MARY RIVER CATCHMENT COORDINATING COMMITTEE

INTEGRATED CATCHMENT MANAGEMENT

Sub # 186

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Working towards a sustainable and productive catchment

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Mary River Catchment Coordinating Committee Submission regarding the *Mineral and Energy Resources (Common Provisions) Bill 2014*

The Mary River Catchment Coordinating Committee (MRCCC) is a long-standing community based Integrated Catchment Management organization which has successfully worked with all levels of government, industry, landholder and wider community sectors throughout the Mary River Catchment over the last two decades. One of the stated objects of our organization is to contribute towards the creation of legislative frameworks which help with ***"working towards a sustainable and productive catchment"***. Historically, mining has been a major economic activity in the Mary River Catchment, predating even the development of the Gympie goldfields in the late 19th century. Published community concern over balancing the economic benefits of mining against its impacts on the condition of the Mary River and local streams predates Federation, and continues to this day. Examples of current issues which are of great interest to community and landholders in the Mary River Catchment are the rapid expansion of coal based exploration and pre-mining activities in the Maryborough basin North of Gympie, and well publicised speculative manganese exploration activities on the western side of the Mary Valley south of Gympie.

It is from this background that we offer the following comments on the three broader aspects of the Bill that we consider are not in the best interests of the wider community in our Catchment:

Removal of existing public notification rights, rights to object to mining lease applications and public rights to lodge formal objections to the Land Court.

These concerns relate mostly to clauses 245, 418 and 420 in the Bill. The narrow definition of 'affected persons' which, for example, excludes neighbours of the property being mined, and other members of the community (particularly those downstream of operations) removes existing public rights to comment and legal recourse regarding proposed mining operations. The explanatory notes for the Bill mention an as-yet-undefined procedure for determining which mining applications will allow input from the wider community and those for which only the narrowly defined group of 'affected persons' will have rights to information, comment and legal procedures in the Land Court. Being asked to accept this proposed removal of existing legal rights without knowing the procedure that will determine which applications will be subject to public scrutiny and access to the Land Court is asking Queensland citizens to accept 'a pig in a poke' with respect to these proposed changes.

The MRCCC gratefully acknowledges the support of
The Sunshine Coast Regional Council, Noosa Council, Gympie Regional Council and Fraser Coast Regional Council,
the Australian Government Department of Environment, the Department of Transport and Main Roads,
the Burnett Mary Regional Group, the Queensland Department of Environment and Heritage,
and landholders throughout the Mary Catchment.

It is the experience of the MRCCC that public comment allows for a much broader and more accurate assessment of likely consequences of a proposed activity, and can help avoid very expensive damaging consequences which may show up over time, particularly downstream of a mining development. Accessing this pool of detailed long term local knowledge usually results in better decisions and, ultimately, improved operating practices.

As an overarching guiding principle, the MRCCC is certainly not in favour of changes which remove or diminish existing public access to information, comment or legal rights with respect to the broader consequences of mining actions on the wider community.

Changes to land access procedures relating to restricted lands

The Bill sets out to simplify the legal framework defining mining access, operation and requirements for owners consent and compensation in "restricted lands", for example land near dwellings, schools, churches and non-relocatable infrastructure. However, clause 429 introduces ministerial discretion which would allow a mining authority to be granted over such restricted lands, and then remove all requirements for obtaining the land owner's consent for mining operations within those restricted lands. This effectively reintroduces a large degree of uncertainty about the rights of the owners of restricted land, and opens the door wide open for potentially corrupt and unconscionable behaviour. This could theoretically allow the operation of an open pit within 50 metres of a dwelling, without requiring the landowner's consent, if such an arrangement was negotiated between the mine operator and the sitting minister at the time. Moreover, it allows the threat of that potential situation to be used as coercion during negotiation with landholders. Though these are unlikely scenarios, it seems an unnecessary loophole to deliberately build into the law. "Restricted lands" should be clearly and unambiguously defined in law, and all restricted lands be clearly and unambiguously treated the same, clearly codified and predictable manner.

Allowing "opt out" and deferment of conduct and compensation agreements

Clauses 43, 44 and 45 introduce provisions for landholders and miners to choose to defer and/or 'opt out' of negotiating a binding conduct and compensation agreement regarding the miner's access to the owner's property. The rationale given is that there are situations where such agreements are effectively superfluous (such as where the miner and the landholder are the same party or have a close working affiliation). In such situations, however, the effort in 'negotiating' a conduct and compensation document would be negligible, and it hard to see that there is any great overall efficiency to be gained in introducing an added level of complexity and potential difficulties into the legislation by introducing the requirement for the creation and registration of additional documented 'opt out' and deferment agreements.

However, such clauses do risk introducing an increased level of bullying and unconscionable behaviour into the generally unbalanced negotiations between mining interests and individual landowners, by giving miners new methods for gaining access to a property before a proper, legally informed conduct and compensation agreement can be thoughtfully negotiated by the landholder. It will also introduce a unnecessarily complicated situation under which there are three ways in which a property can be accessed for a mining activity ('opt out', deferred or negotiated conduct and compensation agreement), each of which will need to documented and recorded against the title of the property, instead of one (via a negotiated conduct and compensation agreement)

In conclusion:

The MRCCC hopes that the comments above are constructive and will be considered by the committee in their scrutiny of the Bill. The MRCCC is committed to working constructively with all levels of government to achieve the best outcomes for the entire community in the management of the Mary River Catchment.

Yours sincerely,

Ian Mackay
Chair, MRCCC