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Mackay Conservation Group is a membership based, not-for-profit organisation based in Mackay, Queensland. The organisation focuses its conservation and environmental protection efforts on the Central Queensland Coast and Brigalow Belt bioregions in the area from Bowen in the north, west to Clermont and South to St Lawrence, and the off-shore islands of the Great Barrier Reef.

We have been concerned for a number of years about the way in which Queensland's legislative and planning frameworks are applied in a manner that consistently places the interests of the resource sector ahead of the long term protection of the environment, community rights and existing, sustainable industries. We aim to represent people's desires to protect and maintain our region's natural assets and encourage moves towards sustainable systems.

Submission on the Galilee Basin State Development Area

Thank you for the opportunity to make a submission on the *State Development and Public Works Organisation Amendment Regulation (No. 1) 2014* which provides for the declaration of the Galilee Basin State Development Area (GBSDA).

This submission focuses on the GBSDA as a policy initiative. For information on the impacts of the proposed rail lines that the GBSDA facilitates please see our original submission to the Co-ordinator General (attached), which details impacts of the rail lines on biodiversity and conservation areas, floodplains and agricultural land, and air quality.

In summary it is our view that the Galilee Basin State Development Area is premature and entirely unnecessary. The policy fails to meet the legislative requirement of being in the public interest and should be withdrawn. If the GBSDA remains in place, a set of recommendations for consideration by the committee are provided.

The GBSDA is unnecessary and premature

A central component of the GBSDA is the compulsory acquisition powers afforded to the Queensland government in the event that the major proponents, Adani Mining Pty Ltd, Hancock Coal Pty Ltd, Hancock Alpha West Pty Ltd and Hancock Coal Infrastructure Pty Ltd (GVK Hancock), potentially in partnership with Aurizon Holdings Ltd, cannot reach agreements with landholders along the proposed rail lines to acquire their land voluntarily.

Planning laws in Queensland have provisions for compulsory acquisition separate from State Development Areas. There are existing provisions both within the *Transport Infrastructure Act* and the *State Development and Public Works Organisation (SDPWO) Act* that allow the government to investigate rail corridors and acquire properties if necessary.

Furthermore, compulsory acquisition powers were granted to GVK Hancock for their proposed line from the Alpha coal mine to Abbot Point, when it was declared an Infrastructure Facility of Significance (IFS) under the SDPWO Act in 2011.

After December 2012 IFSs became known as Private Infrastructure Facilities (PIFs). If a facility is approved as a PIF, and negotiations between the landholder and the proponent are unsuccessful, the Coordinator-General may, on behalf of the proponent, compulsorily acquire the land¹.

These alternative legal options available to government for acquiring land to build the rail corridors render the SDA entirely unnecessary.

Furthermore the SDA, which covers two rail corridors proposed by Adani and Aurizon/GVK Hancock is premature because;

- a) Even if the Galilee Basin is developed, it is unclear whether both the rail corridors provided for by the GBSDA will go ahead given the present lack of investment interest in the international market. If both rail corridors are built this would mean an oversupply for rail capacity from the Galilee Basin mines to the ports. The existing GBSDA declaration makes no provision for this outcome.
- b) One of the proposed corridors relies on a joint venture agreement between Aurizon Holdings Ltd and GVK Hancock that has not been concluded. The agreement was tabled some time ago, and in spite of recent media comments, does not appear to be close to finalisation.
- c) Neither of the final proposed routes for the rail corridors have been given environmental approval.² By declaring the SDA so early in the approvals process it leaves no scope for amending the rail corridors in response to conditions on the environmental approval that may require route changes, and calls from graziers³ and Members of Parliament⁴ to revise the route to avoid vital floodplains

¹ <http://www.dsdp.qld.gov.au/assessments-and-approvals/private-infrastructure-facilities.html>

² Adani's EIS for the North Galilee Rail Project is before the Queensland Co-ordinator General. Whilst GVK Hancock's Alpha line has been approved, this only covers approx 300km of the 500km corridor to Abbot Point. A newer proposal to merge with the existing Aurizon rail line in the north of the basin has not been approved.

³ Central Queensland News, 22 July, 2014 Central Queensland farms on the line.
<http://www.railpage.com.au/news/s/central-queensland-farms-on-the-line>

⁴ Proposed Galilee Basin Rail line faces review. July 17, 2014. ABC Online:

<http://www.abc.net.au/news/2014-07-16/proposed-galilee-basin-rail-line-routes-face-review/5600246>

- d) The Galilee projects remain speculative due to declining global coal demand and high infrastructure costs⁵.

It is our view that the Queensland government is abusing the policy process in order to attract investment in speculative Galilee projects. We are concerned that the Queensland government has opted for an SDA because the proponents may not be able to meet the requirements for compulsory acquisition for Private Infrastructure Facilities, particularly the requirement to show that the project will proceed within a 'reasonable time frame.'⁶

In order to demonstrate that the project will proceed within a reasonable time frame proponents seeking acquisition under a PIF must provide evidence such as the steps and timetable for reaching financial close for the project, construction timeframes and procurement contracts.⁷ These requirements are designed to protect landholders and native title holders from being deprived of land and rights for projects that do not eventuate. Unfortunately landholders and native title holders in the Galilee Basin are not being afforded these same protections.

This is highly inappropriate given the long term impacts of SDAs on landholders and negative experiences of SDA in the Surat Basin and Gladstone (see further discussion below).

Is the SDA in the 'public interest'?

The Governor in Council can declare an SDA if they are '*satisfied that the public interest or general welfare of persons resident in any part of the State requires it*' (s77 of the *State Development and Public Works Organisation Act 1971* (Qld))⁸.

Public interest is a broad concept which allows full account to be taken of social, environmental (including sustainable development) and regional impacts, as well as economic impacts.⁹ It is important that projects proposed to be in the public interest address the impact of change on those sectors of the community and the environment which may be worse off as a consequence of changes brought by such projects.

The SDA does not meet the basic legal requirement of being in the public interest for the following reasons:

- The declaration of SDAs should be preceded by a rigorous extensive review of lands suitable for industrial development that demonstrate they can meet acceptable engineering, environment and social criteria. The public has yet to be shown such a review which for the GBSDA. Indeed the primary method of land selection appears to have been for those areas that provide the most direct and cheapest route to the port of Abbot Point from the proposed coal mines. This approach has excluded consideration of existing economic activities and sectors in the region as well as many environmental concerns that include floodplain management and 24/7 coal rail traffic through major environmental offsets and areas of significant environmental values.

⁵ Thermal Coal Paradox, Goldman Sachs. May 2014:
http://www.eenews.net/assets/2014/05/28/document_gw_02.pdf

⁶ 153AH(1)(b) of the SDPWO Act

⁷ *Private Infrastructure Facility Statutory Guideline* (December 2012), p16 – 17, accessed at
<http://www.dsdip.qld.gov.au/resources/guideline/cg/pif-statutory-guideline.pdf>

⁸ Queensland Public Works and State Development and Public Works Act. Part 6.

⁹ http://www.finance.wa.gov.au/cms/uploadedFiles/Economic_Reform/public-interest-guidelines-for%20legislative-review.pdf?n=8322

- The key justification for the Galilee Basin SDA being in the 'public interest' is that the development of the Galilee Basin provides overall economic benefit to Queensland (provided in the explanatory notes of the regulation). However, these benefits are related to the Galilee mine, rail and port projects, not the SDA itself.
- Even if we assumed that benefits associated with the rail projects were relevant to an assessment of the public benefit and therefore justified the SDA, it is not possible to determine whether this is the case because a robust cost-benefit analysis has not been undertaken for any of the Galilee projects – the mines, the rail nor the port at Abbot Point (see further discussion below).

The use of an SDA to advance private interests in the Galilee Basin is a significant and concerning shift away from the public interest and general welfare tests. Land will be acquired by government and leased long-term to private interests despite legitimate objections of the established grazing industry community due to environmental, social and economic impacts on their industry. **Given there are other legal options for acquiring land to build the rail corridors, the Queensland government has failed to justify why an SDA is necessary or in the public interest.**

Economic benefits of Galilee projects are overstated

The economic justification of the Galilee projects are heavily based on employment benefits which are regularly inflated. The mining industry has been a heavy user of input-output modelling, to generate estimates of the so called multiplier effect or the number of indirect jobs that are allegedly created. This effect is frequently used to claim that each mining job is responsible for the creation of between three and six jobs elsewhere in the economy.

For example, the 10,000 job figure for the Carmichael mine is based on a multiplier analysis. One of the problems with a multiplier analysis is that it assumes unlimited skilled labour and unlimited demand for coal. It makes no consideration that some workers on this mine would come from other mines. It also takes no account of the considerable pressure that opening up the Galilee Basin would put on coal prices, which would hurt other Queensland mines.

The Australian Bureau of Statistics stopped using multipliers in 2001-2 because 'they are a biased estimator of the benefits or costs of a project'. Similarly, the Productivity Commission says that multipliers are regularly 'abused'.¹⁰

Other concerns with the economic analysis of Galilee projects include:

- almost all the employment is during the short-lived construction period of 2-3 years.
- most jobs will be people drawn from other industries, particularly manufacturing and tourism, who have invested time and money in training. This will be highly disruptive to these industries and force them to compete with mining industry wages. almost all employees will be fly in-fly out, providing little benefit to local economies, but straining local infrastructure and services
- the proponents are entirely foreign owned companies, and the economic benefits, of these projects will largely flow offshore.

¹⁰ Productivity Commission Staff research note: Input-Output tables, uses and abuses. 2013. Available at: http://www.pc.gov.au/__data/assets/pdf_file/0008/128294/input-output-tables.pdf

The Australia Institute's critique of Adani's Environmental Impact Statement (EIS) for the North Galilee Basin Rail Project¹¹ concluded that;

'(the EIS) did not consider the costs and benefits of the project to the Queensland public. Instead, it relies on modelling of indirect impacts to give an unreliable picture of the project's economic influence. This approach is directly contrary to Department of Infrastructure and Planning guidelines. Instead of showing a net economic benefit to Queensland, this assessment downplays costs and emphasises indirect jobs and output to give a misleading impression of the project's value.'

Costs to existing industries are ignored

The proposed rail lines have been allowed to take low cost routes over major floodplains on the Belyando and Suttor river systems. This will disrupt floodplain hydrology, leading to erosion, land degradation and damage to other infrastructure¹². Much of the affected floodplain is highly productive soil types that would normally produce a higher turnover and return on asset than other areas. Properties will be divided by rail lines carrying up to forty, 4 kilometre long trains each day. This will make it difficult for landholders to access areas of their properties and it will be virtually impossible to move livestock to cut off sections. This represents a major disruption to grazing operations. Feedback from some landholders indicates that their businesses may become economically unviable if the rail lines go ahead. These long-term economic and social costs have not been quantified nor taken into account in the decision to approve this SDA.

The cost of the proposed rail lines on the agricultural industry in the region need to be considered as part of a robust cost-benefit analysis of the Galilee projects to determine if in fact, they are in the 'public interest'.

The SDA fails to meet the basic legislative requirement of being in the public interest. The only justification for the policy relates to the economic benefits of rail projects which are speculative and are yet to gain environmental approvals. It is not possible to determine whether the rail projects are in the public interest or not because their economic benefits have been inflated and the costs to existing, established industries in the region including agriculture have not been calculated.

Recommendations:

- 1. Withdraw the Galilee Basin State Development Area because it fails to meet the basic legislative requirement of being in the public interest.**
- 2. Undertake a full cost benefit analysis of the Galilee rail projects to assess the negative economic impacts on the agricultural industry associated with the loss and disruption of farming land and floodplains.**

¹¹ <http://www.tai.org.au/content/submission-north-galilee-basin-rail-project-0>

¹² Railroaded; Carving up food lands for coal transport. 2014. Report by Hydrocology Environmental Consulting. Available at: <http://www.lockthegate.org.au/railroaded>

The SDA removes landholder and native title rights

The threat of compulsory acquisition is extremely stressful for landholders and is an added pressure to sign agreements with the proponent that are unsatisfactory. In this context, it is critical that landholder's rights in the negotiation process are protected.

Landowners and native title holders affected by an SDA have few rights other than to agree to or refuse any compensation the state offers. When the Gladstone State Development Area, 15km north-west of Gladstone, was extended in 2001 following widespread toxic emissions from a failed oil shale pilot processing plant, ruined, organic farmers had little choice but to accept very low buyout prices for their properties. The Gladstone SDA has been amended numerous times and now covers 29,000ha. Because there are no requirements for an EIS to be undertaken for an SDA, expansions can occur without an assessment of impacts on the community or accountability to the public.

Mt Larcom residents have long been of the opinion that the SDA is preventing the town from growing. In 2011 the State Government stopped a plan to build 225 homes in Mt Larcom because of the planned estate's proximity to the SDA.

The forgone opportunity costs to this community are an economic loss not being factored into such decisions. Decision making associated with SDAs should be supported by full cost-benefit analysis to make sure such decisions are in the public interest.

In contrast to an SDA, Statutory Guidelines¹³ for PIFs set out a range of procedures, obligations and requirements that are absent for SDAs. These guidelines provide various safeguards such as;

- full disclosure by the proponent
- obligatory negotiations in good faith
- provision of a proponent's valuation
- undertaking to pay for the landowner's valuation, payment of the landowner's costs as incurred (regardless of whether agreement is reached)
- acquisition as a last resort and then only if it is accepted the project can and will go ahead.

These protections are absent from the SDA. The Coordinator General's Fact Sheet on the GBSDA of June 2014 seems to give some assurances reflecting parts of the PIF safeguards, such as resumption powers only to be used as a last resort, and subject to whether private interests have put their money up and the certainty of the project actually proceeding. But those assurances are not part of the State Development Areas non-PIF resumption provisions, so their status is weak.

The SDA is entirely unnecessary because the government already has the power to acquire land for the rail corridors. The policy is a heavy-handed approach that removes landholder and native title rights with respect to compulsory acquisition of their land.

Recommendation 3: The Queensland government should prepare statutory guidelines for proponents in an SDA that set out rights and obligations on both sides.

¹³ <http://www.dsdip.qld.gov.au/resources/guideline/cg/pif-statutory-guideline.pdf>

The GBSDA will drive down land values and is stalling agricultural productivity

There are serious concerns that the GBSDA will drive down land values. Providing evidence of the negative impact of SDAs on property values is extremely difficult because it can only be proved by comparable sales (within and outside of an SDA) and there are almost no private sales of properties after an SDA is declared.

However previous experience from the Surat Basin indicates that SDAs do reduce property values by affecting attitude of purchase and by rendering properties unsaleable. A similar SDA scheme for a coal rail line in the Surat Basin resulted in the sale of one property at a reported 30% loss in land value¹⁴. Forty one of a total of forty four landholders had land acquired and then the mine never went ahead. Yet the SDA is still in place.

The GBSDA is designed to fast track the rail projects to boost investor certainty in the Galilee Basin coal projects but it removes certainty for farmers. Uncertainty about compulsory acquisition of land and future use of land under the SDA prevents investment and expansion of farm infrastructure and damages farm productivity.

There is still considerable uncertainty as to whether the Galilee Basin projects will go ahead. New coal infrastructure is at risk of becoming stranded assets due to declining global demand for coal. Financial analysis indicates that the Alpha mine owned by GVK – one of the major new coal mines for which the new rail and port infrastructure is being planned – is unlikely to proceed as GVK is mired in debt and has no experience building coal mines¹⁵. Similarly, analysis of Adani's projects in the Galilee basin concluded that their plans to develop the Carmichael mine are uneconomic and financially risky due to the company's large amounts of debt¹⁶.

Landholders have already been in negotiations with proponents for several years now. Negotiations are time consuming, stressful and costly. Further delays to construction timelines are likely and will exacerbate impacts on landholders and farm productivity.

The SDAs is likely to negatively impact land values and uncertainty about compulsory acquisition is slowing farm productivity. There is considerable uncertainty about whether the rail lines will go ahead due to declining demand for coal. Therefore there is a high risk that the situation in the Surat basin where landholders were left with an SDA associated with a failed mine/rail project will be repeated in the Galilee basin.

Recommendation 4: Instigate a sunset clause in the SDA to ensure that if the projects do not proceed within a set timeframe the SDA is revoked.

¹⁴ 'Wandoan's coal woe's. Queensland Country Life. ', December 12, 2013
http://www.queenslandcountrylife.com.au/news/agriculture/general/news/wandoans-rail-woe/2681463.aspx#_blank

¹⁵ 'Stranded: Alpha coal project in Australia's Galilee Basin', Institute for Energy Economics and Financial Analysis. Available at: www.ieefa.org/report-stranded-alpha-coal-project-in-australias-galilee-basin/

¹⁶ Remote prospects: A financial analysis of Adani's coal gamble in Australia's Galilee Basin. Institute for Energy Economics and Financial Analysis. 2013. Available at: http://www.ieefa.org/adani_coal_report/

The majority of landholders are opposed to the SDA

There is considerable concern among affected landholders about the policy. A landholder's resolution to reject the SDA was delivered to Minister Seeney on 20th May, 2014 by a landholder network Corridor to Coast. It cited concerns about impacts on property values and impacts on landholder rights. The resolution was supported by landholders representing more than half the properties in the proposed SDA.

Feedback from landholders indicates that consultation by government on this issue has been inadequate to date¹⁷. The original SDA maps were poorly drawn and obviously developed very quickly, and released without an understanding of the impacts. Communication with landholders has been poor and there is a lot of confusion about the nature of the impacts of the SDA, eg. on future land use within the designated area, air pollution and fire hazard risks, and timely access across properties to maintain business operations.

Recommendation 5: Hold public hearings for this inquiry in locations where affected landholders can attend, eg Clermont, Collinsville or Bowen.

Summary

In summary, it is our view that the SDA is unjustified and unnecessary and will have long-lasting negative effects on landholders. The policy facilitates state purchase of land primarily for the benefit of privately owned mining and rail companies at the expense of existing, profitable industries. The declaration has already had serious impacts on landholders by causing stress and confusion, and stalling agricultural productivity, and is likely to drive down land values.

Recommendations

1. Withdraw the Galilee Basin State Development Area because it fails to meet the basic legislative requirement of being in the public interest.
2. Undertake a full cost benefit analysis of the Galilee rail projects to assess the negative economic impacts on the agricultural industry associated with the loss and disruption of farming land and floodplains.
3. The Queensland government should prepare statutory guidelines for proponents in an SDA that set out rights and obligations on both sides in order to protect landholder rights in the negotiation process.
4. Instigate a sunset clause in the SDA to ensure that if the projects do not proceed within a set timeframe the SDA is revoked.
5. Hold public hearings for this inquiry in locations where affected landholders can attend, eg Clermont, Collinsville or Bowen.

¹⁷ John Burnett, affected Grazier speaks about the lack of consultation with landholders.
<http://www.abc.net.au/news/2014-06-16/nrn-galilee-basin/5526540>