



EDO Qld.

Environmental Defenders Office

*Using the law to protect
our environment.*

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16 December 2011

Environment, Agriculture, Environment, Resources and Energy Committee

c/o Research Director

Parliament House George Street

BRISBANE QLD 4000

earec@parliament.qld.gov.au<<mailto:earec@parliament.qld.gov.au>>

Dear Committee,

**Environmental Protection (Greentape Reduction) and Other Legislation
Amendment Bill 2011**

This is the submission of the Environmental Defender's Office Queensland ("EDO") on the
Bill

The EDO is a non-profit community legal centre which specialises in public interest environmental law in Queensland. The primary goal of the EDO is to protect and enhance the environment in the public interest through the use of the law, by and on behalf of the community. We provide non-profit advice to rural and urban clients on a range of matters including access to information, planning vegetation protection, species protection and environmental assessment processes relating to mining and coal seam gas. Within our resources, EDO is active in law reform and we welcome the opportunity to comment on this Bill.

While EDO made detailed submission on the Discussion Paper preceding this Bill, unfortunately we have not had the time to make detailed comments on the Bill, apart from on one very important timeframe issue discussed below. We will try to send more detailed comments in early next year and request a chance to address the Committee orally.

One of the general points we made in relation to this reform at the Discussion Paper stage, is that improving the quality of community rights of access to information, submission and appeal will lead to more efficient processes and improved outcomes for the community and

the environment. <http://www.edo.org.au/edoqld/edoqld/lawreform/2011.07.15-Greentape-DP-Submission.pdf>. Such improved processes will also save public servants time and therefore public money. The Bill does improve access to information in some ways, for example making more material available online, but misses some opportunities. For public objections to mining leases and environmental authorities the timeframe is shorter under the Bill, see below, which is worse than the current situation.

Quality means clear public notices like the SPA notice as opposed to the coal seam gas notice, see attachment 1, which does not even say where the land is. The EP legislation could mandate elements of a quality public notice. Quality also means improving access to the public notice, application and supporting materials, for members of the community who wish to make a submission or objection. Otherwise people miss their chance to make a submission entirely or are worn out before they have a chance to consider the merits of the proposal. Its hard and time consuming enough to prepare thoughtful submissions and gain for example expert advice from a water or vegetation expert, or free advice from the EDO.

At the time of writing, while officers of DERM advise that “soon” applications for environmental authorities mining and mining leases will be online, to help people make submissions currently they are not. To find out if a proposed mining lease or environmental authority is advertised for public submission/objection it is necessary to constantly ring rural Mining Wardens or to read obscure rural newspapers. This material ought to be online not obscure and hard to find.

For our letter to the Premier on access to information on mining and coal seam gas, see [http://www.edo.org.au/edoqld/edoqld/new/2011-06-](http://www.edo.org.au/edoqld/edoqld/new/2011-06-15%20Ltr%20to%20Premier%20on%20mining%20&%20CSG%20processes.pdf)

[15%20Ltr%20to%20Premier%20on%20mining%20&%20CSG%20processes.pdf](http://www.edo.org.au/edoqld/edoqld/new/2011-06-15%20Ltr%20to%20Premier%20on%20mining%20&%20CSG%20processes.pdf)

Since that letter we have received a reply that advises that coal seam gas environmental authority applications and final authorities are now online which is a start but as yet this reform has not occurred for submissions/objections for proposed environmental authorities for mining projects.

We have has a chance to look at one crucial issue in the Bill in detail, the timeframes for public submissions/objections for appeal/objection to the Land Court for proposed mining and petroleum projects’ environmental authorities. That detail now follows:

Bill will reduce timeframe for public objection to proposed mining leases

The draft Bill would reduce the period for making an objection to a decision on a mining lease from at least 20 business days after the certificate of public notice is given to the applicant (sections 212(2) of the Environmental Protection Act 1994 and 252A(3) of the Mineral Resources Act 1989) to 10 business days after the decision notice is given (section 180(3)(a) of the draft Bill). The impact of this reduction is slightly softened by the provision of a new submission period however the conditions of approval will not be available during the submission period, making it impossible to assess the degree to which issues may be adequately addressed through conditions until the objection period. 10 business days is insufficient time for a member of the public to evaluate what may be hundreds of conditions, consult experts, determine whether to give an objection notice and draft the required grounds of objection.

Once the conditions of approval are viewed by the submitter, it may be that some issues raised previously by that submitter in the submission are no longer of concern, or the conditions raise fresh issues. Therefore it is important that the objector may raise extra or different issues in the objection compared to the submission. Under the *Sustainable Planning Act 2009*, submitters are not restricted in appeals to only issues raised in in their earlier submissions.

An objection period more consistent with other laws would be 20 business days after the decision notice is given. This would be consistent with the *Sustainable Planning Act 2009* which, in addition to a submission period for impact assessable development, provides an appeal period for submitters of 20 business days (section 462(4) of the Sustainable Planning Act 2009).

However given the many difficulties faced by poorly resources community members in gaining legal and expert assistance in short timeframes, and given the huge size of many mines (for example the Rio Tinto mine at Weipa that was front page of the courier Mail on 14 October 2011) and the number of new or expanded mines proposed, (over 30 new or expanded coal mines alone are currently proposed and some will be out for public objection around the same time), a minimum objection/appeal period of 30 business days is a much more appropriate timeframe for both mining objections and appeals on decisions on coal seam gas environmental authorities.

Yours faithfully
Environmental Defenders Office (Qld) Inc

Jo-Anne Bragg.

Jo-Anne Bragg
Principal Solicitor
Environmental Defenders Office (Qld) Inc

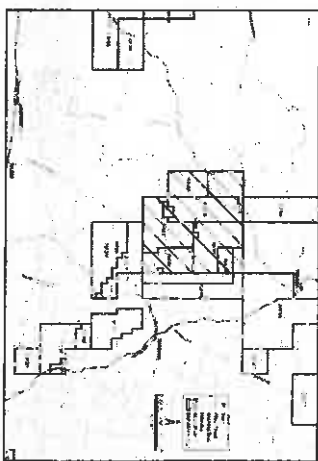
To provide feedback on EDO services, write to us at the above address.

Call us

APPLICATION NOTICE

**ENVIRONMENTAL PROTECTION ACT
1994 – SECTION 310W for application**

- (a) It is advised that QGC Pty Limited has lodged an application under the *Environmental Protection Act 1994*.
- (b) The application is to amend the existing Level 2 Environmental Authority PEN200030207 to add a petroleum activity carried out on a site containing a high hazard dam or a significant hazard dam, as per Environmental Protection Regulation 2008, Schedule 5, level 6.
- (c) The application relates to the area shown below:



(d) Any person can view, make copies and take extracts of the application at:

- Customer Service Centre, Department of Environment and Resource Management, Level 3, 400 George Street, BRISBANE QLD 4000 or 173 Hume Street, Toowoomba.
- www.qgc.com.au

(e) Any person may make a submission about the application.

(f) Properly made submissions must –

- be written and signed by or for each person ("signatory") who made the submission; and
- state the name and address of each signatory; and
- be made to the Gas and Petroleum Unit, Department of Environment and Resource Management, GPO Box 2454, BRISBANE QLD 4001; and
- be received before the end of the submission period, which is 16 November 2010, being 20 business days from 20 October 2010.

SOWN Environment Centre
Have your say

From: Parkland Community-based Environment Centre

To: Save Our Waterways Now Inc
0438 047 910

By: www.sown.com.au
98 Yoorala Street, The Gap, QLD 4061

On: Lot(s) 220 on Registered Plan 954/73
Approval sought: Preliminary Approval under s241 Development Permit - Community Facilities
Application No.: A002870400

Comment period: 19 October 2010 to 19 November 2010
Written comments to the assessment manager

Assessment Manager: Matthew Taylor, Brisbane City Council
Post: GPO Box 1434 Brisbane QLD 4001
Web: www.brisbane.qld.gov.au/development

Copies of the full application can be viewed or obtained from Brisbane City Council Public Notification Requirement Sustaining [Development](http://www.brisbane.qld.gov.au/development) Act 2009 Form 5-V1



This is to scale.