

Mineral Resources and Other Legislation Amendment Bill 2026

Submission No: 178

Submission By: Queensland Law Society

Publication: Making the submission and your name public

13 October 2026

Our ref: [SJ:MC]

Email: policy@qls.com.au

Committee Secretary
Primary Industries and Resources Committee
Parliament House
George Street
Brisbane Qld 4000

By email: PIRC@parliament.qld.gov.au

Dear Committee Secretary

Mineral Resources and Other Legislation Amendment Bill 2026

Thank you for the opportunity to provide feedback on the Mineral Resources and Other Legislation Amendment Bill 2026 (**Bill**). The Queensland Law Society (**QLS**) appreciates being consulted on this important piece of legislation.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 14,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This response has been compiled by the QLS Planning and Environment Law Committee and First Nations Legal Policy Committee, whose members have substantial expertise in this area.

The following feedback is offered constructively, with the aim of identifying potential unintended consequences and ensuring that relevant legal and practical issues are fully considered before the reforms are finalised. We have suggested nine amendments to the Bill embedded in our submissions below.

We express general support for the Bill's objectives of streamlining the assessment and objection processes for mining lease applications (**MLAs**) and associated environmental authority (**EA**) applications under the Mineral Resources Act 1989 (Qld) (**MR Act**) and the Environmental Protection Act 1994 (Qld) (**EP Act**). The removal of duplicated assessment processes are commendable reforms.

However, we hold concerns regarding certain aspects of the Bill, particularly the changes to objection rights, the removal of automatic referral of objections to the Land Court of Queensland (**Land Court**), and the retrospective application of the new regime to pending matters. These concerns are addressed in detail below.

Overview of the Bill

The Bill proposes substantial amendments to the MR Act and the EP Act. The key reforms introduced by the Bill include the following:

- (a) **Removal of duplicated environmental assessment** — The Bill removes the duplicated environmental assessment requirements that currently apply under both the MR Act and the EP Act, consolidating environmental assessment under the EP Act framework.
- (b) **Removal of automatic referral to the Land Court** — Section 265 of the MR Act, which currently provides for automatic referral of objections to the Land Court, is omitted. Under the new framework, referral to the Land Court is discretionary, governed by s 271A(1)(c) of the MR Act and s 186(1)(c) of the EP Act.
- (c) **Restriction of objection rights to "eligible entities"** — The Bill amends s 260 of the MR Act and introduces s 183 of the EP Act so that only "eligible entities" may lodge objections. An eligible entity is defined as an affected person, an occupier of land within the proposed mining lease area, or an owner or occupier of land within a 125-kilometre eligibility zone of the proposed mining lease boundary.
- (d) **Restriction of objection grounds** — Objections to MLAs must relate to matters specified under amended s 271(1) of the MR Act. Objections to draft EA documents must relate to the draft documents or decision criteria under ss 176 and 176A of the EP Act.
- (e) **Introduction of a two-tier objection and submission system** — Any person may make a submission on draft EA documents under s 184 of the EP Act, but submissions carry less weight than objections lodged by eligible entities.
- (f) **Combined public notification** — The Bill introduces a combined public notification process for MLAs and associated EA applications.
- (g) **Removal of notification and objection for lower-risk applications** — Notification and objection processes are removed for standard and variation EA applications.
- (h) **Byerwen mine provisions** — The Bill repeals workforce accommodation obligations relating to the Byerwen mine.

Provisions Supported

QLS is generally supportive of the following aspects of the Bill:

- (a) **Removal of duplicated environmental assessment** — QLS supports the removal of duplicated environmental assessment requirements across the MR Act and the EP Act. The consolidation of environmental assessment under the EP Act is a sensible reform that reduces unnecessary regulatory overlap and provides greater clarity for applicants and decision-makers.
- (b) **Combined public notification** — The introduction of a combined public notification process for MLAs and associated EA applications is a practical measure that will reduce administrative burden while maintaining public awareness of proposed mining activities.
- (c) **Streamlined assessment pathways** — QLS supports the overarching objective of improving the efficiency of assessment processes and reducing unnecessary procedural

burden, provided that appropriate safeguards for affected persons and the environment are maintained.

Eligibility to object to mining lease application or environmental authority

The Bill amends s 260 of the MR Act and introduces s 183 of the EP Act so that only “eligible entities” may object to MLAs and draft EA documents respectively.

The Bill removes the open standing position for objectors under the current legislation by replacing the same with specific eligibility criteria for objectors and with the intent to limit eligibility to object to an MLA or an EA to ‘eligible entities’, defined as:

- ‘Affected persons’ – further defined as:
 - Landowners on proposed site
 - Landowners needing access to site
 - Landowners neighbouring proposed site
 - Relevant local governments
 - Infrastructure providers on proposed site or nearby
- Owners or occupiers of land wholly or partly within the 125km eligibility zone, which is 125 km outside the boundary of the proposed ML in any direction.

The definition of ‘owner’ and ‘occupier’ in the MR Act will not be changed, meaning a person qualifies under this class if they have some form of tenure right under the *Land Title Act 1994* Qld or the *Land Act 1994* Qld.

As the limited eligibility is a clear policy intent of government, we make no comment on the decision to limit to these criteria.

We understand that it is not the intention to exclude First Nations people from the MLA objection process altogether. Rather, the suggestion is that the class of ‘owner’ or ‘occupier’ would mean local traditional owners would be eligible to object under the new approach.

Upon review, we do not believe this will be the result. Our interpretation of the Bill is that First Nations people will have no opportunity to participate in:

- the MLA process unless the relevant group holds tenure rights under the *Land Title Act 1994* or the *Land Act 1994*; or
- the EA process, unless the project is one which triggers an Environmental Impact Statement, in which case a Part 7 Cultural Heritage Management Plan would be required. However, that process would be limited to addressing cultural heritage issues and would not necessarily facilitate wider consultation with relevant local groups.

If it is not intended to exclude First Nations people from these processes, we suggest the model used in cultural heritage legislation may provide a useful option for identifying the appropriate First Nations people to participate in the MLA process.

Through this process, there is a clearly defined process to identify the Aboriginal group that has cultural authority to speak for country on a progressive scale, defined as the “Aboriginal party” for an area: determined native title holders, native title claimants, previously registered native title claimants, and then Aboriginal people with traditional connection to the area (see section

35 of the *Aboriginal Cultural Heritage Act 2003 Qld* (**ACHA**) and the *Torres Strait Islander Cultural Heritage Act 2003 Qld* (**TSICHA**)).

While we understand that the State considers that determined native title holders who hold exclusive native title will be captured in the definition of 'Affected persons', there are very limited areas within Queensland that are subject to exclusive native title determinations. The definition of 'Affected persons' could be amended to add a reference to an "Aboriginal party" via the ACHA definitions if the State was minded to ensure that some level of equivalent rights are provided to First Nations people whose rights may be impacted by mining projects.

Given the global trend towards greater involvement of First Nations people in projects affecting First Nations lands, we support further consideration of an approach similar to the Queensland cultural heritage legislation.

We also note the increasing focus globally on climate change and community impacts. Introducing these limited objection rights in the EP Act and MR Act will exclude community groups with objects of protecting the public interests of reducing the risks of climate change, protecting the environment and species, and reducing the risks of community impacts from mining decision-making. It is unlikely that any landholder will raise broad public interest matters such as these in objections. This may be the intent of the proposed approach, but we flag this outcome in the interests of completeness.

Suggested amendment 1: Add a new category to the definition of "affected person": "(f) an Aboriginal party or Torres Strait Islander party for the subject land, within the meaning of the *Aboriginal Cultural Heritage Act 2003 Qld*, section 35, or the *Torres Strait Islander Cultural Heritage Act 2003 Qld*, section 35." That definition already sets an order of priority: determined native title holders, then native title claimants, then previously registered claimants, then Aboriginal people with a traditional connection to the area.

We acknowledge the intent of this reform, which is to focus objection rights on those persons who are directly affected by proposed mining operations. However, the restriction significantly narrows the existing position under the MR Act and EP Act, where any person may object to an MLA.

We note that the Explanatory Notes to the Bill acknowledge that these restrictions may be inconsistent with the principles of natural justice. This concession warrants careful consideration.

There is a genuine risk that persons who are materially impacted by a proposed mining operation, but who fall outside the defined eligibility criteria, will be excluded from the objection process. The 125-kilometre eligibility zone, while broadly drawn, may not adequately capture all genuinely affected persons, particularly in the case of large-scale mining operations with broader environmental, social, or economic impacts that extend beyond the immediate vicinity of the mining lease area.

We note that this drafting of the 125km eligibility zone somewhat reflects the 'nearby regional community' definition in the *Strong and Sustainable Resource Communities Act 2017 Qld*.

However, the definition in the latter legislation provides for a greater (or lesser) radius to be decided and notified (by the Coordinator-General). We recommend that consideration be given to incorporating similar provisions in the draft legislation, particularly so as to accommodate larger projects that may have a wider sphere of influence.

Suggested amendment 2: Change the definition to "...within 125km, or another distance decided by the chief executive and stated in the mining lease notice, of any point along the boundary of the lease." Also add criteria for deciding a larger distance, such as the scale of the

project, the size of its workforce, water and transport impacts, and the likely extent of social impacts.

Removal of Automatic Referral to the Land Court

The Bill omits s 265 of the MR Act, which currently provides for the automatic referral of objections to the Land Court. Under the new framework introduced by the Bill, referral to the Land Court becomes discretionary, governed by s 271A(1)(c) of the MR Act and s 186(1)(c) of the EP Act.

While recognising that a discretionary referral mechanism may yield efficiency gains by avoiding unnecessary hearings, the discretionary referral power as drafted does not prescribe specific criteria to guide the exercise of that discretion. This raises significant natural justice concerns.

The Explanatory Notes to the Bill acknowledge that the discretionary referral powers “could be perceived as making the right for an objection to be heard dependent on an insufficiently defined power.” We respectfully agree with this assessment.

Suggested amendment 3: Insert a new subsection: “In deciding whether to make a referral under subsection (1)(c), the decision-maker must have regard to: (a) whether a properly made objection raises a contested question of fact or expert evidence; (b) the complexity, scale and likely impacts of the proposed mining activity; (c) whether issues raised in objections have been, or could be, adequately addressed by conditions; (d) the number and nature of properly made objections; and (e) whether an independent merits-based assessment will meaningfully assist the decision-making for the application.” The list should be non-exhaustive, so the decision-maker keeps the flexibility the Explanatory Notes say it needs.

We note the Department’s written briefing states that Land Court hearings are intended to be reserved for matters where independent merits-based assessment will meaningfully assist decision-making. We suggest that test be reflected in the Bill (suggested amendment 3).

Under the current framework, objectors have an assured pathway to independent merits review before the Land Court. The removal of automatic referral means that objectors will no longer have certainty that their objections will be heard by an independent body. The significance of this change cannot be understated, particularly for persons who may lack the resources to pursue judicial review as an alternative remedy (noting that judicial review provides for far more limited remedies than the Land Court merits review process).

We query whether a consequence of implementing these reforms may be an increase in judicial review applications.

The proposed approach confers discretion on the Minister (for MLA) or the chief executive (for draft EA) to decide whether an objection should be referred to the Land Court for a hearing. The decision-maker may also decide to refer discrete, specific issues to the Land Court.

Thus, objections referred on a specific matter only are those the Minister considers relevant, and only those objectors are told about the referral. The Bill does not require objectors to be told when the decision-maker decides not to refer, or why.

Suggested amendment 4: Require the decision-maker to give each objector written notice of a decision not to refer, or to refer only a specific matter, with reasons. The notice should be given before the application is finally decided. This notice would also start the time limit for the new right in or suggested amendment 5 below.

It appears judicial review, pursuant to the Supreme Court’s inherent jurisdiction, would be the only review option available to affected persons if the decision-maker determines not to refer

the person's objection to the Land Court or the affected person considers the discrete issues referred are inadequate.

The lack of other review rights could lead to more matters being brought before the Supreme Court for review and place additional pressure on judicial resources.

Further consideration may also be needed regarding the potential application of the *Human Rights Act 2019* Qld (**HRA**), including how, when and before whom it may be engaged (noting the potential scope of the "public right and interest" element in the Minister's consideration of factors relevant to the MLA in the proposed new section 271 of the MR Act).

We trust that the State has or will assess these proposed changes through the statutory requirements of the HRA, given previous Land Court decisions that have shown the importance of human rights issues in mining lease objections.

Suggested amendment 5: Insert a new section (for example, MR Act s 271D and an equivalent in the EP Act): "A person who made a properly made objection may, within 20 business days after receiving notice under [see suggested amendment 4], apply to the Land Court for an order that the application, or a stated matter, be heard under section 273 [or EP Act s 190]." The Court would be able to refuse the application if the objection is frivolous, vexatious or does not raise a matter warranting a hearing. This would mirror the existing strike-out grounds in MR Act s 274 and EP Act s 191. As an alternative, a new item could be added to EP Act Schedule 2 giving objectors an appeal right, in parallel with the applicants.

Restriction of Objection Grounds to EA for site specific application – proposed new section 183 of EP Act

It is noted the grounds for objection in new section 183(3) of the EP Act will be limited to matters mentioned in current section 176 or section 176A of the EP Act.

The relevant matters in current section 176 would appear to be:

- (i) the application [for the site-specific application];
- (ii) any standard conditions for the relevant activity or authority;
- (iii) any response given for an information request;
- (iv) the standard criteria.

The limited nature of this list might have the unintended consequence that an objection cannot be made about a relevant environmental issue with the project that does not fall within this list.

If the application, developed by the applicant, misses a critical issue, and that issue is not identified in any response to an information request, there is no scope in the amended section 183 to raise such concerns.

We suggest the grounds for objection in new section 183 of the EP Act be reconsidered so that all environmental issues can be raised validly in the objection process, not only those issues identified in the proponent's application or an information request response.

Suggested amendment 6: Add a new paragraph to s 183(3): *“(c) any other matter relating to the environmental values likely to be affected by, or the environmental risks of, the proposed activity.”*

While accepting that focusing objections on specified statutory criteria may improve the efficiency of the objection process, the restriction limits the ability of objectors to raise broader concerns that may be relevant to the proper assessment of an MLA or EA application.

Removal of environmental impacts from MLA process

The changes to the public participation process for EAs means public participation will only occur for site-specific and major amendment EA applications.

It is noted that “environmental impacts” have been removed from the MR Act criteria under s 271(3), and that the previous provision allowing the Land Court to consider “any good reason to refuse” an MLA has also been removed. While acknowledging that environmental matters are addressed under the EP Act framework, the cumulative effect of these restrictions is to narrow the scope of matters that may be raised in objection and considered by the decision-maker. Further, there may be environmental matters relevant to the considerations under the MLA as to the land use which may not be able to be raised due to these amendments.

Thus, the combination of these changes means that environmental impacts cannot be raised by the public for a project which only requires a low-risk standard and variation EA applications.

As noted below, there is a risk that critical issues might be missed. We recommend some statutory process be developed to address exceptional cases where the affected person can demonstrate an error or flaw in the low-risk standard and variation EA application.

Two-Tier Objection and Submission System

The Bill introduces a distinction between objections and submissions. Under s 184 of the EP Act, any person may make a submission on draft EA documents. However, submissions carry significantly less weight than objections lodged by eligible entities.

Critically, the administering authority “may” (not “must”) have regard to submissions under s 187(1)(c) of the EP Act. The use of the permissive “may” rather than the mandatory “must” means that there is no obligation on the decision-maker to consider the content of submissions in reaching its decision.

Furthermore, submitters have no ability to have their submissions referred to the Land Court. This creates a significant disparity between the weight accorded to objections and submissions, and effectively renders the submission process a lesser form of participation with no assured pathway to independent review.

We are concerned that this two-tier system, when combined with the restriction of objection rights to eligible entities, may result in persons with legitimate interests being confined to the submission pathway, where their concerns may receive minimal consideration and where they have no recourse to the Land Court.

Suggested amendment 7: Change “may have regard to” to “must have regard to” in s 187(1)(c). If that is not acceptable, add a requirement to have regard to submissions “to the extent they raise a matter relevant to the criteria in sections 176 and 176A”.

Removal of notification and objection for standard and variation applications

We foreshadow some risk with the proposed reforms seeking to remove notification and objection rights for standard and variation applications. Even with standard and variation EA applications, there is the potential for key issues to be overlooked or missed by proponents and for impacts to high conservation value habitat and sensitive water resources. Without an

opportunity for wider public engagement as part of the approvals contemplated, there is the potential for significant harm to occur.

This risk is compounded by the proposed change to remove environmental considerations from the MLA objection process, as noted below.

The experience of one QLS committee member was that an application for a ML with a size of 1000ha was made. The standard code EA was sought for a 10ha disturbance area, but with variations. There was a home on the ML site that was not properly identified in the application. The variations sought to be made to the code EA were in fact to vary the eligibility criteria. The site was only 7km from a large town which had hotels which could house the workforce. The code EA allows up to 20 people to camp on the ML site. In this circumstance an objection was made to the placement of the camp within the ML area and on the basis that the code EA was not appropriate if the variations sought related to the eligibility criteria. After an inactive objection was lodged, the MLA was withdrawn.

If the reforms proceed, we recommend including a mechanism where unintended effects or unidentified issues can be raised with the decision-maker. Such a process might not amount to a formal objection as such, but it is critical that persons affected by errors or aware of errors that may impact broader public interests in a standard EA or a variation EA application have access to a clear process to protect their interests.

Suggested amendments 8:

- Error-notification pathway. Any person could notify the administering authority, before the decision is made, that the application contains a material error or that the eligibility criteria are not met. The authority would then have to consider the notice.
- Deemed site-specific application. A variation application that seeks to vary the eligibility criteria of an ERA standard would be treated as a site-specific application. This means that notification and objection rights would apply.

Recommendation: Adopting a Model for Objector/Submitter Appeal Rights

In light of the concerns identified above, we suggest the Bill be amended to adopt a process analogous to that established under the *Planning Act 2016* (Qld) (**Planning Act**) for submitter appeals in the planning and development context.

Under the Planning Act framework, submitters who have made a properly made submission in respect of assessable development applications are afforded appeal rights to the Planning and Environment Court against certain assessable development approvals. This mechanism ensures that persons who have meaningfully engaged with the public participation process retain access to independent merits review.

Specifically, we recommend that objectors who have lodged a properly made objection under the MR Act or EP Act be given rights to seek referral to the Land Court in circumstances where the decision-maker and Minister has decided not to refer the matter to the Land Court under s 271A(1)(c) of the MR Act or s 186(1)(c) of the EP Act.

The adoption of such a mechanism would:

- (a) preserve meaningful access to independent merits review for persons who have engaged with the public participation process by lodging a properly made objection;

- (b) address the natural justice concerns arising from the removal of automatic referral to the Land Court, by providing a safeguard against the insufficiently defined discretionary power identified in the Explanatory Notes to the Bill;
- (c) allow the decision-maker to proceed efficiently in cases where objections do not warrant a full hearing before the Land Court, while ensuring that the decision not to refer is subject to an appropriate review mechanism; and
- (d) strike an appropriate balance between the efficiency objectives of the Bill and the preservation of natural justice and procedural fairness.

We acknowledge that the Bill's objectives of improving efficiency and reducing unnecessary procedural burden are legitimate and important. However, these objectives should not be pursued at the expense of fundamental rights of access to independent merits review. It is possible to maintain efficiency while preserving meaningful participation rights.

Concerns Regarding Transitional Provisions

The Bill introduces transitional provisions in chapter 15, part 24 of the MR Act (ss 902–911) and chapter 13, part 37 of the EP Act (ss 863–869). These provisions apply the new discretionary referral regime to applications that are already in progress at the date of commencement.

Of particular concern is the treatment of matters that have been referred to the Land Court but where a hearing has not yet commenced. Under s 909 of the MR Act and s 867 of the EP Act, the referral of such matters to the Land Court is taken to have never been made. The effect of this provision is that persons who have lodged objections in reliance on the existing automatic referral framework, and whose matters have been referred to the Land Court, will have that referral retrospectively extinguished.

We acknowledge that the transitional provisions distinguish between three categories of pending matters:

- (a) matters where the Land Court hearing has commenced or substantive directions have been made (ss 910 MR Act, 868 EP Act), which continue under the pre-amendment process;
- (b) matters where the Land Court has already made a recommendation to the Minister (ss 911 MR Act, 869 EP Act), which continue under the pre-amendment provisions; and
- (c) matters where the hearing has not started (ss 909 MR Act, 867 EP Act), where the referral is taken to have never been made.

We accept the approach taken in respect of categories (a) and (b), which appropriately preserve the procedural rights of persons whose matters have reached a substantive stage of determination. However, the treatment of category (c) matters raises concerns about the retrospective impact on persons who have already taken steps, and potentially incurred costs, in reliance on the existing right of automatic referral to the Land Court.

Essentially, where a hearing has not started, a referral already made is taken never to have been made. Objectors who have already relied on the referral, and may have incurred costs, lose the referral. We recommend that the Committee give careful consideration to the broader application of the new discretionary referral regime to pending matters and consider whether transitional safeguards are warranted for persons who have lodged objections prior to commencement.

We also note the Department's written briefing states that the transitional provisions are intended to respect a right to be heard that has accrued to objectors prior to commencement and to respect the

investment of time and resources made by objectors, applicants and the Land Court. Our suggested amendment 9 would give effect to that stated intent for matters already referred to the Land Court.

Suggested amendment 9: Either option outlined below would address this:

- Preserve the referral. Apply ss 910 and 868 to any matter already referred to the Land Court before commencement, whether or not the hearing has started.
- Otherwise, provide a transitional right by allowing objectors in those matters to use the new right in suggested amendment 5, with time running from commencement.

Judicial review

Judicial review is not a substitute for merits review — While acknowledging that judicial review of administrative decisions remains available, it is not a substitute for merits review before the Land Court. Judicial review is confined to questions of decision-making error and does not permit a review of the substantive merits of the decision. It is also generally more procedurally complex than merits review, creating a barrier to access for many objectors.

Summary of suggested amendments:

No.	Provision	Amendment
1	MR Act s 260(6); EP Act s 180	Add ACHA and TSICHA "Aboriginal party" and "Torres Strait Islander party" to "affected person"
2	MR Act sch 2; EP Act s 230B(12)	Allow the 125km zone to be enlarged
3	MR Act s 271A; EP Act s 186	Set non-exhaustive referral criteria
4	New provisions	Notice and reasons when a matter is not referred
5	New MR Act s 271D and EP Act equivalent	Objector right to seek referral or appeal to the Land Court
6	EP Act s 183(3)	Widen grounds to all relevant environmental matters
7	EP Act s 187(1)(c)	"May" becomes "must" have regard to submissions
8	EP Act ss 149, 169A, 171	Error-notification pathway; eligibility-criteria variations treated as site-specific
9	MR Act s 909; EP Act s 867	Preserve referrals already made before commencement

Conclusion

We wish to reiterate our general support for the Bill's objectives of streamlining the assessment and objection processes for MLAs and associated EA applications. The removal of duplicated environmental assessment and the introduction of combined public notification are commendable reforms.

However, we hold significant concerns regarding the following aspects of the Bill:

- (a) the restriction of objection rights to eligible entities, which significantly narrows the existing right of any person to object and may exclude persons who are genuinely impacted, including

Mineral Resources and Other Legislation Amendment Bill 2026

persons acting in the broader public interest with respect to impacts posed by mining applications;

- (b) the removal of automatic referral to the Land Court and the introduction of a discretionary referral power without prescribed criteria, which limits access to independent merits review;
- (c) the restriction of objection grounds, which limits the scope of matters that may be raised;
- (d) the two-tier objection and submission system, which creates a significant disparity in participation rights; and
- (e) the retrospective application of the new regime to pending matters, particularly where referrals to the Land Court have been made but hearings have not commenced.

The key recommendation suggested is that the Bill be amended to adopt a process analogous to the *Planning Act 2016* (Qld) framework for submitter appeals. Specifically, any objectors who have lodged a properly made objection should be afforded rights akin to those of submitters under the *Planning Act* to seek referral to the Land Court where the decision-maker has decided not to refer the matter. We note this process also applies for the assessment of petroleum and gas environmental authority applications under the EP Act. This would preserve meaningful access to independent merits review while maintaining the efficiency objectives of the Bill.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Yours faithfully



Peter Jolly
President