



EDO Qld.

Environmental Defenders Office

*Using the law to protect
our environment.*

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Research Director
Finance and Administration Committee
Parliament House
George Street
Brisbane Qld 4000
Sent via email: fac@parliament.qld.gov.au

Dear Mr Chair and Committee Members

Submissions to:

North Stradbroke Island Protection and Sustainability (Renewal of Mining Leases) Amendment Bill 2015 (Private Members Bill) and

North Stradbroke Island Protection and Sustainability and Other Acts Amendment Bill 2015 (Government Bill)

We welcome the opportunity to make submissions on the proposed Bills listed above introduced by the Government and the Private Member Shane Knuth.

Who we are

The Environmental Defenders Office (Qld) (**EDO Qld**) is a non-profit, non-government community legal centre with expertise in environmental and planning law. We assist Queenslanders who live in rural, coastal and urban areas to understand their legal rights to protect the environment. EDO Qld has over 20 years' experience in interpreting environment and planning laws to deliver community legal education and to inform law reform.

Recommendations to the Committee in summary

In the interests of the protection of North Stradbroke's delicate ecosystems, culture heritage and community health, and upholding of the commitments of the Government, we ask that the Committee recommend:

1. That the Government Bill be passed; and
2. That the Private Member Bill put forward by Mr Shane Knuth MP should not be passed.

Our reasons for these recommendations are provided in brief below. We regret we have not had resources to respond in more detail to these proposed bills.

Sand mining is unsuitable in delicate island ecosystems

The incredible and unique ecosystems of North Stradbroke Island have been well documented, including in the explanatory notes to the Government Bill. That sand mining causes ‘*major permanent and irreversible damage*’ has been recognised by the Commonwealth Government when sand mining was ceased on Fraser Island in 1976.¹ North Stradbroke Island is suffering the same demise from sand mining, and deserves the same outcome - that sand mining be ceased as soon as possible to protect this delicate environment.

Protecting indigenous rights and interests

The Federal Court of Australia recognized the Quandamooka People’s native title rights and interests over land and waters on and surrounding North Stradbroke Island and over some of the islands in Moreton Bay on 4 July 2011. These rights exist over about 54,472 hectares. The Quandamooka People have exclusive native title rights over about 2,264 hectares of land where the group is allowed to enjoy this property to the exclusion of all others.²

There is an ongoing High Court challenge from the Quandamooka People to contest the *North Stradbroke Island Protection and Sustainability and Another Act Amendment Act 2013* (Qld) (**Amendment Act 2013**). This allows the holders of several mining leases (being ML1105, ML1109, ML117 and ML1120) to apply for renewals of those leases and for renewal periods that would be determined by the Minister, which are periods longer than those provided in the *North Stradbroke Island Protection and Sustainability Act 2011* (Qld). The Amendment Act 2013 omits conditions in the Environmental Authority MIN100971509 issued to Stradbroke Rutile Pty Ltd under the *Environmental Protection Act 1994* (Qld).

It is argued by the Quandamooka People that the Amendment Act 2013 is inconsistent with the Indigenous Land Use Agreement entered into between the Quandamooka People and the State of Queensland on 15 June 2011, and registered on the Register of Indigenous Land Use Agreements on 8 December 2011.³ The Quandamooka People maintain that they have not been consulted about extending the sand mining leases until 2035 and believe that this extension is a contravention of the *Native Title Act 1993* (Cth) and their native title rights and interests over the area.⁴

¹ Commonwealth of Australia, Fraser Island Environmental Inquiry, Final Report of the Commission of Inquiry, 1976, Parliamentary Paper No. 333/1976.

² Native Title Tribunal, *Quandamooka People’s Native Title Determinations North Stradbroke Island* (4 July 2011) Native Title Tribunal <<http://www.nntt.gov.au/Information%20Publications/Determination%20brochure%20%20-%20Quandamooka%20People's%204%20July%202011.pdf>>. See also *Quandamooka People v State of Queensland* [2011] FCA 741.

³ *Quandamooka Yoolooburrabee Aboriginal Corporation RNTBC v State of Queensland, Plaintiff’s Annotated Submissions* (6 February 2015) High Court of Australia, 1 <http://www.hcourt.gov.au/assets/cases/b26-2014/Quandamooka_Plf.pdf>.

⁴ Clark, Martin, *Quandamooka Yoolooburrabee Aboriginal Corporation RNTBC v Queensland* (28 November 2014) Melbourne Law School <<https://blogs.unimelb.edu.au/opinionsonhigh/2014/11/28/quandamooka-case-page/>>.

Under the Private Member Bill if sand mining were to continue until 2024 it could be found to be a violation of the Quandamooka People's native title rights and interests. By passing the Government Bill the outcome would align itself with the rights and interests of the Quandamooka People who are currently seeking an outcome in the High Court which would render the Amendment Act 2013 invalid; therefore the Quandamooka People could drop their resource intensive High Court challenge.

Economic imperative of continuing sand mining is not well founded

We acknowledge that some residents of North Stradbroke Island have become accustomed to the existence of the mining on the island and its input into the local island community, as demonstrated by the submissions received by the Committee. Change is difficult and unnerving, particularly where there are fears it will impact upon our way of life.

However economic analysis by The Australia Institute (TAI) of North Stradbroke Island's economy has demonstrated that the economy of the island is not dependent on sand mining and is in fact integrated with the economy of South East Queensland.⁵ TAI state that economic assessments commissioned by the mines are not accurate and do not focus on the integrated nature of North Stradbroke Island. The TAI analysis reports that most of the island's residents do not work (being some 1,200 people) due to the age profile of the island, and most of the sand miners are imported from the main land. Only around 100 people resident on the island are employed by the mines.

There are further claims that an end to sand mining would decimate house prices, but the analysis of TAI found that given the above employment statistics and the fact that 55% of housing on the island is owned by non-residents as holiday homes, this is unlikely. There is no correlation between property pricing and changes to government or mining policy on the island.

Currently most of the island is inaccessible due to the mining, and an end to sand mining could bring more prosperity to the island and boost the economy by opening up more of the island for tourist and recreational purposes.

It is our understanding that the end of sand mining on Fraser Island happened over a much shorter time frame than proposed by the Government Bill. We do not support any extension of the time frame to end sand mining on North Stradbroke Island.

⁵Campbell, Rod, *Sandstorm in a Teacup, Ending Sand Mining and the North Stradbroke Island "Economy"* (April 2015) The Australia Institute, 1
<<http://www.tai.org.au/sites/default/files/P138%20Sandstorm%20in%20a%20teacup%20-%20Stradbroke%20sand%20mining%20FINAL.pdf>>.

Upholding Labor's commitment to Queensland

Labor has committed to Queensland to 'legislate for the closure and cessation of all sand mining activity on North Stradbroke Island between 2015 and 2019.' By passing the Government Bill the Government will be able to fulfil its commitment made to Queenslanders.

Yours faithfully
Environmental Defenders Office (Qld) Inc



Revel Pointon
Solicitor