



31st March 2016

Mr Glen Butcher MP
Chair
Agriculture and Environment Committee
Queensland Parliament
Brisbane, Qld. 4000

Dear Mr Butcher,

Inquiry into Environmental Protection (Chain of Responsibility) Bill 2016

The Association of Mining and Exploration Companies (AMEC) appreciates the opportunity to provide input into the development of the Environmental Protection (Chain of Responsibility) Bill.

AMEC is the peak national industry body for mineral exploration and mining companies within Australia. The membership of AMEC comprises hundreds of explorers, emerging miners and the companies servicing them. Many of these organisations operate in the State of Queensland.

It should be noted that AMEC was not consulted during the formation of the Bill, despite having raised the issue of financial assurance on a regular basis with the Department of Environment and Heritage Protection for several years.

The Bill has been received with widespread concern by the mineral exploration and mining sector as it perpetuates the inaccurate depiction of the resources industry as untrustworthy and detrimental to Queensland. This is fallacious.

AMEC is fully supportive of good public policy and sound environmental protection processes being upheld in Queensland. This Bill does not however, meet those standards.

From the Explanatory Notes accompanying the Bill it appears that it has been developed to deal with a very specific issue with relatively recent sites. The industry perceives this as punishment for the poor behaviour of a very small number of operators that were allowed to continue due to inadequate implementation of compliance and enforcement protocols.

The Bill as currently proposed contains various unintended consequences that are not consistent with encouraging investment into the job-creating industries of Queensland nor will they encourage better environmental rehabilitation outcomes.

Specific comments are as follows:

Association of Mining and Exploration Companies

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1. Definition of "Related persons":

This definition appears very broad and could include parties that have little, if any, impact on the operation of a company holding the environmental authority (EA). The Bill indicates that the Chief Executive of the Department of Environment and Heritage Protection (DEHP) can consider if any party has a "relevant connection" with the company. This needs to be rectified.

AMEC considers that the definition is subjective and open to political bias. As an example: related parties could include land owners upon which mining is being undertaken as they have received compensation; tourism operators that promote mine tours; or shareholders that have never been on the mine site.

2. Retrospectivity of powers:

The Bill as currently drafted provides the DEHP with extraordinary powers to re-assess financial assurance (FA) on projects. This appears to be very subjective, as no policy framework is able to be completely accurate with rehabilitation costs. However, Section 747 needs to be removed and replaced with suitable transitional arrangements. This Section suggests that Environmental Protection Orders (EPO) can be issued for events prior to the Bill being enacted. This leaves current tenement holders liable for activities undertaken by any companies before them that held the land.

Tenements may have been forfeited with fully 'approved rehabilitation' by the Government. The new proponent could now be forced to undertake retrospective rehabilitation to new standards. This Section will cause uncertainty and ensure there is little investment in areas of high prospectivity as companies will be unwilling to assume the risk of an EPO being issued. This will affect mineral explorers in the NW Minerals Province, north and central Queensland, driving employment opportunities to other Australian jurisdictions.

3. Forcing employees to testify:

The proposed power for DEHP compliance investigations to compel witnesses does not align with the Government's theme of fairness and natural justice.

Employees should not be held personally accountable for decisions and actions the company directors or board may have undertaken.

The powers to hold company directors to account are adequately covered by the Corporations Act under Commonwealth Law and should not be duplicated for DEHP to specifically target sites across the State.

4. Review of FA in Land Court:

AMEC is concerned that companies are having their rights severely curtailed by removing the effectiveness of a Court ordered stay of a decision on an amended FA. Under the proposed Bill, should a company gain a stay of decision on an amended FA, the company must still provide 85% of the amended FA whilst the matter is heard by the Courts.

These complex matters may take many months or years, crippling a company's ability to raise funds, explore or provide jobs whilst the liability is uncertain. AMEC views this

power as the DEHP being placed in a position where they are beyond the law and not subject to judicial review. This is a position that AMEC does not support and should not be given to any government agency.

AMEC requests the Committee to:

- Investigate if the DEHP already has a FA framework at it's disposal, why has it not been properly administered?
- Why did the Government allow operations to continue if such environmental harm was imminent or likely?

This Bill appears to have been rushed into Parliament to treat a very specific breach in Government standards, which should have been handled through current laws.

Furthermore, AMEC again strongly advocates for Queensland to implement a last resort 'Mining Rehabilitation Fund' (MRF) model similar to the one that has been successfully implemented in the Western Australian mining sector.

Eligible companies participating in the MRF pay an annual levy of 1% of their estimated rehabilitation liability. The accumulated funds are invested and the interest earned used for administration and the cost of any rehabilitation on abandoned mine sites.

The creation of the MRF protects the taxpayer from being exposed to any environmental liability after all other normal compliance and enforcement processes have been pursued.

This model is flexible, fair and scalable as each project is incentivised to reduce the environmentally disturbed area and associated annual levy contributions.

AMEC does not support the draft Bill under inquiry as it simply exposes the inadequacies of the current system rather than future-proofing Queensland's unique environment.

AMEC would be pleased to appear before the Committee. Please contact myself or AMEC Regional Manager, Mr Bernie Hogan [REDACTED] to make arrangements.

Yours sincerely

[REDACTED]
Simon Bennison
Chief Executive Officer

