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Submission to the Agricultural, Resources and Environment Committee

Mines Legislation (Streaming Amendment) Bill 2012 ("Bill")

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The Resource Legislation (Balance, Certainty and Efficiency) Bill 2011, now lapsed, on which this new Bill is largely based included **Urban Restricted Areas** where some types of mining could not occur. The **new Bill has left out these restrictions**.

We ask that the Bill include provisions on Urban Restricted Areas to stop grant and applications for mining and gas tenures within 4km of small communities and urban areas. This would give better protection than what was proposed under the lapsed Bill.

The legislation needs provisions that stop grant and application of resource tenures (e.g. mining, petroleum etc) in or within 2km or more of town areas and localities. The buffer distance need to be scientifically proven to be enough so that current residents and businesses are not subject to the risk of pollution, and enough not to prevent future growth in acknowledged growth corridor areas for towns.

How many townships in Queensland have populations of less than 1,000?

70% of LGAs in Queensland have populations less than 1,000. To allow mining close to towns of less than 1,000 is to disenfranchise those inhabitants of their rights to clean air and water as effectively they lack enough political power to avoid such high risk exposure to pollution e.g. the town of Collinsville and its long-term exposure to coal dust and pollution from mine explosions.

The Bill proposes amendments to provide the legislative framework for migrating to **an online service delivery model.** The online system, *MyMinesOnline*, will also support reforms made by the Greentape Reduction Project.

The streamlining reforms to the resources Acts included in this Bill will:

- reduce assessment times by **transferring the power** to grant and renew *Mineral Resources Act 1989* mining lease and *Petroleum Act 1923* petroleum lease applications **from the Governor-in-Council to the Minister**

- facilitate the modernisation of tenure administration by **supporting online lodgement of documents for assessment and management of all resources permits**

How does this in reality affect adequate public access to such applications and provide adequate time for affected parties in the public to comment and be informed of mining tenures that may adversely affect them or their businesses?

- streamline administrative processes and requirements for managing mineral and coal exploration permits under the *Mineral Resources Act 1989*;

Does "streamline" involve short cuts and which may prove more costly in the long run because things were missed?

- improve resource stewardship by providing a clear power to require an applicant to progress their application;

How does this work in reality?

- clarify **land access arrangements for exploration permit holders** under the *Mineral Resources Act 1989* **to undertake environmental studies**;

What does this mean for landowner and third part rights to forestall and prevent any increased risks of environmental damage on their property, which they understand more than others?

- provide consistent process for applications that to be received and allowed to proceed that do not fully comply if the application substantially complies with the requirements;

The application should fully comply with requirements before allowing to proceed because such an approach implies a ***lack of consistency in approach****.*

- reduce assessment times by amending the *Mineral Resource Act 1989* to streamline the process of Land Court referrals of objections to mining claim and lease applications; and

What does this mean for the objector/s, e.g. a lack of full rights of due process?

- improve departmental efficiency by designating the powers and functions of a mining registrar to the chief executive so that the chief executive can take appropriate action under the *Mineral Resource Act 1989* were necessary without referral to a mining registrar

This appears to be a politicization of the department. It is assumed the mining registrar has the most experience and competence so why wouldn't the chief executive take the registrar's advice? Good science and experience should underpin such actions. Politicised departments usually come to grief eventually because in the name of efficiency and expediency they sidestep experienced advice for some kind of short-term political gain. All decisions should be embedded in a systems-based approach that takes into account all the factors affecting the outcome.

Compulsory Acquisition

The Government's policy position is that **resource tenure can generally co-exist with other forms of tenure and infrastructure development** and that the **compulsory acquisition of land should not extinguish resources interests** under the *Resources Acts* unless it is incompatible with the purpose of the take.

The policy objective of the compulsory acquisition amendments is to prospectively and retrospectively manage the impacts on resource interest holders from the compulsory acquisition of land as it impacts on resource interests. In summary, the amendment will:

- ensure that resource interests are not extinguished by compulsory acquisition of land unless it is specifically stated in the gazette resumption notice due to potential conflict with the proposed development (the purpose for the take);

- ensure that past compulsory acquisitions of land generally did not extinguished resource interests unless construction authorities took specific action (for example, issuing relevant notices, recording the take in resource registry or negotiating compensation with tenure holders) to intentionally extinguishing resource interest; and

- provide that **compensation to resource interest holders**, either from taking of land or easements, will be **limited to that actual cost** resulting from the extinguishment or injurious affect to the resource interests.

Determination of actual costs benefits those most who can best afford long and drawn out court cases.

CSG/LNG Industry

The current legislative framework **does not facilitate the efficient transportation and treatment of CSG water and brine both between permit areas and off permit areas** nor the **development of common user water treatment and brine processing facilities on permit areas.** Amendments to the petroleum acts will allow **greater flexibility in the transportation and treatment**, which would allow industry to implement better solutions for CSG water and brine, and make it easier to comply with the Government's CSG Water Management Policy.

Exactly what does facilitating the efficient transportation and treatment of CSG water and brine mean?

What does greater flexibility in the transport and treatment mean?

Has the government considered impacts of transporting such wastewaters to central treatment centres e.g. much greater impacts on roads, where road transport is used, or areas traversed by pipelines where they are used? Also to be considered and weighed are increased risk of accidents offsite, and how waste materials produced after treatment will be disposed of, and where the market is for such massive amounts of wastes from a planned vast expansion of the CSG industry?

Currently, CSG/LNG proponents are **negotiating easement option agreements with landholders along pipeline routes between petroleum leases and State Development Areas**. Under the current legislation, **LNG proponents are unable to register these easements**.

Registration of pipeline easements is critical for:

- **finalising the easement option agreements** that have already been entered into between the proponent and landholder;

But what if circumstances change and the landowner is locked into an easement agreement which has loopholes he could not have reasonable foreseen e.g. more pipelines, a compressor station added in etc. noise and air pollution levels that are health hazards or totally unacceptable?

- **providing security for the investment** made by LNG proponents in its pipeline infrastructure;

Are there circumstances where this guarantee of security of investment adversely impacts the security of investment of the landowner or other business operator? Businesses accept risk and rarely have "security of investment" in an

open market so why does the CSG industry want guarantees not given to other businesses? Why should they be justified extraordinary protections?

- **ensuring the easement will remain with the land** in the event of a change in ownership;

The mining company's rights will over-rule the rights of the land owner.

- ensuring integrity of the land register;

How does this work? Is this the only way to ensure integrity of the CSG industry?

and

- establishing an important safety record

Registers and records only go so far to ensure compliance. Are these to be used instead of a robust monitoring, compliance and enforcement system by the state government?

The Bill also contains **a minor amendment to the definition of 'occupier'** in the *Petroleum and Gas (Production and Safety) Act 2004*, to fix an inconsistency with other resource legislation

How does the amendment in effect change things? What rights and protections for example does it provide "occupiers".

The policy objective to provide regulatory certainty for the emerging CSG/LNG industry will be achieved by amending the *Petroleum and Gas (Production and Safety) Act 2004* to:

- enable the registration of pipeline easements;
- allow lease holders to seek Ministerial consent to change production commencement where a relevant arrangement is in place;
- allow lease holders to adapt production schedules to facilitate access by coal parties to land held by the lease holder, to optimise development of the State's resources by enabling gas extraction prior to coal extraction;

Where does this leave the landowner with both coal and gas operations on their properties at the same time?

When gas extraction involves removal of overlying groundwater the coal industry is left with no onsite water resources and has to look elsewhere for them. As water is restricted in the State that can push demand for more dams or the sale of even more agricultural lands by the coal industry to get access to water allocations. This could be a nightmare.

- extend provisions for pipeline licence instruments to allow the transport of CSG water and brine between permit areas and off permit areas;

Add up the movement of CSG water and brine from the projected 40,000 CSG wells and map it out and you will have a network of pipelines fragmenting the surface environment and agricultural holdings across the state. This will have tremendous adverse impacts on the ability of landowners to run their businesses efficiently and adverse impacts on ecological connectivity and biodiversity in the state.

In many cases this water will be corrosive, even to stainless steel pipes. You will have a nightmare administrative problem of trying to deal with monitoring hazardous leakages.

- allow the construction and operation of common user water treatment and brine processing facilities on petroleum leases;

Pity the landholder forced to host such waste treatment facilities as these waters will contain more toxics than brine. Transport of this wastewater to central treatment facilities will have to be by tankers on roads as well as pipelines as many produced water ponds on properties will not be pipeline accessible. That could mean millions of tanker loads of such wastewaters on roads, many of which will leak. Do the math and think about the consequences.

- allow for incidental activities, such as roads, electricity lines, and fibre optic cables to be constructed across adjacent petroleum permit areas;

How will this affect the safe operation of the CSG industry and these activities?

- require a lease holder to submit an annual infrastructure report for incidental activities;

There will be tens of thousands of these wells. Where is the state staff to review these reports?

Monthly air water quality reports are already required of the coal mines. They are done and sent to the regional state environment offices where nobody reads them because the staff simply does not have the time.

How likely is it that a CSG company will report incidental activities that have adverse outcomes? Think through the function and meaningfulness of such reports. Are more state staff to be put on and who pays for them?

- apply existing provisions for environmental approvals, water regulation, land access and health and safety to infrastructure associated with the transport and treatment of CSG water and brine;

State staff cannot deal now with the current workload nor enforce regulations (lack of staff and funds) so how can the state deal with additional regulations?

- amend the definition of 'occupier' in the P*etroleum and Gas (Production and Safety) Act 2004* to be consistent with all other resources legislation

How does this change the present situation?

The Bill also includes an amendment to the *Environmental Protection Act 1994* as a consequence of the expansion to incidental activities on petroleum permit areas. The amendment obliges existing permit holders who choose to undertake these expanded incidental activities to **submit an annual environmental return to ensure the environmental impacts of these incidental activities are appropriately considered by the regulator**

How likely is it that a CSG company will report incidental activities that have adverse outcomes? Think through the function and meaningfulness of such reports. Are more state staff to be put on and who pays for them? Who is going to check the veracity of such returns? Under the previous government we were told only 10% of all CSG wells would be inspected each year. It could the ten years before a well is audited. Environmental "returns" reports give the appearance that the environment is being taken into account but in reality there is little to back that up.

Safety and Health

Amendments will make clear that the regulation of hazardous chemicals and major hazard facilities at mines will continue to be regulated by the *Mining and Quarrying Safety and Health Act 1999, Coal Mining Safety and Health Act 1999* and relevant pieces of subordinate legislation.

Do regulators have enough knowledge and experience with hazardous substances from CSG mining to be effective? What support will they be given to be effective?

How will changes in the proposed Bill be funded?

How will changes and the need for monitoring, enforcement and compliance be funded and adequately resourced given the lack of sufficient capacity in the state staff handling the CSG industry and the planned massive expansion of this industry?

Sincerely

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