Submission on *Mineral and Energy Resources (Common Provisions) Bill 2014*

Submitted to:
The Research Director
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The Places You Love Alliance

The Places You Love alliance is a collaboration of more than 40 environment groups, large and small, joining forces to promote nature. Together we represent over 1.5 million Australian members and supporters.

Queensland has some of the most important global environmental assets in our nation. The Great Barrier Reef is one of these along with five RAMSAR listed wetlands and many threatened plants and animals. It also has some of the most pristine natural environmental assets in the nation. Many of our member organisations are based in or work in Queensland to protect these environmental assets for decades with the support of hundreds of thousands of Queenslanders and Australians. The full list of our members are included at the end of this submission.

Pages 4 and 5 of this submission provide an overview of the eight principles Places You Love has for better protection of the environment and the role of the community in decision making is central.

As Director of the Places You Love alliance I am authorised to make submissions on behalf of the alliance.

Places You Love views on proposed Bill

Australian citizens have very strong views about the state of the natural environment. We see our natural heritage as an intrinsic part of being Australian. The right to stand up for the protection of these natural assets is a fundamental principle of being Australian and any attempt to subvert this right will risk alienating the citizenry from the governments who try to remove these rights.

Mining the shared natural resources of this nation is a privilege. All Australians should continue to have the right to have a say in the handing over of our natural assets to anyone. Of course any objections should be based on strong grounds and the objector has a responsibility to demonstrate the veracity of their concerns.

To this point the current legislative and regulatory regime in Queensland has not proved to be a substantial problem for proponents. We fear the proposed *Mining and Energy Resources (Common Provisions) Bill 2014* are based on ideological grounds and not on a demonstrable problem for development in this state.

The Places You Love alliance has specific concerns on the following clauses in the Bill:

<u>Clauses 418 and 420</u>

Places You Love opposes any attempts to 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. Limiting the definition of an 'affected person' proposed, which would exclude neighbours or community groups or people in the water catchment, will result in greater skepticism from the public about the role of government in expediting development over the legitimate concerns of the citizeny. There should be consistency for all developers. Land use decision-making processes for other industries provide for community submission and appeal rights. Why are miners exempted?

<u>Clause 245</u>

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 projects[1] 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

Current arrangements provide the citizens of Queensland with confidence that their objections are dealt with by an independent assessment via the judiciary. Handing these powers to a Minister will significantly decrease this level of confidence and expose successive governments to the perception of conflicted decision making. This comes at a time when public trust in elected officials is at an all time low.

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.

Conclusion

The Places You Love Alliance opposes the proposed *Mining and Energy Resources (Common Provisions) Bill 2014* as it currently stands. We urge the Committee to reconsider stripping the rights of Queensland citizens to have a say in the allocation of degradation of our shared natural assets.

Queensland should retain existing arrangements that require public notification of mining projects and allows any citizen and incorporated group to formally raise concerns about developments which may harm their interests (including their commitment to protect nature) and for which they can demonstrate a reasonable and responsible objection.

Thank you for the opportunity to make a submission on this Bill.

[1] Discussion paper, p 7.

The Places You Love eight principles for better environmental protection

The Places You Love alliance has developed eight basic principles for better environmental protection for all Australians through federal environmental legislation and regulation:

1. **Accountability in Environmental Legislation and Regulation**
    a. The *Environment Protection and Biodiversity Conservation Act 1999* (the Act) should require that national environmental accounts are developed, produced annually, and include Matters of National Environmental Significance (MNES).
    b. The Act should establish an Independent Environment Commission to provide objective, science-based advice to the Minister to improve decision-making and ensure greater transparency and accountability. This independence would promote removal of the commercial dependency between consultants and proponents to ensure best possible advice. The Commission would be responsible for independent monitoring, audit, compliance and enforcement activities under the Act. The Independent Environment Commission should also have a role in performance auditing, monitoring and compliance to ensure proponents meet conditions and do not exceed impact thresholds.
    c. The Act should prescribe mandatory decision-making criteria for ecological outcomes. All actions should be legally required to maintain or improve ecological outcomes, or to demonstrate a net improvement in national environmental accounts (for each relevant MNES).
    d. Regional Forest Agreements require an independent review and a more rigorous approach to auditing. A process for public input and sanctions for serious non-compliance are required. The full protections of the Act should apply to forest activities where the terms of the RFAs are not being met.

2. **Transparency in Environmental Legislation and Regulation**
    a. Transparency in decision-making must be maintained and improved.
    b. The Act must provide greater access to the courts for public interest litigation.
    c. The Australian Government should be subject to regular environmental performance audit under a new specialist Environmental Performance Audit Unit in the Australian National Audit Office, provided for under the Auditor-General Act 1997.

3. **Delivery on our international commitments**
    a. The delegation of approval powers (through 'approval bilateral' agreements) to states will seriously compromise the quality of decision-making and compromises the Australian Government's ability to meet its international obligations. Federal oversight for MNES must be retained and the provisions for approval bilateral agreements should be removed. Where assessment bilateral agreements do exist they must be subject to strict conditions and meaningful public participation.
    b. There needs to be mandatory implementation of recovery plans.
    c. Listed migratory species should be protected from harm as per our international obligations.
    d. Critical habitat must be protected, with impacts on critical habitat equated to impact on species, and consideration given to the critical habitat required under climate change. The critical habitat register should be retained and its remit expanded.
    e. Species-specific recovery plans should be implemented. There is no proof that regional planning is an effective tool for species recovery.
    f. The Environment Minister requires powers to develop and implement management plans to protect the values of World Heritage properties, National Heritage Places and Ramsar wetlands where the collaborative processes have not produced effective plans.

4. **Specify measurable ecological outcomes**

a. Approval decisions should include mandatory ecological outcome standards. For instance, projects should not be approved if they would have a net negative impact on any MNES. Further, the determination whether a project would have a net negative impact on a relevant MNES should be judicially reviewable.
b. Legislation should specify required ecological outcomes. This could be delivered through specified reporting periods for MNES, such as on recovery plans and threat abatement plans to ensure accountability. The Government agreed the Act should include provisions that enable the auditing of environmental outcomes (performance audits).
c. Streamlined processes must result in improved ecological outcomes.
d. Strategic Environmental Assessments (SEAs) are not a replacement for all individual project assessments. A zoning scheme should be the main an outcome of an SEA.

5. The federal Minister needs a mandate to intervene on matters that are national in scope.

a. Federal oversight for key approval powers on MNES must be retained and the ability to delegation these powers removed
b. The primary object of the legislation should be 'to protect the environment'.
c. The legislation, and the way it is administered, needs to better reflect the principles of Ecological Sustainable Development.
d. The proposed process for listing ecosystems of national significance under the current Act is too restrictive and inflexible.
e. The National Reserve System should be included as a MNES.

6. Be resourced and enforced

a. Inadequate resourcing restricts the operation of the Act. This in turn results in unnecessary delays in the Act's administration.
b. Cost recovery mechanisms under the Act are needed to ensure that the Environment Department is adequately resourced to ensure operation of the Act and monitor performance.
c. A Reparation fund should be established.

7. Give the Australian Community a voice on national environmental matters

a. We strongly support the creation of a call in power for 'plans, policies and programs' that may have a significant impact on a MNES to better deal with cumulative impacts.

8. Be based on independent advice

a. The quality of Environmental Impact Assessment (EIA) information needs to be substantially improved. An industry Code of Conduct for consultants supplying information for EIA and approval under the Act should be developed and the Minister, or the Environment Commission, should audit assessment information (including protected matters) to test assertions made in EIAs.
b. The Environment Commission should also be tasked with establishing a process to free consultants from their commercial dependency on proponents.


birdlife
Nature Conservation Council of NSW
Conservation Council SA
AUSTRALIAN CONSERVATION FOUNDATION
HUMANE SOCIETY INTERNATIONAL
WWF
GREENPEACE
National Parks Australia Council Inc
CONSERVATION COUNCIL
THE WILDERNESS SOCIETY
ccwa
ENVIRONMENT TASMANIA
The Conservation Council
Queensland Conservation
Environment Defenders Office
environment victoria
Environment Centre NT
IFAW
Australian Marine Conservation Society
Colong Foundation for Wilderness
Nature Conservation Society of South Australia
CLIMATE HEALTH ALLIANCE
invasive species council
TNPA
Wildlife Qld
Preservation Society of Qld
environs KIMBERLEY
Birds SA
HOPE
SUNSHINE COAST
Environment Council
Friends of the Earth Melbourne
rainforest rescue