

ISAAC REGIONAL COUNCIL SUBMISSION

CONSCIOUS CONSISTENCY: Mining and other resource production tenures

Review of mining lease objections processes
Consultation Paper November 2024

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REGION

HELPING TO ENERGISE THE WORLD

INTRODUCTION

Isaac Regional Council (IRC) welcomes the opportunity to provide a submission to the Queensland Law Reform Commission's *Conscious Consistency: mining and other resource production tenures – consultation paper July 2024*.

Isaac is a region driven by pure people power and is the powerhouse of Queensland's economy, with a Gross Regional Product of \$26.8 billion. This economic output comes from our long-standing agricultural sectors, service industries, retail, hospitality and our abundance of natural resources. Two-thirds of the Isaac Region's workforce is employed in the mining sector.

Isaac's contribution to the State's economy cannot be understated – per capita, the gross regional product of Isaac Region residents is near 12 times greater than the Queensland average.

IRC provides this submission to highlight key areas of interest and concern and as Queensland's premier Coal Region seeks to engage further on the limitations of the current regulatory context which impact the residents and communities of the Isaac LGA.

It is Isaac's lived experience current assessment processes, including those relating to mining and other resource production tenures, do not appropriately deal with the full impacts of resource consents, and that there is a dual role for local governments in both protecting the infrastructure and assets of rate payers as well as ensuring community concerns are adequately voiced in conversations regarding the impacts of mining development.

While it is recognised this Consultation Paper is limited to other resource production tenures and processes under the Greenhouse Gas Storage Act 2009, Geothermal Energy Act 2010 and the Petroleum and Gas (production and Safety Act) 2004, Council acknowledges there is a broader systemic issue of consistency of tenure and land use consent legislation across government which needs to be addressed.

MAJOR CONCERNS WITH CURRENT APPROVALS PROCESSES

Petroleum Leases

- It is unacceptable that there have been no notification requirements for petroleum lease applications and no ability for any person to make a submission on applications. It is also unacceptable that these applications are not published or available on a public register.
- Public interest in an application cannot adequately be considered or understood if there is no opportunity to make submissions on an application and without consultation or public participation.

General

- Requests for mining leases which do not accord with earlier Environmental Impact Statement (EIS) approval processes and provisions, or commitments made during these processes (especially projects which were approved prior to the enactment of the Strong and Sustainable Resource Communities (SSRC) Act 2017
- Requests for mining leases for 'infrastructure' which can include Worker Accommodation Villages (WAVs) - often serve as a proxy for a Development Application and circumvent the Planning Act processes. As such, rights for stakeholder and community participation in the planning process ultimately leads to unmanaged impacts arising from these operations.

- Where the scale and duration of proposed operations do not meet the threshold to trigger an EIS process, and the provisions of the SSRC Act do not apply, there is no mechanism to compel proponents to consider social impacts, nor to engage with local government prior to the time the applicant gives public notice. The cumulative effects of numerous small-scale projects triggering unmanaged impacts presents a significant risk to positive and socially sustainable outcomes in the region. Council places an expectation on all proponents who benefit from the region's resources to deliver value beyond compliance and contribute to building a desirable future for the communities which host their operations.
- Concerns exist around the value placed on environmental and social impact assessment generally in mining projects, where proponents can mitigate impacts from a standpoint of 'not making a bad situation any worse' rather than contributing to a positive and socially sustainable future for the communities which host and support their operations.
- There is significant operational burden placed on local governments in being positioned to respond to complex environmental and social impact assessment materials during limited statutory consultation windows.

KEY OPPORTUNITIES ARISING FROM REVIEW OF MINING LEASE OBJECTIONS PROCESSES

- There is a clear opportunity to align applications made under the Mineral Resources Act with other State Application processes, for example Ministerial Designations under the *Planning Act*, that the applicant be required to undertake pre-lodgement consultation with the Local Government. This could be required under Section 245 of the *Mineral Resources Act*, in which an application for the grant of a mining lease must include evidence of pre-lodgement engagement that the applicant has undertaken with the local government.

This process would support Council to provide information relevant to the Mining Lease and Environmental Authority at the earliest possible opportunity and to assist with providing opportunity for the applicant to understand the local context of the region in which they are looking to operate.

- Integration of the object of the SSRC Act, '*to ensure that residents of communities in the vicinity of large resource projects benefit from the construction and operation of projects*' achieved through '*requiring owners of, or proponents for, large resource projects a) to prepare a social impact assessment for the project and b) to employ people from nearby communities and c) not to discriminate against residents from nearby communities when employing for the project.*' within MRA and EA processes would address many concerns regarding the impacts of proposed projects.

As noted above, the cumulative effects of multiple smaller operations present the same level of impact and opportunity as those arising from a single large scale project and it is critical the community, and other stakeholders are able to participate in the process to ensure a just and equitable outcome.

- The review presents an opportunity for the consideration of the operational burden for local government in responding to applications made under the MRA and how that might be alleviated through review of statutory timeframes or additional supporting mechanisms.
- Instruments for ensuring Mining Lease applications for infrastructure such as Worker Accommodation Villages are assessed in accordance with the provisions of the Planning Act should also form a central point of this review.

DETAILED RESPONSE TO CONSULTATION QUESTIONS:

Question	IRC Commentary:
<p>Q1 Are the guiding principles of 'fair, efficient, effective and contemporary' appropriate for considering reforms to the processes for deciding other resource proposals?</p>	<p>Isaac Regional Council acknowledges the inevitable tension expressed in item 68 in considering whether the recommended changes to the mining lease processes should apply to the processes for other resource production tenures. As such it agrees with the rationale in items 69 and 70 (for this stage of the review) of focusing on the purpose and intended outcomes of the proposals, rather than the mechanisms. Council would however, like further oversight and say over the design and application of said mechanism when it is ultimately developed.</p> <p>In general, Council agrees the guiding principles of the of 'fair, efficient, effective and contemporary' are appropriate for considering reforms to the processes for deciding other resource proposals.</p> <p>However, Isaac Regional Council would like to highlight that while the 'Effective' principle acknowledges the processes should be" conducive to ongoing investment and sustainable growth in mining", it should also be 'effective' in ensuring:</p> <ul style="list-style-type: none"> - local concerns, issues and opportunities are adequately addressed; and - host communities and regions experience net social, economic and environmental benefits from resource projects.
<p>Q2 Should we recommend that there is a consistent process by applying the consultation proposals for mining to other resource proposals?</p>	<p>Based on the key principles of good regulation and the recognised benefits of consistency between regulatory frameworks, Isaac Regional Council supports the application of a consistent process between mining and other resource proposals. It believes the benefits of reduced complexity and duplication, uniformity and certainty it provides far outweigh potential detriments.</p>
<p>Q3 Is the rationale for the consultation proposals for mining also appropriate and justifiable for other resource proposals? If so, would the consultation proposals need to be tailored, and if so, how?</p>	<p>Yes, the rationale for the consultation proposals for mining are also appropriate and justifiable for other resource proposals. The intent of each of the consultation proposals are sound and should be consistent across resource proposals.</p> <p>However, Isaac Regional Council would like to draw its attention to its former submission to the <i>Reimagining decision-making processes for Queensland Mining</i> Consultation Paper for a detailed understanding of its recommendations for the six consultation proposals.</p> <p>In relation to this question and this stage of the review process, Council believes there may be a need to tailor the extent of P1 based off individual project details.</p> <p>Integrating the intent of the SSRC Act with other resource production tenure processes would require proponents to undertake meaningful community engagement as part of a mandated Social Impact Assessment, which could form the basis of government-led public forums which could then ground-truth findings</p>
<p>Q4 What should be the scope and extent of public participation in processes to decide other resource proposals?</p>	<p>Consultation fatigue in regions like Isaac is real, and poor public participation numbers may not necessarily reflect a community's lack of interest or concern regarding a project. As such Council oft finds itself doing the heavy lifting regarding public consultation on behalf of its communities as part of its daily</p>

	<p>advocacy works.</p> <p>Therefore, Council admits there needs to be some flexibility built into public participation processes to leverage exiting consultation opportunities. Council strongly advocates that an Open House should always be held at the earliest opportunity (pre-lodgement is preferred) between proponent and local government. Here Council can best advise of the necessary stakeholders and best mechanisms by which to engage with its communities. Along this vein, Local Government should also form the backbone of any resource-related Community Advisory Committee or Reference Group.</p> <p>It is also Council’s opinion that mandatory public meetings be managed by government (not the applicant) and structured in a way that allows an opportunity for all to participate – not just activist views favouring or opposing the proposal.</p> <p>With regards to the scope and extent of public participation in processes to decide other resource proposals, Council believes <i>some</i> consideration should be given to the scale, risk and impact of the project.</p> <p>It is Council’s opinion that EIS triggers (in their current form) are not an ideal criterion to categorise projects. Under the current model, where the scale and duration of proposed operations do not meet the threshold to trigger an EIS process, and the provisions of the SSRC Act do not apply, there is no mechanism to compel proponents to consider social impacts, nor to engage with local government prior to that time the applicant gives public notice.</p> <p>Further, the cumulative effects of numerous small-scale projects triggering unmanaged impacts presents a significant risk to positive and socially sustainable outcomes in the region. Council places an expectation on all proponents who benefit from the region’s resources to deliver value beyond compliance and contribute to building a desirable future for the communities which host their operations.</p>
<p>Q5 Should the consultation proposal for an online portal apply for other resource proposals? Are there any additional notification requirements?</p>	<p>Yes, the consultation proposal for an online portal should apply for other resource proposals. The portal should automatically notify the relevant local government authority and possess a mechanism for the public to register for local notifications.</p>
<p>Q6 How should the following interests be considered in the decision-making processes for other resource proposals: (a) the public interest? (b) the rights and interests of Aboriginal peoples and Torres Strait Islander peoples in land, culture and cultural heritage?</p>	<p>Council supports the process and requirement for decision-makers to consider the rights and interest of Aboriginal and Torres Strait Islander peoples in land, culture and cultural heritage. Isaac Regional Council also believes the rights and opinions of Local Government should carry a similar weight in informing the decision-making process</p> <p>Council notes item 131 outlining the use of public input through the new participation process - such as advice from local government - to directly inform decision making, however it believes it is not enough.</p> <p>Local government should be a formal part of the decision- making process (resourced by government, funded by applicant). It is Council’s position that local government should be able to form a (public) opinion and recommend conditions on the proposal (as it does for DA’s under the Planning Act) to directly inform decision making, as it is they who bear the ongoing operational burden of impacts associated with in-region resource development.</p> <p>As representatives of the communities most affected by resource projects, local</p>

	governments possess invaluable insights and perspectives that must be considered at the strategic decision-making level. This inclusion will ensure that the interests of our communities are adequately represented and safeguarded throughout the implementation process. The representation will also ensure the voices of impacted communities are heard and considered in the decision-making processes and that the decisions made are appropriate for the communities they affect.
Q7 Should the review consultation proposal for mining apply for other resource proposals?	Yes, the review consultation proposal for mining should apply for other resource proposals.
Q8 Are there any issues or opportunities arising from interactions with decisions made under other Acts that we should consider?	<p>The Coordinator General function is rather unique to Queensland and should be retained. It remains the government's decision which projects to prescribe or declare.</p> <p>The local government should be a formal part of the decision-making process and obliged (resourced by government, funded by applicant) and make recommendations to the decision-maker as contemplated at 290.</p> <p>If the local government was to be the Community Advisory Committee, there would be some recognition of the statutory role conferred upon the local authority (269) to make development decisions in the local interest.</p> <p>The Strong Sustainable Resource Communities Act should be considered and applied for other resource proposals.</p>
Q9 Is there anything else you would like to tell us about the current processes for deciding other resource proposals or any additional options for reform of these processes you would like us to consider?	Resource project end of life is a growing issue and concern for government and communities alike. How can the review of the mining lease objections processes be leveraged to inform and enforce best practice end of life planning and protections?

CLOSING COMMENTS

Isaac Regional Council thanks the Queensland Law Reform Commission for reading its submission and considering their views on the *Conscious consistency: mining and other resource production tenures* consultation paper. Should the QLRC have any questions or require further information on content contained within this response, please do not hesitate to contact [REDACTED]