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Wide Bay Burnett
ENVIRONMENT COUNCIL



7/07/2014

Wide Bay Burnett Environment Council Inc

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The Research Director
Agriculture, Resources and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000
By email to: AREC@parliament.qld.gov.au

Dear Sir/Madam,

Mineral and Energy Resources (Common Provisions) Bill 2014

The Wide Bay Burnett Environment Council Inc (WBPEC) would like to take this opportunity to make a submission on the Mineral and Energy Resources (Common Provisions) Bill 2014 to follow on from the submission we lodged on the 'Mining Lease notification and objection initiative discussion paper' on 28th March 2014.

As Manager of the Organisation, I am authorised to make this submission on behalf of the Members of WBPEC Inc.

I would like to begin by reiterating points raised in our original submission regarding the proposed reforms.

The task of balancing the needs of the economy with the needs of the environment, both across Queensland and across the country, is a complex task. Additionally, ensuring that the needs of society are equally factored into the equation makes the task all the more challenging.

The Queensland Government, since 2012, has made the case for the reduction of Red and Green tape, the removal of duplicity in legislation and the streamlining of approval processes in regards to providing increased benefits to the Queensland Economy however, if this is to occur at the cost of the needs of the environment and society, then it will not provide a situation in which true sustainability is achieved.

The proposed provisions identified in the Mineral and Energy Resources (Common Provisions) Bill 2014, may achieve the Governments policy intention; 'to reduce regulatory burden by cutting red tape and regulation and speed up project approvals to stimulate Queensland's economy and create jobs' 1 however, upon assessing the proposed provisions, it is evident that to achieve the policy intention, the needs of the



environment and society will have to be considered as a secondary priority and subsequently result in loss of environmental values and social morale. For the State to continue to prosper long into the future, environmental and social values must be considered as an equal priority and balanced accordingly, and should the latter not occur, any attempt to continue to support investment in the growing the State's economy and providing long term employment security, will be futile.

In a functioning and democratic society, the public is given the right to object to a situation in which individuals or collective groups believe will have an adverse impact upon the values that matter to them, according to their moral fabric. This can include everything from new and proposed changes within Law to changes of Land Uses and Cultural Values.

In a democratic society, we expect that the individuals of whom we elect to represent our communities within all levels of government, will operate in a manner that ensures that our needs are considered, our rights are protected and our concerns are heard.

When exploration, and subsequently mining activities, occur on a specific piece of land or tenure; these activities often result in impacts to the surrounding environment via noise and air pollution, water quality, access to and availability in addition to changes to property values, economic and social values of small and large communities.

Therefore, to propose that only the landholders who have exploration permits and/or mining leases occurring directly upon their property are 'directly affected' is simply unacceptable.

When a new development or material change of use is proposed in a Local Government Area, public notification is open to the entire community in addition to the right to lodge objections to development approvals in the Planning and Environment Court.

This notification and objection process exists to enable people, directly and indirectly affected by the proposed DA, to voice their concerns and lodge objections. The understanding that certain land uses can result in primary and secondary impacts to environmental, social and economic values in a region, is paramount to a functioning community. The right to voice opposition to the potential impacts on those values is critical for prospering and democratic society.

Even small mines may last for decades and have serious impacts on our finances, ecology, environment and society. Public objection rights are powerful rights to go to court, unlike mere consultation. Public objection rights to proposed mines are essential to enable the costs and benefits to be debated openly in Court and to deter the type of corruption exposed in New South Wales. I say do not change those existing rights under Queensland law.



So I **oppose the changes** proposed in the following clauses.

- Clauses 418 and 420

These clauses **remove existing community notification rights and rights to object to mining lease applications**. Changing land tenure to allow for mining rather than another land use could impact on a broad section of the public. Therefore the narrow definition of an 'affected person' proposed, which would exclude neighbours or community groups or people in the water catchment, is absurd. Land use decision making processes for other industries provide for community submission and appeal rights, so there is no good reason why mining tenure should be exempt from this basic standard.

- Clause 245

Limiting community notification and formal objection rights to the Land Court to "site specific" environmental authorities will, in conjunction with the above clauses, **remove all existing public rights to lodge formal objections to the Land Court in up to 90% of mining projects¹** in Queensland. This is unacceptable and fails to recognise the positive impact of community objection rights. The same mining companies who want to limit public objections are often foreign owned. Suggestions by State government Ministers that objectors lodge frivolous or vexatious cases is entirely untrue, rather the opposite is true: there are no examples of such cases and objectors are very responsible. In the Alpha coal case (2014) the land holders and conservation group exposed that the mining company had a lack of hard data on groundwater impacts. Public spirited objectors went to Court and saved Ellison Reef (1967) from limestone mining and helped show the importance of protecting Fraser Island, now World Heritage Listed (1971).

- Clause 423 and 424

It is inappropriate to restrict matters that the Land Court can consider and give these powers, such as to consider the 'public interest', to the Minister. Decreasing judicial oversight, increasing ministerial powers and shutting out community participation has **worrying implications for corruption**.

- Clause 429

Removal of restricted land status when the miner is granted exclusive surface rights to access land removes one of the few rights of vulnerable landholders. No-one should have the land surrounding their house destroyed by an open-cut mine yet this would be possible under this clause.

I call on the Committee to approach the proposed legislation with a view to empower, rather than disempower, our communities to take responsibility for our State. In Queensland for decades any person or group has been entitled to object to any mining proposal in open court, to have the evidence scrutinised about the benefits and detriments of a proposed mine. I request that you do not accept these changes but

¹ Mining lease notification and objection initiative Discussion paper, p 7.

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instead keep existing provisions that require public notification of all proposed mining projects and that allow any person or incorporated group to object to all mining leases and environmental authorities on all the existing grounds.

Consultation Process prior to the Bill reaching Parliament

Please ask Minister Cripps to provide exact figures on how many of the 176 submitters to the discussion paper opposed changes to existing objection rights and detailed examples of alleged cases of vexatious objections. According to EDO Qld, at least 106 submissions of a total of 176 submissions on the discussion paper, from both rural and urban submitters, opposed the changes. Yet Minister Cripps does not report this key fact in p47-48 of the explanatory notes.

Yours sincerely,

Emma-Kate Currie

Manager

Wide Bay Burnett Environment Council Inc