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The Research Director
Agriculture, Resources and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000

via email: AREC@parliament.qld.gov.au

Dear Sir/Madam,

Mineral and Energy Resources (Common Provisions) Bill 2014

Thank you for the opportunity to provide submissions on the abovementioned Bill (**the Bill**).

This submission is made by Lyla N. Lobwein. Together with David G. Lobwein and Wayne A. Lobwein we own and operate three grain growing properties (approximately 45 kilometers south of Dalby), on some of the most fertile land in Australia. This proposed legislation is of grave concern to us as proposed aspects of the Bill have potential to severely limit the management options, flexibility and viability of our operation to its highest and best primary production capacity.

As an overall statement I would firstly like to say that the amendments proposed concern me greatly as they seek to substantially alter long held principles and rights of landholders in Queensland with virtually no benefits flowing back to us from the proposal. The Government has made and continues to make promises that the idea of the reforms is to harmonise the various pieces of legislation and that no landholders will be worse off unless they agreed to be. I very much like that idea but unfortunately I consider the proposals almost entirely make landholders worse off.

Placing the interests of industry before the rights of Queenslanders

In the first reading speech on 5 June 2014, the Honorable AP Cripps states that the goal of this Bill is to "*optimize development and use of Queensland's mineral and energy resources and to manage overlapping coal and petroleum authorities for coal seam gas*". After reviewing the Bill, I cannot help but come to the conclusion that achievement of this goal has come at the expense of not only Landholders, but **all** Queensland citizens.

If minerals are, supposedly, a "common resource" held by the Crown, why are the interests of the "common" being ignored and silenced by this Bill? It is abundantly clear that these "*industry developed reforms*" (page 2, Explanatory Notes of the Bill) place the interests of industry before the interests of Queensland citizens. I urge the Committee to address the imbalance and not only acknowledge, but actively consider and apply the interests of the citizens for whom the common resource is held, rather than ignore and silence them - as is proposed by this Bill.

Amendments to the *Environmental Protection Act 1994 (Qld) (the EPA)*

The amendments to the EPA effectively mean that public notification will only be required for site-specific Environmental Authority applications/variations. Standard applications will not require any form of public notification and, as a consequence of that, a submission cannot be made by a member of the public on such an application, regardless of the impact that it may have. Such a proposal is fundamentally unfair and unjust to Queensland citizens. I want to be able to object to make submissions on the Environmental Authority, or object to its granting, if the proposal will affect me or the environment regardless of its size.

It is a fundamental community right to know what mines are proposed in Queensland. Mines by their very nature have a fundamental impact on communities and any member of the community should be able to know what mines are proposed. If I will be affected, or even if I am likely to be affected, by the decision to approve an environmental authority for a mine, shouldn't I have a right to know about the application and have a say on the application before it is approved? The removal of notification for applications which are not site-specific applications is a blatant denial of natural justice and degrades rights that I currently have. I do not think the proposal can be justified on the basis that it is just making it consistent with the law relating to CSG matters. I think CSG matters should be brought in line with mining lease matters.

Also I do not like the idea of the Minister deciding whether or not applications that propose to vary an environmental authority in a significant way are to be publically notified. I do not understand or accept this proposal. If an environmental authority is to be varied and it is likely to affect me, I want to be able to have a say. Otherwise I am likely to be progressively affected and have no say in how I am being affected. In all but cases involving minor variations, applications to vary environmental authorities should be publically advertised and people have a right to have a say in what occurs.

The right to make submissions on, and consequently object to, the conditions of an environmental authority should not be removed. To do so will place the interests of private enterprise extracting a State held resource in front of the rights of Queenslanders.

Objections to Mining Leases

The amendments to section 260 of the *Mineral Resources Act 1989* (Qld) (**MRA**) are among the most concerning to me. I again emphasise that, under the MRA, minerals are the property of the Crown and they therefore **cannot** be held privately by companies. By removing public objection rights regarding the granting of tenure to extract a Crown held resource, I will be denied an opportunity to participate in decisions which will influence a "common resource". All persons and groups should, as they are currently entitled to, be afforded the opportunity to object to a proposed mining lease.

Further, under the Bill, a person who lives next door to a proposed open cut coal mine and is likely to suffer impacts such as dust, light and noise disturbance, will have no rights to object to the granting of the mining lease as they do not fall within the definition of an "*affected person*". I urge the committee to appropriately consider this proposal – how can a person who suffers the impacts of the mining lease (i.e. a neighbor) not be an "*affected person*"? Why will community groups not be able to have a say about what happens in their community? This proposal is simply unfair, unjust and denies the rights of all Queenslanders.

to "have a say" about what happens to their lifestyle, community and the "common resource".

Given the above, the proposed amendments to section 260 of the MRA should not be accepted. If they are, the rights of all Queenslanders will be substantially reduced without appropriate justification.

Further, I do not like the idea that many issues that the Land Court now considers in hearing an objection to a mining lease and environmental authority will no longer be considered by the Land Court – an independent body but rather the Minister. This particularly concerns me when my rights to object are being diminished. I feel like the Minister will have all the say and this concerns me particularly when I hear what has been occurring recently in NSW. If I chose I want to be able to have say and have that say heard by an independent person i.e. the Land Court.

Landowners object in the Land Court to try and protect production rights from invasive practices and that process needs to be ***respected and preserved***. After all this country is supposed to be a ***democracy.***

Restricted Land

I am deeply concerned with the proposal regarding restricted land. Leading up to this reform, government continually committed to not prejudice or reduce the rights of landholders in the course of carrying out these reforms, however, the proposed amendments, when compared to the existing regime under the MRA, do not concur with this commitment.

The areas which are proposed to attract the protection of the restricted land provisions are substantially less than those currently contained in the MRA. In particular, Category B Restricted Land Areas (which include principal stockyards; bores or artesian wells; dams; or other artificial water storages connected to water supplies) appear to have been completely removed from the definition. All of these areas are essential to the operation of a farming business and to "do away" with them will place farmers and others at a significant disadvantage in what is already an imbalanced negotiation. This is simply not appropriate as it degrades my rights and places them behind the interests of industry.

Further, the proposal for restricted land areas to only apply if they are used at the time the resource authority was originally granted is concerning as it effectively places the rights of citizens behind those of the interests of persons extracting the "common resource". For example, if I finish building a residence two weeks after an Authority to Prospect is granted and some two (2) years later I am approached by the resource authority holder to undertake seismic activity on my land, the resource authority holder is permitted to undertake that activity as close to my residence as they wish as it was not "in use" prior to the Authority to Prospect being granted. Such a proposal is unjust to landholders and is a degradation of our rights.

Also, the restricted land framework was "touted" as being a great "benefit" to landholders who are affected by coal seam gas activity. It was represented by members of parliament that landholders who are impacted by coal seam gas activity will now have statutory rights to ensure that activity does not take place near crucial areas of importance to their farming operation. However, the reality of the situation could not be more different to those representations. The addition of clause 217 effectively means that an overwhelming majority of landholders who are currently affected by coal seam gas activity will **not** have the "benefit" of the restricted land framework as a majority of the tenure for the current coal seam gas projects has already been granted or applied for. This is yet another example of government not following through with its commitments.

I do not want the restricted land regime under the MRA to be altered except to extend it to land within the area of petroleum and gas tenures. Why not extend the current MRA restricted land regime to petroleum and gas matters? That would harmonise the different regimes and not dilute landholder rights.

I am also very concerned with the proposal to amend the restricted land regime so far as it relates to mining leases. The proposal hands far too much power to the Minister to decide my fate. I am very concerned that the Minister will be able to decide whether or not the mining lease can cover what would otherwise be restricted land. It is virtually turning the situation into one of compulsory acquisition by mining companies of private land. I feel like the Minister will have all the say and this concerns me particularly when I hear what has been occurring recently in New South Wales. I believe landholders should be able to decide whether or not a mining lease is over their restricted land particularly when our rights to object to the granting of that mining lease have, in most circumstances, been removed. The current MRA restricted land regime allows only a modest amount of land to be restricted and I don't believe those modest amounts should be curtailed – to have that happen will place landholders at the mercy of resource authority holders.

It goes without saying that activity conducted pursuant to a mining lease is, by its very nature, extremely intensive. The restricted land provisions currently contained in the MRA are one of the very few protections landholders have against mining lease activities occurring in areas of high importance to their lifestyle and business operation – such as their homes, sheds, stockyards, bores and watering points. By not requiring the resource authority holder to obtain a landholder's consent to enter the restricted land under a mining lease, they will most likely be forced to agree and simply have the issue fall to compensation.

The proposal curtails landholder's rights to object to many mining leases and environmental authorities and substantially reduces the restricted land regime. It also removes an independent person from the decision making process and this is a triple blow. Once again, it is a clear degradation of landholder rights and should be removed.

Legislation by Regulation

Many of the provisions contained in the Bill propose to move numerous aspects of the existing resource acts into regulations. Given this proposal, I ask the following of the Committee:

1. How are we to know what rights I will lose or what rights will be amended if the regulations are not made publicly available until after they are passed?

2. How can I be asked to make valuable and considered submissions when numerous crucial definitions and details, which have the potential to interfere with our rights, have been left to be prescribed by regulations?

3. How will I have a say in the content of the Regulations?

I am especially concerned with the following matters which have been left for the regulations to prescribe:

1. Clause 39 – requirements for an entry notice;

2. Clause 40 – entry which will be of a particular "type" and will not require an entry notice;

3. Clause 43 – entry of a particular type to carry out an advanced activity which will not require any form of notification or agreement;

4. Clause 45 – requirements of an opt-out agreement;

5. Clause 54 – the period within which a notice after entry to the land must be provided to each owner and occupier;

6. Clause 67 – activities which will be exempt from the definition of "prescribed activity" and the definition of "prescribed distance";

7. Clause 68 – areas which the restricted land provisions will not apply to;

8. Clause 81 – requirements of a Conduct and Compensation Agreement; and

9. Clause 81 – requirements of a Notice of Intention to Negotiate.

The above is by no means an exhaustive list of matters which have been left to be prescribed by regulations, they are simply matters which I consider to be of concern as they have the potential to affect my rights without any scrutiny or objection.

Opt-out agreements

In my view, an "opt-out" agreement offers very little benefit to a landholder and provides little protection once signed. A landholder already has the option to enter into a Deferral Agreement and I therefore question the inclusion of a further framework which provides yet another avenue for a resource authority holder to avoid entering into a Conduct and Compensation Agreement (**CCA**).

The inclusion of the opt-out framework suggests that government has no real understanding of the pressure, tactics and tricks used by Land Access Representatives to get landholder's to sign documents which are, most often, not in their best interests. I am of the view that the first step in the negotiation between the landholder and the resource authority holder will be an attempt to get the landholder to "elect" to enter into an opt-out agreement, without knowingly understanding the consequences of entering into such an agreement. This approach tips the scales further in the direction of a resource authority holder in what is already an uneven negotiation.

Further, a CCA is effectively an insurance policy – i.e. when things go wrong, I am forced to rely on the terms of the CCA, without it I have very little rights of recourse. Given the foregoing, the resource authority holder **should not** be provided with another avenue to avoid entering into a CCA and I object to the inclusion of the opt-out framework accordingly.

Remediation of legacy boreholes

The major problem with this proposal is that the ability to remediate a bore or well is not strictly limited to "*legacy boreholes*". Under the clause, anyone who is authorised by the Chief Executive can remediate any bore which is emitting gas above the lower flammability limit – i.e. a water bore used by a Landholder to water a property. The clause provides for no rights to compensation or notification, yet it effectively enables a person to enter my land and plug a bore that is being used simply because it is emitting gas above the lower flammability limit – which is a comparatively low threshold. There are numerous bores within Queensland that emit varying levels of gas and are relied upon by landholders every day of the week.

Conclusion

I urge the Committee to carefully consider the proposed Bill and have particular regard to the sheer volume of rights that are being removed from Queensland citizens. Many of the amendments are simply inappropriate, ill-considered and unjustified. Why must landholders be the "sacrificial lambs" in advancing the interests of industry? Why are the rights of citizens being put behind the interests of industry? Again, I urge the Committee to act in the interests of the citizens when reviewing this Bill.

Sincerely

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Lyla Lobwein