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

By Email: sdiic@parliament.qld.gov.au

Dear Committee

RE: SUBMISSIONS IN RELATION TO THE REGIONAL PLANNING INTERESTS BILL 2013

We wish to provide submissions to the State Development, Infrastructure and Industry Committee on the *Regional Planning Interests Bill 2013* (**the Bill**) introduced to the Queensland Parliament on 20 November, 2013 by the Hon Jeff Seeney, MP.

As a background to our submissions, we wish to note here the joint statement issued by the Premier, the Hon Campbell Newman MP, and the Hon Jeff Seeney MP issued on 20 November, 2013 stating that the "Newman Government protects the Steve Irwin Reserve on Cape York".

We note that the printed media statement contained the following:

"The Newman Government has announced plans to declare the Steve Irwin Wildlife Reserve and the Wenlock River on Cape York Peninsula as Queensland's first ever "strategic environment area".

When finalised, this declaration will protect those unique areas from open cut and strip mining, and other activities that risk wide spread impacts to their ecological integrity. By protecting the Steve Irwin Wildlife Reserve in perpetuity, this Government recognises the value of protecting this exceptional piece of biodiversity for Queensland for future generations.

Today's announcement is the first planned use of a new regional planning instrument that will allow us to protect not only these significant environmental areas on the Cape, but sensitive environmental areas in other parts of Queensland."

We also noted with expectation the statement of the Environment Minister, Hon Andrew Powell MP to the ABC, and reported by Kirsty Nancarrow at 4.54 pm on the 20th of November, 2013. Minister Powell was quoted as saying:-

"There really is no better than the Steve Irwin Wildlife Reserve".

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Minister Powell is then quoted as saying:-

"It is fantastic to be part of a Government that now will protect it into perpetuity. That means no mining – not any, not some, not now, not ever – on the Steve Irwin Wildlife Reserve".

The same article then goes on to quote the Hon Premier Campbell Newman as saying:-

"There'll be no mine on this location, on this designated land, on this reserve – they [Cape Alumina presumably] *are aware of that. The Government has made this call and we have advised them of that".*

Our concern is that while the ostensible intent of the legislation and associated documents is to ensure that the "strategic environmental areas", and more specifically, the Steve Irwin Wildlife Reserve, are protected from all mining, the legislation and the associated documentation (currently being the draft Cape York Regional Plan (**CYRP**)) does not put into effect this intention.

Our submissions are made with the overarching desire to ensure that the Government's stated objectives of protecting the Steve Irwin Wildlife Reserve from mining are brought to fruition.

Our submissions are as follows:-

1. Steve Irwin Wildlife Reserve (**SIWR)** to be specifically referred to in clause 11 of the Bill

   The SIWR is not specifically described in the Bill nor is it specifically named in the Regional Land Use Priorities Map attached to the draft CYRP. The most satisfactory solution is to have the SIWR specifically named within the Bill. It is our submission that the most appropriate place to name the SIWR would be within clause 11, the definition of Strategic Environmental Area, within the examples given. Alternatively, the SIWR must be named specifically within the regulations.

   The SIWR should also be named on the Regional Land Use Priority Map, but we acknowledge that this is a matter for submissions in relation to the CYRP.

2. Amend the Bill to enable challenges to Mapping Alteration

   A mechanism is required within the Bill or the Regulations by which the inclusion of areas on the maps in the regional plans may be challenged. Currently the Bill does not allow for this contingency.

   To be clear, if a map is subsequently changed to omit a strategic environmental area, there needs to be a mechanism within the legislation by which the omission may be challenged.

3. Include Lessees of Pastoral Leases in definition of Land Owner

   The definition of "owner" of the land (**the land owner**) within Schedule 1 of the Bill is currently as follows:

"Owner, of land, means the person for the time being entitled to receive the rent for the land or would be entitled to receive the rent for it if it were to let to a tenant at a rent."

We submit that this definition should be amended to include a Lessee under a Pastoral Lease. If this amendment is not made then Lessees do not have standing to appeal any decisions made on a regional interest assessment application.

4. Extend the right of appeal to interested third parties

In addition to our submission at point 3, above, the right of appeal should be extended to interested third parties such as concerned community groups and organisations.

5. Ensure notice of application must be given to Land Owners

Clause 36 of the Bill allows the Chief Executive to approve an assessment application if the applicant has not complied with the requirements to notify. We submit that this should be amended to exclude non-compliance of a type that results in the owner of the land not having been notified.

For clarity, what we are suggesting is that an application should not be permitted to proceed until a Land Owner has been duly notified. Currently the Bill does not require this.

We would not wish to see this legislation reflect the current *Mineral Resources Act 1989* which permits applications to be made without reference to the Land Owner.

(This submission applies to both sub-clause (2) and subclause (3) of clause 36.)

6. Allow Chief Executive to override Local Government recommendations

The Explanatory Notes to the Bill purport that the Bill gives Local Governments authority to restrict development within their regions. However, the requirement that the Chief Executive must give effect to any recommendations of the Local Government means that the Chief Executive does not have the discretion to override a Local Government recommendation to allow a resource activity to be approved. We suggest that a submission be made that clause 50 be amended to allow the Chief Executive to override a Local Government's recommendation if the recommendation is to allow a resource activity that the Chief Executive considers should not be allowed.

7. Include a discretion for the Chief Executive to refuse application in early stages if inappropriate

The Chief Executive should have the power to refuse an application (or indeed the Chief Executive should be required to refuse an application), prior to the requirements for notification, submissions and referral to an assessing agency, if the application relates to a Regulated Activity or Exempt Resource Activity that is incompatible with uses for the type of Area of Regional Interest. For example, mining should not be a use considered for

a Strategic Environmental Area and as such, the Chief Executive should have the discretion to refuse such an application without further regard to the usual mechanisms of consideration of an application. At the very least, the Bill should allow the Chief Executive this discretion in the circumstances where the application is incompatible with the land uses described for the area in the regional plan.

8. Small Scale Mining Activities (**SSMA's**) should not be allowed in Strategic Environmental Areas

SSMA's should not be an exemption that may be considered for an application for a regional interests authority in Strategic Environmental Areas. It is submitted that while the exemption may be appropriate in certain circumstances for certain parts of other Areas of Regional Interest, such as priority agricultural areas or strategic cropping areas, the damage that may be done to the environmental value of a Strategic Environmental Area under the definition of "Small Scale Mining Activity" could be substantial and must be avoided.

9. Too much detail is left to be decided at a later date in the Regulations

We note that the *Statutory Instruments Act 1992* (SIA), provides that a Regulation is a "statutory instrument which is subordinate legislation and it is required to be approved by either the Governor or Governor in Council". There is no requirement under the SIA that requires the government to consult with stakeholders in the development of a Regulation.

We are concerned that the use of Regulations to provide a great deal of the specific detail of the proposed legislation provides an unacceptable discretion to the Queensland government to include provisions (and make changes to the Regulations in future), without providing details to the stakeholders or allowing consultation with stakeholders.

With all due respect, far too much of the essential detail in this Bill has been left to this fluid mechanism that provides for the later drafting of the Regulations.

10. Consideration and acknowledgement of the *Nature Conservation Act 1992*

A provision should be added to the Bill to provide that the Chief Executive be specifically required to consider the relevant materials required to be considered under the *Nature Conservation Act 1992,* should the area the subject of an application be a "protected area" for the purposes of the *Nature Conservation Act.*

We thank you for the opportunity to make these submissions.

Yours faithfully
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