resource exploration. This stronger standard provides stronger confidence that the abovementioned recommendation that environmental impacts (particularly on water resources and subsidence) will be addressed thoroughly.

**Draft Recommendation 6.7**

*Governments should clearly set out in a single location on the internet environment-related guidance on the range of approvals that may be required.*

Supported.

**Draft Recommendation 6.8**

*Governments should ensure that their authorities responsible for assessing environmental plans and environmental impacts statements (and equivalent documents) should make archived industry data publically available on the internet*

Supported.

**Submission Ends.**

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<sup>1</sup> The **precautionary principle** or precautionary approach states if an action or policy has a suspected risk of causing harm to the public or to the environment, in the absence of scientific consensus that the action or policy is harmful, the burden of proof that it is *not* harmful falls on those taking an act.