WWF-Australia
Level 1, 17 Burnett Lane
Brisbane QLD 4000
ABN 57 001 594 074

Committee Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane QLD 4000

Email: egc@parliament.qld.gov.au
Date: 9th March 2018

Re: Submission to the Mineral and Energy Resources (Financial Provisioning) Bill 2018

Dear Sir or Madam,

WWF-Australia welcomes the opportunity to provide the following comments and recommendations regarding the Mineral and Energy Resources (Financial Provisioning) Bill 2018 (the Bill), which was introduced in to the Queensland Parliament on 15th February 2018 by the Hon Jackie Trad MP, Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships.

While the proposed reforms to Queensland's Financial Assurance Framework and mine site rehabilitation requirements contained in the Bill are a significant improvement on the existing framework, there are considerable loopholes in the Bill that will enable resource companies to either avoid or minimize rehabilitating their resource sites, which will result in Queensland taxpayers having to continue shouldering the economic burden of remediating mine sites once the mining company has walked away.

Along with creating an ongoing economic burden for Queenslander taxpayers, the loopholes in the Bill that will enable mining companies to avoid rehabilitating voids, waste dumps and tailings dams will also potentially cause ongoing adverse impacts to Queensland's environmental values, surface and underground water and other natural resources which will continue to erode the resource industry's social licence to operate and undermine the socioeconomic wellbeing of future generations of Queenslander's.

Comments and recommendations

1. Non-use management areas

As it is currently drafted, the Bill contains amendments to the *Environmental Protection Act 1994* that will enable a resource company to declare an area of their resource site as non-use management area, which according to section 99 of the Bill is an *"area of land the subject of a PRC plan that can-not be rehabilitated to a stable condition after all relevant activities for the PRC plan carried out on the land have ended"*.

As they will not be rehabilitated, non-use management areas will remain in an unstable condition in perpetuity, which means they will continue to pose a significant ongoing risk to Queensland's taxpayers and the environment. If the cost of rehabilitating a new mine is prohibitive, then the project should be deemed uneconomical and not be approved.

Recommendation
Amend the Bill to remove all provisions that enable non-use management areas.

2. Remediating impacts to catchment hydrology
In addition to significantly altering landforms, resource development activities can also substantially alter catchment hydrology as consequence of relocating watercourses, diverting overland flow, dewatering aquifers and disturbing groundwater recharge areas.

Under the existing framework, resource companies are not required to remediate impacts that have occurred to catchment hydrology when rehabilitating their resource sites. As water is critical to ensuring that post-mining land uses will be economically and environmentally sustainable, resource companies should be required to remediate impacts that have occurred to surface and groundwater resources as a consequence of their resource activities when resource sites are rehabilitated.

Recommendation
Amend the Bill to include provisions requiring resource companies to remediate impacts that have occurred to catchment hydrology when resource sites are rehabilitated.

3. Remediating impacts to Traditional Owner cultural values
Along with rehabilitating impacts to catchment hydrology, resource companies should also be required to remediate any adverse impacts that have occurred to Traditional Owner's cultural values by resource development activities.

Recommendation
Amend the Bill to include provisions requiring resource companies to rehabilitate impacts that have occurred to Traditional Owner cultural values.

4. Progressive Rehabilitation and Closure Plans (PRCP)
WWF-Australia strongly supports the introduction of the requirement for resource companies to prepare a Progressive Rehabilitation and Closure Plan (PRCP), which is to be included as part of the company's application for an Environmental Authority. Along with the requirements under clause 104 of the Bill, other matters that should be incorporated to optimize a PRCP's performance includes:

- Assessing the risk to Queensland taxpayers and the environmental from proposed non-use management areas,

- Making resource company's performance in meeting progressive rehabilitation milestones publicly available and,
- In addition to affected landholders, resource companies should also be required to consult with affected Traditional Owners regarding post mining land uses and other aspects of PRCP's

Recommendation

Amend the Bill to include the abovementioned additional requirements under new s126 D of the *Environmental Protection Act 1994* (Clause 104 of the Bill).

5. When land is available for rehabilitation

Under clause 104 of the Bill, new section 126 D (5) (b) of the *Environmental Protection Act 1994* will enable resource companies to defer rehabilitating land that would otherwise have become available for rehabilitation for 10 years on the basis the land contains mineable resources.

Given the relatively short life of most resource development projects (30 years or less), allowing 10 years before rehabilitation of a resource site commences will significantly diminish the objective and value of progressive rehabilitation. To ensure potential risks to Queensland taxpayers and the environment are minimized, the rehabilitation of resource sites should only be deferred for a maximum of 5 years.

Recommendation

Rehabilitation of resource sites should only be deferred for a maximum of 5 years.

6. Residual risk payment and process

Following its analysis, QTC recommended that a payment and process should be introduced to account for any residual risk that may occur following the closure of resource sites, which QTC believes is necessary in order to protect Queensland taxpayers from the risk that some resource sites that have been relinquished will continue to require ongoing management long after the resource project has ceased to operate.

As it is a critical element of minimizing the future financial risk to Queensland taxpayers, it is essential that the residual risk payment is introduced as an upfront payment from the commencement of resource development projects, which will ensure that all impacts of a resource development project are considered and valued when proposed resource development projects are being assessed and approved.

Despite QTC's recommendation, the residual risk payment and process has not been included in this Bill due to it still being considered by the State Government. As it will further reduce the financial risk to Queensland taxpayers, WWF-Australia strongly advocates that the proposed residual risk payment and process is introduced as part of this current reform package.

Recommendation
Amend the Bill to include the residual risk payment and process as recommended by QTC.

7. Apply reform package to the petroleum and gas industries
As they can also pose a substantial risk to Queensland taxpayers and the environment if they are not rehabilitated properly, it is essential this reform package is applied to the petroleum and gas industries.

Recommendation

Amend the Bill to include the petroleum and gas industries.

8. Increasing transparency and ensuring all relevant information is considered
Amendments to the Bill which are required to increase transparency and ensure all relevant information is fully considered includes:

- Amending Clause 27(3) and (4) of the Bill by deleting **'may'** and inserting **'must',** which will ensure that relevant information is fully considered instead of being discretionary.
- Amending sub-section (a) to include:
  - Criteria for assisting in determining the 'financial soundness' of a proponent
  - The 'characteristics of any resource project' should include detailed consideration of modelled predictions of the market for the commodity; and
  - Adding another sub-clause that explicitly enables community groups and individuals to make submissions to the scheme manager in regards to his/her consideration of a relevant entity's risk category
- Sub-section 27(3) and s30 to include:
  - The ability for the public to make submissions on the risk profile (pool or surety), which the scheme manager is responsible for determining. This will ensure the scheme manager has access to a wide range of information, which will assist them in making sound and informed decisions on the risk category of resource development projects;
  - A requirement to obtain and consider the opinion of relevant experts, including persons with risk analysis experience

Recommendation

Amend the Bill to include the abovementioned points.

9. Strengthening offence provisions

To be consistent and provide a meaningful deterrent, the level of penalty for an offence under this reform needs to be consistent with the penalties in the *Environmental Protection Act 1994* for causing serious environmental harm.

Recommendation

Amend the Bill to align penalties for offences committed under this reform with penalties for causing serious environmental harm under the *Environmental Protection Act 1994.*

10. Prioritise highest risk resource sites first

The resource development projects that should be prioritised in the transition to the new framework includes those that are:

- Within 5 years of closure (particularly those with poor rehabilitation performance)
- Recently approved (due to the ease of adapting existing plans) and,
- All metalliferous mines (as these sites pose significant environmental risks)

Recommendation

Prioritise the transition to the new framework as above.

11. Include the environmental record of international parent companies

While the environmental record of Australian companies will be examined, the Bill does not require the environmental record of international parent companies to be examined. As the culture and operating practices of parent companies is often reflected in subsidiary companies, it is essential that the environmental record of international parent companies is examined to determine whether the proponents of resource development projects pose a risk to Queensland taxpayers and the environment. Amendments to the Bill required to give effect to examining the environmental record of international parent companies includes broadening the definition for 'environmental record' in the dictionary (schedule 4) under clause 205 to read:

(a) include any fines, prosecutions or notices in regards to any operations managed by the proponent in Australia and other international jurisdictions; and

(b) not be limited to the entity nominated as the proponent but also of whether the entity is a suitable person in consideration of the environmental record of related companies including parent and sibling companies, other joint venture holders and executive officers. See for example s136(4) EPBC Act.

Recommendation

Amend the Bill to include provisions requiring the environmental record of international parent companies to be examined.

Conclusion

As they will significantly reduce the risk to Queensland taxpayers and the environment, we urge the Committee to endorse the abovementioned amendments to the Mineral and Energy Resources (Financial Provisioning) Bill 2018.

WWF-Australia would appreciate the opportunity to discuss the above and other matters regarding the Bill with the Committee. Please do not hesitate to contact me should you require any further information or clarification regarding the matters raised in this submission.

Regards,

Nigel Parratt
Water and Catchment Liaison Officer
WWF-Australia
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