



NFF Mining and Onshore Gas Policy

June 2016

The acceleration of mining and onshore gas development in Australia and how these industries interact with Australian Agriculture has been the cause of much debate and consternation over recent years. This public policy debate has resulted in calls for the protection of waters sources, the preservation of agricultural land, veto rights, or better defined property rights for farmers. However, most of the regulation, which is the source of much frustration, is state based.

At an Australian Government level, there is clearly a role for the EPBC Act in the protection of matters of national environmental significance listed under the Act – this includes any of the activities undertaken by the agricultural and resources sectors. While the Water Act is focused on better management of the Murray-Darling Basin, it specifically prohibits management of the Great Artesian Basin that underlies much of the MDB. There is also clearly a role for the Australian Government in the approval for use of chemicals that might be used by the mining and onshore gas industries.

The National Farmers' Federation has a role to play in any relevant Government policies at an Australian Government level, while its members (the state farming organisations, national commodity councils and other value chain organisations) have a role in amending or seeking implementation of relevant policies at a State and Territory level.

The National Farmers' Federation is concerned about the long-term sustainability of not just the interests of today's farmers but also of tomorrow's farmers. Sustainability has many facets including the environmental, economic and social sustainability of farmers and their communities as well as the broader agricultural sector. The following policies have been developed cognisant of the role of NFF and its members in this important policy debate with the primary aims of protecting the agricultural capacity of our water sources and soils to meet increased food demand.

The profitability and sustainability of food and fibre production must not be compromised. Australia's mineral and petroleum industries must recognise and avoid any perverse and unintended impacts across the landscape. This includes direct and indirect as well as current and future impacts arising from exploration, mining and production activities, beyond the confines of the licence area and the life of the licence.

Australia's reputation for safe, clean quality food and fibre must not be compromised. Australian agriculture plays a crucial role in supplying fresh quality food to Australia and the world and to global food security. The safety of Australia's food must not be jeopardised by the mineral and petroleum industries.

There should be no net decline in water quality or water quantity for other water users. NFF recommends that mineral and petroleum industries are required to show no net decline in water quality and no net loss in water quantity for third parties (stock & domestic, irrigation, town water supplies) against benchmark conditions. Conditions of approval must include provisions to ensure that access to and use of the water resource is not compromised.

Water management must be National Water Initiative consistent. As the blueprint for Australia's water reform, all water use or interception by the mineral and petroleum industries must be consistent with the National Water Initiative provisions, including NWI consistent water planning and management. In providing for ecological and resource security outcomes, and protecting the water rights of all users, NWI consistent water planning must address the risks of aquifer depressurisation, water interception, falling water tables and contamination that may arise from mining and onshore gas activities.

Scientific information and monitoring should underpin exploration and development. Investment in robust scientific information and pre and post impact monitoring are critical to the protection of the natural resources on which farmers' rely. Governments have a clear responsibility to invest in information, monitoring and transparent compliance to help inform the regulation of the mining and petroleum sector, including the issuing of development approval and the assessment of cumulative impacts. Ongoing monitoring should be the responsibility of the developer and should form part of the condition set of development approval.

Social, economic and environmental outcomes must not be compromised.

The nature of mineral and petroleum industries means that they may have both positive and negative economic, environment and social effects. The mineral and petroleum industries must take all reasonable steps to avoid or minimise the adverse effects on communities, landholders and the environment.

The key to productive relationships between agriculture and mineral and petroleum industries is relationships built on genuine trust and goodwill and appropriate community engagement. Agriculture and the mineral and petroleum industries underpin the social and economic fabric of rural and regional communities. The social licence of mineral and petroleum industries is dependent on constructive, transparent and quality engagement and participatory decision making processes over time. Moreover, best practice engagement should include essential elements such as:

- Transparency and full disclosure;
- Collaboration;
- Inclusiveness;
- Ethical and responsible business practice;
- Integrity and appropriate behaviour;
- Capacity building; and
- Listening and responding to community concerns.

Landholder rights impacted by mineral and petroleum licences must be protected by strong regulatory frameworks.

NFF recognises that the mineral and petroleum industries have a right under State and Territory legislation to explore and mine across the landscape. However, NFF notes that further work is required to ensure there are strong regulatory frameworks with clearly specified legal rights, protections and obligations consistent across all jurisdictions.

This legal framework should encompass responsibilities for management, remediation and compensation where mining or petroleum activities are abandoned or “orphaned” or where there are legacy issues after the finalisation of the activity by the resource company.

Land access agreements should recognise landholder and occupier property rights, and the negotiations must be respectful of farmers.

NFF recognises that land access agreements may be the only time where landholders can actually seek to positively influence the process, and receive some protections and assurances from the mineral and petroleum industries. However, it is worthwhile noting that farmers may be overwhelmed, confused and under stress and therefore should seek legal advice. Access agreements should be activities based, and subject to renegotiation should the schedule of activities change. The companies must undertake best practice during and in finalising land access negotiations, and that such agreements must include among others:

- Appropriate recompense for the full range of costs including land holders time, the use of assets and access;
- Clear agreements with landholders regarding the disposal and acquisition of any exploration/extraction licence;
- Mining practices including complying with drilling legislation, and the use of chemicals;
- Biosecurity arrangements;
- OH&S requirements;
- Rehabilitation of land;
- Appropriate insurance and bond arrangements;
- Clear specification of responsibility for, and insurance arrangements to cover, accidental damage to mining infrastructure as a result of farming operations
- Clear specification of responsibility for, and insurance arrangements to cover damage to land and farming practices causing by mining activities and infrastructure;
- Arrangements for normal agricultural operations;
- Any and all conduct whilst operating within the landscape; and
- Protocols regarding notification prior to access

The NFF supports empowering farmers in their negotiations around access to land for mining and gas exploration. A right to say yes or no, that is reasonably exercised, will provide farmers with greater protection in these negotiations.