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31 January 2012

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

By email: ietirc@parliament.qld.gov.au

Dear Research Director,

EDO submission on *Resources Legislation (Balance, Certainty and Efficiency) Amendment Bill 2011*

The Environmental Defender's Office (Qld) Inc. (**EDO**) is a community legal centre that specialises in public interest environmental law in Queensland. The primary goal of the EDO is to protect and enhance the environment in the public interest through the use of the law, by and on behalf of the community. Through its law reform activities EDO focuses on ways to strengthen rights of public participation and, institutionalize the principles of ecological sustainable development in environmental and natural resource decision making. EDO submissions can be found on our [website](http://www.edo.org.au).

At the outset we acknowledge this submission is made outside the formal public consultation period. EDO has very few resources available to respond to the high number of law reform initiatives that fall within our expertise. We have responded to this inquiry as promptly as we could. We understand you are holding public hearings in February 2012 and are required to report back to the Minister in March 2012. We ask that our submission be considered even though it is late.

Please note that we have not addressed each and every clause in the Bill. Our silence on a particular clause should not, however, be taken as indicating our endorsement for it.

In summary, EDO supports increased protection for rural communities through urban restricted areas (**URA**). However, we urge the Committee to recommend the following key changes:

- Absolute protection for areas within a URA (there should be no exceptions and no appeal rights for mining/gas companies)
- Absolute protection for localities (having populations of 200 or more). Limiting minimum separation distances to urban centres does not take into account that key mining/gas resource projects are proliferating in rural and urban areas

We support a clear minimum separation distance between mining/gas activities and communities. We ask the Committee to seek clarification on why 2km has been chosen and, where the 2km buffer commences. We submit that the buffer should start at the outer limit of a community. Further, if a greater separation distance is necessary to avoid adverse public health impacts caused by the mine and associate activities, that option must be available.

We support the reforms in relation to electronic lodging of mining/gas tenure applications and supporting documents. But the reforms should not stop there – it is a simple step to make those applications and supporting documents immediately available to the public via a Government website. EDO continues to advocate for improved access to information in relation to mining/gas projects¹. This is the norm for urban planning and development under *Sustainable Planning Act 2009*.

Urban Restricted Areas (URA)

EDO has provided legal advice to individuals and communities across Queensland relating to public health and environmental impacts of mining and gas activities. Increasingly our clients concerns relate to air pollution caused by coal mining activities, specifically chemicals used in blasting, dust including dangerous fine particulates originating from mine sites and/or from storage and road/rail transport of the resource. They express deep concern and anger that rural communities have been forced to migrate and that approval conditions for existing projects have failed to protect the health and wellbeing of the communities that remain.

The Bill attempts to introduce long overdue protection for Queensland communities that are being negatively affected by new mining activities. The introduction of URA provides a buffer around communities within which mining does not occur. We support this approach in principle. We take issue however with the lack of certainty and, the unjustified minimum population threshold and uncertainty around the 2km buffer the Bill introduces.

First, the protection granted by a URA should be absolute. This is the only way to provide certainty for the communities affected, the local governments managing the sustainable development of their regions and the industries that seek to develop the mineral/gas resources. There should be no opt-in or opt-out mechanisms for local government - and certainly not without a requirement to ask the communities affected what they want. Current economic conditions restrict the capacity of local governments to freely decide between the alleged short term benefits of mining with the long term social and environment costs for their communities.

If the decision to opt in or out is left up to the local government there should be no right to appeal to the Land Court of Queensland a decision to opt in. It is completely unacceptable that a local government should be put to the extraordinary public expense of defending a decision to protect its communities from mining/gas impacts.

Second, URAs should be extended to communities with populations less than a thousand (namely, 200 and above). We note that urban centres are defined as having populations of more than 1000 persons. Rural localities are those with populations between 200 and 999 persons. These small communities are

¹ See EDO letter to Queensland Government dated 15 June 2011. Available www.edo.org.au/edoqld/edoqld/new/2011-06-15%20Ltr%20to%20Premier%20on%20mining%20&%20CSG%20processes.pdf

a vibrant and important part of Queensland that should not be discounted. In fact, across Australia, approximately 10% of Australia's population live in towns of less than 1000². We press this point because currently rural localities are as affected, if not more so, by mining and gas activities.

According to the Queensland government's own data³, the following communities – and this is an illustrative list only – are facing large scale coal and coal seam gas operations in their immediate area yet the Bill provides no protection for them whatsoever:

- Springsure (population 908);
- Tara (population 807)
- Taroom (population 606);
- Alpha (population 433);
- Felton (population 279⁴);
- Cecil Plains (population 241);
- Jondaryan (population 516); and
- Wandoan (population 420 – the proposed mine pit for the Wandoan Coal Project is proposed to be 600m from the town.

Acland should serve as a reminder of the irreversible and serious impacts that mining operations can have on a community.

Subject to the comments above, we support the application of this Bill to all future mining/gas activities (i.e. those that have yet to obtain all final approvals). However, given the seriousness of the public health, economic and environmental impacts of these resource activities that have prompted this reform, the new separation distance logically ought to apply to existing projects to prevent those impacts.

Third, we support the use of minimum buffer areas to give communities and industry certainty. The Bill and explanatory notes do not, however, explain how the proposed 2km buffer was derived nor where the 2km buffer commences. – we submit it should be calculated from the outer limit of the community. If a mine occupies many square km, then 2km buffer area might well be inadequate⁵. We ask the Committee to seek clarification on these questions.

EDO agrees that the purpose of any buffer is to avoid any unreasonable interference by mining/gas activities with health and environmental values of rural communities. The appropriate buffer will depend on many factors including the type of mining/gas activities proposed and the physical environment (e.g. topography, climate and vegetation coverage). We submit that the option to increase

² Australian Bureau of Statistics (1998) Australian Social Trends: Population Distribution: Small towns: which ones are in decline?, [Across Australia, approximately 10% of Australia's population live in towns of less than 1000](http://www.abs.gov.au/ausstats/abs@.nsf/Previousproducts/1D90C1EF4AC928D5CA2570EC0018E4F7?opendocument)

³ State of Queensland (2011) *Queensland Regional Profiles*, Office of Economic and Statistical Research, Queensland Treasury. Available www.oesr.qld.gov.au

⁴ Australian Bureau of Statistics (2006) Census Data. Available www.abs.gov.au/websitedbs/censushome.nsf/home/Census

⁵ For example, the proposed Wandoan coal mine including pit and other areas occupies 32,000 hectares, page 5/40 *Wandoan Coal Mine, Initial Advice Statement*, Dec 2007

the minimum buffer be available if it is necessary to avoid adverse public health impacts caused by mining/gas and associate activities.

Online public access to mining/gas applications and supporting documents

EDO supports the electronic lodging of mining and gas project applications and their supporting documents. To ensure transparency, public accountability and wide public participation in decision making, these documents, once uploaded to the relevant website, should be immediately available to the public. This includes applications, supporting materials and public notices that are required under the relevant resource or environmental legislation. Placing this documentation online ensures that those who want to make submissions in the short timeframes required by law are not prejudiced trying to locate and retrieve the relevant information from the applicants and /or government departments.

Resource projects are of concern to people across Queensland, not just those that live in the immediate vicinity, and the current, offline, public notification system for mining leases means people miss out on the opportunity to participate because they are unable to access public notices.

Further information

If you wish to discuss any aspect of this advice please contact Jo Bragg, Principal Solicitor, on (07) 3211 4466 or jbragg@edo.org.au.

Yours faithfully,

Environmental Defenders Office (Qld) Inc.

A handwritten signature in dark ink that reads "Jo-Anne Bragg." The signature is written in a cursive, flowing style.

Jo-Anne Bragg

Principal Solicitor

Environmental Defenders Office (Qld) Inc

To provide feedback on EDO services, write to us at the above address.