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Mr Ian Rickuss MP
Chair
The Agriculture, Resources and Environment Committee
Parliament House
Cnr of George and Alice Streets
BRISBANE QLD 4000

By Email: arec@parliament.qld.gov.au

Dear Mr Rickuss

Peabody Energy Australia welcomes the opportunity to comment on the *Mines Legislation (Streamlining) Amendment Bill 2012*.

Peabody Energy Australia is a subsidiary of Peabody Energy (NYSE: BTU), the world's largest private-sector coal company and a Fortune 500 company. Headquartered in Brisbane, Peabody Energy Australia is on track to deliver total coal production of 17.7 million tonnes from its 8 Queensland mine operations in 2012. Peabody Energy Australia has an active exploration and expansion program underway and is aiming to increase its Queensland output by one-third to more than 24 million tonnes by 2014.

Summary Concerns

In broad terms, Peabody Energy Australia supports the proposed legislation which includes a number of important reforms that will help streamline aspects of mining approvals processes.

Peabody has concerns however, about the aspects of the legislation (and possible associated changes to administrative practice) dealing with the relinquishment of exploration leases.

In particular, Peabody's concerns focus on Clause 173 of the *Mines Legislation (Streamlining) Amendment Bill 2012* which in turn amends Section 139 of the Mineral Resources Act 1989. The new provisions will require coal producers to relinquish 40 per cent of an exploration lease within 3 years of grant, and 50 per cent of the remaining tenure over the following 2 years. These provisions will replace existing arrangements, whereby up to 20 per cent per annum is available for relinquishment. Taken alone, these changes appear to be, *prima facie*, an improvement on the existing regulatory regime, by making relinquishment a process to be addressed after 3 years (and then 2 years), rather than on an annual basis.

Peabody's key concern, however, is a shift in Departmental policy towards applying less discretion to the enforcement of the new relinquishment requirements than is currently applied. Under existing administrative arrangements, individual site-specific factors are considered and discretion is available to waive the relinquishment requirement.

Peabody is concerned to ensure that any shift in policy towards more 'automatic' enforcement of the new relinquishment arrangements is subject to proper industry consultation.

Peabody seeks a commitment to the continuation of the existing discretionary approach to adjusting relinquishment requirements in appropriate circumstances, or at least to transparent consultation on any policy shifts in this regard. It is only when possible changes to administrative practices are clarified that a full assessment of the impact of the legislation can be made.

Four Key Issues

There would be at least four potentially adverse implications for minerals development in Queensland arising from a shift away from the current discretionary approach to consideration of relinquishment provisions.

First, it currently takes more than 5 years to satisfy State and Federal requirements necessary to move from an Exploration lease to the grant of a Mining Development License (see **attached** Indicative Regulatory Timeline). The processes required include land access negotiations, cultural heritage negotiations, the grant of an environmental authority, the requirement for an assessment of whether the land is strategic cropping land and the availability of exploration resources, as well as the need to satisfy a range of more onerous regulatory considerations. Weather delays can exacerbate the time-lines on all of these processes – e.g. nine months straight were lost for exploration activities during 2010/2011 due to weather related impacts. Under an automatic approach to relinquishment policy, mine developers could lose *70 per cent* of their tenement before the grant of a Mining Development Lease (MDL) is possible.

Second, the loss of a majority of an exploration lease prior to grant of an MDL will undermine the investment certainty on which companies rely to make investments in long-lived assets like coal mines and their related infrastructure. A coal producer is likely to be less able and willing to commit to a long-term investment in infrastructure (port and/or rail access) at an early stage when there is uncertainty about possible relinquishment of a substantial proportion of its tenement. Moreover, Queensland-based coal producers have made recent major acquisitions based on *existing* tenures and assets, and could be significantly adversely impacted by such changes to legislation or policy practice.

Third, the proposed relinquishment provisions, *if administered with less discretion*, will promote a 'patchworking' of exploration tenements whereby producers choose to retain premium acreage in a patchwork way that will make development by other producers untenable. Inevitably this will not lead to the development of the state's minerals resources in an efficient and timely manner.

Finally, the relinquishment provisions, *if administered with less discretion,* may also encourage producers to seek *even larger* exploration tenements at the outset of an exploration program. In other words, the net effect of the changes will be to encourage, rather than discourage land-banking. In so doing the legislative and administrative changes may have the (perverse) effect of slowing rather than expediting the development of mineral resources in the state.

Summary/Recommendation

Peabody does not oppose the change from an annual 20 per cent relinquishment requirement to a new model of 40 per cent relinquishment over 3 years and 50 per cent of the remainder in years 3 to 5.

Peabody is concerned, however about changes in administrative practice that may accompany the new relinquishment regime. In particular, an *automatic* approach to relinquishment would represent a significant and material change in the investment environment. Accordingly, Peabody seeks an early guarantee that the existing discretionary approach will continue under the new legislative regime.

We would welcome an opportunity to elaborate on these concerns.

Yours sincerely

Julian Thornton
Group Executive Operations
Peabody Energy Australia PCI

Indicative Regulatory Timeline