

4 December 2015



The Hon Robert Brokenshire, MLC
Parliament House
North Terrace
ADELAIDE SA 5000

Grower-driven advocacy for
a profitable grains industry

robert.brokenshire@parliament.sa.gov.au

Dear Robert,

Re: PROPOSED RESOURCE OPERATIONS OMBUDSMAN BILL 2015 AND RIGHT TO FARM BILL 2015

Thank you for sending through your proposed Resources Operations Ombudsman Bill 2015 and your proposed Right to Farm Bill 2015. As you know Grain Producers SA (GPSA) is the peak industry body for the nearly 3,000 grain producers in this State. GPSA takes the issue of protecting farmer's rights to farm very seriously and has established an Agricultural Security and Priority (ASAP) sub-committee reporting to the GPSA Board. The aim of this sub-committee is to advocate for the priority and security of viable agricultural production over any other proposed form of land use, and to advocate for protecting the value of farm assets and the health and wellbeing of farmers.

South Australia's food industry is vital to its economy. The industry generated more than \$15.3 billion revenue in 2013-14. Food exports from South Australia accounted for \$3.7 billion or 32% of total merchandise exports in 2013-14. The agribusiness sector employs approximately 1 in 5 South Australian workers.¹

The grains industry has an export value of \$2 to \$2.5 billion annually, with a land resource that is managed, improved, and enhanced year on year. The revenue generated from the grains industry, earned predominantly by small businesses, is ploughed back into this sustainable industry and spent within the South Australian urban and rural communities.

Climate change and global population growth make it even more vital to protect our premium food producing areas. There are 98.4 million hectares of land within South Australia. Of this, only 4.2 million hectares is used for agriculture. The ability to be able to protect this land for future production is a priority for GPSA.

You have asked us for comments/feedback on the two bills you have proposed. Firstly, the Resource Operations Ombudsman Bill 2015. GPSA strongly supports the intent of having an independent arbitrator that farmers can go to when they find themselves under threat from a proposed mining operation. It is not clear though exactly who the Ombudsman will report to in the draft Bill, is it directly to the Governor or to the Parliament? We assume that detail will be in the Regulations accompanying the Bill.

However, when making this determination as to who the Ombudsman will report to or through, GPSA believes that it is critical that this position be independent of the Premier and Ministers of the day. That determinations by the Ombudsman cannot be overridden by the Minister for Mineral and Energy Resources or by the Department of State Development (DSD). To that end, the financial resourcing of the Ombudsman's office must also not be tied to either the Minister or their Department as the activities and effectiveness of the Ombudsman by must not be compromised by limiting their access to sufficient funds to perform their role.

¹ http://www.pir.sa.gov.au/premium_food_and_wine/food

The role and power of the Ombudsman with regard to the Environment Resources and Development Court should also be further explored. Will the Ombudsman have the power to veto a decision by the ERD court or will the ERD Court have the ultimate say in any land access disputes?

Secondly, the Right to Farm Bill 2015. GPSA again supports the intent of this Bill but it is not clear exactly what farming activities are protected – are farming activities going to need to be prescribed activities, what does that mean and will that place another regulatory burden on what farmers can and can't do on their properties?

The objects of the Act could possibly go further and specify the need to provide protection for farming activities over incursions from mining operations. We would be interested in seeing more detail around the Bill. Will this Bill provide protection for farmers from “nuisance” complaints actions, in particular those arising from the interface between farming and expanding urban centres?

Will it provide more rights to farmers under the planning system or would a better mechanism be to review the Planning Act in line with other State's such as Queensland which recently passed the Regional Planning the [Regional Planning Interests Act 2014](#) (RPI Act) and [Regional Planning Interests Regulation 2014](#) (RPI Regulation)?

The RPI Act identifies and protects areas of Queensland that are of regional interest. In doing this, the RPI Act seeks to manage the impact and support coexistence of resource activities and other regulated activities in areas of regional interest. The RPI Act is supported by the RPI Regulation.

Together, the RPI Act and Regulation provides the framework for implementing various policies of the Queensland government's [statutory regional plans](#).

The RPI Act protects:

- living areas in regional communities
- high-quality agricultural areas from dislocation
- strategic cropping land
- regionally important environmental areas.

Under this Act, Queensland local government planners, State regional planners, farmers or policy makers, are committed to considering the following nine principles to achieve a healthy agricultural sector at the regional and local level.

1. [Agriculture in the economy](#)
2. [The natural resource base](#)
3. [Lot sizes for productive agriculture](#)
4. Land Use conflict:
 1. [Avoid land use conflict](#)
 2. [Manage existing land use conflict](#)
5. [Sustainable natural resource management](#)
6. [Diversified agricultural enterprises](#)
7. [Infrastructure for agriculture and supply chains](#)
8. [Support services for agriculture](#)
9. [Multiple values of agricultural land](#)

Whilst Queensland is just one State which has modified its planning laws to provide greater protection for farming activities, Tasmania is the only state with a true “right to farm” legislation enacted. The

Primary Industries Activities Protection Act 1995 which was primarily introduced to protect agriculture from urban sprawl and nuisance complaints. There is an interesting study recently conducted by the NSW Parliamentary Service on Right to Farm Laws. This can be accessed at the following website –

[https://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/Righttofarmlaws/\\$File/Th e+right+to+farm.pdf](https://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/Righttofarmlaws/$File/Th e+right+to+farm.pdf)

Again though, despite having a Right to Farm Act, it is a review of the planning system that may provide the true ability to protect farmer's rights. Planning for agriculture is necessary to ensure the best agricultural land remains available for food and fibre production. Land suitable for agriculture is a finite resource that cannot be created or replaced. Once converted to another use, is extremely difficult if not impossible to rehabilitate agricultural land back to its productive state.

We commend you on your efforts to protect farmer's rights to farm and to provide them with an independent arbitrator when approached by mining interests. We would be interested in reviewing the regulations that will be drafted to accompany these Bills and would be happy to work further with you on the development of these Bills.

If you require any further information, please contact GPSA's CEO, Mr Darren Arney, on 0448 186 707.

Yours sincerely



Garry Hansen

Chairman

Grain Producers SA Ltd