SENATE RURAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE

Managing the impacts of coal seam gas mining in the Murray Darling Basin

A submission by Friends of Felton Inc

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Background

Organised opposition to mining is a relatively recent phenomenon in rural Australia. Among the reasons for this latter-day opposition are the following:

- The recent and aggressive entry of mining into iconic farming areas such as Queensland's inner Darling Downs and the Liverpool Plains of NSW.
- The seemingly innocuous advent of Coal Seam Gas mining a decade ago, which is now turning into an undignified stampede – with insufficient regard for landholder sensibilities and unquantified risks to groundwater security
- The scale on which 21st century mining is conducted – which is massive and environmentally destructive by historical standards
- The overt bias by many state government politicians and administrators against the express interests of rural communities, landholders and the general issue of food security
- The dichotomy between what Australia governments purports to be doing to address global climate change and what they are actually doing; this dichotomy is stark and will remain so while the states monopolise control of mining activity
- An emerging sense that we should endeavour to coexist with all forms of life on earth – rather than blithely destroy whatever gets in the way of meeting the immediate demands of 'man'

'Friends of Felton Inc' (FOF) is a self-funded community based organisation formed to oppose coal mining in the Felton Valley. While the specific target of our opposition is the *ambreCTL* project, we are fighting to protect all highly productive and densely settled farming areas throughout Australia. The *ambreCTL* project is based on coal mining and petro-chemical processing in the Felton Valley but CSG exploration permits have been issued nearby. Thus FOF has an acute interest in the current Senate Inquiry, particularly the terms of reference dealing with the sustainability of prime agricultural land and the issue of balanced and socially acceptable development. At Felton we are motivated by two fundamental values:

> **First**, we do not believe that in this Nation, at this time in history, the revealed preferences of the affected community can be simply ignored in favour of a so-called 'development' that threatens to ruin our quality of life and means of livelihood. As the social impact of an open-cut mine is directly proportional to the number of households and individuals living in close proximity to it, the Felton Valley and surrounding areas (being densely populated) would suffer massive damages as a consequence of the development proposed by Ambre Energy.
> **Secondly**, we do not believe the prices and safeguards currently imposed on the externalities that the proposed development would generate are sufficient to protect

the welfare and best interests of future generations. Thus our concerns are as much for the welfare of future generations and other life-forms as they are for those currently walking the earth.

FOF formed as an unincorporated community-based organisation in February 2008. The organisation was incorporated in April 2009 and now operates under a formal constitution. In mid-2011 FOF has more than 100 paid up members and speaks for the vast majority of the people living in and around the Felton district, located about 30km south west of Toowoomba.

Our core argument is that large scale coal mining in the Felton Valley would inflict unacceptable impacts on essential food production, the health and well-being of thousands of people, the reputation of the region, the natural environment, the rural economy and the choices of future generations. The proposed mine would also act against the national and global community by inflicting massive externalities on the atmosphere (in the form of GHG emissions) and water resources (through new competition for limited and fixed supplies and pollution of releases into the headwaters of the Murray Darling and groundwater aquifers). Australia is now struggling to stay in touch with those countries leading the fight against climate change. At such a critical time, the means should exist to discourage the establishment of new, high emission coal mining developments, as a sign of belief and 'good faith'.

FOF contends that if only Australia had in place *long term land-use planning mechanisms*, the Felton Coal Project would never have been attempted in the first place. Without doubt, long term land-use planning mechanisms, if they existed, would not allow large scale coal mining to establish in the Felton Valley. To understand why such planning is missing and what must happen to re-dress the situation, it is necessary to understand the origins and complexities of mining-industry administration in this country.

Origins of the problem

FOF is concerned that the governance which directs where, when and how mining projects can enter and establish in regional Australia is out-of-step with contemporary beliefs and preferences. Indeed there is very little Commonwealth involvement with assessing and licensing of mining activities. Obviously this leads to inconsistencies between states. But more concerning is the fact that the states are not acting in unison with the commonwealth for the purpose of mitigating climate change and achieving global targets for GHG reductions. The natural inclination of the states is to encourage fast and furious development of the mining industry for the sake of the secondary benefits it generates – in the form of jobs, spending and royalties. So whatever the Commonwealth does to bring about GHG reductions is likely to be undone by the pro-development attitude and behaviour of the states. The fact that secondary benefits accruing at a state-level come at the expense of local communities and loss of quality farming country doesn't seem to matter. The commonwealth/state funding model and the inherent vagaries of the election cycle seem to be stopping the states' decision makers from thinking far enough ahead to stop the looming disaster everyone else can sense.

The Inquiry needs to appreciate the flaws that pervade the assessment and licensing of mining activities at this time. Below we outline the inherent faults of the Environmental Impact Statement (EIS) currently used to 'evaluate and manage the impacts associated with mining'. For the sake of illumination, we use the system applying in Queensland.

1. *The EIS methodology is based on a false premise*: The EIS methodology presumes that any development project can be made socially acceptable if it is overlaid by an 'impact mitigation strategy'. History shows that the EIS methodology has never found against a

mining proposal because of the costs it is likely to inflict on local communities and the natural environment. For the sake of consistency and credibility this country needs additional 'mine evaluation' tools that can be used to stop the entry and establishment of those proposals most likely to fail the new benchmark of social acceptability.

2. *Each EIS is initiated by a development application*: This means, by definition, that EISs are not an instrument of systematic, long term land use planning. *ambreCTL*, for example, has arrived at the EIS-stage after conducting exploration throughout the Felton region and developing an Initial Advice Statement – both without community consultations that would have revealed 'local preferences'. If pre-emptive and comprehensive planning processes were to find that large scale mining is not an appropriate use of a given land area, then all mining activity, including exploration, would be excluded. The Queensland Government could have introduced the concept of 'no-go' areas years ago by making mining proposals in Queensland assessable under its *Sustainable Planning Act 2009*.

3. *EISs are undertaken by consultants hired-by and paid-for by the proponent*. This necessarily results in bias. In practice the hired consultant becomes an advocate for the proposal and the report generated can look more like an Operating Manual than a critical and dispassionate analysis of expected long term social, ecological and economic impacts.

4. *The terms of reference assume the proposal will go ahead*: The terms of reference applied to one of Ambre Energy's now defunct proposals asked the consultant to identify positive economic outcomes that the mine would bring about. No reference was made to the possibility of negative outcomes. Thus there was (and always is) a presumption in the terms of reference that the Ambre proposal would boost the local economy. Friends of Felton believe the Ambre proposal – if it had gone ahead – would have devastated the local economy and ruined the amenity values for which the inner Darling Downs region is famous.

The states could potentially address all of the faults outlined above but it's not likely they will while the current Commonwealth/State revenue sharing system stays in place. The states have come to believe they have no choice but to foster the wholesale development of mining. The quickest and most practical way to make development in the mining industry conform to long term national ideals is through some form of direct commonwealth intervention that everyone can understand. The scope for effective intervention is explored next.

Towards a solution

Our core recommendation is that the federal government must play an active role in the licensing of new mines. This would make the conditions surrounding the establishment of mines more consistent throughout the nation and it would give the commonwealth scope to harmonise national policy goals with on-ground activity – particularly with respect to those mining activities with large carbon footprints and those that threaten long term food security.

The commonwealth's involvement should be via its *Environmental Protection and Biodiversity Conservation Act 1999.* In its present form this act is restricted and has rarely been used to arbitrate at the interface between mining and agriculture. Notwithstanding the need for some amendments, we think EPBC has the potential to get the balance between mining, the natural environment and agriculture about right. To this end, EPBC should be amended for two purposes:

1. To specify when and where the Act itself should apply
2. To specify how EPBC should be applied to bring about outcomes that are optimal from long run local, national and global perspectives.

With respect to 1 above, EPBC should be applied to all large scale mining proposals, after they have issued their Initial Advice Statement and before they have commenced development of their Environmental Impact Statement. Thus EPBC would be triggered by the standard development application but the assessment process would be pre-emptive, separate from the EIS and demonstratively independent. We think the assessment should be carried out by officers from the relevant commonwealth agency and the cost would be borne in the first instance by that agency. The proponent would be invoiced following completion of the EPBC investigations and a determination.

The EPBC assessment would determine whether or not the mine development application could proceed to the next stage – as prescribed by the relevant state. The terms of reference applicable to the EPBC assessment would take in critical determinants of social acceptability. Several examples are outlined below.

1. *Food security:* The Queensland Government is currently developing Strategic Cropping Land (SCL) legislation to protect the state's best cropping land from development projects that would lead to permanent alienation of such land. While this is admirable and definitely a step in the right direction, it is already clear that the approach being taken is overly compromised for the sake of appeasing greedy miners. In any event, analogous provisions do not yet exist in the other states. This means EPBC should have the capacity to protect high value agricultural land throughout the nation. Those landholdings used for growing cash crops or supporting intensive livestock production within regions are relatively 'high value' and should be protected as such. Like the SCL approach being developed in Queensland, EPBC could assess each mine development application (land area) on a case by case basis but it should not burden itself with a technocratic definition of what constitutes High Value Rural Land (HVRL). *Market value* provides a concise summary of the factors that determine HVRL. If EPBC can confine new mining projects to Low Value Land (LVL) it will correct the most divisive market failure currently plaguing rural Australia.
2. *Integrated land use planning*: Queensland's SCL legislation is focused strictly on a land area's cropping potential. As such it does not recognise the impact on nearby households or agriculture stemming from an embedded mine – that might not occupy SCL but be completely surrounded by it. This is a ludicrous situation; as we all know it is the externalities stemming from large-scale mining that causes environmental pollution, health problems and destruction of habitat. EPBC should have the capacity to consider the economic, social and environmental context surrounding a given mine development application and make a determination that reflects its net social worth within the context of all relevant considerations. Our suggestion above (to use the land's market value as the basis for allowing / disallowing the entry of mining) would satisfactorily address the issue of integrated land use planning.
3. *Water*: Australia is the driest inhabited continent on Earth. Mining and CSG projects often consume very large quantities of water and pollute any left over. EPBC should have the capacity to protect rivers and aquifers from the worst effects of mining.
4. *Consistency with international obligations*: Conforming to international GHG reduction targets will be made all the easier if mining projects likely to generate 'excessive' GHG emissions are assessed as such and stopped before they start. EPBC is much better equipped to do this job than an EIS administered by the states.

5. *Other*: We have not attempted to compile an exhaustive list of the issues that could be made assessable under EPBC. While other submissions might identify worthy triggers we are inclined to keep the EPBC assessment process relatively tight.

Conclusion

Increasing concern about long term food security combined with climate change management and other international obligations have accentuated the need for a whole-of-government approach – especially with respect to mining, which is often the root cause of chunky GHG emissions. Taking the 'whole of government' approach is a special challenge in this country because of the constitutional divide (in responsibilities) between the states and the commonwealth.

Historically, the states' authority to license and manage all mining activity has not been viewed as 'problematic'. But climate change and food security are definitely global issues that require a global-type response from Australia. While the Federal Government's proposed carbon tax might change the cost relativity between inputs, and thereby encourage industry and individuals to cut their GHG emissions, this initiative needs to be complemented by direct action. Fortunately the Commonwealth's EPBC Act could easily be amended to make it applicable to the licensing of new mining activities. In this submission, we have suggested that those mine development applications which threaten such things as important food producing areas, integrated land use planning and our international environmental obligations should be made assessable under EPBC. We believe this intervention would deliver optimal balance between short term economic prosperity and longer term sustainability and enjoyment of nature's gifts. Moreover the EPBC approach should be quick, independent, objective, clear to everyone and cost effective.

Rob McCreath (President)
Friends of Felton Inc