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Peter Faulkner,

[REDACTED] Hewett, SA 5118
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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

I was a former resident of the Oakey township situated some 25 km west of Toowoomba on QLD's Darling Downs. This community is now facing an uncertain future with a decision due soon by the QLD government to approve/disapprove the expansion of the Acland open cut coal mine which will impact greatly on the environment, local residents health, wellbeing and land/property values. I still own property in rural QLD and I know how important it is for everyone to have the right to their say regarding any resource project that will likely affect them or their families.

Thank you for the opportunity to make a submission to the Committee.

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.

Apart from disagreeing with the intent of the Bill in its entirety, I especially **oppose the changes** proposed in the following clauses.

- Sections 418 and 420

These **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.

If the Bill is passed, only those people who are classified as "affected persons" will be able to object to the granting of a mining lease. An "affected person" is limited to an owner of land the subject of the proposed mining lease; or an owner of land necessary for access to land the subject of the proposed mining lease; or the relevant local government. **This means that neighbours and concerned citizens**

will not be able to lodge objections to the granting of a mining lease even if they are the one most affected and/or most able to object.

- Section 245
Limiting community notification and formal objection rights to the Land Court to “site specific” environmental authorities will, in conjunction with the above sections, **remove all existing public rights to lodge formal objections to the Land Court in up to 90% of mining projects** 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).
- Sections 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**. Many mining projects fail the 'public interest' test but are still considered and approved with 'conditions'. (An admission that there are inherent problems with that project.) I would not like that type of decision to fall on the whim of one person.
- Section 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. At the moment a mining lease cannot be granted without the consent of a landholder over that part of their land that is within 100m laterally of their house and sheds or 50m laterally of their dams, bores, water troughs and stock yards. Also an explorer under and exploration permit for coal or minerals cannot enter such land without the consent of the landholder. **The Bill proposes to very significantly alter the definition of restricted land and with it alter landholder rights to the point where landholders may lose altogether the protection currently offered by restricted land.** Landholders need to have the right to say NO.

In my view the amendments do not widen the protection as suggested but very seriously erode the protections to the point where there is none. It will in many instances become just a question of compensation.

The Bill also proposes to legislate by regulation – i.e. leave many crucial matters to be provided for in a regulation and not in the legislation itself. The regulations have not yet been made and such a process is in my view flawed and highly undesirable. It leaves many extremely important issues to be decided by a process far less satisfactory than through our parliament.

In the first reading speech by the Honourable Andrew Cripps, which states that the goal of the Bill is to “optimise development and use of Queensland’s mineral and energy resources...”. After reviewing the Bill I cannot help but come to the conclusion that this has come at the expense of Landholders – something which the Government has continually “promised” that this Legislation would not do.

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 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.

I fear that the consequences now and in the long term for many landholders and communities in QLD could be dire if this Bill is passed unopposed.

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,

Peter Faulkner