EDO Qld.
Environmental Defenders Office
Using the law to protect our environment.

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19 August 2014

Agriculture, Resources and Environment Committee
Parliament House, Queensland Parliament
By email only: AREC@parliament.qld.gov.au

Dear Committee,

Points of clarification of submission on Mineral and Energy Resources (Common Provisions) Bill 2014 ('Bill')

Thank you for the opportunity to appear before you on the Bill on Wednesday 5 August 2014.

Our office is a responsible non-profit community legal organisation that for over 20 years has helped both urban and rural people and community groups who cannot otherwise afford legal advice.

Following our appearance, rather than debate policy, there was an attempt by the lobbyists for the mining industry to smear the motives of our office, its staff and our clients. We strongly reject those assertions by the lobbyists for the mining industry.

It is relevant that six major organisations took an opposite view to that of the mining industry on public objections, and *all six said that all persons and groups should stay entitled to object to the Land Court.* Agforce, Basin Sustainability Alliance, Cotton Australia, Shine Lawyers, EDO Qld and Qld Farmers Federation on 4 August agreed the 8 points we tabled on Wednesday, reproduced at the end of this letter. Agreed point 2 states:

> All persons and groups, should, as they are currently entitled to, be afforded the opportunity to have input into a mine and object to the independent Land Court concerning any proposed mining lease and environmental authority. The proposal to remove those public rights for 'non-site specific applications', i.e. for approximately 90% of mining proposals, is unacceptable. The impacts of a mine do not stop at the boundary of the mining lease.

In response to the mining industry lobbyists, we ask the Committee to consider the following facts:

- The Land Court has not found any environmental objectors to cause undue delay[1] and found the Friends of the Earth Brisbane acted in the public interest; [2] We understand the

[1] See the contrary for example *Xstrata Coal Queensland Pty Ltd & Ors v. Friends of the Earth - Brisbane Co-Op Ltd (No 2)* [2012] QLC 67at [40].
[2] *Xstrata Coal Queensland Pty Ltd & Ors v. Friends of the Earth - Brisbane Co-Op Ltd (No 2)* [2012] QLC 67at [30].

Parliamentary Library also confirmed there were no cases of frivolous or vexatious cases on record in the Land Court.

- The Land Court agreed with the concerns of landholders such as the Curries and the Andersons, and of Coast and Country Association of Queensland, in respect of groundwater in the Alpha coal mine case.[3] This shows how community group objectors help protect irreplaceable natural resources;
- The 2011 'funding proposal' the QRC relies upon has already be considered and rejected by the Land Court as irrelevant;[4]

In short the mining industry lobby is asking this Committee to remove long standing rights of individuals and groups based on a fear of abuse by potential objectors that is not based on facts or evidence. In fact, the opposite is true. Objectors, be they groups or individuals like the above, whether immediate locals or not, are not vexatious but are an impressive and responsible bunch, helping to protect our public resources.

Yours faithfully,

Jo-Anne Bragg
Principal Solicitor

Sean Ryan
Senior Solicitor

Tabled at Parliamentary Committee Hearing Wed 5 August

Mineral and Energy Resources (Common Provisions) Bill 2014 **5 August 2014**

1. Mining and gas extraction projects, large and small, can have serious and long lasting impacts on rural businesses, communities, the environment, the public, and individuals. This Bill if implemented would strip away key public and private rights and puts the interests of the mining and resources sector far ahead of the rights and interests of individuals, the public, the community at large and the environment. The bill should be rejected or amended to ensure that it has sufficient regard to the rights and interests of individuals, the public, the community at large and the environment as opposed to the current Bill which drastically diminishes those rights and interests.

2. All persons and groups, should, as they are currently entitled to, be afforded the opportunity to have input into a mine and object to the independent Land Court concerning any proposed mining lease and environmental authority. The proposal to remove those public rights for 'non-site specific applications', i.e. for approximately 90% of mining proposals, is unacceptable. The impacts of a mine do not stop at the boundary of the mining lease.

[3] *Hancock Coal Pty Ltd v Kelly & Ors and Department of Environment and Heritage Protection (No. 4)* [2014] QLC 12.
[4] The funding proposal was included in the affidavits of Mr Zillman rejected by the Court in *Hancock Coal Pty Ltd v Kelly & Ors* [2013] QLC 9 as mentioned in page 4 of our written Submission.

3. The fundamental community right to know what mines are proposed in Queensland should not be removed. There should continue to be public notification of all proposed mining leases and all proposed environmental authorities, for both site specific applications and non-site specific applications.

4. The criteria to be considered by the Land Court, when hearing an objection to a mining lease and environmental authority application, should be retained by that independent Court, with no criteria transferred exclusively to the Minister.

5. The restricted land regime under the *Mineral Resources Act* should be maintained and not curtailed. Further, the Minister should not be able to decide whether or not a mining lease can cover what would otherwise be restricted land – this is effectively turning the situation into one of compulsory acquisition by mining companies of private land. It is putting the interests of the mining and resources industry ahead of the rights of individuals and seeing the gradual reduction in the rights of landholders.

6. All crucial definitions and details which have the potential to interfere with rights, such as who may object to the Land Court and the requirements for a conduct and compensation agreement, should be contained in legislation, not regulations.

7. Opt-out agreements offer very few protections and pave the way for misuse and problems. They should not be allowed or at least there should be more safeguards put in place to protect people.

8. Remediation of legacy boreholes should be strictly limited to bores or wells that were drilled for the purpose of coal, mineral, petroleum or gas exploration or production and no longer used for that or another purpose – not a landholder's water bore which may emit gas from time to time. Further, the Bill should provide for notification and compensation in the event of remediation.

Note. Jo Bragg of EDO Qld is authorised to say that the following groups, Agforce, Basin Sustainability Alliance, Cotton Australia, Shine Lawyers, EDO Qld and Qld Farmers Federation met on 4 August 2014 and 1.agreed with these 8 points, 2.request regional hearings so regional submitters views may be heard, and 3. are planning a joint rural groups press release. The first 4 groups express disappointment they have not been invited to present to the Parliamentary Committee.

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