



Mining and Other Legislation Amendment Bill 2012

Submission to the Agriculture, Resources and Environment Committee

Local Government Association of Queensland Ltd

28 January 2013

The Local Government Association of Queensland (LGAQ) is the peak body for local government in Queensland. It is a not-for-profit association setup solely to serve councils and their individuals' needs. The LGAQ has been advising, supporting and representing local councils since 1896, allowing them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting councils to people and places that count; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and delivering them the means to achieve community, professional and political excellence.

Introduction

1. The LGAQ welcomes the opportunity to provide feedback to the Agriculture, Resources and Environment Committee in relation to the Mining and Other Legislation Amendment Bill 2012.
2. LGAQ's submission focuses primarily on processes to improve engagement with local government as part of the tenure administration changes contained in the Bill. While local governments have no formal role in assessing resource tenure applications, there is potential for improving the communications with councils about the activities to be carried out on land under tenure.
3. The Association considers that this will lead to mutually beneficial outcomes for industry, State and local governments. Councils will be able to anticipate the likely impacts on local infrastructure and plan their program of works accordingly. Industry will also benefit from improved access and possibly upgrades to infrastructure, in partnership with government, to support the transition from exploration to production tenure.
4. Local government remains committed to working with industry and the State Government to facilitate resource activities.

Streamlining amendments for Small Scale Mining

5. The LGAQ supports, in principle, streamlining processes for the small scale mining of opal, corundum, gemstones and other precious stones. These types of activity are relatively low impact.
6. The Department of Natural Resources and Mines previously advised LGAQ (5 October 2012 meeting) of these amendments. The Department also advised LGAQ that separate consultation would occur with relevant councils in which most of the opal and gemstone mining occurs (i.e. Central Highlands, Quilpie, Winton and Paroo Regional Councils). LGAQ is not aware of any outstanding issues from this consultation process.
7. As LGAQ understands, the Bill provides for opal, corundum, gemstone and other precious stone miners, currently operating on mining leases (up to 20 hectares in size), to transition to a mining claim. These operators will benefit from the lower fees attached to a mining claim.
8. Further, the holder of a mining claim will no longer require an environmental authority and will be exempt from annual environmental authority fees. Activities under a mining claim will now need to comply with a new Small Scale Mining Code and a program of work is to be submitted every five years.
9. Importantly, notification processes for local government will continue to apply. Small scale miners will still have to provide the relevant council with their mining claim application and a council may still object via Land Court processes.

10. LGAQ suggests this process could be improved by providing that the relevant local council also receive a copy of the five-year program of work that is submitted when the mining claim reaches its fifth anniversary. This will ensure that council is appropriately informed of activities on land subject to the mining claim for the full 10-year period of the mining claim. The process for renewing a mining claim should also ensure the program of works is provided to the relevant local government.
11. Exploration permits for minerals (other than coal) will also operate under the Small Scale Mining Code and will not require an environmental authority. LGAQ recognises the intent of this amendment to apply only to eligible small scale exploration of minerals (up to 4 sub-blocks). However, there is potential incentive for proponents to apply for multiple separate permits to satisfy the small scale criteria and operate without an environmental authority. This is of concern for local governments as the combined affect of multiple small scale exploration permits may still have a material impact locally, particularly on local roads used for access.
12. LGAQ suggests improving this process to provide that the relevant council receive a copy of the program of work accompanying the small scale exploration permit application prior to grant, consistent with the process for a mining claim application. The process for renewing an exploration permit for minerals should also ensure the program of works is provided to the relevant local government.
13. Further, there should be provision for the Minister to consider any concerns of the relevant council about a tenure holder's activities under the Small Scale Mining Code. LGAQ considers this to be important to ensure council has right of recourse given these activities are no longer subject to an environmental authority.
14. The Association recognises that while small scale miners will be exempt from an environmental authority, these operators must still comply with their general duty of environmental care. LGAQ seeks further information about how small scale mining activities will be monitored to ensure compliance with the new Small Scale Mining Code. It is essential that the relevant state agencies be appropriately resourced to actively monitor and enforce compliance of environmental management.

Competitive tendering framework for exploration tenure

15. The Bill introduces a competitive tendering process for coal exploration permits. This will include a cash bidding component for highly prospective areas for coal. LGAQ understands that this new tendering process will replace the existing first-in first-serve application basis for exploration permits. Exploration permits for minerals (other than coal) will still be by application but the Minister may decide to allocate these permits via competitive tender if it is in the State's interest.
16. Competitive tendering is already in place for a petroleum and gas authority to prospect. The Bill will improve on these existing provisions by introducing a cash bidding component for highly prospective areas of petroleum and gas.
17. LGAQ considers there is merit in the new tendering framework as it will provide for the controlled release of land whereby the State Government can identify and assess suitable areas prior to release. As such, there is potential for this framework to better manage land-use conflicts.

18. There are two outstanding issues for local government:
- engagement of the relevant council in deciding whether to grant an exploration tenure; and
 - terms and conditions of a granted exploration tenure to address local impacts.
19. While exploration activities are lower impact relative to production tenure, local governments continue to experience adverse impacts on the local road network from certain types of exploration activities. Currently, council has to carry the burden of the costs associated with damage to roads. Notwithstanding the impacts from other types of industries, the intensification of resource activities and the associated impacts remain a priority concern for councils.
20. LGAQ recognises that there are practical limitations to consultation with council prior to the grant of tenure, particularly as there will be multiple proponents involved in a competitive tender process. Local government does not seek to be consulted on each individual tender. Instead, LGAQ considers that as part of finalising the tender process there should be quality and timely information to councils about authorised activities.
21. LGAQ suggests including in s137 (Grant of exploration permit) that in deciding whether to grant an exploration permit, the Minister have regard to the extent of consultation proposed with the relevant local government and that a copy of the approved program of work be provided to the council. These provisions should also be included in s43 (Criteria for decisions) for an authority to prospect. In addition, the process for renewal of exploration tenures should ensure the program of works is provided to the relevant council.
22. This would go some way to addressing the delays in communications with local government about authorised activities in the local area. It will also assist council in planning and prioritising their infrastructure program of works.
23. LGAQ notes the Bill requires a tender for an exploration permit to include a statement about proposed consultation with the owner of public land (e.g. local road authority). This is consistent with the existing requirement for making a tender for an authority to prospect. The Association also notes that once granted, both exploration permit and authority to prospect holders are obliged to consult with the local road authority about access and compensation.
24. Despite these existing legislative provisions, there appears to be a disconnection in proponent communications with relevant councils and inadequate information about the full extent of authorised activities for the term of the exploration tenure. Accordingly, proponent liability with respect to council owned infrastructure, including the local road network, is not being accurately determined.
25. LGAQ suggests including in s141 (Conditions of exploration permit) that the grant of an exploration permit be subject to a condition that the permit holder must consult with the relevant council about the initial approved program of work as well as approved amendments to the program of work. A similar provision should apply for the holder of an authority to prospect. This will ensure council is adequately informed of all authorised activities throughout the term of the exploration tenure.
26. The Association considers the inclusion of a prescribed condition to consult with council as reasonable. It relies on the same information the proponent would provide as part of any competitive tender process.

27. Further, there should be provision for the Minister to consider local government concerns about a granted exploration permit and authority to prospect. This provision should include the Minister being able to direct the tenement holder to address local government concerns with respect to proponent liability. This approach has the advantage of safeguarding the interests of local government in relation to exploration activities.

Gas pipelines

28. The Bill will introduce flexibility to construct infrastructure for incidental activities on pipeline licences. As LGAQ understands, the intention is to minimise the land impact of petroleum activities and avoid proponents having to seek separate approvals for activities related to their existing petroleum authorities.
29. The Bill provides for the co-location of linear infrastructure (e.g. electricity and telecommunications cables) on land subject to a pipeline licence. Pipeline licence holders must apply to the Minister for approval of these activities. Importantly, if the proposed activities on the pipeline licence land will have a compensable impact on the landholder, then the proponent must re-negotiate the compensation agreement.
30. LGAQ notes that the existing provision under s428 in the *Petroleum and Gas (Production and Safety) Act 2004* will extend to all infrastructure constructed for the carrying out of a stated pipeline licence incidental activity. As such, the proponent will have to bear the costs of any infrastructure effects from council road works.

Conclusion

LGAQ thanks the Committee for its consideration of this submission in response to the Mining and Other Legislation Amendment Bill 2012. Should you require any clarification please contact Mr Greg Hoffman PSM, General Manager - Advocacy, LGAQ on greg_hoffman@lgag.asn.au or 30002245.