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The Research Director
State Development, Infrastructure and Industry Committee
Parliament House
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Dear Research Director

Regional Planning Interests Bill – Submission

Yancoal Australia Limited makes this submission on the Regional Planning Interests Bill.

The submission:

- sets out important issues in the Bill that will be critical to any continued investment in mining in relevant parts of Queensland, and Yancoal's proposed solutions; and
- highlights some significant direct impacts for the existing Cameby Downs Coal Mine and Expansion Project.

Cameby Downs is located about 26 kilometres west of Chinchilla, and is owned and operated by Syntech Resources. Syntech is 100% owned by Yancoal International (Holding) Co. Ltd and is managed by Yancoal Australia Limited.

Existing mining rights are not preserved

- 1 The Bill does not have adequate transitional provisions authorising the continuation of existing approved mining activities.
- 2 Only existing activities on strategic cropping land authorised by a protection decision or compliance certificate under the *Strategic Cropping Land Act 2011* will be taken to be authorised under the Bill and may lawfully continue.
- 3 Otherwise, all existing approved mining activities on a mining lease on an area of regional interest will only be able to continue until the expiry of the current plan of operations. The other exemptions under the Bill provide no practical basis for existing mining operations avoiding the need to obtain a regional interest authority.



- 4 After the expiry of a current plan of operations, all existing approved mining activities will need a regional interests authority to lawfully continue.
- 5 Where these activities are on a priority agricultural area (PAA) or a priority living area (PLA), this amounts to a requirement for a new approval effectively being retrospectively imposed on existing approved operations.
- 6 The *Strategic Cropping Land Act 2011* "grandfathered" existing mining activities approved on its commencement on 30 January 2012. The Bill retains SCL areas but does *not* retain the grandfathering provision. On expiry of the current plan of operations after the commencement of the Bill, a new regional interests authority will be required to continue what are currently existing lawful operations on those areas of strategic cropping land, notwithstanding the fact that the impacts of those activities have already been assessed and approved.
- 7 There is no certainty that an application for a regional interests authority for mining activities will be approved. All criteria for the regional interests authority decision are yet to be released. However the information to date indicates the miner must demonstrate it can 'coexist' with the agricultural purpose of the area. In our view, this will give priority to agriculture over mining, even where a mining activity is already approved and operating. There are no provisions dealing with the grant of a regional interests authority for existing mining operations when the term of the transitional plan of operations ends.

Solution – transitional provisions to secure existing mining rights

- 8 An assessment of impacts on SCL, PAA or PLA should not be required for the continuation of approved mining activities unless a proposed amendment expands the area in which extraction activities can occur. For example, the addition of new surface rights in an area where there was no prerequisite tenure when the Bill commenced.

No transitional arrangements for projects and applications

- 9 All proposed mining activities for which an application is currently on foot and for which the approvals are issued after the Bill is enacted and commences, will require a regional interest authority before the activity can commence if the tenement includes an area of regional interest.

Solution – transitional arrangements for projects and applications

- 10 The Bill should not apply to **any** projects currently proceeding through mining lease and environmental authority applications (or amendment applications). In addition, projects announced within a year following the introduction of the Bill should also be 'grandfathered' so the current exploration and prefeasibility assessments can continue without risk.

There are no specific exemptions for existing activities on Exploration Permits for Coal

- 11 There are no specific exemptions for activities on an EPC. The only exemptions available are:
 - (a) an agreement with the landholder for the activities to be undertaken (where the tenement holder is not the landholder and the tenement holder is satisfied the impact will not be 'significant'); or

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- (b) an exemption that would in effect limit the activities on an EPC to a 12 month period during which the impacts of that exploration activity must be restored (i.e. within the same 12 month period).

Solution – exploration activities should be exempt

- 12 Exploration activities on EPCs and MDLs have successfully coexisted with agricultural activities for a long period of time and should be allowed to continue without additional approval requirements. The Bill is unnecessary to regulate these activities.

The mapping cannot be changed

- 13 There is no process in the Bill that is similar to the existing process in the *Strategic Cropping Land Act 2011* for a person to make an application to have land determined not to be SCL or a PAA.
- 14 The initial mapping of potential strategic cropping land was not accurate. The same mistake must not be replicated with the PAA mapping. This is particularly so, as there is no proposed mechanism to change any area of regional interest mapping (neither for SCL nor PAA) other than by amending the regional plan itself or the regulations under the new Act.

Solution – there must be a process to change the mapping

- 15 Similar mechanisms as currently apply to change mapping of potential SCL must be introduced to enable changes to the SCL and PAA mapping.

New appeal rights and appeal process

- 16 Even if a regional interests authority is approved, 'affected land owners' will have appeal rights to the Planning and Environment Court. This means in addition to Land Court proceedings relating the grant of an EA, ML or water licence, a new Court process may need to be completed before all approvals for a mining activity are held. The right of appeal against a regional interests authority exists whether the regional interests authority is for exploration (EPC), development (MDL) or operational activities (ML).
- 17 The existing SCL protection decision process does not grant third party appeal rights.
- 18 The introduction of appeal rights to the grant of a regional interests authority adds significant green-tape, at a time when the State Government has been professing its desire to incentivise resource investment.

Solution – there should be no third party appeal to the grant of a regional interests authority

- 19 Consistent with the existing SCL process, there should be no third party appeal rights to the grant of a regional interests authority.

Scope to prescribe water sources, such as groundwater aquifers, as PAA

- 20 Regulations will be able to prescribe water sources, such as groundwater aquifers, that are necessary for the ongoing use of land for 'priority agricultural land uses' as a PAA area. This means that mining activities proximate to, but currently outside of mapped PAA areas, may soon be included within new PAA areas when water source areas are prescribed.



- 21 The impacts of mining activities on water sources is already heavily regulated at a State and now Commonwealth level. As a matter of course, miners are conditioned under water licences to 'make good' any impacts of their operations on surrounding landholders. This means the surrounding agricultural activities are preserved and can continue. The addition of water sources as PAA areas will add a significant assessment burden for resources operators for no agricultural benefit.

Solution – Remove scope to prescribe water sources as PAA areas

- 22 The scope to prescribe water sources such as groundwater aquifers as PAA areas should be removed.

The State Government must be able to 'step in' to ensure important projects proceed

- 23 The Explanatory Notes to the Bill foreshadow local councils being prescribed in regulations as an 'assessing agency' for applications for a regional interests authority within a PLA. There is scope for local government (or other agencies) to be prescribed as an assessing agency for other types of applications. The drafting does not reflect the policy that this device is for PLAs only.
- 24 Critically, if a local government is the assessing agency, it effectively has powers to refuse an application for a regional interests authority.
- 25 However, as the rights to minerals are ultimately held by the State, Yancoal considers that the State should reserve 'step in' powers to determine that important projects for the State can proceed, notwithstanding local objections in a PLA.

Solution – 'Step in' power for State

- 26 The State should reserve 'step in' powers to determine that projects of State significance can proceed, notwithstanding local objections in a PLA.

Significant impacts of the Bill on the Cameby Downs Mine and Expansion Project

- 27 If the Bill is enacted in its present form, the existing operations at the Cameby Downs Coal Mine will need a regional interests authority when its existing plan of operations expires due to the presence of strategic cropping land on which the current activities may lawfully continue under the *Strategic Cropping Land Act 2011*. The Bill should preserve the existing lawful right to mine without triggering a further approval.
- 28 It is unreasonable to retrospectively require a new approval to be obtained for an approved or existing mining operation. Yancoal made a significant investment in acquiring the mine on the basis of the existing approved mine plans and the known approvals regime. Any legislative changes to require additional approvals should not have retrospective effect to approved or existing operations.
- 29 Similarly, Yancoal has already received Terms of Reference for its Cameby Downs Expansion Project. Where the project is on an area of regional interest, the draft Bill requires that Yancoal will still separately require a regional interests authority. This is an unwarranted and unacceptable level of green tape which adds delay and uncertainty to the project.

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- 30 Yancoal has made a significant investment in developing the proposed Expansion Project. Indeed, as a term of the EPC tenements Yancoal is obliged to expend resources in undertaking its exploratory program in developing knowledge of the State's mineral resources. To the extent that the new PAA and PLA constraints will apply to existing EPC areas, it is entirely contradictory to Yancoal's ongoing program to prove up the presence and quality of mineral resources and to develop plans for financially achievable mining projects, for the State to introduce a new approval requirement that would have the retrospective effect of prohibiting open cut mining on those EPCs and therefore erasing the value of any knowledge of the resources gained through the exploration program. This is a particularly inequitable outcome in circumstances where applications have been commenced but are undecided at the point in time that the Bill is enacted and commences.
- 31 There must be suitable transitional provisions included in the Bill to ensure that existing exploration programs and development plans for which applications have been lodged, or may imminently be lodged, can continue without the risk of a regional interests authority being required but refused.

Yours faithfully



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