Wednesday 15th August 2012

NQMA Submission

FOR

Inquiry into Agriculture and Resource Industries

Brief history of North Queensland Miners Association (NQMA).

NQMA was established in the late 1970's as a volunteer organisation to represent the interests of the independent Tin miners of north Queensland. The Association today represents the interest of all professional miners, large or small, throughout the vast area of North Queensland including Cape York. It is a volunteer, not for profit organisation. The role of NQMA is to ensure all miners and the mining industry in general is represented and involved in all matters that affect all miners in North Queensland. Current membership is over 130. NQMA is the 'voice' of the North Queensland mining industry.

The changing attitude to mining in North Queensland

The most significant single issue facing the mining industry in North Queensland (NQ) is the public opinion of mining and miners in general. This is of course a global issue, not just a NQ issue, but we will restrict our comments to how this impacts our specific area and what can be done about it.

There is no dispute that mining was the single industry that opened up NQ. The miners were the pioneers. All other industries followed the miners. Every town in NQ can trace its origin to the mining industry. Mining was the dominant industry and miners had the dominant right to access land.

Because of the importance of mining, rehabilitation of workings was unheard of. In fact it was considered unethical to 'cover up' abandoned projects and miners deliberately left workings open to allow other miners access to attempt further development of the mineralisation or as a source of local information.

As the grazing industry developed the miners and the graziers co existed in harmony and cooperation.

It has to be noted here that the important mineralised areas of NQ are located on marginal grazing land. We are not talking about the costal agriculture land or the Mitchell grass downs country. This is the open forest 'spear grass country' of NQ that is used for marginally viable cattle breeding only. The mineralised area of interest to miners in NQ is generally in very rough country and almost always on leasehold land.

The attitude towards mining progressively changed, driven mainly by conflict over land use in southern area and along the fertile coastal strip. This did not immediately impact on NQ miners and the miners and graziers continued to co-exist and successive governments continued to encourage mining and support the mining industry. The conflict over access to good land in southern and eastern Queensland intensified and also within the mining industry land access conflict was constantly increasing.

A major change came about with the introduction of the Mineral Resources Act 1989. A well meaning Act intended to resolve or minimise the land access problems.

The new Act took away the miners right to free access to land and shifted the dominate land use to favour the grazing industry (or in our area the leasehold land holders in general).

Again, this had little initial impact on the majority of NQ miners as the mining activity is mostly on rough country with very low cattle carrying capacity. The graziers saw the miners as allies in land development/ improvement, as the miners built infrastructure (roads, dams, buildings) that were left to the graziers in lieu of financial compensation. Plus the graziers were accustomed to seeing miners and prospectors on the land in their search for minerals and there was regular contact. Then came native title, and this was followed on 23rd December 1996 with the High Court Wik decision that completely overturned what then Prime Minister Paul Keating had guaranteed; that the Grant of Grazing Lease title extinguished native title, the Wik decision overturned this.

On 26th December 1996 the mines department stopped the grant of all mining tenure.
Any mining operation on existing mining tenure continued, but no new tenure applications were processed.
Ten years passed before the grant of mining tenure recommenced. During this time the graziers became accustomed to not seeing miners and prospectors on the land and properties changed hands and a whole new mindset developed where grazing was the dominant land use, with miners unwelcome.

Developing in parallel with the above is the general public's 'anti mining' attitude. This is a global issue with the modern journalists determined to sensationalise anything to get a story published. It is easy to portray all miners as 'environmental vandals' and to produce photos of past practices . This whole problem originates within the education system and is now so strongly entrenched it would require generational balanced education to change. Vested interests constantly fuel the now entrenched anti-mining attitude to develop their own agenda.

This is particularly prevalent on Cape York; where southern based environmentalists have used whatever means possible to exclude mining.

There are two problems to be addressed:

1. The 'flow on' effect from events occurring in, and only relevant to, southern or central Queensland. The recent exploration access agreements (with associated compensation), for example, is a direct result of the coal seam gas exploration. There are no coal mines or coal seam gas exploration in NQ, yet we are now bogged down negotiating 'Access Agreements' and negotiating compensation payments with graziers who know their southern counterparts are demanding and being paid large compensation amounts and expect the same in NQ. Attempts to separate the minerals does not work as miners are seen as miners and the compensation per 'bore' is now well entrenched in NQ

Solution:
Develop mining legislation to suit the region. Queensland is too large ,with too many diverse areas to expect 'one size fits all' legislation to work .

2. Public anti mining attitude. Successive governments have allowed and encouraged the education system to demonise mining and miners. This is now entrenched to such an extent that any child in Queensland will tell you instantly that miners destroy the environment and all mining should be stopped immediately. This is so entrenched from generations of biased education that we now have a new generation of teachers rewriting history and portraying local mining pioneers as crooks and scoundrels. In NQ I would like to ask where are our monuments to our mining pioneer heroes? We have many heroes and not one monument. James Venture Mulligan, Christie Palmerston, Bill Smith, John Atherton, John Moffat, Robert Logan Jack – to name but a few. Read their true history (not the modern spin), these men were heroes with incredible courage and endurance.

Solution:
State Government to commence the returning of balanced information to the public attitude to mining; particularly within the education system. The problem is now far too large for industry alone to change. The aim should be to bring about honesty and balance. In thirty years time, when asked about mining any child should reply honestly 'mining is essential, and modern mining is managed very well'.

Issues of concern to the NQMA

(1) **DERM (The Environment Department)**

Problem 1.

The lengthy and expensive process of getting anything approved by DERM.

Solution

Approvals process to be streamlined, thus cutting back the red tape and reduce the level of fees.

Problem 2.

The Environmental Protection Agency (EPA) introduced a Environmental Authority (EA) for mining and a EA application procedure and fee of $200 in 2000. When applying for mining tenure from this time, the miner completed a Tenure application form and an EA application form. This resulted in every tenure application having a separate EA. There was always a facility to amalgamate EA's, but this was discouraged by both the Mines Department and EPA. Thousands of EA's and Draft EA's were issued attached to almost every mining tenure applications made since 2000. On 1-1-2008 the EPA introduced an increased EA application fee ($500) and an Annual Fee ($500) and an Annual Return. A massive mail-out occurred to every EA application ever lodged. The mining industry was overwhelmed by this mail-out as a lot of this was irrelevant and related to tenure that either no longer existed, had been surrendered or transferred years before. There were even a number of cases where widows received $500 invoices for EA's applied for by their deceased husbands many years earlier and that had long ago been surrendered. Many of the invoices related to tenure applications – that is tenure that did not even exist. The Annual Fee commenced on 1-1-2008 the initial invoices backdated the fee from the first anniversary occurring in 2008. For example if the anniversary was 10th March 2008 the applicant was invoiced $500 for 11th March 2007 to 10th March 2008 and another $500 from 11th March 2008 to 10th March 2009. From 1-1-2008 DERM also insisted any new EA application must include a application fee of $500 and a Annual Fee in advance of $500.

There are three issues here: (i) The massive EA application Fee increase from $200 to $500 and (ii) the introduction of a Annual Fee and (iii) the Annual Fee was applied to Applications. That is DERM insisted they collect an annual fee of $500 each year during the extended period that it takes mining tenure to progress from application to grant. No impact whatsoever can occur on this tenure application .To add insult DERM insist that the applicant complete an Annual Return during this application period during which time the applicant had no right to even enter the application area other than to maintain the pegs.

The mistake was eventually recognized by DERM and late last year changes were made to stop the Annual Fee on an Application. This recognition of the mistake and change to the Regulations only partially fixed

the problem as it specifically excluded the period from 1 Jan 2008 to when the change was made. DERM is still pursuing the Annual Fee on an EA ***Application*** for this period.

Solution

Reduce the EA Application fee to actual cost of processing. Reduce the annual fee to actual cost of service provided –NIL. Cancel all invoices that relate to Annual Fees on EA ***Applications*** and refund all money collected for Annual Fees on EA Applications. Annual Returns to only apply ***after*** the tenure is granted.

Problem 3

Strategic cropping land (SCL)

Another 'flow on' from a problem in southern Queensland. The problem is not about SCL it is about the way it is applied to NQ. Government has arbitrarily applied SCL status using satellite imagery resulting with SLC being applied to any reasonably flat surface, then placed the responsibility on the miner to prove otherwise.

Solution

Ground truth every proposed SCL before designating the SCL status. If SCL is challenged by miners then government provide genuine evidence that it is SCL.

Problem 4

"Biodiversity Offset Policy", and associated requirements and fees. New legislation clandestinely apparently introduced by the Bligh Government in October 2011, but now being enforced by the new LNP government.

Solution

Abolish this legislation in NQ

(2) **Mines Department**

Problem 1.

The lengthy and expensive process of getting anything approved by the Mines Department.

Solution

Approvals process to be streamlined; cut back the red tape and reduce the level of fees.

Other mines department issues

- Mining environmental compliance to be returned to the mines department or at least handled by people with mining experience.
- Mining Lease term to be as requested on the application.

- Clearly separate the public perception of Coal, Oil and Gas mining from minerals mining.
- Mines department to provide a service to miners –not just administer the Act. Create mines department 'one stop shop' for miners. Review and justify all fees. Adequately staff the Mines department branch offices with people with local knowledge.
- Remove the requirement for mining lease 'compliance inspection', the applicant to provide photos of pegs and GPS coordinates.
- Reinstate the 'Mining Warden' concept, where there is a local person with knowledge of what goes on in the area, rather than a southern based department.
- Remove the Governor in Council requirement in mining tenure grant.
- Consider a mining lease retention area, or progressive grant of mining lease applications.
- Develop EA conditions that would allow mining in specific areas excluded from existing board area National Parks.
- Provide recycling drop off depot's for mine generate recyclable waste e.g. oil, tires, batteries etc.
- Reinstate mining in State forests.
- Apply the expenditure of mining royalties back to the region from whence collected.

(3) Mining exclusion areas/ Sterile Land / National Parks / Nature Refuges etc

Problem

Many areas have been afforded the status of National Park, Nature Refuge, or Sterile Land not for any genuine envoironmental, ecological or heritage value, but for a variety of government self interest motives going back to the Bjelke-Peterson era.

Solution

Reduce the areas to specific areas of genuine environmental, ecological or heritage value.

(4) World Heritage status for Cape York

Problem

Southern extremists promoting broad area industry exclusion by any means possible.

Solution

Revisit and apply the outcomes of the Cape York Peninsula Land Use Strategy – CYPLUS.

(5) Compensation Agreements and Land Access

Problem

This legislation was a knee jerk reaction by the former Bligh government to expedite legislation to deflect government criticism and pacify protests raised by landowners against activities by petroleum and gas explorers in the food basins of the Darling and mid Western Downs.

This legislation is fair and reasonable when applied to the areas where there was a potential problem. Of real concern is the flow on effect to NQ. This particularly applies to leasehold land used for marginal grazing

purposes in NQ, as this new legislation now gives land leaseholders new rights that were only intended for high value cropping land. This then triggered flow on compensation precedents/expectations that were acceptable on the Downs cropping areas becoming entrenched in NQ as the standard expectation of all land lease holders.

Rights reserved by the State

This new legislation has severely diminished the rights of the State and miners, particularly over lease hold land. The original intent of leasehold land was clearly defined.
The following is an extract from the Instrument of Lease issued to most land leaseholders upon grant of their rental tenure:-

PROVIDED ALWAYS AND WE DO HEREBY RESERVE unto Us, Our Heirs and Successors, all Gold and Minerals (the term "Minerals" to have the same meaning as in the Mining Act 1968-1974), on and below the surface of the said Land, and all Mines of Gold and Minerals, on and below the surface of the said Land: AND WE DO HEREBY ALSO RESERVE unto Us, Our Heirs and Successors, and to such persons as shall from time to time be duly authorised by Us in that behalf during the term of the said lease, the free right and privilege of access, including ingress, .
egress and regress, into, upon' over and out of the said Land, for the purpose of searching for or working Gold and Minerals, *or any of them, or Mines of Gold and Minerals, or any of them, in any part of the said Land: AND WE DO HEREBY ALSO RESERVE unto Us, Our Heirs and Successors, all Petroleum (the term "Petroleum" to have the same meaning as in "The Petroleum Acts, 1923 to 1967").*
AND ALSO all rights of access for the purpose of searching for, on or below the surface of the said Land:
AND ALSO all rights of access for the purpose of searching for, and for the operations of obtaining Petroleum in any part of the said Land: AND ALSO all rights of way for access and for pipe lines and other purposes requisite for obtaining and conveying Petroleum in the event of Petroleum being obtained in any part of the said Land: AND WE DO FURTHER RESERVE the right of any person duly authorised in that behalf by the Governor of Our said State in Council at all times to go upon the said Land, or any part thereof, for any purposes whatsoever, or to make any survey, inspection, or examination of the same.

Land Access Code Legislation.

The Land Access Code legislation should have only applied to Freehold Land, which coincidently would have protected the vast majority of the 'food bowl' region from the impact of Coal Seam Gas Exploration which it was designed to protect.

The majority of land of interest to miners in NQ is Leasehold or Crown land. This land was always intended as 'shared use' land, with the State reserving the rights to all minerals and the right to grant access to miners.

Land leaseholders were already well protected under the Mineral Resources Act for "Improvement Restoration" on any areas impacted by exploration activities (i.e., fences, gates, roads).

Solution :

1. Amend the Land Access Code Legislation to exclude all Land Leasehold Tenures.

2. Review the current Landholder compensation regime and establish a standard fixed compensation payment based on historic Land Court determinations over the last five years.

   (This will help eliminate Landowner negotiation conflicts and Land Court referrals).

(6) Native Title

Problem

The Native Title process is an unnecessarily long winded and fraught with petty altercations more suited to a kindergarten than a meeting of adults. At the Native Title meetings emotions tend to run high at the expense of an understanding of legislation, procedure, and general meeting etiquette. Unrealistic compensation expectations are common and meeting costs exorbitant.

Solution

The problem is too large for miners to deal with. The Queensland Government must provide a well resourced Native Titles Services section within the Mines Department that deals specifically with mining Native Title issues and coordinates meetings and manages compensation.

(7) Wild Rivers

Problem

The scope and intent of the Wild Rivers declaration has always been challenged by the mining industry in north Queensland. Brisbane based Queensland Resources Council (QRC) initially supported NQMA's opposition, then later caved in and sold out and declared the 'mining industry' would support the legislation if minor changes were made. The mining industry has never agreed to this and remain opposed to all mining exclusion areas in any disguise.

Solution

Repeal broad area legislation and replace it with sensible laws that target specific genuine environmental features worthy of protection and allow work to proceed in nearby areas.

(8) The Peninsula Development Road

Problem

Recognise the Peninsula Development Road (PRD) as a Road of National Importance. It was originally intended that by 1972 there would be a completed bitumen road from Cairns to Bamaga. Successive governments have continually managed to delay this whilst still managing to chew through hundreds of millions of dollars that could have, by now, paved that road three times over.

Solution

Steadily reinstate the bitumen work of the PDR – start with a single lane along the middle of the road, and progressively (as time and money allows) widen the lane into a full width road. Allow Main Roads to use local materials where they see fit and allow significant infrastructure construction projects to lie outside all environmental legislation (for approvals) but ensure they have a rehabilitation programme in place.

Yours Faithfully,

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