

8 July 2014

[REDACTED] Maryborough, Q, 4650,
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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 am a resident of and registered voter in Maryborough, having moved here from Townsville in 2002.

This submission is made by and on behalf of myself only, in my capacity as a Queensland voter and Australian citizen.

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

Over my half-century or so of life, I have become increasingly aware of the relationship between our environment and our health and wellbeing, and increasingly aware of and concerned about industrial encroachment upon, and to any other disruption of, that same environment.

Because my immediate environment is an indistinguishable part of the broader environment further afield, my health and wellbeing can be affected by changes and disturbances to atmosphere, water, land and even oceans well beyond my immediate purview. This is also true for all my fellow citizens, and for all people everywhere.

In particular, I have come to realise that processes and events beyond the limits of my own property have the potential to affect my health and wellbeing; the same holds for any and all other people in whose best interests each and every member of this elected government is obliged to act. As such, I have a strenuous general objection to any attempt to deny each citizen the opportunity to make submissions and presentations on any land-use change, such as proceeding with mining projects.

The environmental impacts of mining projects may persist for decades after they have been abandoned, as the impact of the Mount Morgan mine pit on the Dee River demonstrates¹. Mining

¹ The impact of acid mine drainage from the abandoned mine workings at Mount Morgan on the downstream Dee River are described under 'Mining legacies – Mount Morgan' at <http://www.mininglegacies.org/mines/queensland->

projects may have serious impacts on our finances, ecology, environment and society long after the mine has ceased operating, and over a much broader area than the mine's own footprint.

Earlier this year (2014), the Hunter Community Environment Centre (HCEC) gained access under the NSW Freedom of Information laws to correspondence between several government departments relating to the pollution licence conditions held by the Australian Rail Track Corporation (ARTC). *The documents demonstrate a systematic public relations effort by the [NSW Environmental Protection Agency] EPA to conceal the extent and nature of pollution caused by coal trains in residential areas.*²

This example illustrates one way in which mining projects can have deleterious impacts well outside the mine footprint, proving that residents well outside the land on which a mine is proposed may be affected. The right of any and all such potentially affected people to raise their concerns should therefore be preserved at every stage of the approval process.

While dust from coal transport is one issue, another issue is dust from mining operations themselves. This was the subject of Paul Cleary's 2012 report in 'The Australian' "[Living in the dusty shadow of coal mining](http://www.theaustralian.com.au/news/features/living-in-the-dusty-shadow-of-coal-mining/story-e6frg6z6-1226255705308?nk=694f5aff1e4c68977f13a1bafb89aa1)" (<http://www.theaustralian.com.au/news/features/living-in-the-dusty-shadow-of-coal-mining/story-e6frg6z6-1226255705308?nk=694f5aff1e4c68977f13a1bafb89aa1>); this article is appended to this submission as demonstration of the impact of dust and noise on residents well outside the mine "footprint".

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. Public objection rights should therefore be retained in Queensland.

In accordance with the above statements of general principles, I particularly oppose legislative changes that would function to diminish property rights as follows.

- 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 projects**³ in Queensland. This is unacceptable and fails to recognise the positive

[2/mount-morgan/](http://www.mountmorgan.com.au), part of a broader survey of mining's detrimental legacies in Queensland at <http://www.mininglegacies.org/mines/queensland-2/>

² "EPA conspires against community over Hunter Coal Dust", <http://miningleaks.com.au/hunter-coal-dust-cover-up>

³ Discussion paper, p 7.

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. As the example of NSW shows, the removal of this entitlement has allowed shambolic and counterproductive impacts on health of nearby residents – are these people to be “sacrificial lambs” before the altar of corporate profit?

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.

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,

David Arthur

██████████ Maryborough, Qld, 4650

Appendix:

article from 'The Australian' of 28 January 2012, describing the impact of dust and noise from coal-mining well outside the immediate footprint of the mine itself.

[Living in the dusty shadow of coal mining](#)

• THE AUSTRALIAN

• JANUARY 28, 2012 12:00AM

Paul Cleary Reporter, Sydney



Farmer Tanya Plant and her daughters, one of whom suffers coughing fits that her doctor says may have "environmental" causes. Picture: Jack Tran *Source: The Australian*
AUSTRALIA'S resources boom is already generating a lot of dust, noise and fumes, and the amount stirred up is only going to increase, given plans by miners to double coal and iron ore extraction this decade.

Yet state and federal governments are doing surprisingly little to monitor and regulate these impacts on the people living in the shadow of mining and energy projects. While state governments require companies to submit voluminous environmental impact statements, designed to protect flora and fauna, less is being done to protect people.

From the time minerals are dug from the ground and shipped to port in open wagons to the time they leave our shores as exports, governments generally leave it to the companies concerned to monitor the harmful effects of toxic substances on people, and the reporting seems patchy.

Tanya Plant, a Queensland farmer and mother of two, worries about the effect the emissions from New Hope Corporation's coal mine, located about 2km from her home, may be having on her family. Her two-year-old daughter has been having coughing fits and after successive trips to the doctor she has been told the causes may be "environmental".

"It has been worrying to have one of our children coughing a lot for months. We are concerned about those really small particles, as well as things like heavy metals," says Plant, who grew up on her Acland farm, west of Toowoomba, and obtained a PhD from Oxford University as a Rhodes scholar.

In fact, Plant, her husband, children and parents seem adversely affected by constant exposure to dust, noise and plumes of gases released by regular blasting.

"I'm uncomfortable telling too many people the details of all our health issues, but there are some worrying symptoms which seem to have been going on for quite a while and none of us seem as healthy as we should.

"I'm only 36 and had hoped and expected to continue to live an active life for some time yet, and to be able to raise our kids in a good environment to give them the best start and chance in life. This farm has been in my family for many generations and is very much a part of us. I can't really picture a happy future without it, but I'm not sure whether we should live here any more."

The permanent dust monitor recently installed on her property is a crude device: a plastic funnel that sits on top of a glass jar. In response to Plant's requests, NHC measured fine particles known as PM10 on one occasion last year, but it is yet to forward the findings. In response to Plant's complaints about noise levels, the company has taken readings but has refused to divulge some results.

When the company did the PM10 study last year, it appeared the officer from the Safety in Mines Testing and Research Station, a government agency, was contacted by an executive from New Hope while conducting the test and agreed to meet him immediately afterwards, Plant says.

But it is the smaller particles, known as PM2.5 and PM1, that health studies indicate are even more dangerous to human health, and these are not being measured at Acland, or in most other mining regions in Australia. A human hair is seven times the width of a PM10 particle, and 30 times that of a PM2.5. These ultra-fine particles are dangerous because they can become embedded in lungs or enter the bloodstream.

In response to questions from Inquirer, a New Hope spokesman declined to comment on why the company would not provide the results of dust and noise tests to Plant's family. The company would not comment on the frequency of its testing for dust levels near the mine and its expansive coal dump near the town of Jondaryan, nor would it cite its evidence for using the crude jar and funnel for measuring dust.

But New Hope says it operates "above compliance" and provided the results of monthly noise tests carried out "at random times". But these tests are different from those done when complaints are made, which the company won't release.

The company says its dust monitoring is "above and beyond compliance". It says the testing done by Simtars has "consistently met government air quality requirements". But the company tests only for PM10 particles, and the spokesman would not say how frequently they are carried out.

New Hope says it is investing "thousands of dollars" installing quieter reverse beepers on its vehicles, and it is trialling a muffler suppression system on its trucks, even though it is meeting all compliance levels.

The Queensland government has installed only two dust monitors near mining towns. One of its 29 permanent monitors is at Mt Isa, but the others are all based near major urban centres. Coal mining regions in the Bowen Basin and on the Darling Downs do not yet have permanent monitors in place, and the closest monitor to the Acland mine is at Toowoomba, more than 50km away.

The government has installed a monitor in the centre of the Bowen Basin coal mines at Moranbah,

even though there are several other towns closer to the coal mines. The results from this temporary monitor are not published on the government's air quality website. Instead they are reported "through a reference group".

This contrasts with the NSW government, which has responded to community pressure and installed a network of 13 dust monitors in the Hunter Valley, although only three of them measure PM2.5 particles.

Queensland Environment Minister Vicky Darling says that in addition to the government's monitoring, companies are required to report any hazardous impacts swiftly, as well as in an annual report. Executives who provide false and misleading information face penalties of up to \$832,500 or two years' imprisonment.

Darling defends the use of the funnel and glass jar as a device to measure "dust nuisance impacts", essentially a crude measure of the sheer volume of material in the air.

The Plants live near the New Acland coal mine, which opened in 2002 as a small mine and has grown into a four million tonne a year operation. While still a modest mine by Australian standards, NHC has a plan before the state government to more than double production to 10 million tonnes a year, while also developing a pilot plant for coal-to-liquids technology.

The listed company's ownership is tied to chemist chain Soul Pattinson. Washington H. Soul Pattinson owns 60 per cent of New Hope, and in turn owns 24 per cent of Australian Pharmaceutical Industries, which includes Soul Pattinson and Priceline.

While the existing mine is scheduled to be exhausted in 2018, the plan for a third-stage expansion would extend its life by a further 35 years and also mean double the amount of dust for nearby communities. It would come within 5km of the town of Oakey, population 3600.

Plant says the state government has made assurances about the proposed expansion being assessed through a rigorous EIS process, but the current stage of operations went through the same EIS processes. She says these don't require monitoring of dust, noise or the rainwater consumed by people living just a few hundred metres from the mine's main operations. Plant points out that people living in the settlement of Muldu, just 700m from the key mine operators, were not included in the EIS among the "sensitive receptors", meaning people affected by the mine.

"It doesn't give me confidence that the health of people near the mine is treated all that seriously," Plant says. "There doesn't seem to be much data available but even so, it doesn't seem like noise and dust has always complied with the state standards. I have seen how black some of the rainwater collected from people's roofs has been."

A group of concerned doctors has written to federal and state ministers about the risks for the population near this mine. Doctors for the Environment, which includes Gustav Nossal on its scientific committee, says in a letter to federal Environment Minister Tony Burke that the expansion to a four million tonne annual operation had already subjected the surrounding population to "serious pollution which is likely to have affected their health and this situation has existed since 2006 when stage 2 commenced".

Emeritus professor David Shearman told Burke it "beggars belief" that the company has not produced adequate data on PM2.5 levels and that of sulfur dioxide and nitrogen dioxide, which are commonly found in high levels around coal mines.

"However the data that is presented, though inadequate, suggests that air quality has been unacceptable for some years," he wrote.

While there has been limited research in Australia on the health effects of coal mining, Shearman pointed out that extensive studies in the US by the Physicians for Social Responsibility found people living in high coal-producing counties had higher rates of cardiopulmonary disease, chronic obstructive pulmonary disease, hypertension and kidney disease compared with people in non-coal-producing counties.

Noise is also going largely unmeasured, despite its impact on human wellbeing.

Plant describes the noise as an almost constant irritant that her daughter sometimes describes as "that loud growly noise" as she puts her hands over her ears. "We often have to shut windows due to noise and even then some nights I haven't been able to sleep for even a whole hour at any point. It is hard for the kids as they get woken too," Plant says.

The risks to the surrounding population extend to the coal dump just 1km from the town of Jondaryan, and then all the way along the railway line to the port of Brisbane, where the coal is loaded on to ships.

From Jondaryan the coal is often trucked through Toowoomba by road to local power stations, but most of it is shipped via rail to export terminals in Brisbane. The coal moved in trucks is meant to be covered with tarpaulins (although locals have taken photographs of uncovered trucks), while the coal moved on trains is not required to be covered.

People who live along the railway lines, and in the towns, say the black soot on their roofs gets into their drinking water.

Peter Faulkner, who lives just 300m from the railway line, has black streaks on the plastic water tank he uses to collect drinking water. Another resident, 600m from the line, says her drinking water is being contaminated by soot from the train. When Inquirer visits her property, she shows a jar of black water produced from washing the soot from her roof.

Asked if he has considered obtaining an assessment from the government, Faulkner says he no longer trusts the institution.

"There's no impartiality when it comes to assessing these mining projects," he says. "The fact they seem to be covering everything up concerns me greatly. They have a duty of care towards us. They are not looking after us at all."