



Isaac Regional Council Submission

to the Infrastructure, Planning and Natural Resources
Committee of the Queensland Parliament

**Strong and Sustainable Resource
Communities Bill 2016**



Introduction – “Is the Bill fit to do its job?”

Isaac Regional Council (IRC) commends the Queensland State Government for its commitment to regulating mining projects to ensure that affected communities are rendered stronger and more sustainable.

The *Strong and Sustainable Resource Communities Bill* (the Bill) tabled in Parliament on 8 November 2016 by the Minister for State Development and Minister for Natural Resources and Mines, the Honourable Dr Anthony Lynham, is a clear and purposeful means to this end.

This submission follows a credible campaign of advocacy by IRC over several years at State and Federal Government levels.

The focus of this submission is not to reiterate the principles of previous campaigns, but simply to analyse whether or not the Bill is fit to achieve its objectives.

In this submission IRC presents a practical assessment of the Bill’s objectives and its content to determine whether or not the Bill will be able to do the job it is supposed to do.

Further IRC respectfully presents in this submission, suggested changes to the Bill which will enhance its capacity to deliver on its objectives.

Objects of the Bill – “The job”

“3(1) The object of this Act is to ensure that residents of communities in the vicinity of large resource projects benefit from the operation of the projects”

This is the job that this Bill is asked to achieve. It is ambitious and rightly so. It includes the verb “ensure” which is a very strong onus that the Act will be obliged to fulfil.

In the Explanatory Notes for the Bill, the same verb has been chosen;

“The objective of this Bill is to ensure that regional communities... benefit...”, and

“... ensure that local workers from nearby regional communities are employed...”

The use of this simple word “ensure” establishes lofty expectations of the Bill.

With this in mind IRC is committed to assisting the Queensland State Government to ensure that the Bill satisfies its obligations.

Provisions of the Bill – “The tools for the job”

“The Bill aims to:

- prescribe the social impact assessment (SIA) process for large resource projects; prevent the use of 100 per cent FIFO workforces for the operation of future large resource projects located near regional communities;*
- prevent resource companies discriminating against local residents in the future recruitment of operational workers;*
- support existing and new workers who choose to live and work in regional communities;”*

According to the Explanatory Notes, these are the means by which the Bill will achieve its objectives.

The value of each of these tools is at this stage largely untested, but in a practical sense IRC offers the following observations:

1. conditions that arise from any Social Impact Assessment (“SIA”) will only be of value if they are able to be enforced, and in fact only if they are enforced;
2. compliance with a ban of 100% FIFO workforces can be easily achieved by employing just one person who resides locally;
3. anti-discrimination laws have existed for some time but should not be considered a panacea with relatively low numbers of complaints actually being received¹

IRC supports these tools, but wishes to make the point that they will need to be given adequate strength in the bill to be effective and meet its objectives.

¹ Ref 2015/16 ADCQ Annual Report – of 636 complaints received state-wide, 83% were from South East Queensland with just 36 from the North region across all aspects of discrimination covered by ADCQ.



Manifestation of the Bill’s objectives – “The realities of the job”

The following manifestation circumstances are practical and meaningful bases for assessing the future realities of the job that the Bill will be required to do. Analysis of each measure has resulted in a traffic light rating (red is significant concern, orange is some concern, and green is no concern).

No	Circumstance	Effectiveness of the Bill	Reason
1	Existing mines convert to 100% FIFO	red	Prevention of 100% FIFO only relates to future projects
2	Existing mines (pre 2009) discriminate against local residents	red	Anti-discrimination applies only to pre 2009 projects
3	Projects discriminate against residents living in non-eligible communities even if they are just a short distance outside the 100km threshold	red	Definition of “nearby regional communities” is based on arbitrary defined threshold of 100km and discrimination is lawful outside of the defined communities
4	Projects discriminate against residents living in non-eligible communities but wishing to relocate to eligible community if employment is secured	red	Definition of “nearby regional communities” is based on arbitrary defined threshold of 100km and discrimination is lawful outside of the defined communities
5	Projects require local resident worker to live in site accommodation during shift – negating the benefits of living at home	red	Explanatory notes make it clear that the Bill will not make this unlawful
6	Affected but non-eligible communities within the region are excluded from the notion of benefit from employment and other social and economic benefits	orange	Unless the Coordinator General identifies them as eligible the Bill does not have regard for them

No	Circumstance	Effectiveness of the Bill	Reason
7	Project owners deliberately risk non-compliance	orange	The maximum penalty in Regulation is constrained to just 20 penalty points which is immaterial and non-deterrent for large budget projects
8	Project owners deliberately operate inconsistently with object of the Bill during construction phase	orange	The Bill does not apply to the construction phase unless Coordinator General deems appropriate
9	Project owners deliberately operate inconsistently with object of the Bill during de-commissioning phase	red	The Bill does not apply to the de-commissioning phase
10	Project owners discriminate against local resident workers in aspects of employment other than recruitment e.g. shifts, training etc	red	Unlike all other areas of discrimination in the <i>Anti-Discrimination Act</i> , the Bill does not apply to broader aspects of employment
11	SIA conditions do not accord with actual needs of local communities	orange	The Bill does not require the Coordinator General to consult with the local government in setting SIA conditions or even give a copy to the local government
12	SIA conditions are relaxed over time contrary to local communities' needs	orange	The Bill does not require either the Project proponent or the Coordinator General to consult with the local government on changes to SIA conditions
13	Services in local communities prove to be inadequate for impacts of projects e.g. disaster management, social support services, health services and emergency services etc	orange	The Bill does not require the Coordinator General to consult with the local government or other government departments and agencies in setting SIA conditions

14	SIA conditions in conjunction with State Government's own resources prove inadequate financially and/or practically to manage social impacts eg disaster management, social support, health services, emergency services etc	orange	SIA Guidelines are not yet available and may not adequately impose sufficient obligations on project owners and/or sufficiently integrate with State Government service planning and resource allocation
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IRC concludes from this analysis that the Bill is not currently fit for the job that it is required to do ie the Bill is not equipped to achieve the high expectations of ensuring benefit for local residents.



Suggested changes to the Bill – “*The right tools for the right job*”

IRC proposes the following changes to the Bill for consideration by the Infrastructure, Planning and Natural Resources Committee.

Section of the Bill	Topic	Issue	Suggested change
3(1)	Benefit for local businesses	The Social Impact Assessment is required to address local business procurement, but the object of ensuring benefit for local business is not reflected in the object of the Act	Include the words “and businesses” in this section after the word “residents”
6	Future projects only	The Bill does not capture existing projects, so 100% FIFO may be applied to those projects in future	This section should apply to existing projects to prevent them from converting to 100% FIFO
6	Adoption of 100%	Employment of just one employee that is not FIFO will achieve compliance, which is not consistent with the Object of the Bill (Section 3(1))	The Bill should prohibit exploitation of this loophole in some way, e.g. address it in Social Impact Assessment conditions
6	Reference to "operational phase" only	Construction and de-commissioning phases for large resource projects can potentially offer local employment opportunities and should similarly be subject to prohibition of the 100% FIFO	This section should also relate to construction and de-commissioning phases in lieu of the option for selective application to construction phase as established in section 12

Section of the Bill	Topic	Issue	Suggested change
8(1)	Date of issue of EIS assessment report for a project after which the anti-discrimination provisions apply	The 30 June 2009 date does not capture older projects, so discriminatory practices may be applied to those projects.	This section should apply to all existing projects.
8(1)	Relevance of "nearby regional community "	<p>As defined in the Bill (Schedule 1) the reference to "nearby regional community " is not appropriate for offences relating to advertising, as it inadvertently allows advertising which stops workers anywhere else (and importantly those living in other communities in the region) from applying for positions.</p> <p>This clause should preferably prohibit discriminatory advertising completely.</p> <p>At the very least however it should prohibit advertising which stops workers living within the broader region from applying.</p>	<p>Section 8(2)(a) should be amended to read; <i>"advertise positions for workers for the project in a way that stops any person from applying for the positions on the basis of their residential location."</i></p> <p>Section 8(2)(b) should be amended to read; <i>"otherwise state, in any way in a document, that any person is not eligible to be a worker on the project on the basis of his/her residential location"</i>.</p>
11(2)	Consultation with the Local Government	The Local Government should be consulted in the establishment of appropriate conditions to manage the social impact of the project.	<p>Insert the following words at commencement of section 11(2);</p> <p><i>"Following consultation with the relevant Local Government..."</i></p>

Section of the Bill	Topic	Issue	Suggested change
11(3)(d)(i)	Consultation with the Local Government	While section 35F of the <i>State Development and Public Works Organisation Act 1971</i> allows the Coordinator General at its discretion to consult with anyone, a change to the conditions set to manage the social impact of the project should be subject to consultation by the Coordinator-General with the Local Government.	Insert the following sub-section in section 11(3)(d); “(iii) the Coordinator-General shall consult with the relevant Local Government in accordance with section 35F of the <i>State Development and Public Works Organisation Act 1971</i> ”
12	Consultation with the Local Government	The Local Government should be consulted in the nomination of projects to which workers are relevant for construction phase.	Insert the following words at commencement of section 12; “Following consultation with the relevant Local Government...”
12	Application to de-commissioning phase	De-commissioning phases for large resource projects can potentially offer local employment opportunities and should similarly be subject to provisions of the Act.	Insert the following words in Section 12; “and de-commissioning phase” immediately after the words “construction phase”.
13	Notification to the Local Government	Notification should be given to the Local Government by the Coordinator-General with reasons for the determination.	Insert the following sub-section under section 13; “The Coordinator-General shall notify the relevant Local Government of details of decisions with reasons for the decision”.
14	Notification to the Local Government	Notification should also be given to the Local Government by the project owner.	Insert the following words in section 14: “and the relevant Local Government” immediately after the words “Coordinator-General”.

Section of the Bill	Topic	Issue	Suggested change
19	Relevance of "nearby regional community "	<p>As defined in the proposed section 131B of the <i>Anti-Discrimination Act 1991</i> the reference to "nearby regional community" is not appropriate for prohibition of discrimination, as it inadvertently allows discrimination against workers living in other communities in the region.</p> <p>Discrimination is discrimination and should not be condoned at all.</p> <p>At the very least this clause should prohibit discrimination against workers in the broader region, many of whom have lived and worked in nearby communities in a local transient manner as projects have come and gone.</p>	Section 19 should be amended to delete any reference to "nearby regional community".
19	Discrimination in other employment activity	<p>The proposed section 131C(2) of the <i>Anti-Discrimination Act 1991</i> appears only to relate these sections to "recruitment" whereas it is also applicable to other employment activity e.g. rostering, shift lengths, accommodation etc.</p> <p>By deleting reference to "recruiting" the scope of discrimination should extend to other employment activity in the pre-work or work areas as outlined in sections 14 and 15 of the <i>Anti-Discrimination Act 1991</i>.</p>	<p>Delete sub-sections (a) and (b) of the proposed section 131C(2) of the <i>Anti-Discrimination Act 1991</i> and replace with the following words; "discriminate against a person on the basis of their residential location".</p> <p>Delete subsection (5) of the proposed section 131C(2) of the <i>Anti-Discrimination Act 1991</i>.</p>

Section of the Bill	Topic	Issue	Suggested change
19	Date of issue of EIS assessment report for a project after which the anti-discrimination provisions apply	The 30 June 2009 date does not capture older projects, so discriminatory practices may be applied to those projects.	This section should apply to all existing projects.
Missing from Bill	Prohibition of requiring nearby resident workers to live away from home in project camp accommodation	<p>Mandatory project camp accommodation forces workers to live away from their families while on roster even though many living within close commuting distance from the project.</p> <p>This has a major social impact on those workers and their families when they have chosen to live in the nearby communities for the express reason of enhancing a strong family home environment.</p> <p>This is also a key factor in attracting and retaining population in these communities for economic sustainability.</p>	Include provisions that prohibit any requirement for workers to live in project camp accommodation, if the worker lives within close commuting distance from the project.

Conclusion – “*Job done!*”

IRC acknowledges the significant opportunities previously provided to contribute the development of this important legislation and will be prepared to engage with the Queensland State Government to ensure that the Bill is fit for the job to be done.

