

David Wenck
Ph: 07 3046 9084
Fax: 07 3235 2652
Email: david.wenck@qrnational.com.au

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Attn: Robert Hansen
Agriculture, Resources and Environment Committee
Parliament House
Brisbane QLD 4001

**By email: arec@parliament.qld.gov.au
robert.hansen@parliament.qld.gov.au**

Dear Sir,

I refer to the *Mines Legislation (Streamlining) Amendment Bill 2012* introduced in the Legislative Assembly on Thursday 2 August 2012.

Enclosed is a submission regarding the above bill on behalf of QR National Limited (QRN). Please note that the submission includes some commercially sensitive material as an attachment to the submission. QRN requests that the attachment be kept confidential.

If you wish to discuss any aspect of this submission or require any further information please contact the writer or Diana Calvisi on 07 3235 7823 or diana.calvisi@qrnational.com.au.

Yours faithfully,



David Wenck
SVP & General Counsel
QR National

QR National Limited submission on *Mines Legislation (Streamlining) Amendment Bill 2012*

8 August 2012

QR National Limited (QRN) has reviewed the provisions of the *Mines Legislation (Streamlining) Amendment Bill 2012*.

As a rail infrastructure provider of railways for public use and the rail proponent for projects that may be declared projects of State significance, QRN has in the past, and will in future, be requesting that the State resume land on its behalf for railway purposes. Where such a request is made and agreed to by the State, QRN must underwrite the costs of undertaking the land acquisition including any compensation payable for interests that are taken.

As such QRN has an interest both legal and commercial in the amendments that deal with compulsory acquisition of resource interest.

Submissions:

QRN's submissions primarily deal with the provisions that clarify the legislative framework relating to compulsory acquisition of land as it relates to resource interests from a legal and commercial perspective..

QRN's submissions specifically address the proposed amendments to the *Mineral Resources Act 1989* and the clauses identified are those relating to the proposed amendments to that Act. QRN's submissions also apply to the mirror provisions proposed for the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004*, *Geothermal Energy Act 2010* and the *Greenhouse Gas Storage Act 2009* (except for submission no 5 below which only applies to proposed amendments to the *Mineral Resources Act*).

1. Clause 48 – insertion of new section 10AAA

Resumption of resource interests should only occur where the resource interest is incompatible with the purpose of the take or where native title has to be resumed

- Supported by QRN
- Provisions will encourage collaborative discussions between infrastructure proponents and mining interest holders to explore practical solutions where mining interest and purpose of land take compatible.

2. Clause 48 – insertion of new section 10AAB

Clarification that resource interests may be wholly or partially extinguished by excluding land from the land the subject of the interest or prohibiting the carrying out of activities by the interest holder

- Supported by QRN
- Provisions allow resource interest to be taken only to the extent that it needs to be for the purpose of the land take which will impact on compensation amount payable.

3. Clause 48 – insertion of new section 10AAC

Allows for an application to be made for a new mining tenement for an area that includes acquired land where tenement is compatible with land take purpose

- Supported by QRN
- Provisions apply not only to past resumptions but also where native title is resumed in future. QRN complies with State policy which requires extinguishment of native tile interests as a condition of land being included in the perpetual head lease and then subleased to QRN. While this State policy

requirement continues, these provisions will allow mining interests to be granted over land where extinguishment of mining interests was necessary in order to extinguish native title interests but where the mining tenement grant is compatible with the purpose for which land taken.

- Where this occurs, compensation will be adjusted accordingly and will allow resource to be mined.

4. Clause 48 – insertion of new section 10AAD

Compensation to resource interest holders is limited to the actual cost resulting from the extinguishment and does not include the value of the resource on the resumed land.

- Supported by QRN
- Compensation payable will be quantifiable and provide certainty for infrastructure proponent with flow on effects of certainty for overall project costs of delivering infrastructure.
- Without such a limitation, costs of providing infrastructure may be prohibitive and may mean that infrastructure is not delivered.

5. Clause 63 – insertion of new Part 19 Division 16 and in particular proposed clause 789

Transitional Provisions in relation or land in a mining tenement’s area taken before the commencement of the Act

- QRN supports the proposed section 789 (1) which in certain circumstances preserves mining tenements over land resumed before the commencement of this Act. This provides clarity in relation to any obligation on the resuming authority to pay compensation for these tenures where extinguishment of those tenures was not necessary for the purpose of the take and was perhaps not intended.
- QRN similarly supports proposed sections 789(3) and (4)
- **QRN does not support in inclusion of proposed section 789(2) whereby mining leases are excluded from the operation of the transitional provisions of section 789.**
- QRN does see advantages in such a clause in that a preservation of a mining lease tenure over land that has been taken for a transport purpose would mean that mining activities could be undertaken as authorised activities on land resumed for a transport purpose. This would pose unacceptable safety risks to the transport infrastructure particularly in the case of railways.
- QRN notes that the provision does not specifically state that mining leases have been extinguished prior to commencement. It merely excludes mining leases from the transitional “preservation” provisions. However by enacting provisions in all of the various acts dealing with resource interests which purport to preserve every other type of resource tenure in certain circumstances, the inference is that mining leases are extinguished.
- By excluding mining leases from the transitional provisions there is no ability to consider the actions of the resuming authority as set out in 789 (1) (b) or to deal with each case on its merits and where appropriate, preserve certain mining lease interests.
- QRN’s further submissions on this point are commercially sensitive and are contained in an attachment to this submissions paper. QRN asks that the Committee recognise the commercial sensitivity of the attachment and keep it confidential.
- If preservation of the safety and operational integrity of the railway is the reasons for the inclusion of section 789(2) then QRN submits that there are other ways to achieve this protection. This would include enacting amendments to MRA whereby protection is given to railways from certain mining activities or amending proposed section 789 to provide that where mining leases are preserved and the land taken is now being used as a railway, that mining activities cannot be undertaken under the authority of that mining lease without the consent of the railway manager.
- **QRN requests that proposed section 789 and in particular section 789(2) be referred to the Office of Best Practice Regulation to determine the impact of that section on the industry.**

Petroleum and Gas (Production and Safety) Act 2004

The following submission relates specifically to the proposed amendments to the *Petroleum and Gas (Production and Safety) Act 2004*.

6. Clause 109 - insertion of new section 437A

Perfecting pipeline tenure by creation of easement by registration over public land under the Land Act 1994 or Land Title Act 1994

- QRN has considered the explanatory notes on this provision. However QRN submits that pipelines that traverse the rail corridor continue to be governed by an access licence rather than by way of a registered easement. Railways are subject to change of alignment, duplications etc which may require some change to the location or technical specifications of the pipeline to accommodate the railway works. QRN's current licence agreements provide flexibility in that regard which will be impractical where the installation and keeping of a pipeline on the rail corridor is governed by the terms of a registered easement.
 - While a registered easement provides notice to and binds successors in title of land subject to that easement, rail corridor is unlikely to change ownership except to another railway manager or by surrender to the State. Unregistered rights over rail corridor land are already protected by statute (section 240B of the Transport Infrastructure Act 1994.) There is no detriment to the pipeline licence holder in not having an easement over rail corridor land.
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