



Mr David Gibson MP, Member for Gympie  
Chair, State Development, Infrastructure and Industry Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

via email: [sdiic@parliament.qld.gov.au](mailto:sdiic@parliament.qld.gov.au)

**Submission No. 009**

**16 January 2014**

**11.1.14**

Dear Mr Gibson,

**RE: Committee inquiry into the *Regional Planning Interests (RPI) Bill 2013***

International Coal Limited (ICX) is a publicly listed Australian owned, Queensland based, coal exploration company with exploration permits in Queensland. We are currently exploring at exploration permits near Bundaberg (in joint venture with Queensland Coal Investments), Charleville (ICX's South Blackall Project) and are negotiating land access arrangements to explore the Consuelo Project south of Rolleston and a small tenement near Injune in southern Queensland (in joint venture with Coal Face Resources Pty Ltd).

Despite the recent downturn in world coal prices, International Coal Limited remains committed to the development of our exploration permits and intend to move toward production over the next five years. We recently moved our head office to Queensland as we view this state as the prime destination for coal exploration in the world.

ICX recognises the need for resource activities to co-coexist with other land uses and supports the efforts of the current Queensland Government to achieve a balance between different land uses and to encourage the continued development of the economic pillars of our economy (including mining and resources).

ICX is a member of the Queensland Resources Council (QRC) and Queensland Exploration Council (QEC) and supports the broad submissions made by both the QRC and the QEC. This submission on the *Regional Planning Interests Bill 2013* (the Bill) has been prepared to provide further support to the QRC position and to highlight some of the positive proposed changes by the QRC that would be particularly important to companies exploring for coal in Queensland.

**Avoid Retrospective Affect**

QRC recommends a series of clear grandfathering and genuine transitional provisions to ensure that the rights of existing resource approvals are appropriately recognised. ICX supports this position and its extension to existing exploration permits for coal.

**Consider the Bill's scope**

ICX supports the QRC's call for the Committee to recommend that regulatory criteria are finalised prior to re-introduction of the Bill as an Act (in close consultation with industry) to describe how regional interest areas are to be identified, defined and mapped as well as providing an objective system for managing coexistence outcomes.



## Sweeping delegation of statutory powers

ICX agrees with the QRC that the Bill as currently drafted grants extensive powers to as-yet-unseen regulations. The Bill should not be enacted in its current form until consultation occurs on those regulations. A regulatory impact statement (RIS) that encompasses the Bill, regulations and codes would provide a good starting point for assessing the Bill's net effect. This process would also provide a good opportunity for public consultation on the many new proposals included in the Bill's drafting.

ICX recommends the Committee request consultation be extended on the Bill and the related proposed regulations prior to commencement of the Bill as an Act.

## Exempting Low Impact Exploration

It is particularly important that both the Bill and related Regulation to be drafted recognise the difference between low impact exploration activities and higher impact mining activities. Exploration provides the future for Queensland's mining industry as without it, the pipeline of projects that have provided one of the foundation pillars of our economy will not continue to perform. Exploration is an area of vital importance to our economy built on over 100 years co-existence with agriculture and other land uses through our current system of tenure management and regulation.

ICX supports the QRC suggestion that, as many exploration activities will be indistinguishable in duration, scope or impact from small scale mining activities, these low-impact exploration activities should also be generally exempt.

It is recommended the Committee amend the Bill to provide a general exemption for low impact exploration.

However, ICX recognises the attempt in the draft bill to provide a 12 month exemption for exploration activities under Division 2. Section 22 of Division 2 does seem to contain a drafting error as it currently states that:

"The resource activity is an exempt resource activity for a priority agricultural area if—

- (a) either—
  - (i) if a conduct and compensation agreement requirement applies to the authority holder under a resource Act—
    - (A) the land owner and the authority holder are parties to a conduct and compensation agreement under the resource Act, **other than because of the order of a court (sic)**; and
    - (B) the authority holder has complied with the requirement; or
  - (ii) the land owner has voluntarily entered into a written agreement with the authority holder and the carrying out of the activity is consistent with the agreement; and
- (b) the activity is not likely to have a significant impact on the priority agricultural area; and
- (c) the activity is not likely to have an impact on land owned by a person other than the land owner."



The statement in Section 22 (i) (A) limits the effect of any court ruling in favour of the tenement holder and should be removed to read:

*"(A) the land owner and the authority holder are parties to a conduct and compensation agreement under the resource Act;"*

This appears to be a drafting error. The clause appears to have been included to prevent the commencement of a court action enabling (or triggering) a resource activity to be undertaken. However, this trigger is in the law for a reason and the new clause does not achieve its intent.

It is recommended the Committee request this clause be deleted from the Bill.

### **Extending Consultation to include Regulations**

It is in the interests of the State that any new legislation is developed on a strong foundation of consultation with industry and stakeholders on the entire legislative package to ensure that no unintended adverse impacts arise for the economy at both a State and regional level. It is also important the Bill and related Regulation (being drafted) provide for resource developments to proceed where there is a clear net benefit to the State and the local region and not become so prescriptive as to prevent legitimate development that have the general support of the community and are in the public interest.

ICX recommends that the Committee consider this potential impact on the State and the ability of the State Government to deliver its vision for Queensland. ICX further recommends that further consideration be given to extending consultation on the Bill in parallel with consultation on the related regulations.

### **Clarifying the State's Powers to rule in the public interest**

The powers of the State government to rule in the public interest under the proposed Bill and related legislation need clarification. ICX recommends the committee call for further clarification on the ability for an elected State official to rule in the public interest where a development or resource activity provides a net benefit to the State and is generally supported at a state and regional level by the community. The inclusion of Parts 3 and 4 do provide for some level of decision making in this regard but the decision is made by the Chief Executive rather than a Cabinet Minister. The provisions are also unclear and their interpretation heavily reliant on the final drafting of the Regulations called up under sections 8-10. ICX supports the QRC's concerns in relation to Part 3 of the Bill and its relationship with Regulations yet to be drafted and related legislation at both a state and federal level. ICX also noted that these sections are new and have not yet been through public consultation.

ICX recommends that the committee require further consultation be undertaken on Part 3 of the Bill and that consideration be given to redrafting of this Part along the lines of the detailed submission provided by the QRC. A public interest test should be specifically included and the decision on the assessment elevated to a Cabinet Minister to provide investors in resource developments with confidence that the Queensland Government has direct control over these decisions.



## Summary

The Bill identifies broad policy outcomes but if read in isolation it is difficult for industry to assess the operational consequences without key regulatory details around definitions, assessment processes and conditioning of resource projects. ICX supports QRC's submission which suggests a better way to deliver the outcomes the Government seeks from regional plans by refining how these policies are expressed in the Bill and particularly through avoiding unexpected outcomes where the Bill's drafting risks cutting across Queensland's existing systems of resource regulation. ICX also supports QRC's call that further consideration be given to extending consultation on the Bill in parallel with consultation on the related Regulations. There are a number of examples of errors in drafting or unclear provisions which may result in unintended outcomes. There are also several areas which have been introduced without industry consultation. Further consultation is expected to substantially improve the Bill and its functionality. Finally, we seek the exclusion of low impact exploration (as per small scale mining in section 25) from the restrictions arising under strategic cropping land, priority agricultural areas and priority land use areas.

If you require any further information, please contact Glenn Simpson, Chief Executive Officer at International Coal Limited, who can be contacted on mobile 0428886537 or alternatively via email at [glenn.simpson@intercoal.com.au](mailto:glenn.simpson@intercoal.com.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Glenn Simpson', with a long horizontal flourish extending to the right.

Glenn Simpson  
Chief Executive Officer  
**International Coal Limited**