Supplementary submission No. 077
25 February 2015
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24 February 2014

Hon Jeffrey (Jeff) Seeney
Deputy Premier
Minister for State Development, Infrastructure and Planning
Level 12, Executive Building
100 George Street
Brisbane Qld 4000

via email: sdiic@parliament.qld.gov.au

Dear Mr Seeney,

Re: Implications of the Regional Planning Interests Bill (the 'Bill') and associated regulatory framework for Samgris Resources

We would like to take this opportunity to thank you for appearing before the SDIIC public hearing on 12 February 2014. In response to your invitation for individual examples about concerns arising out of the Bill's operation we have prepared this brief letter.

To provide a practical example of the impacts of the Bill we will focus on EPC 2193, one of our Exploration Permits for Coal located 20 km south-west of Dalby, in the Darling Downs region. EPC 2193 covers a total area of approximately 6100 hectares and consists of 20 sub-blocks.

Under the previous strategic cropping land (SCL) regime, only 41% of EPC 2193 was located within a trigger area. With the declaration of priority agricultural areas (PAAs), over 99% of the tenement is now regulated. The effect of this mapping is that for 41% of our tenement we now need to address both the SCL and PAA requirements when undertaking activities, while for the remaining 58% of the tenement we are subject to the PAA restrictions.

Our concerns can be summarised in two parts. Firstly, we have concerns about our short-term ability to continue operations on this tenement. Secondly, we believe that this legislation will severely impact the long-term value and viability of this tenement.

Short-term concerns – the ability to continue to undertake activities

When reading through the following information, it is important to remember that in order to obtain our instrument of permit we have made expenditure commitments to the Queensland Government.

As a consequence of the regional plan mapping and the offence created under Clause 18 we would be required to either obtain a regional interest authority (RIA), or be satisfied that we could operate within one of the exemptions provided under the Bill, before any further activities can occur on this tenement.

Level 12, 410 Queen Street,
GPO Box 327 Brisbane QLD 4000, Australia

Tel : +61 (0)7 3169 2580
Fax: +61 (0)7 3211 8322

You and officers from your Department have given assurances that the Bill is not intended to inhibit existing projects. However, no details about any amendments to the current exemptions that will implement this position in practice have been provided publically. Accordingly, we have prepared this letter responding only to the Bill and currently published guidelines and criteria.

Our reasons for concerned about relying on each of the exemptions provided in the Bill are as follows:

- Clause 22 – exemption does not apply to SCL. To the extent it may be applicable for our operations in PAAs, no details have been provided about how the self-assessment of impact required by this exemption is to be carried out.
- Clause 23 – no flexibility is allowed for unforeseen circumstances that would cause activities to have an impact outside of the 12 month window. Furthermore it is neither reasonable nor practicable for disturbance caused by exploration to be fully restored within a 12 month period. No allowance is made for reasonable delays.
- Clause 24 – does not apply to exploration for coal and minerals as an appropriate 'resource activity work plan' is not identified in the Bill.
- Clause 25 – we are not carrying out a small scale mining activity.

We note your statement during the SDIIC public hearing that "Most exploration activity would fall within the 12-month exemption, I would expect, with the exception of more extensive testing type activity that could be carried under exploration tenures." However, our assessment of the exemptions lead us to the conclusion that, from a risk management perspective (where the risk is a fine of up to $3,500,000), we will be required to obtain an RIA before we can proceed with exploration. We will have no option but to cancel proposed exploration programs on this tenement until we can obtain the required RIA. Our primary concern is that this Bill creates uncertainty and consequentially inhibits the ability for us to secure necessary investment, at this point in time, to enable this project to proceed.

Key issues that will delay our exploration on this project are:

- the Bill contains few details regarding the application requirements for the RIA, such as who will assess the application, criteria for assessing the application, and timeframes for the assessment and decision on the application.
- the Bill requires public notice of the application, and also includes appeal rights for land owners and broadly worded "affected land owners".
- the relevant department will not be subject to any statutory timeframe for deciding our application, so it will not be possible to forward plan our allocation of capital or deployment of equipment and manpower.

Even in the scenario where amendments are made to these exemptions that make them applicable to our operations, these exemptions would only mitigate immediate impacts to the exploration phase of our operations. Should the decision be made to advance to the production phase it is clear that we would be required to obtain an RIA.

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Long Term Consequences – the ability to progress this project to production

The reason exploration companies, like Samgris, attract investment, for their operations, is the potential to find an economically viable coal resource. For the reasons outlined below, the Bill considerably decreases the incentive to explore in areas of regional interest.

Currently we can identify for our investors all the relevant approvals that would be required before a project may progress. The most substantial of these are the environmental authority, mining lease and, in particular, that an environmental impact statement that would be required for this approval. The EIS is a comprehensive and complex document that is the result of a year or more of detailed baseline and impact assessments associated with the project.

As stated in Clause 30, an application for a RIA needs to be accompanied by a report that assesses "the resource activity or regulated activity's impact on the area of regional interest". We would contend that an environmental impact statement could address this requirement. However, we note that on page 2 of the Department's response to issues raised in submission on the Regional Planning Interests Bill 2013, it is indicated that an EIS is unlikely to be detailed enough for an RIA application. So a separate impact assessment will be required to support the RIA application.

This requirement for an additional impact assessment could easily affect the viability of an entire project, particularly when the industry (and consequentially investors) does not know what it will entail. We do not know the criteria that will be used to assess an application for an RIA in some areas of regional interest; we do not know what level of detail and information will need to be included in the application materials; we do not know which Department will undertake the assessment; we do not know in what circumstances we will be required to publically notify and respond to comments; and we do not know how long it will take for a decision to be reached once the assessor has received appropriate material.

Despite all these unknowns, the worst aspect of the process is that such a pivotal approval would remain undecided until such a late stage in a project's development. By the time the specific property-level information that the Department has indicated would be required for the assessment is available, can be compiled into a report and submitted to the assessing agency for assessment, any decision but an approval with nil or inconsequential conditions on project has the potential to be catastrophic. At this late stage, a proponent must have finalised compensation arrangements with landholders; negotiated sales and transport

Furthermore, while it is conceivable that a RIA could be applied for to encompass the disturbance anticipated for the entire life of mine, there is no provision in the Bill for amendment of an approved RIA. With mine life encompassing many decades, there can be changes to mining areas in response to the identification of additional resources, improvements in mining techniques and changes in market conditions. With the Bill as

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currently written, we would be required to apply for a new RIA, despite the mining activity being approved and operating under an existing Environmental Authority and approved Mining Lease. This creates another point of uncertainty for our investors, another approval requirement and potentially brings an end to the operation if a new RIA is not granted (or granted with substantially altered conditions). To receive an RIA that alters the way the project may proceed, would likely cause all the careful steps that had come before to fall like a house of card. This level of uncertainty and risk is unacceptable for most investors (making mining unviable).

For explorers, like ourselves, who are attempting to attract the investment necessary to locate viable resources the introduction of a new and untested assessment process is a substantial disincentive, even if it is largely inapplicable to exploration. Our questions to you are:

- How we, as responsible business operators, can approach investors and shareholders to encourage them to invest in Queensland with this level of uncertainty surrounding an approval that our projects cannot hope to reach production without?

- Why wasn't the normal Regulatory Impact Statement process undertaken to assess the economics of the framework?

- The Bill seems to treat all resource activities the same. For example, there is no apparent difference between mining (i.e., high impact) and exploration (which is generally low impact). If the circumstances where exploration activities are going to impact on an area of regional interest are rare why not make it the rule that exploration is exempt instead of requiring a self-assessment of impact in every situation?

If you require any further information, I can be contacted on (07) 3169 2580 or alternatively via email at todd.sercombe@samgris.com

Yours faithfully,

Todd Sercombe
Exploration Manager

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