19 August 2003

Native Vegetation Inquiry
Productivity commission
LB2 Collins Street East
MELBOURNE VIC 8003

Dear Sir/Madam,

SUPPLEMENTARY SUBMISSION BY THE EAST END MINE ACTION GROUP

Omission of the words "affect injuriously" from QCL's new Special Conditions.
Since our attendance at the Commission Hearing in Brisbane on 28 July 2003 by three (3) EEMAG members, we have realised that the Queensland government omitted the words "affect injuriously" from QCL's new Condition 4 which replaces their original Condition 11 when QCL's mining leases were renewed on 20 March 2003.

From our interpretation omitting the words "affect injuriously" from QCL's new Special Conditions (both in its own right and in combination with weakening QCL's original Conditions No 9 and No 11) legislatively and administratively takes away landholders' entitlements.

Crown Law interpretation of the words "affect injuriously" as included in QCL's original Special Condition No 11, supplied by DME in 1996, provides for loss of land values and compensation as well as entitlement to an alternative water supply. (Crown Law advice of 22 July 1996 Attachment **121**)

In addition to omitting the words "affect injuriously", we allege a 'loophole' was included in Condition 4 to allow discretion on providing an alternative water supply, since it states "Rectification shall be by provision of an alternative supply of water, or by such other method." (This was raised in our initial submission Page 57, "QCL's Special Condition requiring provision of "an alternative water supply" etc.)

Landholders were/are dependent on QCL's Special Conditions to safeguard their entitlements and to monitor and report on the state of the water table. We believe QCL's Special Conditions were attached to the 1976 grant of their mining leases in recognition of this reliance.

We allege that government breached its statutory duty when it renewed QCL's mining leases in March 2003 without any requirement for QCL to redress the backlog of the mine's damage to the environment, and thus to landholders' livelihoods and land values.

We allege that in weakening QCL's Special Conditions for QCL's mining lease renewal of March 2003 and making lease renewal retrospective to 1 August 1997, the government acted to absolve QCL from having to comply with technical findings from July 1997 onwards that mine dewatering had cumulatively caused serious and extensive damage to the water table (alleged serious environmental harm on a district basis), so as to insulate QCL from claims by affected landholders and to provide a substantial cost-saving benefit to QCL for the term of their mining leases.

QCL's 1995 EMOS for their East End Project:
FOI of a letter from DME to QCL's Water Monitoring Consultant dated Thursday, 28 September 1995 in the second paragraph states, "Firstly, there remain areas where the E.M.O.S. does not provide concise commitments to environmental controls or clearly nominate acceptable levels of impact." (FOI of letter from DME to QCL's Water Monitoring Consultant of 28 September 1995 Attachment **122**)

FOI of 11 July 1996 from DME to QCL's Water Monitoring Consultant shows acceptance of the EMOS. (The words "injuriously affected landholders" are included in Commitment 32.) (Letter from DME of 11 July 1996 available.)

However we can find no nomination of the acceptable levels of impact on ground and surface water in QCL's 1995/1996 EMOS, [1]which DME pledged to QCL in August 1995 would be accepted for mining lease renewal as a key agreement for QCL's Gladstone Expansion project and was taken to Cabinet on 23 October 1995; and which was carried forward unchanged as part of QCL's transitional Environmental Authority by enactment of the EPOLA Bill on 1 January 2001and converted into an Environmental Authority after 31 March 2001.
[1] Please refer to our Addendum of 7 July 2003 and to EEMAG's presentation about administrative decisions to the Productivity Commission Hearing at Brisbane on 28 July. Please also refer to our initial Submission Page 18 QCL's 1996 Environmental Management Overview Strategy (EMOS), plus EPA's explanation of process in Attachment 21.

QCL's EMOS submitted in February 2002 does not define an acceptable level of impact on ground and surface water. In addition, from our interpretation the Commitments in QCL's February 2002 EMOS are much weaker/less explicit than their 1996 EMOS Commitments. The words "injuriously affected landholders" were included in Commitment 32 of QCL's 1996 EMOS, but are omitted from their 2002 EMOS. Refer EMOS 1996 Commitments Attachment **28**, and EMOS Commitments 2002 Attachment ***29*** in our initial Submission. .

We understand that QCL's 2002 EMOS is now a planning document that allowed the EPA to assess the appropriateness and adequacy of the provisions of QCL's current Environmental Authority and the EA replaces the EMOS as a regulatory tool.. Refer EPA letter of 2 April 2002, Attachment 26.

QCL's Current Environmental Authority
From our interpretation, the adequacy and appropriateness of QCL's current Environmental Authority M2017 is framed on QCL's 2002 EMOS.

QCL's current Environmental Authority does not define what impacts on groundwater are acceptable.

QCL's Environmental Authority was fundamental to approval of their mining lease renewal in March 2003.

We are alleging that the administrative process for enactment of Queensland's EPOLA Bill was manipulated so that QCL's unchanged 1996 EMOS – specifically since it did not define what impacts on groundwater were acceptable and thus implied there were none/negligible - was retained to provide the basis for weakening their 2002 EMOS Commitments.

We allege this process was used to administratively disregard/exclude findings from July 1997 onwards that QCL's mine dewatering had cumulatively caused serious and extensive damage to the water table (alleged serious environmental harm on a district basis), and used to exempt QCL from having to comply with Queensland's regulatory regimes to minimise environmental degradation, to exempt QCL from compliance with the CoAG agreements on ESD and Water Reform, and thus to allow QCL to damage the environment without limit.

As persons of rural social origin and property, we allege that our right to equal protection of the law under Article 26 of the ICCPR has been breached by the Queensland government to provide a substantial financial benefit to QCL. We allege that the regulatory requirements for QCL's mining lease renewal in March 2003 legislate for discrimination against affected landholders and abuse of power by government to continue.

We will forward a copy of the Mt Larcom Community Restoration Project Report, funded by DoTARS under the Regional Solutions Programme, as soon as it is published.

Yours sincerely,

Heather Lucke
Secretary

Attachments/