REGIONAL DEVELOPMENT
AUSTRALIA

Darling Downs and South West Regions of Queensland

Impacts Stemming from Resource Development Activity

A submission by Friends of Felton Inc

June 2011
Background
Organised opposition to mining is a relatively recent phenomenon in rural Australia. Among the reasons for this latter-day opposition are the following:

i. The recent and aggressive entry of mining into iconic farming areas such as Queensland’s inner Darling Downs

ii. The scale on which 21st century mining is conducted – which is massive by historical standards and gives rise to externalities and environmental destruction on a similar scale

iii. 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

iv. 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

v. 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. 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 affected communities can be simply ignored in favour of a ‘development’ that threatens incumbent landholder’s quality of life and means of livelihood. The social impact of an open-cut mine is directly proportional to the number of households and individuals living in close proximity. If the ambreCTL proposal was to go ahead thousands of people would be adversely affected by mining externalities.

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 mining development 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).
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.

### Three big problems

#### 1. Governance

The core problem is lack of effective governance. State ministers, bureaucrats and the mining industry lobby would have us believe that the mining industry is heavily regulated, that rigorous assessment processes are in place and the common good is are well enough protected. In fact there are no regulations to stop the entry and establishment of mining and the existing assessment processes are manifestly flawed. Currently miners can go wherever they can afford the real estate; with mineral prices on the rise this has literally brought exploration into the suburbs of Toowoomba. Our leaders must understand that the protests will continue until barriers are erected which place the long term social interests of established communities ahead of the short term private interests of large scale miners.

It is state governments that are primarily responsible for administering the entry and establishment of mining. Consequently it is the states that are responsible for the deficiencies and biases in the current system. Below we outline the inherent faults of the Environmental Impact Statement (EIS) currently used by the Queensland Government to ‘evaluate and manage the impacts associated with mining’.

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 in Queensland 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 completely the entry and establishment of those proposals most likely to fail the community’s 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 applied to mining proposals that the associated activity will benefit the local
economy. Friends of Felton believe the failed-Ambre proposal – if it had gone ahead – would have devastated the local economy and ruined the amenity values, for which the inner Darling Downs is famous.

Currently the Commonwealth has very little 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 job creation, new 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 seems to prevent the states’ decision makers from thinking far enough ahead to stop the looming disaster everyone else can see coming.

2. Myths
The mining industry never tires of telling us what a tiny area of land it takes up. The Queensland Resources Council claims that just 0.1% of the state is ‘under mining lease’. Excluding islands, Queensland is 1,723,936 square km. One one-thousandth of this is in fact 1,723 square km or 172,300 hectares. This is not exactly a small area when the land has an existing use and an income stream that would continued indefinitely.

The true impact of mining has to be thought of as three phases that accumulate through time. Phase 1 is the area already mined-out; Phase 2 is the area presently being mined-out; while Phase 3 is the area yet to be mined-out. To get a comprehensive picture of mining’s footprint, it would be necessary to model the following: a) The location and area of land already mined-out and its status (eg, wasteland, rehabilitated, etc); b) The location and area of land currently being mined and its estimated productive life as a mine; c) The location and area of land being explored with a view to it being mined in the future; special note should be made of areas being explored for more than one resource eg, coal, gas, bauxite, etc d) An aggregation of the above showing the cumulative footprint of the mining industry over its projected life; and e) Some objective estimate of the externalities flowing from particular mining activities that act to increase the effective size of the footprint. These externalities include dust, noise, congestion, water pollution, GHG, etc. If mining did not give rise to such large and damaging externalities, no-one would be all that worried about it.

Using the area of land currently being mined as an ‘indicator’ of the impacts that will eventually be inflicted on rural communities, the natural environment and future generations is a crude attempt at deception. It is not generally appreciated that 80% of Queensland is already covered by mining exploration permits. Heavily settled farming areas like the Darling Downs are blanketed from top to bottom by such exploration permits. If mining is allowed to develop in a manner suggested by the number and extent of exploration permits, it is not inconceivable that most of Queensland’s best farming land could be lost to massive holes in the ground.

When open cut mining is allowed to take the place of cropping – as has already happened at Acland – there is no after-life; feasible methods of rehabilitating the land have not yet been discovered. This means that mining’s effective footprint just gets bigger and bigger. Eventually the area actually being mined will be dwarfed by the area already mined – and left behind as ‘wasteland’. Without intervention, the cumulative area lost to mining will
eventually exceed the area left for food production, natural habitat and habitation, enjoyment and other options yet to evolve.

We should not be arguing about the veracity of such a prospect. As collective custodians of the land we should be concentrating our energies on how we achieve balance; how we can have our cake and eat it too. Unfortunately the Queensland Resources Council wants to keep the issue of protecting Strategic Cropping Land suspended in ‘negotiations’. In their October 2010 submission (‘protecting Queensland’s strategic cropping land’) QRC says: “With an estimated 2.2% of Queensland’s land mass dedicated to cropping and less than 0.1% under mining lease, QRC can see no reason why Queensland’s two premier industries cannot continue to operate side by side”.

The two industries will not operate harmoniously until the Strategic Cropping Land policy becomes law and this law stops encroachment by mining. Strategic cropping land legislation could deliver greater balance across the full spectrum of social, economic and political imperatives that apply to good land use planning. The micro-level application and rationale for the strategic cropping land legislation applies to the land itself and by extension to the communities that depend on the land. The record of suffering and indignities inflicted by coal mining on households in the Hunter Valley and at Acland should signal to state governments throughout Australia how not to treat their citizens.

3. Special incentives to mine the inner Downs
It is not widely known that the right to mineral royalties on many inner Darling Downs properties rests with the landowner. These properties were freeholded before 1910, and have a disproportionately high value in private hands because the landowner has rights to any mineral royalties stemming from the land. So in the absence of any form of intervention, there is a higher probability of these properties being mined because of the royalty windfall. Miners are better positioned than farmers to estimate the opportunity saving implicit in not paying royalties to the government, since they will be equipped with details of the geological survey. This knowledge would allow them to capitalise the value of the royalty saving and bid for land access accordingly. Logically, landholders with pre-1910 freehold land should never sell their land to a miner since he or she could lease out their land (for mining) and collect the full value of the royalty for themselves. Presumably the lease would stipulate that post-mining the land would be restored to its original condition and handed back.

There are three reasons the government should intervene to stop miners from establishing on pre-1910 freehold land. First the royalty situation gives miners an artificial incentive and opportunity to buy this land without offering the original owner a premium equal to the capitalised value of the royalty saving. Secondly, since it gets no royalty income when this land is mined, the Government cannot generate any of the public benefits that normally arise from government spending. Both these oddities can be seen as a form of market failure that should be ‘corrected’. This could be done quite simply by not granting prospective miners a license to operate on the Inner Downs.

The third reason is not related to the issue of royalties but is equally valid. Miners would like to establish on the inner Darling Downs because it puts them close of workers, services and infrastructure. But making these workers, services and infrastructure easily available to miners only makes all existing industries worse-off through added congestion and cost push inflation. Add to this the externalities that mining would inflict on the densely settled communities of the inner Darling Downs and the case for fencing out large scale mining becomes compelling. Queensland is fortunate in having 300 years of coal at the current rate of extraction – clearly supplies should be sought from remote areas where conflicts with the existing patterns of settlement and land use will be minimal.
**Solutions**
The problems outlined above can only be solved by government intervention that actually stops the entry and establishment of particular mines. Indeed a coordinated approach involving all three levels of government is required. Below we provide detailed recommendations on how each tier of government can do more to bring about balance.

**State**
The first step on the pathway to establishing a mining operation is securing an exploration permit from the state department responsible for mines. With an exploration permit in hand, the miner has right-of-way to explore and assess the viability of a mineral prospect. Heavily settled farming areas like the Darling Downs are already blanketed from top to bottom by exploration permits. Landholders are starting to question why the permit ‘gateway’ is not being used to limit where miners can potentially establish. If miners are not meant to operate over the top of towns, waterways, closely settled communities and strategic cropping land, why are they issued with exploration permits which suggest they might? This anomaly seems obvious to most people but the mining industry continues to be administered the same-way it was fifty years ago. In the meantime, good people are being scared witless by the prospect of marauding miners turning up on their door-step.

The Queensland initiative that everyone expects will place a barrier between mining and agriculture is the proposed Strategic Cropping Land legislation. This legislation is currently being developed and should protect Strategic Cropping Land (SCL) from ‘destructive development projects’ – most particularly large-scale open cut mining projects. Once enacted, SCL legislation is expected to save up to 4% of Queensland’s land mass from encroachment by mining.

Enacting legislation to protect SCL is proving an enormous test of character for the Queensland Government. While the expectations of farmers have been tantalised with two years of promises and draft documents, there is still no legislation in June 2011. Certainly there have been technical challenges but these have stemmed from subversive attempts to keep the area of land protected from entry by mining to an absolute minimal. We are getting the impression the government wants to claim credit for protecting the state’s finite resources of cropping land whilst privately acceding to the access demands of the mining industry lobby.

Even if the SCL legislation works ‘perfectly’ there will still be a need for other tools that act to stop mining from entering particular areas. Currently, mining proposals in Queensland are not assessable under the Sustainable Planning Act 2009. This is ‘logical’ in the sense that mining eventually exhausts the supply of mineral resources (making the industry unsustainable by definition) but the issue of sustainability remains relevant to managing the externalities associated with mining activities. If, in the process of extracting the resource, a mine is likely to threaten the functionality of surrounding soil, water, air and habitat generally, then it should be assessed under the Sustainable Planning Act 2009. This would put mining on the same footing as other large-scale development proposals. As noted above, the EIS methodology is not comprehensive enough to address the issue of sustainability since it presumes that all impacts, however destructive, can be satisfactorily addressed by an ‘impact mitigation strategy’. This is a myth that must be put asunder.

**Federal**
Since it is the states that license mining activity it should be the states that protect the rights of existing and future communities from encroachment by mining. But for the sake of risk management we believe 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. But with amendments, EPBC could stop socially objectionable mining proposals outright. Thus EPBC is fundamental different from the State’s EIS approach and has the potential to optimise the balance between mining, the natural environment and agriculture. To this end, EPBC should be amended:

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 EPBC assessment process would be pre-emptive, separate from the EIS and demonstratively independent. We think the EPBC 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 mining development proponent would be invoiced following completion of the EPBC investigations and a determination.

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:* While 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, 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.

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 cumulative economic, social, cultural 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.

3. *Water:* Australia is the driest inhabited continent on Earth. Mining 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.

**Regional**

In 2007 the number of local governments in Queensland was reduced from 156 to 72. This effectively created regional-level governments with bigger budgets and bigger administrative burdens. The transition from rubbish, roads and rates to responsible regional representation has turned into a formidable challenge for many of the new councils. While they lack the legislative authority to start or stop mines, there is now an expectation throughout Queensland that local government will become much more involved in the negotiations surrounding such projects. It is perceived that local and regional governments are best placed to monitor report and defend the preferences of local communities. To be effective in this role, elected councillors must a) consult regularly and effectively with their constituents; b) have a working knowledge of the legislation applying to land use planning; c) have a contemporary understanding of the issues surrounding climate change and GHG emissions and d) represent their constituent’s point of view before relevant state and federal government agencies. At the end of the day, all three tiers of government must work harmoniously if we are to bring about useful reductions in greenhouse gas emissions and leave future generations with a sustainable and functional planet.

**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 large man-made GHG emissions. Taking the ‘whole of government’ approach is a special challenge in this country because of the constitutional divide (in responsibilities) between the regions, 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.

The need for additional government intervention stems in the first instance from the ‘feeding frenzy’ behaviour and mentality that pervades the mining industry. The need for government intervention would not be so great if the mining industry exercised self control and considered the wishes of society as well as its own. It could start by focusing its activities in the more sparsely settled parts of the state where the creation of secondary benefits will be larger and more appreciated. But in the absence of socially responsible behaviour we insist
that mining be stopped from entering areas characterised by long established communities and high value rural land. History will not treat kindly any government that sacrifices the long term sustainability of nature’s most precious gifts, and implicitly life on earth, for short term greed.

Rob McCreath (President)
Friends of Felton Inc
‘Prestbury’
Felton Qld 4358
Telephone: 07-4691 0195
Email: friendsoffelton@live.com