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3 August 2012

The Research Director
State Development,
Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

BY EMAIL: SDIIC@parliament.qld.gov.au

Dear Sir / Madam

Submissions to the State Development, Infrastructure and Industry Committee - Review of *Land Act 1994* (Qld)

We write to provide comments on behalf of our client, Xstrata Coal Queensland Pty Ltd (“**Xstrata**”) in response to the inquiry into the future and continued relevance of Government land tenure across Queensland.

Xstrata’s interest in the inquiry arises from their participation and involvement in the Natural Resources and Mines sector. Xstrata regularly negotiates and interacts with land holders whose land is or has previously been leased from the State of Queensland. As such this land is subject to the restrictions on corporate ownership in sections 145 and 174 of the *Land Act 1994* (Qld) (“**the Act**”).

Background

Xstrata is the world’s largest seaborne exporter of high energy thermal coal used to generate electricity. They have interests in over 30 operating coal mines in Australia, including Queensland and overseas. As part of our client’s interest in coal mines, our client regularly deals, negotiates and liaises with land holders over which our client’s mining operations are located.

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Submissions to sections 145 and 174 of the Act

Section 145

Section 145 of the Act provides that only individuals are eligible to hold a lease that is either:

- (a) a Perpetual Lease issues for grazing or agriculture purposes;
- (b) a Grazing Homestead Perpetual Lease (“GHPL”); or
- (c) a Grazing Homestead Freeholding Lease (“GHFL”).

An individual for the purposes of the Act does not include a corporation, such as Xstrata.

This restriction cannot be removed with the Governor in Council’s approval.

Section 174

Section 174 provides that if a perpetual lease for agricultural or grazing purposes is converted to a deed of grant, or a deed of grant issues for a Grazing Homestead Perpetual Lease, the deed of grant is issued subject to a covenant prohibiting the transfer of the land to a corporation, or to a person as trustee for a corporation, without the Governor in Council’s approval.

This restriction can be removed with the Governor in Council’s approval.

Submissions

Our client believes that the restrictions contained in sections 145 and 174 of the Act:

- Act as an unnecessary impediment during negotiations between landowners and miners;
- Prevents landowners and miners from achieving a mutual outcome regarding transfer of ownership in land to the miner;
- Prevents landowners from directly transferring Grazing Homestead Perpetual Leases to corporations; and
- Are no longer relevant or necessary.

Our client seeks amendments to sections 145 and 174 of the Act to allow for greater freedom for land holders to negotiate and deal with the subject land. Xstrata believes that this can be achieved by:

- Removing the restrictions contained in sections 145 and 174 of the Act; or
- Including in section 145 of the Act a process whereby the Governor in Council can approve ownership by a corporation of a perpetual lease issued for grazing or agricultural purposes, a GHPL or GHFL. This would bring section 145 in line with section 174.

Our client's proposed amendments will greatly facilitate negotiations between landowners and miners, by enabling both parties to achieve resolutions that are suitable to all parties. It will also streamline the negotiation and conveyance process.

Sections 145 and 174 of the Act were introduced many years ago to prevent corporations from owning large farming land. We submit that the reason for preventing corporate ownership is now out dated.

Furthermore, it is our understanding that the Governor in Council has approved 288 applications for the removal of the section 174 restriction since 2005. This supports Xstrata's submissions to remove the restrictions contained in section 145 and 174 of the Act or amend section 145 to bring it in line with section 174.

If you have any queries in relation to the above submissions, our client would appreciate the opportunity to be heard further and for its opinion to be considered. To that end our client would welcome any further opportunity to discuss possible amendments to sections 145 and / or 174 of the Act.

Yours faithfully
GERARD BATT LAWYERS

A handwritten signature in black ink, appearing to be 'Gerard W Batt', written over a vertical line that extends from the 'Yours faithfully' text.

Gerard W Batt