

## Oakey Coal Action Alliance Submission

August 15<sup>th</sup> 2012

### Inquiry into reducing regulatory burdens for Queensland's Agriculture and Resource Sector

Referencethat the Agriculture, Resources and Environment Committee investigate and report on methods to:

- i) reduce regulatory requirements impacting on agriculture and resource industries in Queensland; and
- ii) to further promote economic development while balancing environmental protections.

### Background

The OCAA is an incorporated community group whose members are opposed to the Stage 3 expansion of the New Acland Coal mine (NAC) on Oakey's doorstep. This proposed expansion will involve mining a total 7400 ha (with Stages 1 and 2) of good quality agricultural land. The mine output will be 10mtpa and there will be serious social, environmental, economic and health impacts as a result. Our members were involved in the lengthy Stage 3 EIS process, including submissions and negotiations with the Coordinator General's Office. An election pledge was made by the LNP Government that this mine would not be approved and the EIS process was terminated. Since then we have evidence that the company and the Government are in secret negotiations to allow approval of mining in a modified form, which will still not be acceptable to our communities of Oakey, Acland and Jondaryan.

We believe the experiences and expertise of our group members in dealing with the existing regulatory framework makes us well qualified to comment on the merits and disadvantages from a community standpoint. We furthermore believe that our suggestions could save the Government time and money, and for any impacted communities help to reduce their feelings of helplessness and unfair treatment at the hands of resource companies and Government departments.

### OCAA comments on COAG principles and how they can be applied specifically to mining proposals

#### **COAG principles of best-practice regulation:**

1. *establishing a case for action before addressing a problem*

OCAA believes some mining proposals should not be allowed in the first place, and mining exploration permits should not be granted in heavily settled areas, on good quality agricultural land or specifically in areas with a strong pre-existing agricultural base where a significant number of family farms will be displaced. We have evidence of the severe local economic impacts that closure of farms causes, in sharp contrast to the mining industry spin that the host economy (and Queensland in general) benefit from employment and commerce associated with mining. It is likely in the future that there will be more effective and sustained community opposition to any resource activity in food bowl regions, tourist destinations or close to communities. Many of these projects will be doomed to fail, or will involve protracted, complicated and very expensive regulatory periods and legal actions in the future. This is not in the interest of communities, the resource company nor the Government, as is evident in the case of the Acland Stage 3 expansion and the Felton proposal by Ambre Fuels.
2. *a range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed*

OCAA believes that resource extraction is too invasive, destructive of environments and communities, potentially seriously harmful to health and particularly disruptive of local economic cycles to be ever deemed self regulatory, or non regulatory. We have evidence that mining companies will lie, destroy, tamper or hide evidence of their malpractices and do the minimum possible to continue their operations or gain approvals for future operations. These serious allegations are proof to us that mining companies have one goal, which is to extract resources as quickly and cheaply as possible and the impacts on people appear secondary to this. Already some self-regulation occurs in terms of monitoring and reporting of emissions, and we have evidence that this system is greatly flawed, to the detriment of nearby residents and the environment and in breach of government imposed, but poorly enforced, environmental conditions. Our experiences convince us that no self-assessment should occur, but should all be performed by independent consultants, funded by the resource company.

The issue of co-regulation is worth discussion. Some coal communities have the option of community consultative committees (eg Moranbah Cumulative Impact Assessment C'tee and most Hunter valley mines). It should be mandatory that communities be involved from the outset in decision making re environmental management in a collective, fair and equitable manner. Our experiences suggest that mining companies operate on a 'divide and conquer' mentality, where they refuse to meet with groups of landholders or negotiate important matters such as dust minimisation, adoption of best practice operations or reporting of results. It should be mandatory also that these meetings are run by independent experts, not the mine company or their hirelings.

3. *adopting the option that generates the greatest net benefit for the community*

This is the statement of most importance to those impacted by mining. Before any mining project begins an approval process (eg before Terms of Reference and Environmental Impact Statement) on a case by case basis the proposal should undergo a public interest test. This could be a six or twelve month consultative process funded by the proponent, but performed by independent experts. A detailed social impact study should be the fundamental basis of advancement or rejection of any projects in accordance with principles of democracy and human rights, (which we believe have been sacrificed in the current climate expediting mining in Queensland). A clause in the Queensland Minerals Act Section 269 (4) k applies a Public Interest Test, at the Land Court level. Again, it is not in the interest of the resource company, the Government or the community to have lengthy, expensive and potentially unsuccessful application processes, which could be pre-empted by this much fairer approach.

4. *in accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:-*

*a. the benefits of the restrictions to the community*

*as a whole outweigh the costs, and*

*b. the objectives of the regulation can only be achieved by restricting competition*

OCAA-Not relevant to resource extraction as individual companies own leases and permits?

5. *providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation*

OCAA agree that effective guidelines should be written and followed and consultation is paramount. It should be realised by Governments at the outset, that from a community perspective that there is absolutely no trust in mining proponents (and their paid consultant firms). A system of independent consultation and guidance should be in place, funded by the mining company but performed by independent experts. Compliance with guidelines has been an issue with our communities also, since Stage 1 and 2 operations. We suggest more clearly defined compliance regulations with stronger community consultations.

6. *ensuring that regulation remains relevant and effective overtime*

This is particularly relevant with mining with a life span of some 40 years, when machinery, methods, standards and health indicators improve all the time.

7. *Consulting effectively with affected key stake-holders at all stages of the regulatory cycle*  
Methods should be put in place to ensure community groups as well as other third parties are consulted at all times. As an example OCAA is facing a situation at present where community members are not party to back room deals between the mining company and Government, outside the legislated EIS and mine approval process.
8. *government action should be effective and proportional to the issue being addressed.*  
It is difficult to imagine projects with greater social, environmental, health and economic impacts that mining in a closely settled food bowl region such as the Darling Downs, using the examples of Acland and Felton. We have evidence from 10 years of mining practice, (and malpractice) by New Acland Coal of what these actual impacts have been- ranging from mental and physical health breakdown, community disintegrations, declining socioeconomics in Oakey (including an alarming suicide rate), lost agricultural production and poor living conditions due to dust, blasting and noise.  
This 'best practice' clause alone should alert this Committee of Inquiry for the need for changed models of regulations, but not reduced models of regulation. The issues being addressed are resource extraction in existing functioning, healthy and sustainable food producing environments. The likely impact on Australia's food production should not be underestimated, particularly when high global population growth and food shortages are predicted. Government response to any threats to agricultural land should be proportional to the grave outcomes these companies are intending.

#### **OCAA comments regarding Methods**

1. Current methods are protracted, expensive and disadvantage community groups who have limited resources, finances and sometimes access to specialised knowledge.
2. Current methods are also not in the best interest of streamlined government services, but result in bottlenecks and saturation of resources in many areas (such as DERM, CG Office, Health Department), especially when mines are approved in areas impacting many people. This results in major bureaucratic inefficiencies and reduced productivity to government and the community alike. It is likely that increasing community awareness and opposition will further stall mine approvals in the future, unless methods are changed.
3. Lengthy and drawn out application processes are also not in the interest of resource companies or their shareholders.
4. OCAA suggests amendments to the EIS process in the State Development and Public Works Organisation Act AND some strict rules/no go areas in legislation.
5. Queensland regulations regarding emissions monitoring and reporting lag behind other states in a serious way. These should be corrected immediately and applied to all current mine operations.
6. There are 'best practice' manuals written for Queensland and interstate regarding coal handling procedures, rail loading procedures and dust and noise minimisation. An Environmental Protection Policy on Dust could be legislated under the *Environmental Protection Act 1994*. These improved standards should be adopted as Government environmental management standards for all mine approvals, including retrospective approvals. This would greatly reduce complaints and complaint handling and streamline the approval processes.
7. While the government and the Committee may think that proposed new Regional Plans will address everything, it is unlikely they will. Regional Plans are drawn up after lobbying by various interest groups, which also disadvantages small communities. It is efficient to put no go areas, like Urban Restricted Areas in legislation and then supplement the basic restrictions in regional plans.

8. We believe strongly, based on our town's experience, that the buy up and closure of a significant number of established farms is an example of a no-go area, not just arbitrary strategic cropping land criteria or lines on a map. This will ensure resource extraction continues in other more suitable areas of Queensland, without impacting agricultural production for future generations.

**Conclusion**

The OCAA is a group of committed, well informed and educated community members, who have gained much first- hand experience regarding the existing regulatory laws and their limitations. We would be prepared to attend a committee hearing to give evidence of the real impacts of resource extraction in our community over the past decade, and how regulations and regulatory methods can be changed to offer all sides a more efficient and fair process.

Yours sincerely

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