QUEENSLAND resources COUNCIL

Working together for a **shared future**

27 February 2017

Chris Whiting MP
Chair
State Development, Natural Resources and Agricultural Industry Development Committee
Email: SDNRAIDC@parliament.qld.gov.au

Dear Mr Whiting Chris

Thank you for the opportunity to comment on the *Mineral, Water and Other Legislation Amendment Bill 2018* (the Bill).

The Queensland Resources Council (QRC) is the peak representative organisation of the Queensland minerals and energy sector. QRC's membership encompasses exploration, production, and processing companies, energy production and associated service companies. The QRC works on behalf of members to ensure Queensland's resources are developed profitably and competitively, in a socially and environmentally sustainable way.

The QRC understands this is an omnibus Bill which includes miscellaneous amendments to the following legislation:

- *Mineral Resources Act 1989* (MRA)
- *Mineral and Energy Resources (Common Provisions) Act 2014 (MERCPA)*
- *Coal Mining Safety and Health Act 1999 (CMSHA)*
- *Petroleum and Gas (Production and Safety) Act 2004 (P&G Act)*
- *Petroleum Act 1923*
- *Geothermal Energy Act 2010*
- *Greenhouse Gas Storage Act 2009*
- *Water Act 2000*

The Bill is substantially the same as the *Mineral, Water and Other Legislation Amendment Bill 2017* (the previous Bill), which lapsed when the 55th Parliament was dissolved for the State election. QRC was genuinely consulted on the previous Bill throughout 2017, by the (then) Department of Natural Resources and Mines (DNRM) on the majority of amendments outlined in that Bill.

When the previous Bill was introduced and referred to the Infrastructure, Planning and Natural Resources Committee in 2017, QRC made a comprehensive submission on the Bill, and appeared before the Committee at the public hearing. As the Bill remains substantially unchanged, QRC would like to refer the SDNRAIDC Committee to QRC's original submission (attached) as it still reflects QRC's commentary and concerns. In addition, QRC will briefly address the changes to the previous Bill in the Bill below.

ABN 59 050 486 952
Level 13 133 Mary St Brisbane Queensland 4000
T 07 3295 9560 F 07 3295 9570 E info@qrc.org.au
www.qrc.org.au

There have been minimal changes from the 2017 version of the Bill. Those include:

- Changing the time allowed to accept or reject an arbitration election notice from 10 business days to 15 business days;
- Clarifying that only non-determinative types of alternative dispute resolution can be utilised for clause 46 of the Bill. This includes case appraisal, conciliation, mediation and negotiation. This is the same practical effect as the original wording of the Bill; and
- Minor change to update definitions or correct technical issues.

These changes are all relatively minor. The most significant is the extension of the time allowed to accept or reject an arbitration election notice. QRC accepts that 15 business days allows parties with more time to consider whether the binding arbitration process is appropriate for them.

QRC thanks the Department for the quality of the explanatory notes, which do a good job of explaining and justifying the amendments proposed.

If you have any questions about this submission, please do not hesitate to contact QRC's Resources Policy Director, [redacted]
QRC would be pleased with any opportunity to appear before the Committee to speak in support of the submission or to provide a more general briefing on the resource industry in Queensland. This submission is not confidential and the Committee is welcome to publish it on their website.

Your sincerely

Ian Macfarlane
Chief Executive

QUEENSLAND resources COUNCIL

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15 September 2017

Jim Pearce MP
Chair
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
BRISBANE QLD 4000
Mailto: ipnrc@parliament.qld.gov.au

Dear Mr Pearce Jim

Thank you for the opportunity to comment on the *Mineral, Water and Other Legislation Amendment Bill 2017* (the Bill).

As you know, the Queensland Resources Council (QRC) is the peak representative organisation of the Queensland minerals and energy sector. QRC's membership encompasses exploration, production, and processing companies, energy production and associated service companies. The QRC works on behalf of members to ensure Queensland's resources are developed profitably and competitively, in a socially and environmentally sustainable way.

The Queensland Resources Council (QRC) understands this is an omnibus Bill which includes miscellaneous amendments to the following legislation:

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- *Petroleum Act 1923*
- *Geothermal Energy Act 2010*
- *Greenhouse Gas Storage Act 2009*
- *Water Act 2000*

QRC has been genuinely consulted on this Bill, by the Department of Natural Resources and Mines (DNRM), on the majority of amendments outlined in this Bill with the exception of the safety and health amendments regarding the coal and coal seam gas overlapping tenure framework. Despite the short timeframes provided to comment on the Bill, QRC appreciates the Department's approach to working with stakeholders in the development of the amendments.

However, notwithstanding the Department's efforts to engage, it is difficult for industry to be confident that all aspects of such a large omnibus Bill which amends so many different Acts have been considered. The amendments in schedule 1 of the *Water Act 2000* to correct cross referencing and typesetting errors in previous amendments are a testament to just how complex and exacting the task of legislative review is for large complex omnibus Bills such as this one.

ABN 59 050 486 952
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T 07 3295 9560 F 07 3295 9570 E info@qrc.org.au

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Nevertheless, QRC does thank the Department for the quality of the explanatory notes, which do a good job of explaining and justifying the amendments proposed.

If you have any questions about this submission, please don't hesitate to contact QRC's Resources Policy Director, [redacted]

Sincerely

Ian Macfarlane
Chief Executive

QRC Submission

Mineral, Water and Other Legislation Amendment Bill 2017

15 September 2017

ABN 59 050 486 952
Level 13 133 Mary St Brisbane Queensland 4000
T 07 3295 9560 F 07 3295 9570 **E** info@qrc.org.au
www.qrc.org.au

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Summary comments on the Bill

QRC is largely supportive of the *Mineral, Water and Other Legislation Amendment Bill 2017* (MWOLA). QRC agrees with the explanatory notes that the policy objectives of the Bill cannot be met except by legislative amendment. Having said this, there are some proposed amendments which QRC has recommended be included in Regulations, rather than primary legislation.

Consistency with fundamental legislative principles

QRC notes that the Government has acknowledged some conflict with clause 158 and the fundamental legislative principles. Clause 158 inserts sections 842 and 843 into the *Mineral Resources Act 1989 (MRA)*. These sections clarify and ensure the originally intended application of sections 833 and 843, but applies these changes retrospectively. QRC accepts the need for this clarification, and on the grounds of the Department's justification that they administered the sections so that no other mining tenure applications have been affected, QRC is satisfied that there has not been an apparent breach of fundamental legislative principles.

With regard to the amendments proposed to the *Water Act 2000*, the explanatory notes do a fair job of considering the issue of potential breaches of fundamental legislative principles and QRC supports the conclusion that the possible breaches are justified and appropriate.

The only comment that QRC offers is with regard to the issue of the new powers for the Minister and chief executive to deal with urgent water quality issues,[1] having sufficient regards for the institution of Parliament. QRC suggests that perhaps the drafting of Clause 255, to insert 203G[2] could be strengthened to ensure that the report of use of these new emergency powers is produced promptly and tabled in Parliament. A clear way to do this is for a statutory timeframe to be included. This would provide an appropriate opportunity for Parliament to review how these emergency powers have been deployed and reduces the risk of not having sufficient regard for the institution of Parliament.

Implementing the recommendations of the Gasfields Commission Review

QRC understands one of the Bills primary aims is to give effect to recommendations 4, 7, 8 and 9 from the Gasfields Commission review, regarding changes to the statutory negotiation process for a conduct and compensation agreement (CCA) and make good agreement (MGA). QRC understands the amendments do not make changes to the current framework in regard to the rights of access and the liability of the resource authority holder to compensate. The new section 81, as implemented by clause 37 of the Bill, outlines the same compensation liability for resource authority holders as already exists.

QRC understands these reforms are in concert with the Land Access Ombudsman (LAO) Bill, which aims to implement recommendation 10 from of the review – to establish an office to resolve disputes for existing CCAs. Together, the LAO Bill and the MWOLA Bill will reform the way CCAs and MGAs are negotiated and the dispute resolution process once the agreements are entered into.

Broadly, QRC is supportive of the introduction of alternative pathways for landholders and companies to reach agreement as well as the inclusion of agronomist fees in the definition of negotiation and preparation costs. QRC supports the new proposed arbitration pathway and broadening the use of alternative dispute resolution, however the drafting leaves little explanation

[1] Explanatory notes, p 8.
[2] MWOLA Bill, page 150.

of how existing negotiations will be treated if the Bill is passed. QRC does have concerns with the proposed amendments with regard to reduced certainty of process timeframes and the potential for increased costs in the process to reach an agreement.

QRC offers the below comments on the proposed changes regarding the land access statutory negotiation process.

Uncertain timeframes to access land

The current land access framework statutory negotiation process provides a clear timeframe for access to land with minimum timeframes (20 business days to negotiate under a Notice of Intent to Negotiate; 20 business days to attend a conference or Alternative Dispute Resolution (ADR); and 10 business days under an Entry Notice and Land Court application) and a clear circuit breaker to keep progressing through the process.

The proposed amendments lack certainty of timeframes for access as there is no timeframe placed on parties to appoint an ADR facilitator (section 88). The process is that a party receives an election notice and accepts the proposed ADR option and facilitator within 10 business days (88(5)) and then the parties have 30 business days, starting from the day the ADR facilitator is appointed to reach an agreement. There seems to be a missing circuit breaker for appointing the ADR facilitator. In addition to this, the ADR facilitator is not under an obligation to use reasonable endeavours to make a decision within a set timeframe under s 88(6). QRC recommends further amendment to section 89(2) to provide a timeframe for appointing a ADR facilitator.

Necessarily and reasonably incurred negotiation and preparation costs

Section 91 outlines that the resource authority holder is liable to pay the landholders necessarily and reasonably incurred negotiation and preparation costs.[3] These costs are payable regardless of whether an agreement is ultimately reached.[4] QRC agrees that resource authority holder should pay the reasonable and necessary costs incurred by the Landholder in using reasonable endeavours to negotiate a CCA under the statutory negotiation process, however we flag caution it also does little to discourage opportunistic legal representative interest in drawing out the process.

"Negotiation and preparation costs" are defined in Schedule 2 as accounting costs, legal costs, valuation costs or the costs of an agronomist.[5] This does not include the costs of the Alternative Dispute Resolution (ADR) facilitator or the costs of obtaining a decision. QRC highly supports the inclusion of agronomist fees in the preparation costs, as per recommendation 9 of the Gasfields Commission review. Further in 2012, QRC's submission to the Land Access Panel Review highly supported the panel's observation of a need for '*greater communication between landholders and resource companies and this should be facilitated through better access to farm management and agronomist professionals.*'

Plainly, the definition of "negotiation and preparation costs" is broad. While it is possible to apply to the Land Court for a costs order for negotiation and preparation costs,[6] it would ideal if there was an easier way to resolve cost disputes between parties. QRC's view is that there is likely to be differences of opinion on what costs are necessary and reasonable. Adding to this, section 91 is unclear in its drafting of when the liability to pay arises. QRC suggests an amendment could be made to clarify payment must be once an agreement has been reached or if the resource

[3] Clauses 37, 45.
[4] Clause 37.
[5] Clauses 45, 64.
[6] Clause 45 – section 96B Negotiation and preparation costs.

authority holder decides to no longer seek an agreement. QRC is keen to work with government and other stakeholders to work through options to provide guidance on these costs.

Removal of mandatory conferences

QRC is supportive of the removal of mandatory conferences from the statutory negotiation process.[7] Currently, parties must go through this process before being permitted to make an application to the Land Court for a decision. The new sections 83A and 83B, and the replacement of section 88, substitutes this requirement and an election notice for a conference can be provided at any time prior to or during the minimum negotiation period. Parties are still free to utilise the conference; however it is not a mandatory requirement before accessing other dispute resolution avenues. To ensure clarity, an additional amendment to section 83A[8] should be added which confirms that a party is free to reject a conference election notice (as per arbitration).

QRC also supports the inclusion of section 97(3) into the *Minerals and Energy Resources (Common Provisions) Act 2014* (MERCPA) in regard to orders the Land Court may make.[9] The new section states that the Land Court may have regard to the behaviour of the parties in the process leading to the application when ordering parties to engage in further ADR or attend a conference.

A new arbitration pathway

QRC supports the reforms to the statutory negotiation process including the introduction of an arbitration pathway in the aim of providing an alternative to the Land Court for resource authority holders and landholders if they both agree.[10] As per section 91A, parties can utilise arbitration (by agreement) to resolve their dispute, rather than making an application to the Land Court. Parties may also agree to go to straight arbitration without first trying to resolve the dispute through ADR. In this case, QRC suggests the election notice for arbitration needs to outline costs as well as make the party aware of accessibility to legal representation and the ability to appeal only through jurisdictional error.

Legal representation

QRC supports the inclusion of section 91C,[11] which outlines the circumstances in which a party may be represented by a lawyer in arbitration. A lawyer may represent a party if both parties agree to it, and the arbitrator permits it. QRC is consistently made aware of examples where legal fees are far greater than the compensation amounts received by the landholder which is usually brought on by dragging out negotiations unnecessarily. QRC is supportive of a process that encourages legal representation in the best interests of the landholder and reaching an agreement. As such, QRC is supportive of lawyer involvement in arbitration to be at the discretion of the arbitrator. Arbitration is intended to be less formal than Court proceedings, and it may be appropriate that legal representation should be atypical to foster this informal environment.

Arbitrator's decision

QRC supports the arbitrator's decision being final and not able to be reviewed or subject to appeal, outside of jurisdictional error, as per section 91F.[12] To ensure the arbitration process is a genuine alternative to the Land Court and not another step in the process, the decision of the arbitrator must be final. However, as the decision is final, it is imperative that the arbitrators are

[7] Clauses 41, 45.
[8] Clause 41.
[9] Clause 51.
[10] Clause 45 – insertion of new subdivision 3A.
[11] Clause 45
[12] Ibid.

well-qualified to determine disputes regarding land access agreements and landholders are adequately informed of the limited ability to appeal the arbitrator's decision.

Costs

Primarily, the resource authority holder is liable for the majority of the costs incurred by both parties throughout the statutory negotiation process. Industry accepts this responsibility, and notes the importance of landholders being supported throughout the process.

In regard to cost of arbitration, if the parties cannot reach agreement through ADR, and proceed to arbitration, the costs of the arbitrator are shared equally between the parties, or as the parties or arbitrator decides as per section 91E.[13] QRC suggests further amendments are required to section 91 to provide greater clarity on costs.

- Parties to decide apportionment of the cost of the arbitrator

Amend section 91E to make clear upfront how costs are to be apportioned (i.e. to be equally shared etc). The section states the costs must be shared, however there are varying degrees of how this could be implemented in practice. As part of the election notice, which the other party can either accept or decline, it would be ideal to include details about how the arbitrator's costs are to be dealt with.

- Costs if ADR not attended

If the parties have not attended ADR, and proceed straight to arbitration after the expiry of the negotiation period, the resource authority holder is liable for pay the fees and expenses of the arbitrator. Presumably, this is because the resource authority holder has not yet outlaid any expenses, as they would have if the parties had already participated in ADR. QRC accepts this reasoning, however there should be a concession that the authority holder is not liable for costs where the landholder has not attended the ADR as previously agreed. The resource authority holder shouldn't be responsible for paying the entire costs of the arbitrator if the reason why the parties haven't participated in ADR is because the landholder failed to attend without a reasonable excuse.

- Clarify liability of negotiation & preparation costs

QRC suggests further amendment to section 91 to clarify the intent of section 91E that where a landholder agrees to arbitration, they are liable for their negotiation and preparation costs.

Alternative Dispute Resolution

QRC broadly supports the new provisions providing a range of ADR, particularly case appraisal.

Costs

Section 89(6) outlines that the resource authority holder is liable for the costs of the ADR facilitator, provided both parties attend the ADR.[14] If one party did not attend, they are liable for the other party's reasonable costs of attending, as per section 90.[15] QRC supports this approach to ensuring that both parties actively participate in negotiations.

[13] Ibid.
[14] Ibid.
[15] Ibid.

Facilitation of case appraisal
QRC highly supports the inclusion of a case appraisal option in the statutory negotiation amendments and seeks further information on how this option may be facilitated (i.e. by the Land Court). Case appraisal is a fairly unique option where the appraiser assesses the merits of each party's case and makes a decision, rather than other forms of ADR where there is an impartial authority who assists the parties reach an agreement.

Compensation matters and the Land Court

Removal of automatic referral
QRC strongly supports the amendment to section 85 of the MRA, which removes the automatic referral of compensation matters to the Land Court for mining claims and mining leases.[16] As stated in the explanatory notes, compensation matters make up about 20 per cent of the Land Court's case load.[17] The majority of these compensation matters are automatic referrals from the Department of Natural Resources and Mines, as it is prescribed in legislation that the Department must refer matters where parties do not reach agreement by the end of the statutory negotiation period. The amendments allow either party to refer the matter to the Land Court if no agreement is reached at the end of the negotiation period, but this is not automatic. If no agreement is reached, the Minister can refuse the application.

QRC has often raised concerns about the timeframes of decisions made by the Land Court, and the resourcing issues that are obviously related. This is a common-sense amendment which will make a real impact on the Land Court's case load. Even though there is more to be done in the space of Land Court reforms, QRC is pleased the Government is pro-actively assisting the Land Court to function efficiently and effectively.

Renewal and compensation
The Bill amends section 93 of the MRA to require the proponent to notify the landholder of their application to renew the mining lease within five business days of an application for renewal being made.[18] By providing this notification at the specified time, the parties have a nine to fifteen-month period to negotiate a new compensation agreement.

If an agreement is not reached, any party can make an application to the Land Court for determination.[19] If neither party has made such an application, and 3 months has passed since the term of the claim would have ended, the Minister may refuse the application for renewal.[20]

QRC supports this amendment, understanding the department is seeking industry proponents and landholders to play a more proactive role in reaching an agreement where there is a Mining Lease renewal application.

Flexibility in exploration permits for coal

QRC strongly supports clause 86, which inserts new sections into the MRA to provide existing coal projects with the ability to obtain an additional permit necessary for the operation of a coal mining project. As written in the Bill,[21] a coal mining project can apply for an area that:

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[16] Clause 78.
[17] Exp notes, p 2.
[18] Clause 81.
[19] Clause 78.
[20] Clause 81.
[21] Clause 86 – Insertion of section 136Q into the MRA.

- Must be contiguous to the coal mining project (s136Q(b)(i));
- Must not be the subject of a coal interest or application for a coal exploration tenement (s136Q(b)(ii));
- Is not more than six sub-blocks in size (s136Q(b)(iii)); and
- Is not the subject of a competitive tender for an exploration permit for coal (s136Q(b)(iv)).

This amendment provides a non-competitive tender pathway to access exploration land that is integral to an existing mine. Industry feedback provided to the Department of Natural Resources and Mines in late 2016 was that that the existing Expression of Interest process of gaining land was not appropriate for land needed for existing projects for ancillary purposes such as infrastructure. As most ancillary purposes did not fit the criteria for a competitive land release process, gaining land for existing projects has been difficult.

The six sub-block limitation in section 136Q(b)(iii) is problematic and will only deliver limited utility. If a definitive sub-block limit is to apply, QRC strongly suggests it is prescribed in the regulations rather than the Act itself.

To ensure the intent of the amendment is achieved, the exploration permit should not be limited to a once-off availability, especially considering year on year land subject to an Expression of Interest may change. To facilitate progression of operations and major projects, there should be no limit to the amount of applications. Again, each application must be justified.

QRC also suggests that petroleum proponents are given an equivalent right to a non-competitive tender avenue under the *Petroleum & Gas (Production & Safety) Act 2004* (P&G Act) and the *Petroleum Act 1923*.

Registered access

QRC recognises that these amendments[22] address a recent court case (*Byerwen Coal Pty Ltd v Colinta Holdings Pty Ltd & Anor*) regarding the issue of 'access land' for off-lease transport infrastructure. As the explanatory notes outline, access land commonly connects a mining tenement with a public road.

There has been some confusion after this case in industry on what this means more broadly for registered access, and it is helpful that this amendment provides this clarity – surface transport by road of anything reasonably necessary to allow the resource authority holder to carry out activities for a mining claim, exploration permit, mineral development licence and mining lease is allowed off lease through 'access land'. QRC understands that resource authority holders may require the approval of mining lease for infrastructure purposes if additional activities to those allowed on 'access land' are proposed.

The common-sense solution outlined seems to be the least burdensome approach for stakeholders. QRC supports this amendment.

Reporting

There are a number of amendments in the Bill that make changes to reporting. Some amendments are minor, such as new sections 178A through to C which effectively changes the names of reports already required (i.e. an annual report under the MRA changed to Activity Report). QRC largely supports these amendments with further detailed comments outlined below.

[22] Clause 76 (amendment of s 81 MRA); Clause 94 (amendment of s 194 MRA); Clause 104 (amendment of s 231G MRA); Clause 111 (amendment of s 276 MRA); Clause 128 (amendment s 318AAH MRA).

Annual report requirements

Clause 126 inserts a requirement for holders of mineral mining leases to provide activity reports to the Department of Natural Resources and Mines. The requirements of the report are to be prescribed by regulation. The explanatory notes set out the requirements for the activity report are the same as the current requirements for an annual report.[23]

QRC understand that the requirements for an annual report includes a plethora of information such as production data, geoscience information and so on. The reporting of this information is not of concern, however the way in which it is implemented is problematic. For example, production data is already reported to the Office of State Revenue. For many coal mines, the activity is not tenure based, therefore tonnages required to be reported per tenure is unworkable. QRC supports this amendment to move the substantive detail to the regulations and would highly support the Department further auditing what data is required that is additional to that already provided to government. Over the years there have been several initiatives to streamline reporting requirements. QRC is keen to ensure that the learnings from these initiatives are reflected in legislation and policy.

Further, it must be stipulated in the regulations that joint reporting is available to proponents. Reporting should be able to be completed on an entire mining project, whereby an operation only has to report once for multiple mining leases within an operation.

Removal of infrastructure annual report

QRC strongly supports clause 215, which removes the requirement for annual infrastructure reports for petroleum leases. This is welcomed by QRC members as a common-sense efficiency. There is a typo in the Bill in this clause (215) - '522B' should be '552B'.[24]

Overlapping Tenure

The overlapping tenure framework amendments outlined in this Bill are part of an industry-led piece of work which QRC has facilitated since 2011. The framework was introduced in September 2016 with the enactment of MERCPA, with these subsequent amendments required to ensure the framework is functioning as intended. QRC supports the overlapping tenure amendments in this Bill,[25] which were part of an industry-led proposal submitted to Government in May 2017. QRC seeks a few amendments to the amendments proposed in the Bill.

Amendments to the Coal Mining Safety and Health Act 1999 (Coal Mining Safety & Health Act 1999 (CMSHA))

- Clauses 4, 5 and 7 – amendment of s.64C CMSHA (Application of div 3A) and related provisions

QRC welcomes these amendments to the extent that they require a coal miner to only have to implement a joint interaction management plan (JIMP) for an overlapping tenure area in circumstances where coal mining operations physically affect, or may physically affect, the safety of persons or plant in the overlapping area.

[23] Exp notes, p 51.
[24] Clause 215.
[25] Clauses 4,5,6, 7, 54, 174, 229.

This is a sensible outcome from a safety management perspective and more closely aligns the coal miner's obligations with equivalent obligations that apply to operators of 'authorised activities operating plant' (such as coal seam gas tenure holders) under the P&G Act.

However, QRC notes that the tests in section 705(b) of the P&G Act and the amended section 64C(1)(b) of the CMSHA may still operate differently in practice. The proposed amendment to the CMSHA test refers to a physical effect on safety while the P&G Act test only requires that the physical effect be to coal mining or oil shale mining (as opposed to the safety of those operations).

If the intention is only to create the obligation to agree a JIMP when safety is impacted (which is QRC's understanding of the purpose of the regime), section 705(b) of the P&G Act should be amended to reflect the new section 64C(1)(b) of the CMHSA in this respect.

Further, given that currently under the CMSHA, a coal party is technically required to have a JIMP in place for an overlapping area even if their operations have no physical impact on other operators in the area, it is submitted that retrospective protection is required to avoid those parties being found to be in breach of the existing regime prior to the commencement of the new Act.

- Clause 6 – New Part 20, div 6 CMSHA (Transitional provision) and related amendments

QRC understands these sections extend the scope of the JIMP obligations in s.64C CMSHA to areas of overlaps with holders of petroleum leases, authorities to prospect and water monitoring authorities under the *Petroleum Act 1923*. The proposed transitional arrangements in new Part 20, Division 6 CMSHA are appropriate to give parties time to comply with these new requirements.

Clauses 54 – 62 Amendments to MERCPA

QRC agrees with these amendments to the MERCPA. They are useful clarifications to confirm that the statutory arbitration process in Chapter 4, Part 6, Division 4 of the MERCPA applies to all JIMP disputes arising under the CMSHA, the *Mineral Resources Regulation 2013* (MRR) and the P&G Act.

However, to further clarify QRC's understanding of the policy intention, QRC believes it would be useful for the referral provisions (ss. 64E(3) and (4) and 64H(7) CMSHA, 705B(3) and (4) and 705CB(7) P&G Act and 25(3) or (4) and 28(7) MRR) to be amended to make it clear that arbitration must be undertaken in accordance with the statutory process in Chapter 4, Part 6, Division 4 of the MERCPA (instead of any other arbitration process).

Clause 174 – New s.122 Mineral Resources Regulation 2013 (Transitional provision)

In relation to these amendments, QRC reiterates the comments in regard to clause 6 above.

However, on a broader matter, QRC requests that the Committee give consideration to recommending that the JIMP regime (in so far as it applies to coal parties) be consolidated within the CMSHA, rather than continue to be partly applied under that Act and partly under the MRR (as is currently the case).

Like the position that applies for the gas sector, QRC believes that safety matters impacting coal parties are better dealt with *solely* in the principal legislative regime in the CMSHA (and *Coal Mining Safety and Health Regulation 2001*) to assist with compliance.

- Clauses 218 and 299 - Amendments to the Petroleum and Gas (Production & Safety) Act 2004

In relation to these amendments, refer to position in regard to clause 6 above. Nevertheless, QRC agrees that the proposed transitional arrangements in clause 229 are appropriate to give affected parties time to comply with these new requirements.

Paper receipt for tenure

Numerous clauses in the Bill[26] outline the Department of Natural Resources and Mines is no longer going to issue a paper copy of granted but rather records to be in the online tenure management system, *MyMinesOnline*. QRC supports this amendment.

Water bore transitioning

Clause 139 inserts a new section in the MRA regarding the transfer of water bores. QRC supports the amendments which are proposed to make provision for a water observation bore to be able to be transferred to the State or the landholder. QRC requests that the amendment also address the existing limitation on wells drilled before 2012 in the P&G Act. Currently, wells drilled prior to 2012 are not able to be transferred. Legislation should stipulate that where a well has been constructed to the appropriate standard, it can be converted into a bore and transferred to the landholder.

Climate change considerations in water planning

QRC supports these amendments to make the consideration of the effects of climate change on water planning more explicit. It is logical for a draft water use plan or new water plan to consider the effects of climate change on water use practices and the risk to land or water resources arising from the use of water on land, in order for water users to be confident in the water allocations derived from these plans. All stakeholders have a shared interest in ensuring that water plans deliver this confidence.

QRC understands that these amendments will be applied prospectively to new water planning processes, so there should be no risk to water user's existing water entitlements under existing water plans.

Cultural outcomes for Aboriginal peoples and Torres Strait Islanders in water planning

QRC welcomes these amendments as an important recognition of the spiritual connection of Aboriginal people and Torres Strait Islanders to water and the natural features that waters support.

QRC's only query of the drafting is that while the explanatory note says that cultural outcomes will be specified *separately* from economic, social and environmental outcomes (page 3 and 90) and this is how clause 238 amends section 43 (page 136), the definition of cultural outcome in clause 276 (page 166) only refers to a "beneficial consequence" rather than a specifically cultural outcome. QRC's concern is that this definition would appear to encompass existing economic, social and environmental outcomes as well as the new cultural outcomes. This aggregation risks the transparency of the water planning process for other water users who may question whether an allocation was made on the grounds of economic or cultural benefits. QRC understands that often a single water allocation will deliver multiple benefits (for example social and cultural), but that there is value in maintaining these distinctions. QRC recommends the drafting of this definition is revisited.

[26] Clauses 80, 82, 87, 90, 91, 93 etc.

Temporary access to strategic water infrastructure reserves

QRC supports these amendments as striking a healthy balance between preserving strategic water infrastructure reserves in the long-term while still allowing productive interim use of this unallocated water.

Urgent actions for dealing with water quality issues

QRC supports these new emergency powers for dealing with water quality issues. While the powers are broad, QRC believes it is clear that they will only be used in an urgent situation, which justifies the immunity from prosecution.

As noted earlier, QRC's only suggestion is that the drafting of clause 255, to insert 203G (page 150 of the Bill) could perhaps be strengthened to ensure that the report of use of these new emergency powers is produced promptly and tabled in Parliament. This could provide an appropriate opportunity to review how these emergency powers have been deployed.

The only other comment QRC would make about the amendments to the *Water Act 2000* is Clause 269, (page 16), which inserts a new section 1006A. The ability to declare underground water as overland flow water is a difficult concept except at a highly localised level. QRC suggests that an example or illustration in the explanatory notes would help stakeholders understand how this definitional re-categorisation would be used in a water plan or regulation.