

EAST END MINE ACTION GROUP INC (EEMAG)
East End, Mt Larcom Qld 4695

SUBMISSION TO SENATE INQUIRY INTO
The Environment Protection and Biodiversity Conservation Amendment
(Independent Expert Scientific Committee on Coal Seam Gas and Large
Coal Mining Development) Bill 2012

18 April 2012

Committee Secretary
Senate Standing Committee on Environment
and Communications
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam,

East End Mine Action Group Inc (EEMAG) members thank you for accepting our Submission to the Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development) Bill 2012. Our submission is as follows:

Preliminary

EEMAG members support the concept of a Scientific Committee to assess mining/CSG impacts independently of Environmental Impact Statements (EIS) and Impact Assessment Studies (IAS). EIS / IAS processes with consultants selected and paid by the proponent, are not an independent assessment of the issues.

Our evidence provides examples of how declared intentions to conduct independent analysis are not borne out by the conduct of those activities or the outcomes. It is NOT possible for the Minister to guarantee each Committee member's mindset is unbiased at time of appointment or not influenced by any particular body, group or community (in particular the very influential CSG/mining related interests- including the richly resourced Minerals Resources Council) or by Government Ministers, politicians and Agency bureaucrats who may be/have been involved in planning /regulating CSG and mining operations while driven by the economic imperative for growth and development.

The concept of an "Independent" Expert Committee appeals as a beacon of light and hope. BUT EEMAG's 15 years' evidence shows that Departmental experts and "Independent" experts hired by Queensland Environmental Protection Agency and the mining company were NOT unbiased, and used inappropriate methodology, overstated drought effects and other inaccuracies / omissions to shape findings to conform with Government /Company "minimum compliance" agreements. These inaccurate findings were accepted by a premium Australian training facility (that we expected would be not be subject to outside influence) but who were prepared to promote the official position without due regard of dissenting evidence.

The professional views of EEMAG's experts and local knowledge of affected landholders (stakeholders) are consistently disregarded in hollow "consultation" processes that disempowered our experts and delegates, since they were effectively excluded from decision-making.

- EEMAG members entreat the Senate Inquiry to recommend that the Bill require funding of potentially affected landholder groups to select and hire their OWN experts whom they can TRUST, and for potentially affected landholder delegates (local knowledge) and their experts to be included and empowered (not outweighed or rendered powerless in the structure) in a balanced Expert Scientific Committee on CSG and Large Coal Mining Development. (Harding (1998) states: "Inclusion of local knowledge into scientific inquiry significantly increases the accuracy of assessing and interpreting local conditions thereby providing a more solid information baseline.")
- Post scientific assessment, potentially affected landholder groups and their experts should be included and empowered in collaborative decision-making concerning project operation, problem solving and assessing / managing negative socio-environmental impacts.

Note: Potentially affected landholders themselves **MUST** participate at the grass roots level and beyond - NOT representatives of farming organisations purportedly acting on behalf of landholders. This is the **ONLY** way to prevent unacceptable compromises being made on behalf of potentially affected landholders/stakeholders to their detriment.

As a mechanism to ensure 'best available science', we suggest that necessary parameters of the study (Terms of Reference) for the Expert Scientific Committee and final analysis needs to be conducted in a hot tubbed format presided over by a technical auditor who is the most skilled and respected among his peers. Under hot tubbing unsustainable opinions (as opposed to dissenting views) are conceded in the interests of progressing study findings.

- We request that the Bill accord "environmental value" status to groundwater levels as a mechanism to properly protect groundwater resources and that Terms of Reference investigate the degree and extent that perennial stream flows are sustained by groundwater.

In listing our evidence EEMAG's aim is to illustrate that despite our own inputs, our experts' and others' very best efforts for "best available science" to prevail; and despite Government reassurances - "official" science used for assessing impacts from East End mine dewatering was **ALWAYS** intended to minimise recognition of dewatering impacts.

Given our experiences, we are extremely wary that without transparency and without an obviously balanced structure, i.e. participation/empowerment by potentially affected landholders and their experts, the Expert Scientific Committee is likely to replicate how the Queensland Government/Company managed East End mine assessments. We understand that two (2) of the experts on the Interim Team for the Independent Expert Scientific Committee have bureaucratic backgrounds, one (now working for a University) has a mining background, one has spent much of his career in University Administration and is now involved with an institute providing higher education in international business studies, and one is a Director of the Sustainable Minerals Institute.

- EEMAG's evidence in Brief on various technical processes and expert findings, is listed as briefly as possible in chronological order;

On 14 August 1995 Prof Col Dudgeon presented his Draft Interim Report with findings that after 15 years of mining there were negligible off lease mine dewatering impacts. The meeting was attended by a small number of landholders from the farming districts of East End, Hut Creek, Bracewell and Cedar Vale (upstream of the mine) who shared grave concerns that water loss was more pronounced than in previous pre-mining droughts. Many of the landholders were third generation farmers.

Following announcement of QCL's \$220 M Gladstone Expansion Project EEMAG was formed at a public meeting on 1 September 1995. The dispute over Government and mining company technical assessments understating mine impacts – i.e. not being consistent with what landholders are seeing on the ground or with findings by EEMAG's highly credentialed experts – has been ongoing since that time.

The enormous bargaining power of mining companies – including expert professional views

- The level of bargaining power exerted on Governments by Companies is illustrated by revelations regarding Mount Isa Mine's operations (allegedly causing elevated blood lead levels in children) published in Hansard 13-15 May 2008, Page 1792, Para 6 quote: "The Mount Isa Mines Limited Agreement Act 1985 facilitated a lower standard for lead emissions than that applicable to other parts of the state. **It was enacted by the Bjelke-Petersen government in response to then mine owner MIM's threat to move smelting operations offshore should higher and more expensive emissions standards be enacted.**" (My bold)

For a professional expert assessment on the occurrence and influence of minimum compliance type agreements between Government and project proponents, the Mt Larcom Community Restoration Project (CRP) Report (2003) Executive Summary Items 11 to 14 inclusive (Page IV) Recommendation 9 (Page IX) and extract from Pages 48 and 49 are quoted below: (Electronic copy of Mt Larcom Community Restoration Project Report supplied)

"11. A significant element of the project concerned the evaluation of planning and consultation procedures used by various organisations in the district – notably the Shire, EPA, NR&M, State Development, Gladstone Economic Industry Development Board [GEIDB] and the Gladstone Area Water Board. The performance of two industrial companies, Queensland Cement Limited (QCL, East End mine) and Southern Pacific Petroleum (Shale Oil) were closely examined. Documents show State Development and the GEIDB provide high level Federal briefings on SDA matters to a range of senior political figures. On a State level, the briefings include the Hon Premier, Minister for State Development and Director-General of State Development. Under the circumstances, the Federal Government's informed role and the Commonwealth's various incentives to industry, suggest that any criticism of the planning and approval processes connected with what is considered to be a severely flawed industrial model must, by definition, also include the Commonwealth. Several processes were deemed inadequate, biased or ineffective in achieving sound planning outcomes. A range of recommendations on correcting perceived weaknesses are made.

12. In recent years the consultative approach has been incorporated into planning procedures. There is evidence that on several occasions the consultation process has been abused and has degenerated into an inequitable manipulative farce.

13. Statewide there are several examples of the State abandoning the concept of co-existence by allowing political decisions to over-ride environmental considerations. The buyouts of Targinnie and lease renewals at Mt Larcom without first addressing residual impacts are

considered prime examples. Once departures from decisions based upon science and sound environmental principles occur, planning and approval processes become a travesty and are liable to political and commercial manipulation. Such conduct may help explain the high level of community distrust and general loss of confidence in the administrative and political system. A summary of individual issues for corrective action is set out in the Recommendations section.

14. When political decisions pre-empt research findings, scientists and technical experts within Government Agencies operate in a highly stressful and compromised climate. Case studies at Mt Larcom and Targinnie show such circumstances are not conducive to good science and undermine the objective implementation of environmental legislation. As a result, regulatory compliance fails.”

RECOMMENDATION 9. Community Engagement: Equity and Ethics

“Issue: There are perceptions that there is evidence of illegal activity and unethical behaviour on the part of industry and state agencies. A distinction needs to be made between companies and agencies involved in legal environmental negotiations and approval processes and those that engage in unethical conduct and deal in manipulative procedures. This warrants investigation.

- Mt Larcom CRP Report, Page 48, Background to Lack of Trust between Government, Mining Companies and the People, states in part:

“While the evidence of shonky dealing during the 1990’s may be regarded as outdated and no longer relevant to today’s ‘enlightened’ policies, there is evidence that the problem of ‘capture’ of departmental officers by mining companies, through compliant senior bureaucrats, has not been overcome.” End of quotes.

Quotes from “The Scientific Method” and “Australian Judicial Perspectives on Expert Evidence: An Empirical Study”

Please consider the quote on The Scientific Method, by Steven S Zumdahl: “However, it is important to understand that science does not always progress smoothly and efficiently. Scientists are human; they have prejudices; they misinterpret data; they become emotionally attached to their theories and thus non-objective; and they play politics. Science is affected by profit motives, budgets, fads, wars, and religious beliefs The progress of science is often affected more by the frailties of humans and their institutions than by the limitations of scientific measuring devices. The scientific method is only as effective as the human using it. It does not automatically lead to progress” and

“Australian Judicial Perspectives on Expert Evidence: An Empirical Study” by Dr Ian Freckelton, Dr Prasuna Reddy and Mr Hugh Selby. (1999) quote:

“For example, the fact that it is now apparent that many judges are so troubled about the quality of medical, accounting, scientific and engineering evidence that they are prepared to give serious consideration to such aids to expert evidence assessment as the appointment of referees and assessors” and

“However, the forensic reality is that experts, especially in the civil and family litigation, are retained by one party which is intent upon winning the case, or, if that is not feasible, upon minimising the extent of their loss.”

Thank you for accepting our submission

Yours sincerely,

Heather Lucke

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