11 January 2005

Review of National Competition Policy Arrangements
Productivity Commission
PO Box 80
BELCONNEN ACT 2616

Dear Sir/Madam,

The East End Mine Action Group wishes to lodge additional information on our previous Submissions for a merits review and appeals process.

We wish to bring forward our view that the way the Queensland regulating agencies have administered the East End mine's environmental impacts (including noise intrusion) created the circumstances for costs of damages to be largely borne by affected landholders.

We are alleging that this impost on affected landholders amounts to a subsidy to the mining company's profits.

The costs of decreased land values and economic loss allegedly caused by mine dewatering and noise (in 1 case) are not factored into the Company's cement production costs nor recognised by the Government. These costs are imposed on small landholders in the mine's project area - **not** on the wider overall community that may benefit from the project. In our view this is contrary to the intent, principles and objectives of National Competition Policy.

We previously provided evidence the company's leases were renewed in March 2003 on an alleged deliberate false benchmark that mine-induced depletion extends only approx 500 metres from the pit, i.e. that it does not extend outside the area of the working mining lease and thus no landholders are affected. We allege that this false benchmarking facilitated circumvention of Crown Law advice to DME dated 22 July 1996 that the term *"injuriously affected"* included in QCL's 1976 Special Condition 11 meant that landholders in the 33 sq km QCL 2000 'Mine Impacted Area' qualified for compensation for loss of land values. *(Crown Law advice of 22 July 1996 was included with our submission dated 1 June 2004 with Extract of QCL's 1976 Special Conditions as Attachment10.)*

Listed are **some** of the costs borne by affected landholders due to alleged failure of administrative processes to strike a fair balance between the competing interests of mining and farming [and the environment] in the East End mine project area:

- curtailment of access to water supplies – when a landholder in the QCL 33 sq km mine depleted zone lost more than 1 supply only 1 replacement supply is ever considered by DNR&M and the company;
- no recognition or redress for loss of perennial creek flows;
- landholders authoritatively assessed as affected by mine depletion outside the QCL 33 sq km zone of depletion unable to access to an affordable process to obtain redress;
- a landholder in DNR 1998 22 sq km zone who lost 2 bores was unable to obtain an alternative supply;

- a number of landholders within the QCL 33 sq km zone have received no assistance whatever;
- time lapse of 5 years from when DNR ruled in 1998 that a small scale irrigator was entitled to a replacement supply at the company's expense until the alternative supply was commissioned in late 2003 (water supply lost in early 1995);
- reduced productivity, loss of viability and potential for diversity of agricultural land;
- lowered valuations and lowered expectations - elderly landholders stranded by reduced land values and poor sale prospects;
- incompatibility with and closure of a developing thoroughbred horse spelling yards and breeding stables adjacent to the mine's rail loading facility. *(Letters from 7 affected landholders included in the Mt Larcom CRP Report as Attachment 15 – including one from the owners of the horse spelling yards.)*
- time, inconvenience and financial outlays for professional studies, representations, legal advice, submissions etc.

On 16 November 1999 EEMAG wrote to DME requesting that diminution of earning ability of land and diminution of the value of land due to injurious effect from QCL's mining activities be equitably resolved for landholders outside QCL's mining Leases, but within the DNR Map 10 zone of depletion [of 22 sq km] prior to Lease Renewal; (including noise). We explained that in an effort to assess loss, a professional valuation of an individual property in the DNR Map 10 zone and an accountant's assessment of economic loss due to groundwater depletion on the same property had been carried out. *(Copy of letter of 16 November 1999 to DME Attached.)(Copy of land valuation dated 30 October 1998 Attached Copy of Report of Economic Loss dated 9 March 1999 Attached.)*

In their response DNR&M referred us to the Mining Warden's Court, since replaced by the Land and Resources Tribunal. Verbal pro bono legal advice in January 2000 was that the costs for such an action (up to $500,000.00) was beyond individual EEMAG members or EEMAG as a group to fund. The solicitor recommended that EEMAG continue to pursue a political or administrative solution. *(Copy of DNR&M's response available.)* (Confirmed by legal opinion supplied with our submission of 16 December 2004.)

The Land Court decision of 28 February 2002 reduced unimproved land values by 25% for all primary industry classified properties due to water loss in the approx 30 sq km "Kalf zone of water depletion". The decision stated on Page 3, 'There is no dispute that the dewatering activities [by QCL] have had an adverse impact and depleted water on properties within an area of about 30 square kilometres in the East End aquifer.' (The Land Court decision declared as blighted approx 170 sq km of land in the East End mine's project area.) EEMAG interpreted the Land Court decision as a judicial finding that mine dewatering had caused Serious Environmental Harm in the Kalf zone of water depletion. EPA disregarded the February 2002 Land Court decision. QCL's April 2002 Environmental Authority is framed on the basis the mine has not caused environmental harm. *(Correspondence available)(Land Court Decision of 28 February 2002 is Appendix 11 in the Mt Larcom CRP Report.)*

Yours sincerely,

Heather Lucke
Secretary,
East End Mine Action Group Inc (EEMAG)