

Rio Tinto Coal Australia Pty Limited  
GPO Box 391  
Brisbane Queensland 4001  
Australia  
T +61 (0) 7 3625 3000  
F +61 (0) 7 3625 3001

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Submission No. 008

16 January 2014

11.1.14

The Research Director  
State Development, Infrastructure and Industry Committee  
Parliament House  
George Street  
**Brisbane 4000**

Dear Research Director

**Regional Planning Interests Bill 2013 - Submission to Committee**

Rio Tinto Coal Australia (RTCA) makes this submission in relation to the *Regional Planning Interests Bill 2013* (Bill) which was referred to the Committee on 20 November 2013 by the Deputy Premier and Minister for State Development, Infrastructure and Planning, The Honourable Jeff Seeney MP.

RTCA, headquartered in Brisbane, is one of Australia's leading mining organisations with a highly successful record in developing and managing world-class coal operations. It is a wholly-owned member of the Rio Tinto Group and sits within the Rio Tinto Energy Product Group. RTCA produces both thermal and coking coal from our six operations - in the Hunter Valley in New South Wales and Queensland's Bowen Basin - for international export. In Queensland, the company operates the Hail Creek, Kestrel and Clermont mines.

Rio Tinto Alcan, another of the five product groups within Rio Tinto, will make a separate submission in relation to this matter.

Like many others in the coal industry, RTCA has faced considerable economic headwinds in recent years. After concerted efforts, we have increased productivity and reduced costs across our operations. While we have made progress, challenging conditions prevail and we can ill afford additional burdens, particularly additional regulation that creates further business uncertainty.

The coal industry is a significant contributor to the regional and broader economy of Queensland and Australia. We recognise agriculture as an important sector for the State and the need for careful consideration to be given to potential land use conflicts between resources and agriculture.

The Bill in its present form will impact on our Kestrel Mine, including the US\$2 billion Kestrel South project recently opened by the Queensland Treasurer. The Bill will impact on currently approved operations and current applications for approvals relating to parts of the Kestrel South project.

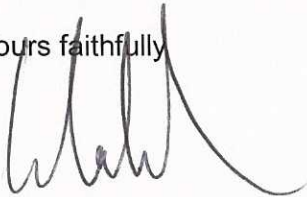
We have used Kestrel Mine as an example in **Attachment 1** to illustrate our concerns with the Bill.

We recognise the Deputy Premier's request for industry to contribute to 'shaping' the Bill through submissions. We submit the following changes for consideration -

- 1 Existing mining rights to be secured and not require another approval.
- 2 Projects currently undergoing assessment under the *Environmental Protection Act 1994*, *Mineral Resources Act 1989* and *Strategic Cropping Land Act 2011* should also not require a Regional Interests Authority.
- 3 Mining activities on strategic cropping land to be treated (ie assessed) in the same way under the Bill as under the *Strategic Cropping Land Act 2011* where located outside priority agricultural areas.
- 4 Exempt coal exploration activities which are appropriately managed under codes as well as compensation agreements under the *Mineral Resources Act 1989*.
- 5 Remove third party appeal rights to the grant of a regional interests authority as third party appeal rights are already available under the *Mineral Resources Act 1989* and *Environmental Protection Act 1994*.
- 6 Provide a process to change the mapping, as the trigger mapping is known to be inaccurate.
- 7 Clearly exclude consideration of water resources which are already comprehensively assessed and compensated under the *Queensland Water Act 2000* and *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*.
- 8 Provide 'step in powers' for the Queensland Government to decide whether to grant a regional interests authority for key projects of importance to the State economy.

We would welcome the opportunity to provide any further information or clarification to support our submission through contact with Anthony Russo, Manager - Project Approvals on 07 3625 4823 in the first instance.

Yours faithfully



**Chris Salisbury**  
**Managing Director**

Enclosure Attachment 1 - Case Study: Kestrel Mine



## Attachment 1 - Case Study: Kestrel Mine

### 1.0 Overview

Kestrel Mine is located in central Queensland, approximately 40 km north east of Emerald and 300 km west of Rockhampton (refer **Figure 1**). It is located within the Central Queensland Regional Plan area.

Kestrel Coal (a wholly owned subsidiary of Rio Tinto Coal Australia) manages Kestrel Mine on behalf of the joint venture partners; Queensland Coal Pty Limited and Mitsui Kestrel Coal Investment Pty.

Kestrel Mine covers four Mining Leases (MLs) and three Mineral Development Licences (MDLs) and operates under a single Environmental Authority. The respective areas are shown on **Figure 2**.

The Kestrel Mine is located within the Western Cropping Zone of the strategic cropping land (SCL) Management Area. A large portion of the MLs are trigger mapped as potential SCL as illustrated in **Figure 2**.

Previously known as Gordonstone Mine, the operation was opened by the Atlantic Richfield Company (ARCO) in 1992. Rio Tinto purchased ARCO's 80 per cent interest in February 1999 and the operation was reopened under the employee-voted name Kestrel Mine, in honour of the small falcon bird that can regularly be seen flying over the area.

Mining in the Kestrel North area is nearing completion. Coal has been mined out in the "100 series" and "200 series" underground development panels and the "300 series" panels are now being finished. Coal production has recently commenced at Kestrel South following completion of the four year US\$2 billion dollar project that will add 20 years of life to the mine. Kestrel South is expected to mine the "400 series" panels until 2032. The series of underground panels is shown on **Figure 2**.

The official opening of the Kestrel South Project was attended by the Queensland Treasurer in October 2013. In his speech at the event, the Honourable Treasurer Tim Nicholls MP said -

*"Coal continues to play a vital role in the state's economy and I welcome this long-term commitment by Rio Tinto in Queensland."*

*"It is yet more evidence that businesses have the confidence to invest, employ and grow here."*

*The Treasurer joined Rio Tinto Energy Chief Executive Harry Kenyon-Slaney on an underground tour of the mine, which commenced production in July 2013.*

*"Today we are celebrating a long-term future for Kestrel Mine and our workforce of more than 500 employees and contractors, the relationships we have with our customers and the contributions we make to the local community and Queensland."*

*"A mine of this size will spend many billions of dollars in operating expenses over its life, including payments to employees, contractors and through the procurement of goods and services from other businesses who supply us."*

*"This extension has delivered one of the most advanced and sophisticated underground coking coal operations built in Australia."*

*"It is equipped with a new level of automation that will deliver significant safety and production improvements.*

*"I look forward to seeing Kestrel Mine continue to lead the way in improving the competitiveness of our Australian coal business while providing benefits for the state."*

## **2.0 Impacts on Existing Operations**

### **2.1 Existing approvals**

The existing mine operates within mining leases ML1978, ML70301, ML70302 and ML70330 issued under the *Mineral Resources Act 1989* (MR Act) and an Environmental Authority issued under the *Environmental Protection Act 1994* (EP Act).

In addition to the Environmental Authority, under the EP Act, the mine must also be operated under a Plan of Operations, which provides the detailed operational plan. Under the EP Act, the term of the Plan of Operations can be a maximum of five years and is typically one year to reflect the annual mine planning process (referred to as the Annual Operating Plan).

### **2.2 Implications of the Bill**

Under the proposed Bill, a Regional Interests Authority (RIA) approval would be required to continue existing mine operations on expiry of the Plan of Operations. Furthermore, the grant of the RIA would be subject to appeal by 'affected land owners'. This adds unacceptable uncertainty, cost and delay for existing approved operations, which should not require a further approval.

### **2.3 Co-existence with agriculture**

The Kestrel Joint Ventures owns some 17,700 hectares of land within the footprint of its tenements, with some 16,447 hectares leased for agricultural purposes (grazing). That is, more than 90% of the land area is used for agriculture.

These agricultural activities are managed under a Property Management Plan (as a condition of the lease) and include mine rehabilitated areas, active mining and exploration areas and future mining and exploration areas. Over the past 10 years, areas of salinity and hardpan from unsuitable organic wheat cultivation (under previous ownership) have been rehabilitated. The lush native grasses have returned and cattle are rotated in accordance with the Property Management Plan to ensure high grass yields are sustained.

The current lessee employs three permanent staff.

### **2.4 Rehabilitation of mined land**

Monitoring of rehabilitation in the area of the longwall panels, referred to as the 200 series (refer **Figure 2**), has shown that the short term removal of cultivation and the promotion of pasture pre and post mining will lead to the amelioration of limitations such as hardpans, allowing cultivation to return.

### **2.5 Regional economic benefits**

Kestrel Mine is a significant contributor to the local economy, purchasing over \$130 million of goods and services from 169 suppliers in the Emerald region in 2012 and spending in the order of \$75 million on salaries and some \$60 million in royalties and taxes in the 2012/13 financial year.



Since 2003, more than \$2 million has been invested in local community projects through the Kestrel Mine Community Development Fund and the Kestrel Mine Aboriginal Community Development Fund. In 2013, site donations to the local community totalled \$37,000. The Kestrel Mine Community Development Fund contribution to local programmes was \$376,000 and the Kestrel Mine Aboriginal Community Development Fund contributed to the traditional owners and local indigenous community over \$252,000.

### **3.0 Impacts on current approval applications relating to future parts of Kestrel South**

#### **3.1 Current Applications**

The Kestrel South Project is located within the same MLs as the Kestrel Mine, and as shown on **Figure 2** includes parts of the 500 series panels. However, the southern parts of the 500 series panels are located within MDL176, MDL345 and part of MDL182 (refer **Figure 2**). The MDL tenements over the southern parts of the 500 series panels were not converted into MLs at the time of the original approvals for the Kestrel South Project because of an on-going Native Title process for a small parcel of unallocated State land (Lot 8 on TT424) located within MDL176.

An application for a ML under the MR Act was made in October 2012 to convert the MDLs to MLs, referred to as Kestrel Extension #4. An application to amend the Environmental Authority was also made at the same time, as required under the EP Act. The process is currently at the information request stage.

The coal reserves associated with the 500 series within the MDLs are estimated at 54 million tonnes (Mt) of ROM coal or 44 Mt of product coal in addition to the 2009 Kestrel Mine Reserve Statement of marketable reserves of 127.7 Mt for the areas under existing MLs.

The Kestrel Extension #4 is located within the Western Cropping Zone of the SCL Management Area. A large portion is trigger mapped as potential SCL as illustrated in **Figure 2**. An application for a protection decision under the *Strategic Cropping Land Act 2011* (SCL Act) was made in December 2012.

#### **3.2 Implications of the Bill**

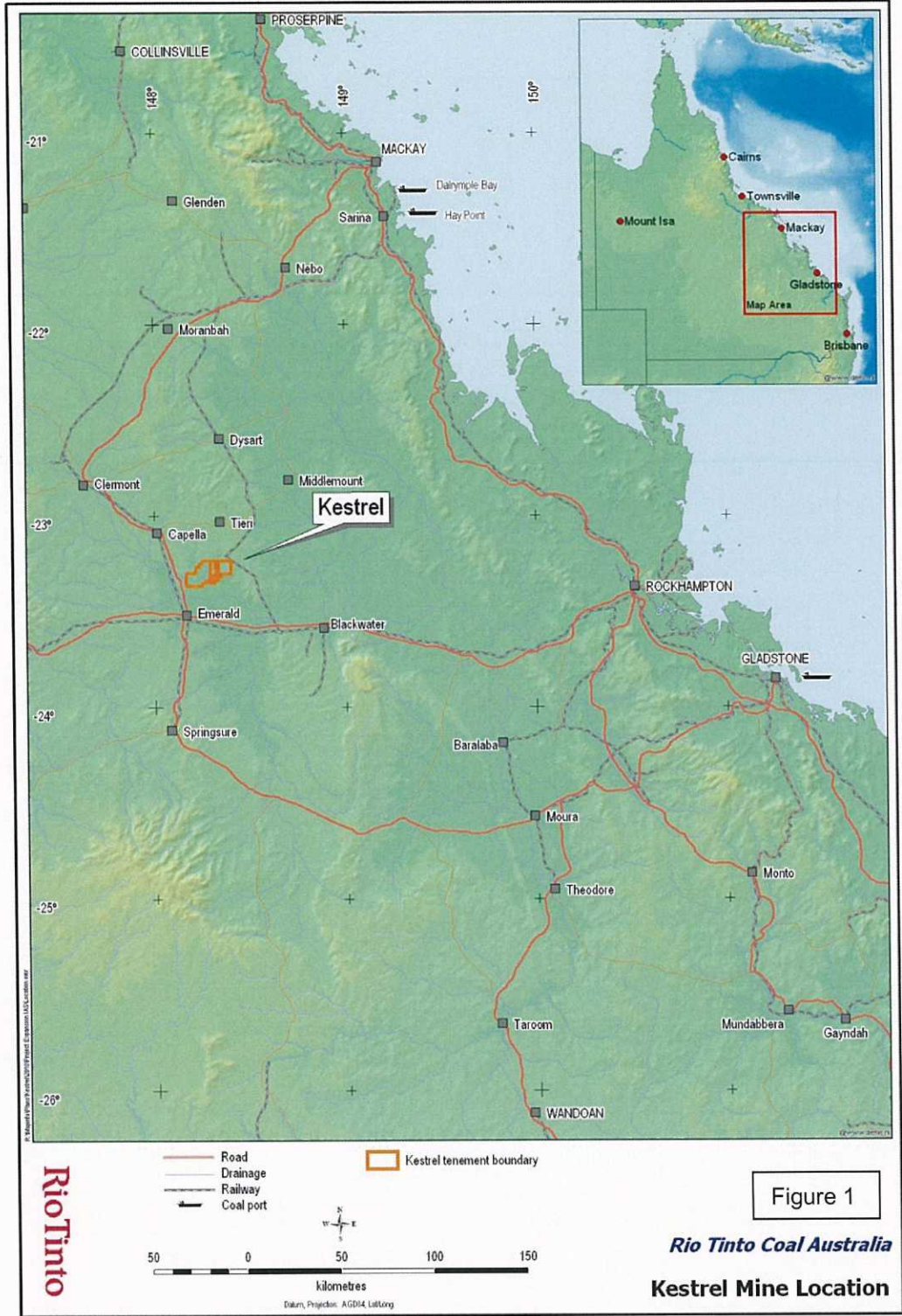
Under the proposed Bill, if this application for a protection decision under the SCL Act is not finalised before commencement of the Bill, it is taken to be an application for a Regional Interests Authority (RIA).

There is presently nothing in the Bill that identifies how this application will be progressed or the decision criteria against which it will be assessed. If the existing SCL criteria and assessment process are not retained for the application, this creates an unacceptable level of uncertainty for a project that has been subject to US\$2 billion of investment, located mostly on company owned land that has co-existed with agriculture since commencement of mining.

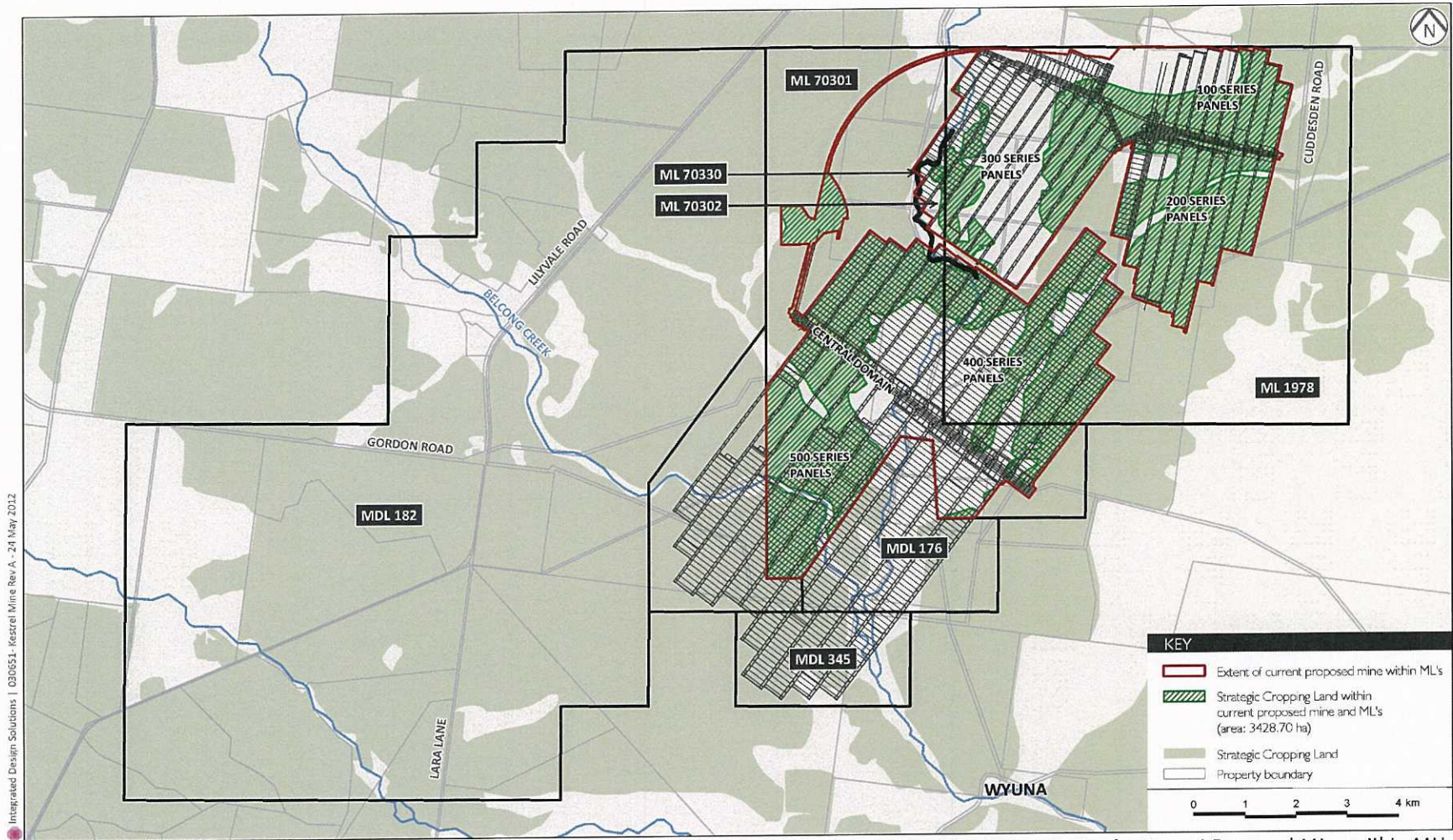
Furthermore, the granting of the RIA would be subject to third party appeal rights for 'affected land owners'. This would be in addition to appeal / objection processes for the application for ML under the MR Act and amendment of the Environmental Authority under the EP Act. Conceivably, the Kestrel Extension #4 project could be subject to three court appeal processes. This adds investment uncertainty, cost and delay.

### 3.3 Co-existence with agriculture

The lands within the footprint of Kestrel Extension #4 (apart from the small parcel of unallocated State land discussed above) are managed within the Kestrel Mine lands and co-exist with mining activities (including exploration), as discussed in **Section 2.3**.







Integrated Design Solutions | 030651 - Kestrel Mine Rev A - 24 May 2012

Source: State of Queensland (Department of Environment and Resource Management) 2011

Strategic Cropping Land - Current Proposed Mine within ML's

Kestrel Mine Extension

Figure 2