

Mineral and Energy Resources and Other Legislation Amendment Bill 2024

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To: Clean Economy Jobs, Resources and Transport Committee

Re: Minerals and Energy Resources and Other Legislation Amendment Bill 2024

Date submitted: 10 May 2024

Introduction

AMEC appreciates the opportunity to provide comments on the *Minerals and Energy Resources and Other Legislation Amendment Bill 2024* (MEROLA / the Bill). AMEC welcomes the opportunity to appear at the Committee's hearing on 13 May 2023.

About AMEC

AMEC is a national industry body representing over 560 mineral exploration and mining companies across Australia, with more than 80 having operations based primarily in Queensland. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry.

AMEC's Queensland members explore for, develop, and produce minerals including antimony, bauxite, coal, cobalt, copper, gold, graphite, lead, lithium, manganese, mineral sands (such as silica), molybdenum, nickel, phosphate, rare earths, silver, tungsten, vanadium, and zinc.

Key comments and recommendations

- AMEC's comments pertain to the parts of the Bill that impact our member base broadly, they are presented below consistent with the order of the Bill.
- Due to the lacking consultation on MEROLA, AMEC recommends that the Committee's Report recommends that sections of the MEROLA proceed to being debated and passed, on the condition that implementation and supporting regulation is further consulted on. This includes:
 - Part 1 – Preliminary
 - Part 3 – Amendment to the Fossicking Act, clause 10, amendment of s 27
 - Part 4 – Amendment to the Gasfields Commission Act 2013
 - Part 7 – Amendment of Land Access Ombudsman Act 2017
 - Aspects of Part 10 only – clause that only support the operation of the above parts.
- The remainder part of the Bill that AMEC believes should be subject to a Consultation Impact Analysis Statement (IAS) to ensure that the legislative impacts can be thoroughly considered by industry and the community include:

- Part 9 – Amendment to the Minerals and Energy Resources (Financial Provisioning) Act 2018, and
 - Part 10 – Amendment to the Mineral Resources Act, specifically clause 134 and associated proposals relating to Strategic Land Parcels.
- The other parts of the Bill largely do not impact the AMEC membership. While we say this, the amount of time available means that we have not had adequate time to review the legislation in detail. However, AMEC does not want to be obstructive to the process.
 - In the absence of consultation reports from the departments showing where they have and have not taken on industry feedback and why, e.g. our extensive opposition to the Strategic Land Parcels, it is difficult to understand where our memberships' concerns have been listened to or not and the reasoning for that.
 - AMEC remains concerned that land access conflicts and overlapping tenure confusion will persist in the absence of an inclusive overlapping tenure / multi land use policy that addresses the issue of coexistence between renewable energy projects, resource tenures, agriculture and hydrogen.
 - AMEC supports the broadening of responsibility for the proposed new Coexistence Queensland institution, however, would appreciate more time to understand the legislation surrounding this, as well as further consultation in designing their role, responsibilities and service offering.
 - AMEC supports in principle the broadening of the responsibility for the Land Access Ombudsman (LAO) and seeks further direct consultation on the associated legislative mechanisms that they are able to exercise, delivery on the commitment made by the Department of Resources in a meeting on 1 May 2024 to be involved in consultation on the levy (which we are opposed to), and seeks inclusion as a member on the LAO Advisory Committee.
 - AMEC is strongly opposed to the Strategic Land Parcels proposals and seeks that the Committee recommend that this proposal is not progressed in the Bill due to the lack of consultation and understanding on behalf of Department of Resources (DoR) in how the junior exploration industry and markets operate. AMEC has not seen evidence to support this initiative and its proposed benefits, which are not articulated. This approach to parcelling land for expressions of interest, will not achieve its aim, and will slow down the exploration effort in Queensland, as it has done in other States.
 - AMEC notes the rental flexibility provisions are pragmatic.

Consultation

AMEC is disappointed with the lack of consultation on the Bill has been consulted on (i.e. no exposure Bill has been made available for consultation) and the associated timeframes to make comments (14 business days). AMEC recognises that the Bill brings together multiple consultation processes, which we have been active in since the Queensland Resources Industry Development Plan (QRIDP) was released in 2022.



QRIDP consultation and other processes relevant to the Bill that AMEC was actively involved in includes:

- August 2022 – a submission on the first Financial Provision Scheme discussion paper
- November 2022 – a submission on the second Financial Provision Scheme discussion paper
- February 2023 – a submission on the Land Access and Coexistence: a review of coexistence and coexistence institutions discussion paper
- February 2023 – a submission on the Improving Queensland’s Land Release Process discussion paper
- September 2023 – a submission on the QREZ Roadmap and Partnerships Framework
- September 2023 – a submission on the State Code 23 for Wind Farm Development
- January 2024 – a submission on Improved Regulatory Efficiency
- January 2024 – a submission on Legislative Enhancements to Mining Claims
- January 2024 – a submission on Coexistence Institutions and CSG Induced Subsidence, and
- March 2024 – a submission on Proposed Funding Models for Coexistence Institutions.

AMEC has worked in collaboration with departments in all the above. We have been a productive stakeholder and represented our members’ views in a timely way. We feel we have gone above and beyond in representing our members and making ourselves, and them, available to these and other parallel processes.

It is therefore disappointing to see the government not provide the appropriate time and space to recognise the input from us and the membership—and other resource peak bodies and companies—by not releasing consultation reports to explain why our concerns have or have not been listened to in each of the above processes, as well as not providing an exposure draft of the significant MEROLA Bill with adequate time to provide feedback.

It is also highly concerning that this Bill has not been assessed as having significant impacts on business or the community and as such has not been subject to a Consultation IAS consistent with Queensland Treasury Guidelines. In a meeting with the Department of Resources on 1 May 2024 regarding Bill, they recognised the “significant” impact the proposed legislation will have on industry.

AMEC is acutely concerned that based on the timeframes to review the Bill, the breadth of the Bill, explanatory notes and statement of compatibility—472 pages in total—and the lack of clarity around what has been done with our feedback, that there are legislative amendments being passed that we do not have adequate time to assess and understand the impacts on our membership.

We ask the Committee to recommend that the Bill be split as recommended above to allow for adequate consultation on detailed legislation.



Comments on MEROLA

Part 1 – Preliminary

No comments.

Part 2 – Amendment of the Electricity Act 1994

This part of the Bill was not consulted on.

AMEC remains acutely concerned that land users continue to not be recognised in the implementation of the Department of Energy and Climate’s policy and legislation.

As stated in our submission on the [QREZ Roadmap and Partnership Framework](#), and due to there being no consultation on these amendments, we remain concerned about the impacts “taking” land will have on **land users**, not only on **landholders**. Under current frameworks, when a renewable energy entity seeks to develop a project, they are only required to engage with the landholder. It is the landholder’s responsibility to engage with land users, for example, an explorer who holds an Exploration Permit for Minerals (EPM) tenement on their property. This has led to a number of situations in Queensland currently, where the explorer is unable to confidently carry out their development plan or invest.

As such, with regards to any notion of “taking” land, at a minimum, AMEC recommends that renewable energy entities are required by statutory processes to notify land users within their footprint development area. The renewable energy entity needs to be required to identify the roles and responsibilities of each party—namely the renewable energy entity, the landholder and the land user—as well as articulate the development impact areas of the entity’s development, and the pathways for engagement. This would provide immense benefits to land users by first notifying them of the overlying interest and providing them with an avenue to engage appropriately with the process and parties.

This is not dissimilar to the notification that a mining lease (ML) holder would receive from a renewable energy entity, and subsequently provides the ML holder with the rights of submission and appeal to the Planning and Environment Court. The current situation where the land user, an explorer, is not notified, puts the company at risk of continuing to invest (and in the situation of a listed company, invest shareholders’ money) in exploration activities that might have a preferred/higher use, for example, but not limited to, the site of a wind turbine or transmission. Consequently, they are unknowingly investing funds with no chance of return on investment. There is also no pathway for compensation for the land user from the renewable energy entity.

AMEC appreciates that landholders would like to be able to maintain overarching control of the activities on their land. However, there is varying capacity and capability to do this. Under the scenario that a land user is notified as is recommended, this helps to mitigate the risk of conflict by providing the user with information on the process and who to engage directly with, process, and natural justice.

Further as we have shared previously, the current tenure settings in Queensland are not contemporary enough to deal with the competing land uses, be it agriculture, resources, hydrogen, or renewable energy development. Attempting to solve new problems with old solutions will not serve industry or regions and will eventually lead to worse outcomes. It is recommended that the Queensland



Government establish a clear overlapping tenure / multi land use policy to manage and address co-existence between resources, agriculture, renewable energy projects and hydrogen. This is not dissimilar to Western Australia's diversification tenure solution and the [multi-land use policy developed in South Australia](#).

In conclusion, this scenario is turning investment away from Queensland and possibly sterilising land with value under the ground and the associated jobs, regional growth and royalties for Queenslanders.

Part 3 – Amendment to the Fossicking Act

While this part of the Bill was somewhat consulted on through the discussion paper process, the lack of consultation on an exposure Bill means there has not been enough time to consider in detail the legislation being proposed.

AMEC is aware that some small miners support the requirement for fossickers to have to gain written permission before entering a mining lease (clause 10). Others do not. We are also aware that the small miners share our concerns regarding the breadth of the Bill and consultation timeframes. In some instances, they feel the amendments are not reflective of the discussion papers and consultations they have been involved in to date.

Part 4 – Amendment to the Gasfields Commission Act

AMEC supports the establishment of Coexistence Queensland and their broadened remit based on the information shared to date.

This part of the Bill was consulted on through the discussion paper process. AMEC is happy for this part of the Bill to proceed through Parliament on the condition that implementation and supporting regulation is consulted properly and not rushed as we have experienced with this Bill.

AMEC remains concerned however that in the absence of a clear overlapping tenure / multi land use policy for renewables, resources and agriculture, it is difficult to see how this will improve the current landscape of issues being felt in the exploration industry. Coexistence Queensland's role is to come in when conflict is happening; an effective clear overlapping tenure / multi land use policy helps avoid conflict happening in the first place.

Further to be effective, Coexistence Queensland needs to be properly resourced with people who have the knowledge, skills and resources necessary to undertake the expanded role and meet the needs of landholders, the resources sector, and the growing renewable energy sector.

Consistent with AMEC's submission in February 2023 and January 2024, AMEC recommends that consultation is required to understand the emerging needs of the minerals and the renewable energy sectors in relation to managing coexistence issues. To this end, AMEC is encouraged that the Commission is engaging and we held a collaborative workshop on 7 May with our members in Mount Isa to start a discussion on what a useful Coexistence Queensland service offering looks like.

More needs to be done to not only ensure better coexistence between landholders and renewable energy entities, but also better coexistence between renewable energy project entities and resources tenure holders. Current member experience demonstrates that policy is not keeping pace with what is



happening on the ground, for example, the current tensions being experienced because of the declaration of Restricted Area (RA) 451 to facilitate the development of the MacIntyre Windfarm.

The MRA and MERCPC provide a structure for explorers and landholders regarding access for minerals projects and co-existence, while the Planning Act provides structure around land access for renewable energy projects and landholders; however, the legislation and associated processes do not work together to provide a pathway for resolving competing land use and access issues between minerals explorers and renewable energy project proponents. Without a legislative framework for managing coexistence between the renewable energy and resources sectors, an increasing number of conflicts will end up in the Land Court, with the undesirable outcome that judicial decisions will become quasi-legislation.

The State Government needs to act urgently to address the issue of coexistence between the renewable energy, resources, and agricultural sectors by developing a future-proofed policy that is supported by pragmatic regulation and helpful tools. Based on the recently released QREZ framework this has not been heard by the Department of Energy and Climate who continue to railroad through their Energy and Jobs Plan.

To this end, AMEC continues to advocate for ***overlapping tenure clarity***.

Part 5 – Amendment to the Geothermal Energy Act 2010

No comments.

Part 6 – Amendment to the Greenhouse Gas Amendment Act 2009

No comments.

Part 7 – Amendment to the Land Access Ombudsman Act 2017 and associated ADR process

AMEC supports the broadening of the LAO's powers, in particular under a scenario that they are able to help reduce the number of land use conflicts going to the Land Court, as well as the time associated with resolving conflicts.

This part of the Bill was somewhat consulted on through the discussion paper process, however the lack of consultation on an exposure Bill means there has not been enough time to consider in detail the legislation being proposed. Further no feedback on submissions or legislative intent was shared prior to the Bill being introduced.

AMEC is happy for this part of the Bill to proceed through Parliament on the condition that implementation and supporting regulation is consulted properly.

We have met with the Department of Resources and have been advised that the funding model continues to be developed and industry will be engaged in that process. As such, the position we shared in our February 2024 submission remains relevant, namely that it is still difficult for AMEC to support a new levy and fees for the LAO without being provided with information on:

- The amount of the “base costs” that the levy is intended to cover.
- The cost per resource authority of the new levy.



- The services the LAO will provide.
- The fees that will be charged for these services.

While AMEC appreciates the intent, we are concerned that because of the voluntary nature and further 10 business days, these provisions will not resolve matters and could add more time to the process when and if the mechanism is leveraged.

That said, this is an effort to address the concerns of our members, and presents an opportunity to help resolve conflicts between varying parties, before entering the Land Court. While it may not be perfect, AMEC will work with Government and the LAO to support its work.

The legislative proposal also in essence slows down process whereby, if the LAO cannot be the ADR facilitator, then there is no clear pathway forward and the Land Court will still need to be engaged to resolve that matter.

Like our comments made regarding Coexistence Queensland, we remain concerned that in the absence of a clear overlapping tenure / multi land use policy for renewables, resources and agriculture, it is difficult to see how this will improve the current landscape of issues being felt in the exploration industry. The LAO's role is to come in when conflict is happening; an effective clear overlapping tenure / multi land use policy helps avoid conflict happening in the first place.

AMEC requests to be a member of the LAO Advisory Council.

Part 8 – Amendment of Mineral and Energy Resources (Common Provisions) Act 2014

While this part of the Bill was somewhat consulted on through the discussion paper process, the lack of consultation on an exposure Bill means there has not been enough time to consider in detail the legislation being proposed. Further no feedback on submissions or legislative intent was shared prior to the Bill being introduced. The limited analysis of the Bill that we have completed shows that the department has not listened to our concerns. AMEC is however, supportive of this part of the Bill to proceed through Parliament on the condition that implementation and supporting regulation is consulted properly and not rushed as we have experienced with this Bill.

Aerial surveys

Based on feedback from members, setting the height at 1000ft will not materially improve land access and AMEC recommends that further consultation with industry stakeholders to understand their needs prior to committing to a height limit, noting that this limit may differ between human piloted aircraft and automated aircraft (drone).

Chapter 5A CSG induced subsidence

AMEC is a mineral focussed, member-based industry organisation. We have no comments on the CSG induced subsidence proposals.

Part 9 – Amendment of Mineral and Energy Resources (Financial Provisioning) Act 2018

While this part of the Bill was consulted on through two discussion paper processes, the lack of consultation on an exposure Bill means there has not been enough time to consider in detail the legislation being proposed. Feedback on our submissions was delivered verbally by the A/Scheme



Manager at the time, and essentially AMEC was advised that our concerns were out of the remit of the Scheme Manager and needed to be escalated. As such AMEC wrote to the Treasurer in 2023 and has not yet received a response. AMEC recommends that this part of the Bill does not proceed through Parliament and detailed consultation on the legislation via Consultation IAS is recommended by Committee.

The legislative amendments proposed service the big end of town through the risk categories. They do not support the operation of junior companies.

AMEC does note the more detailed risk assessment process however and had shared previously that the membership was supportive of this approach.

As advised by the Scheme, the next opportunity to influence change to the Financial Provisioning Scheme will be when the current operations are reviewed in several years. AMEC would like to see the Queensland Government, through Treasury and the Scheme, strategically commit to longer term support for the development of critical minerals projects and this could be in the form of the following options that would deliver meaningful change for junior and mid-tier developers, including:

- Increasing risk tolerance within the schemes to support operators at the forefront of new mineral exploration and development.
- The State sharing, providing or even deferring (similar to the recently introduced critical mineral rent deferral mechanism) part of the surety to reduce the financial burden on the junior developer at a critical point of cash flow and development.
- Provision of a discount for operators contributing to sector diversification and supporting green growth opportunities that contribute to the resources and energy transition.
- Allowing surety to be paid in instalments to assist cash flow. This sort of approach would help provide flexibility for industry to operate in a way that benefits their unique situation, as well as contribute to delivering the government's targets.

Part 10 – Amendment of Mineral Resources Act 1989

While this part of the Bill was somewhat consulted on through the discussion paper process, the lack of consultation on an exposure Bill means there has not been enough time to consider in detail the legislation being proposed. Further no feedback on submissions or legislative intent was shared prior to the Bill being introduced. The limited analysis of the Bill that we have completed shows that the department has not listened to our concerns.

Strategic land parcels (clause 134 and associated)

AMEC is strongly opposed to this proposal. We don't believe that there is evidence to demonstrate the need for this measure, with no proper analysis undertaken of the potential risks and benefits of its introduction, particularly in relation to its impact on junior explorers. We have requested evidence in meetings with the Minister, Director-General and departmental staff and are awaiting on this. As such, AMEC recommends that this part of the Bill does not proceed through Parliament and detailed consultation on the legislation via Consultation IAS is recommended by Committee.



Since October 2023, AMEC has been concerned that the language used by DoR has indicated they are planning to amend the land release process for minerals, as tenements are relinquished, and leading this sector toward a land release framework that will operate in a similar fashion to the Queensland Exploration Program (QEP) for coal and gas. Of additional concern is that the Minister might exercise discretion such that 'areas of mineralisation' are grouped together and released as a single parcel.

AMEC wants to make it clear that such an approach will undermine junior exploration in Queensland by increasing operational costs and government fees due to the need to undertake exploration across a larger land mass. Not to mention slow down access and process. The proposal is interference with commodity markets and it will turn investment away from Queensland.

Where this has been implemented in other States, the effect has simply slowed privately funded exploration efforts, and turned away investment. The actual outcome will be the exact opposite, of the proposal's intention.

The process in New South Wales and Victoria has basically locked up highly prospective areas from private exploration for long periods. The best approach to securing high levels of exploration investment and effort in Queensland, is to leave as much ground as possible open for exploration. This is the process that has been used to great effect in Western Australia, and in Queensland to date.

In AMEC's submission on the consultation paper, Improving Queensland's Land Release Process, we highlighted that a QEP-type approach to land releases in the minerals sector had the potential to seriously undermine junior explorers, and these comments are reiterated here for the benefit of the committee.

Highly prospective minerals exploration areas in the Queensland Exploration Program

AMEC is highly concerned of the impacts applying a QEP-competitive tendering model might have on junior operators. It is noted that the QEP was designed for the resources sector at a point in time, predominantly made up of large gas and coal companies vying for similar pieces of country. Traditionally the structure of these companies was such that exploration is a part of their in-house operations.

In the last five years, Queensland's exploration sector has changed at pace. Global market forces and the race to reduce emissions and transition to clean energy technologies and the proliferation of other technologies, such as handheld devices and their capability, has seen the resources sector diversify, with significant growth in junior explorers seeking to define critical minerals and base metal prospects across Queensland. Adding to this is the increasing feasibility of extracting smaller deposits as larger deposits become exhausted, and the acceptance and success of hub-and-spoke business and operational models. Junior explorers are lean operations, many have not been operating for long periods of time and they are willing to entertain risk if the geology indicates the prospect is potentially positive.

If the Department of Resources was to consider including critical minerals in the QEP, AMEC is concerned that this action will service the needs of the big end of town only. Systemising the current over the counter process to be consistent with the QEP presents a real risk that it could lead to a process that favours organisations that are well resourced (i.e. the big end of town), and make



navigating the system for junior operators, as well as their ability to be competitive, unviable. A further perverse outcome that AMEC is concerned could arise is that it could potentially lock up large parts of country making it inaccessible to junior explorers.

AMEC is concerned that such a proposal could reduce Queensland's attractiveness as an investment destination and drive economic investment and development into jurisdictions where it is easier for juniors to explore and develop minerals. Fundamentally, any actions that discourage junior operators is inconsistent with the Queensland's Governments ambition for a diverse and transformative resource sector, as described in the Queensland Resources Industry Development Plan. It is also at odds with the State's emission reduction targets and renewable energy transition as articulated in the Queensland Energy and Jobs Plan.

Key to the success of these targets and commitments will be ready access to the critical minerals, REE, metals and coal-making steel essential for implementing renewable energy technologies, batteries and infrastructure. AMEC's members are leading the exploration and development of these critical minerals and REE and will be increasingly moving into development and production in the coming years. Any actions to change the current frameworks in operation need to be well analysed and the fundamental principles of scalable, adaptive, fair and fit-for-operations need to be embedded.

One of many reasons Western Australia remains a top rate resources jurisdiction is its open land release process, which can be done over the counter and online for all minerals. AMEC suggests the department consider the Western Australia model for mineral land release and the environment of investment attraction this generates, as a good working model of a comparable jurisdiction. AMEC would be happy to connect departmental officers with those in the Department of Mines, Industry Regulation and Safety to better understand how their process works.

General conditions of a mining lease (clause 135 and associated)

AMEC suggests that this is duplicative of provisions within the Mining and Quarrying Safety and Health Act 1999. Unless DoR intends to conduct compliance on this matter, it does not add value to the MRA. As such it should stay within the remit of Resources Safety and Health Queensland.

Rental flexibility

AMEC supports the discretion of the Minister to provide rental flexibility for resource authority holders in exceptional circumstances. AMEC supports this provision passing through Parliament in the Bill.

Parts 11, 12, 13 14 and 15

No comments.

Conclusion

AMEC hopes that the Committee recognise the inadequate consultation process, given the significant issue involved. In an effort to not be obstructive, we have attempted to make clear recommendations on aspects of the Bill we see as a step forward and can pass through Parliament and aspects that clearly require further consultation through an exposure Bill.



However, we cannot and will not support the Strategic Land Parcel proposal and seek for Committee to make a recommendation that it does not pass without the provision of evidence and further consultation with those that it will significantly and materially impact.

For further information contact:

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