QGC
A BG Group business

Ms Bernice Watson
Research Director
Industry, Education, Training and Industrial Relations Committee
Parliament House
George Street
Brisbane QLD 4000

20 January 2012

Dear Ms Watson

RESOURCES LEGISLATION (BALANCE, CERTAINTY AND EFFICIENCY) AMENDMENT BILL 2011 (the "Bill")

QGC appreciates the opportunity to make a submission to the Committee in relation to the Bill. QGC is supportive of Government's efforts to streamline administrative processes and provide additional certainty to proponents in developing major resources projects in Queensland.

QGC has considered the Bill and has identified a number of key issues of concern which are set out below in detail. QGC acknowledges that some of these may be unintended consequences of the proposed amendments.

If the Committee requires any further information, QGC would be happy to respond to any questions in writing or to attend a meeting with your staff.

Cross tenement and centralised infrastructure

QGC supports the proposed amendments and considers that they are necessary to develop an effective regulatory regime for large scale integrated natural gas projects. The effect of the amendments will be to allow gas activities that support these projects to be conducted in a coordinated way that increases efficiency and reduces impact on landholders and the environment.

The proposed amendments will result in a significant reduction in the amount of infrastructure required to develop CSG projects in Queensland by facilitating the development of centralised plants for the regional management of water and brine. For the QCLNG project alone, we anticipate that this will reduce the number of water and brine plants from up to 37 each, to only 3 water treatment plants and 1 brine processing facility. We anticipate that numerous other benefits will result from the proposed amendments, including:

- Much smaller overall footprint from upstream infrastructure – reduced landholder impact;
- Reduced clearing of native vegetation (estimated 26ha less clearing of remnant vegetation arising from QCLNG WTPs, not including pondage and associated facilities);
- Reduced chance of property market distortion (need to buy fewer properties);
- Reduced number of landholders affected by other project amenity issues (estimated 68 fewer neighbours of QCLNG WTPs);
- More efficient pipeline design, further reducing vegetation clearing and landholder impacts;
- Avoidance of the need to maintain PLs beyond exhaustion of resource to continue authorisation of pipelines.

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However, QGC submits that two minor amendments are required in order to avoid what we presume are unintended consequences of the proposed drafting. These are discussed below:

Water treatment plants

The proposed new section 111A requires centralised water and brine treatment facilities to be located on land owned by the PL holders. QGC accepts the policy rationale for this requirement.

On the existing drafting, where a PL is held by several parties, it is arguable that the legislation could be interpreted to require that all PL holders need to be the holder of the land. In QGC's submission, the same policy outcome can be achieved by requiring at least one of the PL holders (or a related body corporate) to be the owner of the land. In most cases, the processing facility will only occupy a small part of the lot on which it is located. In a number of these cases, the landowner will have other fixtures on the land that are not the property of the PL holders, but are owned by the landowner individually. Thus, it would be necessary for the lot to be subdivided and then sold in order for the land underlying the processing facility to be owned by all PL holders.

In QGC's submission, this imposes an unnecessary burden on both PL holders and relevant government agencies. QGC submits that the proposed section 111A be amended to provide that the land on which processing facilities are located be owned by ***a*** holder of the PL, or a related body corporate of a PL holder.

Produced water

The proposed new definition of 'produced water' refers to water produced from a 'petroleum tenure'. That term does not include a PL granted under the 1923 Act. As a result, the provisions in the Bill relating to produced water pipelines could be interpreted in a way which would only apply to PLs granted under the 2004 Act.

In QGC's submission, there is no policy reason for water from 1923 Act PLs to be treated differently to water produced from 2004 Act PLs. QGC submits that the proposed definition of 'produced water' be amended to also include water produced from 1923 Act PLs.

Urban restricted areas (URAs)

QGC is supportive of the consultative process that was undertaken on this issue prior to the introduction of the Bill and acknowledges Government's efforts to incorporate a number of industry proposals in the Bill. The current drafting provides positive inclusions towards certainty, such as Councils' assent being an enduring decision, statistical definition of the initially gazetted URAs (towns with a population of over 1000, plus a two kilometre buffer) and the change towards free-form buffer boundaries in preference to blocks or sub-blocks.

QGC believes that further certainty, through definition of objective criteria for the Minister to determine inclusion of any further areas after the initial URAs, would benefit community, Government and industry. Objective criteria minimise the chance of perceived bias or discrimination, and would be consistent with other recently proposed legislation that uses scientific / objective measures to determine impact areas. Benefits of this approach include providing the community with a greater level of transparency, reducing political risk and affording the industry a better understanding of likely restricted areas.

QGC suggests additional certainty needs to be provided in relation to:

a) Population change: the stage at which a growing – or shrinking – town is included or deleted from the list of gazetted urban restricted areas;
b) Buffer size: the situations in which the Minister would increase a buffer beyond 2 kilometres;
c) Local government urban boundaries: the regularity with which the legislation intends to reflect changes in these boundaries; and
d) Process for appealing unfavourable local government decisions in regard to consent for activities within URAs. Options could include referral to the Land Court.

Such criteria will effectively guide the Minister in making URA determinations.

Production commencement day

QGC supports the introduction of a mechanism to allow a petroleum lease holder to apply for (and the Minister to approve) an amendment to the production commencement day for a petroleum lease. However, QGC is concerned that the efficacy of this mechanism, and the policy objectives underpinning it, are eroded by some of the concepts included in the Bill.

Supporting information

QGC appreciates that the Minister requires sufficient information in order to consider an application to amend a production commencement day. However, QGC submits that the information required by the proposed section 175AB(c) is excessive and will not be relevant in all circumstances.

Under the proposed section 175AC(3)(b), the Minister is required to consider whether petroleum production under **the lease** will be optimised. However, section 175AB(c)(ii) requires an applicant to provide information detailing reserves, resources and reservoir characteristics of **all petroleum authorities** required to supply all relevant arrangements relating to the lease. QGC submits that the information prescribed under section 175AB(c) is excessive having regard to the matters the Minister must consider under section 175AC. The discretion afforded to the Minister is sufficiently wide to allow the Minister to request additional information of this nature in circumstances where it is required. Applicants will be sufficiently incentivised to provide the information if the Minister considers it necessary to decide the application.

Further, the information required under section 175AB(c)(i) is confidential and commercially sensitive in nature. The Bill does not include any mechanism to protect the confidentiality of that information. QGC also notes that the Minister will already have considered and satisfied themselves of these matters prior to PL grant in any event pursuant to section 121(h).

QGC submits that the requirement to provide this level of information is not supported by a valid policy objective and that a more appropriate alternative to section 175AB(c) would be:

> *"be supported by all information, documents or instruments necessary to evidence the grounds on which the amendment is sought and to explain the impact of the requested amendment on any integrated, upstream field development (where relevant)."*

If a more prescriptive approach is required, QGC submits that the relevant Practice Manual would be a more appropriate place to describe the specific information required, rather than the legislation.

Deciding the application

QGC understands that the Minister's practice is to set the original production commencement day as the date that production of petroleum is planned to commence under the approved Initial Development Plan.

In order to ensure that the proposed section 175AC is consistent with the existing section 141(d) of the legislation relating to approval of Initial Development Plans, QGC submits that paragraph 175AC(3)(c) should be removed and paragraph 175AC(3)(b) should be amended to state:

> *"whether petroleum production under the lease will be optimised in the best interests of the State, having regard to the public interest".*

Relevant arrangements

QGC submits that, if the Minister determined that relevant arrangements were in place at the time that the lease was granted, then the proposed new section 175AA(a) should be satisfied by confirmation that those arrangements remain in place.

Restricted land

The explanatory notes propose, under the "Other restrictions" section, that the Minister will have the power to declare restricted land in a manner similar to the Mineral Resources Act (MRA). QGC seeks to obtain landholders' agreements for all proposed gas infrastructure on their property, following a comprehensive on-site survey.

QGC seeks to understand how the process of declaring "restricted land" will occur and what consultation will occur before such a declaration.

The explanatory notes state that "the restricted land provisions clearly delineate land that is restricted from resource activity and essentially mean that a property owner can refuse entry to resource companies". QGC seeks clarification as to whether this statement refers to the "property owner" being able to refuse entry to resource companies over the whole of the property, or only that section which is "restricted land". QGC would only support the introduction of legislation which created areas of land within a property which are excluded from CSG activities. QGC would not support the introduction of legislation which allowed a "property owner" to "refuse entry" to the whole of the property.

Additionally, QGC seeks clarification that the amendments to the legislation will only allow the declaration of "restricted land" over sections of property which is directly impacted by QGC operations and satisfies one of the criteria listed in "Category A" or "Category B" of the explanatory notes. Landholders who are on neighbouring properties adjacent to QGC activities and are not directly impacted by CSG operations should not be eligible for a declaration of "restricted land" and QGC would not support the introduction of legislation which allowed a landholder who was not directly involved in negotiations to be able to "veto" QGC operations.

QGC also requires clarification as to what will constitute "stockyards, bores, dams and other water storage facilities". It is QGC's preference that the items of infrastructure which would allow a landholder to apply for a declaration of "restricted land" be limited to permanent infrastructure (rather than, for example, temporary stock yards) which was installed prior to the grant of a petroleum tenure and that it expressly exclude water reticulation systems and low-volume water storage, such as cattle troughs, temporary cattle yards and feed lots etc.

Annual infrastructure reports for petroleum leases

QGC notes that the provisions of the Bill introducing annual reporting obligations for petroleum lease infrastructure are largely consistent with conditions included by the Minister in recently granted petroleum leases (clause 47 of the Bill).

In QGC's submission, the Bill should expressly state that the proposed new sections 552A and 552B prevail to the extent of any inconsistency with a condition in a petroleum lease. QGC notes that the timing imposed under recent petroleum lease conditions is different to the proposed timing in the Bill. To ensure that there is no confusion as to when the annual reports must be lodged, the proposed timing in the Bill should expressly override existing PL conditions.

QGC also notes that the proposed new sections only allow petroleum lease holders a period of 2 months to compile the infrastructure reports for all of the holders' PLs. This length of time is consistent with the reporting obligations in section 552 for PPLs and PFLs. Having regard to the volume of PLs held by some operators, and the depth of information likely to be included in the annual reports for PLs as compared to reports for PPLs and PFLs, QGC submits that the period for lodgement of the infrastructure reports be extended until at least 1 October in each year.

Registration of easements for pipeline licences

Time for registration of easements

QGC supports the introduction of provisions entitling holders of pipeline licences to register easements agreed with landholders. However, QGC is concerned that the nine month time frame referred to in clause 38 of the Bill is not achievable in all circumstances.

In order for easements to be registered, as built drawings need to be prepared once pipeline construction is complete. Following preparation of the as built drawings, the survey plans need to be signed by the landholder prior to lodgement with the easement documents for registration. QGC's export pipeline, from the Surat Basin to Gladstone, will require the registration of over 100 easements. Hundreds more easements and survey plans will be required in relation to the export pipelines under construction by other CSG-LNG proponents. Having regard to the need for the finalisation of as built drawings, and subsequent landholder execution of survey plans as pre-conditions to registration, QGC submits that the time frame referred to in the proposed section 399A(3) should be extended to 18 months.

Binding future landholders

Further, QGC is concerned that section 399A(3) could be interpreted as defeating the common law rights of a pipeline licence holder as the holder of an equitable interest in land. At common law, a future landholder can only avoid existing equitable interests in land if that landholder was a bona fide purchaser for value and had no prior notice of the existing equitable interest. On the Bill's present drafting, a future landholder would not be bound by an existing agreement even if the future landholder was aware of the existence and terms of such agreement.

QGC submits that section 399A(3) should be amended to state that it only applies to a successor or assignee of the land who did not have notice of the existing written permission relating to the land.

Existing pipelines

QGC is the owner of a number of existing gas pipelines which were built under the authority of pipeline licences. QGC holds easement agreements with landholders for those pipelines which, to date, have been unable to be registered.

Clause 54 of the Bill proposes to introduce a new section 960 which states that any existing agreements with landholders in relation to pipelines built under a pipeline licence will not apply to future owners of that land. QGC objects to the introduction of this provision in light of the fact that QGC has been prevented from registering those easements prior to the enactment of this Bill due to shortcomings in existing legislation.

As an alternative to section 960, QGC submits that the Bill should include a provision similar in effect to the proposed new section 399A(3), allowing licence holders a period of time starting on commencement of the Bill to lodge existing easement agreements for registration. If licence holders fail to register existing agreements in that nominated time, section 399A(2)(b) would not apply to future owners of the land who did not have notice of the existing agreement.

As an alternative, QGC submits that section 960 should not apply to future owners of the land who had notice of the existing agreement between the licence holder and the land owner.

Yours sincerely

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