

20 January 2012

Ms Bernice Watson
Research Director
Industry, Education, Training and Industrial Relations Committee
Parliament House
George Street
Brisbane QLD 4000

Via e-mail: ietirc@parliament.qld.gov.au

Dear Ms Watson

Re: Resources Legislation (Balance, Certainty and Efficiency) Amendment Bill 2011

Boardwalk Resources Ltd (Boardwalk) is a privately owned Australian coal mining investment company, part of the Tinkler Group.

Boardwalk welcomes the opportunity to present a submission to the Committee.

We have previously provided a submission to the Department of Employment, Economic Development and Industry following an invitation last year by the Minister for public comment on the government's proposed reform. A copy of that submission is enclosed as **Attachment 1**.

Boardwalk currently holds the EPC 1033 (and the associated EPC 2089) that combine together to make up the company's Sienna Coal Project. The Sienna Project is comprised of two small open cut developments on the outskirts of the mining township of Middlemount in Central Queensland and the potential for an underground development further to the north.

The surrounding area forms part of the widely recognised Bowen Basin with coal being actively mined in proximity to Middlemount on well-established leases; including Foxleigh Mine, German Creek Mine, Norwich Park Mine and the recently commissioned Middlemount Mine (a joint operation between Peabody Coal and Gloucester Coal).

It is widely accepted by both residents and non-residents that Middlemount is a coal-mining township, the town having been established and located originally to service Anglo American's German Creek mine and subsequent mining leases developed within the area. The region falls within the Isaac Regional Council local government area.

Boardwalk is opposed to the proposed legislation.

- **The Bill is aimed at restricting exploration, a largely scientific activity, with minimal impact on landholders or the community and aimed at proving up a resource base well in advance of any mining activity**

actually taking place. This is a fact particularly well understood in mining communities such as Middelmount, who have grown up with mining. Albeit that it may be less well understood in non mining communities;

- The Bill achieves this aim by stripping exploration companies of existing exploration and future mine development rights without any compensation or replacement rights. In doing so, the Bill will undoubtedly further undermine domestic and international confidence in the security of the Queensland mining approval regime;
- The Bill fails to acknowledge that companies such as Boardwalk carry out a legitimate and accepted commercial role as a coal mining investment company. These entities can create wealth and commercial value through coal exploration activity, proving up the expected value of a tenement in anticipation of a further commercial decision regarding whether or not to move the project forward within an established supply chain or sell off the rights to another third party. Boardwalk Resources may not ever mine the Sienna Project and yet the proposed legislation unfairly constrains them from pursuing a legitimate business activity within the coal industry sector. The reform, constraining coal exploration activity, fails to acknowledge this structural reality within the coal industry;
- By banning any open cut development within the URA the Bill fails to acknowledge current protocols whereby applicants are required to assess the impacts of their development and then design mitigation and amelioration measures to reduce the impact to acceptable levels. The 2km buffer that the URA is based on is arbitrary and returns regulation to a prescriptive rather than impact assessment regime;
- Further, mining projects operate over long-term horizons, generally in excess of twenty years. Constraints imposed on early-stage exploration activity fail to acknowledge that project management solutions across a 20-40 year timeframe, can and have been developed to minimise community impacts;
- The Bill significantly increases the role and responsibility of the local government authority as an assessment agency with responsibility to assess and provide consent for mineral exploration development applications for the newly created urban restriction areas (URA's), and the decision to declare a URA in the first place – with distinct and long term open cut mining implications. This is likely to be a highly complex process especially for smaller councils with limited resources, from both a financial and resourcing perspective. This complexity is somewhat understated within the DEEDI Factsheet FAQ's December 2011, wherein the Queensland Government acknowledges that it will provide support to local government authorities via
 - *a standard form for permit holders to seek the consent of local government for resource activities in an urban restricted area*

- *guidelines to assist local governments to understand different types of resource activities and their potential impacts.”*

Source: Striking the balance between resource activities and urban living. Frequently asked questions. December 2011

- **Boardwalk is concerned that the Bill serves to unfairly shift a significant regulatory burden onto Councils, expecting them to assess and ultimately determine mineral exploration and development activities that they are not ideally suited to undertake;**
- **Further, Boardwalk is concerned that in doing so, the Bill fails to recognise the proprietary rights in Queensland’s minerals – which are vested by Statute in the Crown. The intent of the MRA is that the Crown is to have final say in resource allocation decisions and not local Government. Resource allocation decisions should be made with a range of considerations in mind – considerations that, given the nature of their constituents, local Government bodies are not obliged or even entitled to consider as part of their decision making processes;**
- **There is the additional concern that in response to such demands, Councils will seek to transfer both the internal costs and the likely external costs of professional third party advisory services back onto applicants. This increased cost of compliance is borne by industry when the current system inherently recognises the rights of both individual land-holders and the local communities to be a part of the assessment process of a coal mining project as and when the project moves forward beyond the early stage exploration activity. Boardwalk has first hand experience of assessment costs by third party providers in excess of \$100,000 for a single application;**
- **Throughout a process of some months from when the reforms were first proposed, Boardwalk has continued to engage with a wide number of parties including Ministers, local government, industry stakeholders and the Department. We are increasingly of the view that the concerns raised by Boardwalk may well be unique amongst our contemporaries within the coal mining industry. That being the case we believe there ought to be an opportunity under the legislation for the Minister to exercise discretion to allow activities to occur within the URA at the Sienna Project;**

Boardwalk Resources acknowledges the need for government to pursue reforms to address legitimate and well-held concerns of urban communities, especially those communities within the high-density areas of SE Queensland.

Extending the provisions of the legislation to comparatively smaller regional communities, particularly those within recognised coal producing areas of the State such as the Bowen and Surat Basins, fails to recognise both the dynamics and the historical construct of communities which have evolved virtually overnight in response to the singular driver of mineral resource exploration.

We wish to thank the Committee and its members for the opportunity to present this submission and confirm our availability if required to address the matters raised within our submission at a public hearing of the committee, preferably on the currently nominated date of 15 February 2012 in Brisbane.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'SS', followed by a long horizontal stroke that loops back to the left.

Simon Slesarewich
Acting Chief Executive Officer

*Enc. Attachment 1. Exploration on Urban Lands – Submission Boardwalk
Resources Pty Ltd*

30 September 2011

Ms Bernadette McNevin
A/Director
Mining and Petroleum Industry Policy
Department of Employment, Economic Development and Innovation
PO Box 15216,
City East Queensland 4002

Dear Ms McNevin

Re: Exploration on Urban Lands - Submission

The following submission represents the response by Boardwalk Resources Pty Ltd (Boardwalk or the Company) and the wider Tinkler Group of companies to the Department's call for responses to the public consultation issues paper August-September 2011.

The group has welcomed the opportunity for direct discussions with both the Minister and the Department on a number of issues of material interest to our company. This submission builds on those discussions.

Further, the submission seeks to specifically address the impacts of the proposed reforms on the Sienna Project that is located near the town of Middlemount within Queensland's Bowen Basin. This project is described by the EPC 1033 (and the associated EPC 2089), which combine to make-up the Sienna Project.

Boardwalk is keen to work with the State in order to reach an acceptable outcome that will allow the Company to further progress development of the Sienna Project within a stable and well understood legislative framework that promotes resource development within the State.

We stand ready and willing to participate in meaningful consultation with the State to develop a framework which best manages the competing land interests. Should you require further information, or would like to discuss any facet of our submission please do not hesitate to contact me on 07 3835 3600.

Yours faithfully



Peter Kane
**Managing Director and
Chief Executive Officer**

Cc Jim Grundy, GM Mining and Petroleum Operations



**Submission to the Minister for
Employment, Skills and Mining**

***Exploration and Urban Living: Striking the
Balance***

30 September 2010

Background

The Honorable Anna Bligh MP, Premier of Queensland announced from 16 August 2011 that the Queensland Government had called a temporary halt to the acceptance of new coal or mineral exploration permit applications in and around urban areas. The announcement was followed by the Honorable Stirling Hinchcliffe MP, Minister for Employment, Skills and Mining declaring Restricted Area (RA) 384 under the Minerals Resources Act 1989 over and around urban centres across the entire State.

The temporary halt has the effect of not allowing existing tenure that falls within RA 384 from being upgraded to a higher form of tenure, or new exploration permits being issued. Subsequently on 22 September 2011 Holders affected by RA 384, received communication from the Minister requesting Holders to relinquish those sub-blocks that fall entirely or partly within RA 384.

Boardwalk Resources Pty Ltd (Boardwalk) has determined not to relinquish any of the sub-blocks from its portfolio that are captured by RA 384.

Who we are

Boardwalk is a privately owned Australian coal mining and investment company. Supported by Nathan Tinkler and the Tinkler Group, its primary focus is on building a resource house with a considerable mining inventory based on near term growth.

Boardwalk is based in Brisbane and has a portfolio that centres on projects that will deliver hard coking, PCI and thermal coal products through successful exploration and resource development of proven coal deposits in Queensland and New South Wales. Boardwalk has 3 coal exploration projects in Queensland: Dingo, Monto and Sienna.

The Sienna Project comprises of EPC 1033 and EPC 2089 (see appendix 1) and is located near the mining centre of Middelmount, in Queensland's premier coal mining district of the Bowen Basin. Boardwalk acquired the Sienna Project from Norton Gold Mines Pty Ltd (a subsidiary of Norton Goldfields Limited – a public company listed on the Australian Stock Exchange) in March 2011 for a purchase price of \$30,000,000.

A total of 11 sub-blocks of EPC 1033 are affected by RA 384.

Investment in a *Viable Asset* in an established mining region

The Bowen Basin contains the largest coal reserves in Australia. This major coal producing region contains one of the world's largest deposits of bituminous coal. The Basin contains much of the known Permian coal resources in Queensland, including virtually all of the known mineable prime hard coking coal. The Bowen Basin covers an area of over 60,000 square kilometres in Central Queensland running from Collinsville in the north to Theodore in the south. In excess of 160 million tonnes of coking and thermal coal was exported in 2009/10 contributing 10.5% of GSP.

Within the Bowen Basin there are 15 communities, which had a combined population of 41,973 in 2001. All of these communities are dependent or receive benefits from coal mining to varying degrees. The area has established infrastructure to support the coal mining industry and the communities. The communities of: Collinsville, Glenden, Moranbah, Dysart, Middelmount, Tieri,

Blackwater and Moura were purpose built by the industry, to support the mining developments that commenced in the area after the passing into legislation of the Central Queensland Coal Associates Agreement Act 1968.

Middlemount was established by Shell (now Anglo American) in 1979 to service the German Creek Coal Mine. The township is solely dependent upon coal mining with many of the services normally provided by government being provided directly or indirectly by mining proponents that operate in the area.

Research by the Department of Employment, Economic Development and Innovation (DEEDI) shows that in Middlemount, with a population of 2050 persons, an estimated 1710 (83%) persons are employed directly in mining activity; in the German Creek (650), Oak Park (270), Foxleigh (390) and Middlemount (400) mines alone (see Appendix 3).

In fact, the mapping demonstrates clearly the resounding employment impact of mining throughout the entire Central Queensland region.

The overall Sienna Project is comprised of the Electra and Sienna project areas and covers some 10,080 hectares, comprising of EPC 1033 and EPC 2089. The project area contains the coal bearing sequences of the Rangal, Fort Cooper and Moranbah Coal Measures.

The Sienna Project is located in a highly developed mining district and is surrounded by several existing projects. Some of the existing mines bordering the tenement include:

- BMA's Norwich Park open cut coal operation, producing metallurgical coal and thermal coal at approximately 4Mtpa
- Anglo American's German Creek operations, producing hard coking coal at approximately 5.5 Mtpa
- Anglo American's Foxleigh, open cut operation, producing PCI coal at approximately 3Mtpa
- Macarthur and Gloucester Coal's Middlemount Mine planning to produce semi-hard coking coal and PCI coal at approximately 5.4Mtpa

The recently commissioned Middlemount Mine recently completed a series of public consultation meetings to inform the community of their Stage 2 expansion from 1.8 million tonnes to 5.4 million tonnes per annum. The meetings were poorly attended by the local community (3 attendees). This result illustrates that the Middlemount community understands the positive and negative impacts associated with coal mining and is clearly comfortable with the impacts, thereby welcoming new mining developments.

Boardwalk purchased Sienna from Norton Gold Mines Pty Ltd (Norton) in March 2011 for a purchase price of \$30,000,000. Prior to the sale Norton had completed significant exploration programs in the southern section of EPC 1033 around the town of Middlemount. The program resulted in two areas being identified as containing coal resources worthy of further exploration and potential development. In April 2009 Norton released a combined JORC Resource of 57.1 million tonnes for the two areas of interest.

A significant portion of the JORC Resource at Sienna falls within RA 384 as currently contemplated. Correspondence received from the Minister (22/09/11)

implies that RA384 will be extended to the edge of any sub block that is wholly or partially captured within the 2km buffer.

Following on from the work completed by Norton, Boardwalk has completed modeling and pre-feasibility studies that show that it is economic to develop two modest open cut coal mines that will feed a central processing plant and infrastructure area. It is envisaged that the initial development will support the development of other pits to the north of the initial development, thereby increasing the life of the operation. Further exploration and other technical work is required to complete a feasibility study at Sienna, however, our present pre-feasibility calculations indicate robust economics and timetable as follows:

Construction	AFY 15
Planned First Coal	July 2015
Export Product	PCI – 3.2 million tonnes per annum
Capex	\$250 million
Construction Workforce	+ 300
Operational Workforce	+ 250
State Royalties	\$415 million
Project NPV	\$410 million

Although current plans are in their infancy the Sienna project offers value to all stakeholders including the State and the local community. The broad bush approach advocated by RA384 and the Exploration and Urban Living Policy has the effect of destroying any value in the project.

Existing rigorous approvals regime

The mining industry in Queensland relies on stable government and a policy platform that recognises the long-term horizon of the mining industry. The mining industry also relies on the recognition of the rights of holders of mining tenements. Mining tenements are granted to Holders and in return considerable money spent to explore the underlying resource in the belief that, should a resource be found, the resource has a prospect of development having regard to the legislation and regulations of the day. Any fundamental change in legislation or regulation should not be retrospective as that currently being contemplated.

Boardwalk recognises and respects that any mine development will need to undergo the rigor of the Queensland approval process set out in relevant mining, planning and environmental legislation. We also understand that these matters are, to some extent, dynamic. We also respect that the Queensland parliament may pass laws which limit or prevent new mining tenements in any area of Queensland it sees fit, but should not look to retrospectively impact the rights of Holders of mining tenements.

Impact assessment allows for a comprehensive and project specific application of policy. This system and process has been developed and refined over many years. An established rigor ensures stakeholder consultation and planning to ensure impacts from a development are mitigated or ameliorated to an acceptable level. Boardwalk acknowledges that an impact assessment may determine that impacts from mining at the Sienna Project may require the application of a scientifically based buffer.

Boardwalk submits to the current impact assessment regime and the strategies to reduce impacts to an acceptable level based on science, rather than arbitrary buffers applied via legislation.

If there is an imperative to change the current approvals regime then Boardwalk would submit that a holistic and total review should be completed. One that seeks to fully engage with the industry and community in a broad consultative approach, that encompasses all planning and assessment mechanisms.

RA384 introduced as a temporary measure, in lieu of formal legislation, only confuses the industry and does not allay fears in the community.

Based on the established size of a sub block within Queensland at 2.8 sq/km, Boardwalk submits that the government's policy of a 2km buffer is really 3-4km in many instances. This has the effect of extinguishing even larger areas of the EPC 1033 and compounds the concerns felt by Boardwalk.

One option would be for the government to consider a free form shape to be introduced through any legislation.

Whilst Boardwalk Resources continues to maintain a view in opposition to the proposed policy, we do contend that a free form buffer allows for a greater level of flexibility, increasing the opportunity for the development of the resource whilst still meeting the government's objectives.

Further it would be appropriate for any restrictions within a free form buffer to be adjusted to account for both natural and manmade features. The adjustment should be determined by impact assessment. Boardwalk believes that the adjustment should be available as an exception through any legislation.

The reality is that 2km is an arbitrary buffer. It does not take into account actual site-specific impacts or, the capacity to mitigate the impacts and is arguably inconsistent with the accepted EIS assessment process.

The approach ignores the fact that in existing Queensland mining communities, such as Mt Isa, Charters Towers and Collinsville, mining operations are successfully managed within 2kms of the established community, in some instances within a few hundred metres. Numerous coal mining operations in NSW have successfully operated within a few hundred metres of the towns of Newcastle, Muswelbrook, Wollongong, and Gunnedah.

Equally EIS planning for current projects, such as the Wondoan Coal Project, which has undergone a recent and highly rigorous assessment, acknowledge the potential for mining within the 2km zone around the western side of Wondoan in the Frank Creek area.

Experience borne of a wide ranging involvement in mining activity and in living and working within these communities, continues to show that proper communication, both within and beyond the framework of the established EIS regime, and structured around the actual project, delivers a better outcome. It is the unknown that individuals and communities are concerned about, not the actual mining.

A responsive policy approach

Mining is a complex business. It is characterized by significant capital risk, uncertainty, the logistics of accessing or investing in major supporting infrastructure (eg rail haulage, ports, social and community infrastructure etc) and, more often than not, the relative remoteness of the regional areas that are the focus for exploration activity.

The benefits of mining to the state remain irrefutable.

The recent ACIL Tasman study *Queensland Mining Industries* shows that in the five years from 2002 to 2007, the state's GSP from mining has more than doubled from 2.55% of GDP to 5.45% - with total output in 2007 exceeding \$14.8 billion (see Appendix 3). Statistics compiled by the Queensland Resources Council (QRC) show Queensland's ever increasing reliance on coal mining as the value increased to 10.5% of GSP in 2009/10.

With increasing prices and expanding investment, coal production continues to grow, in spite of the setback of floods earlier this year. The QRC currently estimate coal royalties to yield the state a massive \$8.5 million per day.

In the event of legislative reform, Boardwalk believes the legislation should at a minimum, include the capacity for the Minister to exercise a ministerial power of exemption for both exploration permits and any subsequent mining lease.

As the Department already notes, less than 1% of exploration permits are actually converted into mining leases. This clearly highlights the uncertainty surrounding mineral exploration and reinforces the need for the Minister and by extension the State, to retain a discretionary capacity to make individual determinations, consistent with established environment planning laws and the recognised interests of the State.

Mining development zones

The State recognises the need to plan and set aside designated areas for specific uses, such as the Gladstone State Development Area. The Bowen Basin is a recognised coal mining district. Boardwalk contends that the proposed legislation recognise the Bowen Basin and exempt the Bowen Basin and other mining districts from the proposed legislation and RA384. This has the effect of giving some assurances to residents in South East Queensland, whilst maintaining the appropriate impact assessment regime for recognised mining districts. Boardwalk believes this was the initial intent of the policy.

If the State believes that it is impractical to exempt recognised mining districts from the legislation, Boardwalk believes that criteria be developed within the legislation, with accompanying guidance notes, whereby the buffer may be extinguished should it not be found to meet certain criteria. This concept is similar to the eight criteria proposed to determine Strategic Cropping Land.

The long-term horizon and significant expenditure associated with mining projects demands that the proposed transition arrangements be made significantly broader in their application. Boardwalk submits that current transitional arrangements unfairly treat companies that have expended significant amounts and made even larger future commitments (ie take or pay obligations for infrastructure).

Boardwalk proposes that criteria could be developed whereby if past and committed expenditure exceeds a regulated amount, that the tenement be exempted from the

policy and that assessment of the proposed project should be via the existing impact assessment regime. This goes directly to the state's concerns about speculative holding of exploration permits and the potential to cause concern or uncertainty within communities.

The criteria, whilst not fully developed, may well consider factors such as:

- Density of drilling undertaken or planned;
- The existence of JORC Resource/Reserve reporting and other exploration planning undertaken across the permit area; and
- Recognisable expenditure, not including land acquisitions, to threshold of \$10m consistent with the development of a mineral resource.

Mining Industry and Community already working together

Mining provides or supports essential services to rural communities such as: medical, sporting, recreational and community based services. Without industry support many of these communities would slowly decay and/or disappear. The Exploration and Urban Living policy alone, without a proper and structured total review of the planning process, only adds uncertainty to an investment decision and the communities that may be impacted by a mining development.

Uncertainty reduces the likelihood of development, or may change the development proposal to commit less to the community.

Mining is part of local communities, the two are inextricably linked in many Queensland regional communities and do not see themselves as separate entities or processes.

Without mining, the towns of Moranbah, Dysart, Moura, Tieri, Middlemount, Glenden, Mt Isa and Charters Towers would not exist at all. Other towns such as Cloncurry, Mt Garnet, Wandoan, Biloela, Emerald, Alpha, Clermont, Bluff, Mackay, Gladstone, Coppabella, Capella and many others, although established prior to mining in the district, now benefit from income and services provided by the mining industry operating within these communities.

The mining industry has co-existed and added to the communities in which it has operated through the Bowen Basin and Queensland. There is no reason why this cannot continue into the future, with benefits to all.

Proper information on the current process and status of projects will alleviate anxiety. The current policy is poorly designed and will not be a *silver bullet* to solve the issue of competing land uses. Boardwalk believes that the introduction of the policy will lead to further anxiety within the community, as the community will incorrectly believe that no mining can occur near the community for projects that meet the proposed transition requirements.

Communities will be further confused as they are likely to believe that the new policy will extinguish any project near their community. The confusion and resultant anxiety will come to bear when mandatory public consultation processes are undertaken for a project near that community, whether within a buffer or not.

It is Boardwalk's firm belief that the solution to the current community angst around competing land use lies in a structured review of the existing planning, mining and environmental laws. It is imperative that the current impact assessment regime be properly explained and that the status of project approvals be easily accessed by the community.

Conclusion – Solutions and suggestion

Boardwalk does not support the proposed reforms, arguing that the extent and reach of the government's proposals are counter-productive to the development of the resources sector within recognised mining regions.

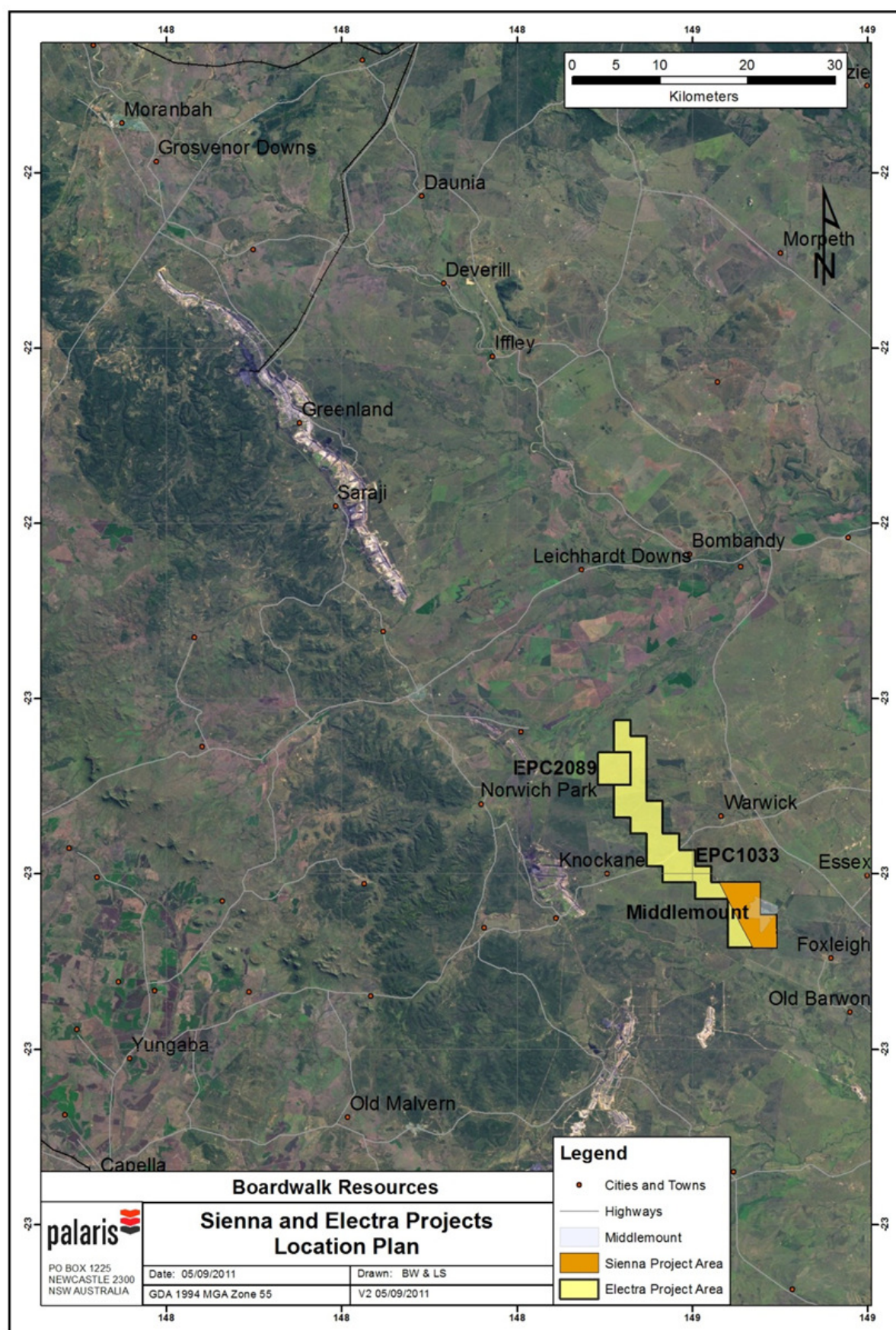
We would submit that the State:

- Not move to retrospectively extinguish rights that have been legitimately acquired;
- Recognise the capacity of mining operations to co-exist within the Middledmount community with little ongoing concern and with the acknowledged economic benefits to both the community and the State; and
- Recognise the established capacity of environmental planning processes to address stakeholder issues on a broad and site specific basis within the proposed Sienna Project.

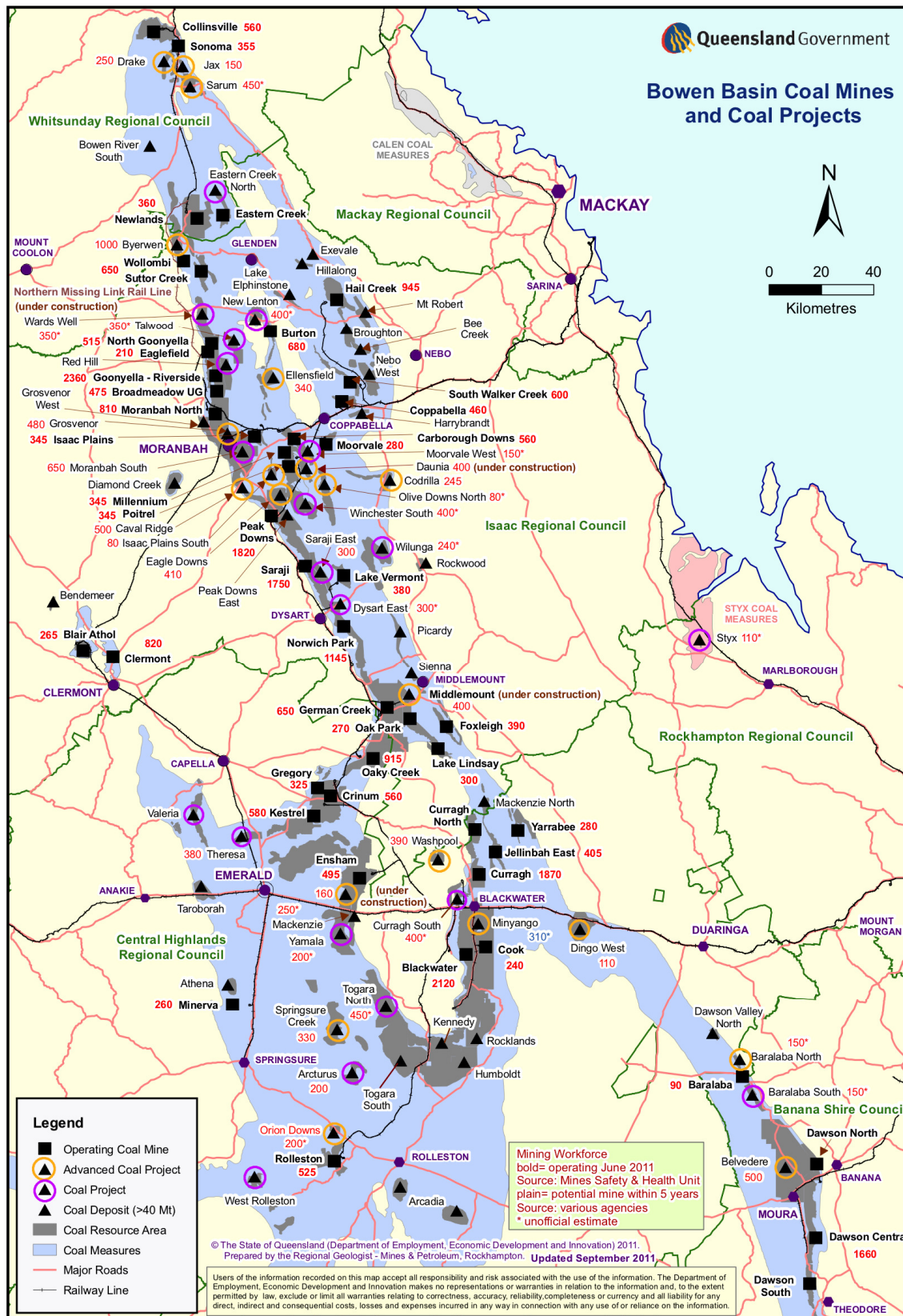
In the event of reforms progressing we further submit:

- That the State support the concept of mining development zones, in which any buffer zone would not be implemented. The Bowen Basin should be included as one such zone;
- That proposed legislation include the provision for the Minister to grant exemptions to a buffer zone on the basis of recognised criteria. This would include a ministerial power of exemption for both exploration permits and any subsequent mining lease. On the basis of Boardwalk's and the wider Tinkler Group's recognised investment, the location of the Sienna Project, the recognised and transparent planning and mineral investigation already undertaken, that the Sienna Project would qualify for exemption; and
- Criteria be developed whereby the policy is extinguished for projects that meet the criteria.

Appendix 1



Appendix 3



Appendix 3

Extracted from Queensland Mining Industries ACIL Tasman Report

Box 1 At a glance—economic impact of mining and mineral processing in Central Queensland

	2007 Report <i>including</i> boundary change (2004-05 Data)	2007 Report <i>not</i> <i>including</i> boundary change (2004-05 Data)	2002 Report (1999-00 Data)	% change 2002 Report to 2007 (<i>not</i> <i>including</i> boundary change)
• Direct output (A\$m)	14,854	14,059	7,172	+96%
• Direct value added at market prices (A\$m)	8,637	8,027	2,861	+181%
• Total contribution to wages & salaries income (A\$m)	5,045	4,796	1,516	+214%
• % Gross State Product	5.45%	5.06%	2.55%	+98%
• Total Qld employment (direct plus indirect)	90,060	85,910	25,593	+290%

Note: *The boundary change referred to in the table is the change in ABS Statistical Division boundary discussed in the text.*