17 January 2014

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

Submission No. 051
20 January 2014
11.1.14

Dear Ms Tansley

Regional Planning Interests Bill 2013

Thank you for the opportunity to make a submission to the State Development, Infrastructure and Industry Committee inquiry into the *Regional Planning Interests Bill 2013* QGC also supports APPEA's submission to the Committee.

Impact of the Bill on QGC and the QCLNG Project

QGC and its major contractors currently employ 14,500 people, with more than 15 people hired every day during 2013.

The Queensland Curtis LNG Project has invested A$19.4 billion to date, with 84% invested with Australian suppliers including A$13.2 billion with Queensland firms.

The *Regional Planning Interest Bill 2013* imposes new restrictions on QGC project activities, including new restrictions on already-approved activities.

QGC, a wholly owned subsidiary of BG Group, expects these restrictions to delay project schedules, impose significant extra costs and place future investments at risk because the Bill alters the regulatory conditions on which BG Group relied in making its multi-billion-dollar our investment decision in the LNG project in 2010.

In particular:

- Section 18 of the Bill, which purports to exempt companies for any activity that has already been authorised before the Bill is passed, would require companies to delay those activity for up to 16 weeks while they sought a "regional interest decision" if they had not yet specified authorised activities in their work plans.

  A common reason for companies not to immediately include authorised activities in their work plans may be that they have chosen to discuss work plans with the landholders first as an act of good faith.

- Section 22 of the Bill effectively delays access that may have been lawfully granted by the Land Court under the land access regime. Even if the Land Court grants land access, the Bill would require a company to delay access for up to 16 weeks while it sought a "regional interest decision".

  During this process a landholder would have a second opportunity to re-prosecute issues already resolved by the court.

- Section 22(2)c imposes a new requirement that a voluntary access agreement with a landholder may be subject to the interests of a neighbour even if the landholder agreed to the activity occurring on their land.

  QGC's Kenya hub – which is one of our major industrial centres and is the site of a significant water treatment plant, central processing plant, and other major infrastructure – would fall within the area restricted under the Bill.

  This would mean that any activity within the Kenya hub that may have an impact on a regional interest would be restricted, even though QGC owns the land and the activity has already been authorised under our tenure and environmental authorities.

- The Kenya industrial hub is covered by the Bill because it has been inaccurately mapped as being part of a "priority agricultural area".

  Mapping for the purposes of this BIll is not accurate enough to exclude blocks that are obviously not agricultural.

- Similarly, areas of QGC's tenure, the Kate block which the Department of Natural Resources and Mines has previously validated as "non-strategic cropping land" have now been included in "priority agricultural area" mapping. Unless the Government does accurate and detailed mapping to correct these flaws, QGC will be forced to undertake a second expensive and time consuming validation process for the same land.

For any activity covered by the Bill, QGC will be required to undertake a lengthy and bureaucratic process of notification, advertisement, call for submissions, information provision, deliberation by multiple Government bodies and then a lengthy appeal period.

Conservatively, the sum of timeframes imposed by the Bill for each step of that process is likely to delay work by at least two months and up to four months or more.

Requested amendments

QGC requests that the Bill and supporting materials be amended as detailed in this submission, to:

- Refine and correct maps of land to be protected under the proposed regional planning regime.
  - The agricultural and resource sectors require certainty from Government about what land the regime applies to before the Bill is passed.
  - Previously validated non-strategic cropping land already covered by resources tenure and environmental authorities, and obvious exclusions such as roadways, should be removed from protected areas.

- Amend the "agreement of land owner" exemption to treat all landowners equally. Sub-section 22(1) unfairly disadvantages resource companies that own land.

- That references to "impact on land owned by person other than the land owner" be removed from the Bill (eg section 22), because they fundamentally alter the land access regime that underpinned BG Group's multi-billion dollar investment in the QCLNG Project.

- Amend the "pre-authorised activity" exception in section 24 of the Bill to give full effect to rights held under tenures and authorities in place at the time of passage.

  As currently drafted, the Bill introduces investment uncertainty that would restrict activity that has previously been authorised by a decision of Government.

- To ensure that existing or currently approved activities not be subject to further unnecessary assessment, QGC seeks the inclusion of the following transitional arrangements:
  - All currently approved resource activities be exempt from the new regime;
  - Any new resource activities which form part of a project for which the Environmental Impact Statement **(EIS)** stage was completed on or before 18 October 2013 be exempt from the new regime. For the purposes of this transitional provision, the EIS stage should be taken to be completed only if one of the following applied for an EIS for, or that included, the proposed activity–
    i. the EIS Process had been completed under the Environmental Protection Act, section 60;
    ii. the giving, under the State Development Act, of the Coordinator General's Report for the EIS.

Further detail on each of these items follows.

Investment uncertainty

The Bill substantially undermines the land access regime on which the QCLNG investment was made, and on which QGC has based its project planning.

The regime was reviewed in 2013 and the Bill now proposes further changes inconsistent with that review.

The Bill also purports to de-authorise activity that is currently specifically authorised in tenures and environmental authorities that have already been granted, unless those activities have already been particularised.

BG Group approved the QCLNG Project in 2010 on the basis of the land access regime outlined in the *Petroleum and Gas (Production & Safety) Act 2004*.

Access to land to drill and gather wells will continue to at least 2020 even though construction of export infrastructure is scheduled for completion in 2014. QGC will continue to seek a significant number of voluntary access agreements with private landholders for wells and gathering over the next two years.

The decision to locate a compression station, for example, is based on an assumption of supply from a set number of wells within a geographic catchment.

The orderly land access process specified in the P&G Act provides confidence that access to land for those wells can be delivered.

Failure to access the required land would result in facilities operating below optimal capacity and pose commercial implications for failure to meet production milestones.

The Bill undermines the orderly land access process of the P&G Act by creating piecemeal delays and the risk of rejection of access or retrospective imposition of onerous conditions even when all other authorities are in place and the landholder has agreed access.

Further, section 24 of the Bill would restrict activity already authorised under a tenure and an environmental authority, unless that activity has already been fully planned and detailed in a resource activity work plan.

The Bill states that "a condition of a regional interest authority would prevail over any condition of another authority or permit to the extent of any inconsistency, even if the authority or permit was granted by Government before the Bill came into force".

That is a retrospective cancellation of rights previously granted by Government.

It is apparent that proposal within the draft Bill conflict with the existing gas industry regulatory framework, which the Queensland Competition Authority noted in its November 2013 *Draft Coal Seam Gas Review* was already subject to 17 concurrent reviews.

Reliance on inaccurate trigger mapping

The Bill provides that strategic cropping areas and priority agricultural land use areas are designated by trigger mapping.

However, trigger maps of individual properties are often inaccurate, which resource companies are forced to validate the mapping to prove that incorrectly mapped land is not highly valuable for agriculture.

Validation is costly and time-consuming for resource companies and landholders with the Queensland Competition Authority estimating each validation at $27,000.

The authority's coal seam gas review and a review of strategic cropping land by the Department of Natural Resources and Mines acknowledged the need for more accurate trigger mapping and a simple no or low cost process to fix errors.

However, it appears no progress has been made on a mapping process to correct errors and avoid delays and cost.

The Bill advocates increased application of trigger mapping with no detail about the validation process for a property within a regional interest area.

Assessment process

Several important details to assess the business impact of the proposed Regional Interest Authority process have not been outlined, predominantly:

- how long the application process will take;
- the criteria against which proposed impacts will be assessed;
- the cost of processing an application; and
- which Government department will be the assessing agency.

Timeframes

No assessment timeframes are detailed in the Bill.

For planning and investment certainty, industry requires detailed maximum timeframes for all significant steps in the statutory process, including:

- for referral agency advice to be provided;
- requests for additional information; and
- the final decision by the Chief Executive.

Conditioning

The Bill proposes to establish very broad conditioning power, including the ability to prohibit certain or all activities.

The Bill should have power to condition "how" these activities occur not whether they occur.

The Bill should not prohibit any petroleum activity for which an authority to prospect, petroleum lease, pipeline license or other relevant tenure has been granted under the P&G Act to specifically authorise petroleum activities for exploration, production and ancillary activities.

Submissions

Criterion should be included for "a properly made" submission that states the grounds of the submission and facts and circumstances relied on in support of the grounds as per similar requirements of the *Sustainable Planning Act 2009*.

In the absence of properly made submissions, the application should be approved without being subject to a full assessment process.

In other words, a threshold test should be applied to prevent vexatious submission, for example, based purely on activism.

QGC also submits that the Chief Executive should have power to override the need for an application and approval if a proposal is deemed to be in the State interest.

This is consistent with concepts embedded in the *State Development Public Works Organization Act 1971*.

Dislocation from the land access framework

All negotiations with landholders should occur under the existing land framework in the P&G Act, without duplication in this Bill.

QGC believes that all land access, including regional interests needs to be part of a single framework.

In this way, discussions and negotiations about the location of gas infrastructure on a property with a regional interest could occur as part of normal land access process.

Under the bill, landholders can leverage a resource company's risk of schedule delay to resource companies (i.e. associated with the Regional Interest Authority application process) to extract premiums for compensation that are significantly above valuations.

This could apply even if the impact on a priority agricultural land use area was relatively minor, such as a single well pad and access track affecting two hectares or 0.4% of a 500 hectare property.

Introduction of strategic environmental areas

Environmental matters are regulated in the Environmental Protection Act 1994. Strategic environmental areas should be removed from the Bill to avoid duplication.

Strategic environmental areas were included in the Bill late in the drafting and consultation process and were not discussed with industry.

The Bill adopts the Environmental Protection Act's definition of "Environmental Value".

Although examples are provided in the explanatory notes, it is unclear what strategic environmental areas will be included in the regulations.

The Environmental Protection Act already imposes significant restrictions on resource activities in environmentally sensitive areas and associated buffers through the imposition of conditions on environmental authorities, with mapping that continues to add new areas to these categories.

Therefor the current provisions would result in unnecessary duplication of the current regulatory framework, increase green tape, and not improved environmental outcomes.

If you have any questions about this submission or require further information please contact Ms Lizzie Staines on (07) 3024 7591 or lizzie.staines@bg-group.com.

Yours sincerely

Tracey Winters
Vice President - Community, Land and Environment