

To: Queensland Law Reform Commission

Re: Review of Mining Lease Objections Processes

Date submitted: 20 September 2024

Submission summary

Proposal 1: Reframing participation in the current processes.

- AMEC does not support due to oversimplification and the statutory requirement for engagements.

Proposal 2: Establishing a central online Government portal for public notice and information.

- AMEC supports the proposal in principal but seeks clarification on certain points.

Proposal 3: Forming an Independent Expert Advisory Panel for environmental authority applications.

- AMEC does not support, we cite unnecessary administration and undermining of company expertise.

Proposal 4: Amending statutory criteria to consider new participation process information.

- AMEC does not support due to the duplicative nature.

Proposal 5: Considering the rights and interests of Aboriginal and Torres Strait Islander peoples.

- AMEC does not support; the proposal is duplicative of current processes.

Proposal 6: Allowing Land Court review after Government decisions on mining lease and environmental authority applications.

- AMEC does not support; decision-making should remain with elected officials, not the judiciary.
- Participation Process: AMEC emphasises the need for industry-led, place-based, and fit-for-operations engagement.
- Notice Requirements: AMEC suggests tightening definitions around who can make objections to restrict vexatious objections.
- Pre-lodgement Process: AMEC advocates for a robust pre-lodgement process but does not support legislating it.

Introduction

The Association of Mining and Exploration Companies (**AMEC**) appreciates the opportunity to make a submission on the Review of the Mining Lease Objections Processes (**the review**) being undertaken by the Queensland Law Reform Commission (**QLRC**).

About AMEC

AMEC is a national peak industry body representing over 560 mineral exploration and mining companies across Australia, with almost 80 members having operations based primarily in Queensland. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry.

AMEC's members explore for, develop, and produce minerals including antimony, bauxite, coal, cobalt, copper, gold, graphite, lead, lithium, manganese, mineral sands (such as silica), molybdenum, nickel, phosphate, potash, rare earths, silver, tungsten, vanadium, and zinc.

General comments

The QLRC is completing the review to meet action 38 of the Queensland Resources Industry Development Plan (**QRIDP**), which was released by the Department of Resources (**DoR**) in June 2022. AMEC recognises that the QLRC has undertaken broad engagement in informing their proposals; this includes a tour of the Ravenswood Gold mine with AMEC and some of our Queensland Advisory Committee members. AMEC hopes that going forward the QLRC consider industry feedback in a meaningful way to ensure that any recommendations they may make, are in the interest of the State's economic prosperity.

The scope of the review was very broad. As such, depending on the stakeholder, the scope is of risk of being interpreted differently depending on that stakeholder's priorities and bias.

AMEC consistently advocates that mining activities—from exploration to production—must be regulated in a responsible and fit for operations way. As such a review that is attempting to capture the broad experience of the sector, misses the nuance of how the industry operates and does not present an evidence base, beyond narrative, to support its proposals.

Based on the information in the consultation paper AMEC:

- Supports in principle Proposal 2 subject to further consultation, and
- Does not support Proposals 1, 3, 4, 5 and 6 due to the level of information provided in this paper being too hypothetical to make an informed assessment on whether the proposals will materially improve or otherwise the current processes.

Comments in response to the Consultation Paper's questions

Q1 Are the guiding principles of 'fair, efficient, effective and contemporary' appropriate for reform of the current processes?

The guiding principles are sound, however are open to the interpretation of the stakeholder and their priorities and biases, which is a risk.

Q2 Do you agree these are the strengths and problems of the current processes? Are there others not mentioned here which are appropriate to be considered for reform of the current processes?

AMEC notes that the strengths and problems identified by the QLRC reflect experience. AMEC is interested in clarifying the following however:

- With regard to point 41:
 - How are the Government's commitments not being met under the current processes?
 - This is not feedback that has been received by companies directly that are going through these processes; as such, which departments are not satisfied and in what way? AMEC would hope this feedback would be provided to industry directly as opposed to picked up through this process alone.
 - Further, AMEC advocates the ESG is a financial metric for investors, it is not a space that government should be involved in.
- With regard to point 43:



- What further information does the community want?
- In going through engagement and notification processes, a substantial amount of technical information is made publicly available.
- There is information that will be commercial in confidence that is not in a company's interest to share, as it will put at risk their owners' or shareholders' interests, and consequently the investment attractiveness of Queensland.

P1 Participation in the current processes should be reframed by:

(a) removing the Land Court objections hearing pre-decision

(b) including an integrated, non-adversarial participation process

(c) establishing an Aboriginal and Torres Strait Islander Advisory Committee for relevant mining proposals to facilitate Aboriginal and Torres Strait Islander input as part of the new participation process.

Q3 What are your views on proposal 1?

AMEC does not support proposal 1. Figure 3 is misleading and grossly over-simplifies the proposals in P1. The participation processes identified are largely leveraged by a mining company when taking their development from prospect through to mine. A statutory requirement to do all of the proposed engagements is not supported. Engagement must be place-based and fit for the operation.

Q4 What forms of participation should be included in the new participation process?

Recognition of early engagement, that is engagement and notification that is completed in acquiring an Exploration Permit for Minerals (EPM), should be recognised.

Q5 How would removing the objections hearing affect private interests?

The information provided does not allow AMEC to assess adequately how private interests might be impacted.

Q6 Should there be tailored participation processes depending on the nature of the project? If so:

(a) what criteria should be used to determine different requirements for participation (for example, size, nature of risk, interest or other factors)?

(b) what should be the forms of participation?

AMEC believes that companies already approach engagement through a place-based and tailored approach. Proposing to establish criteria, thresholds and forms of participation goes against the principal of having a fit for operations and risk regulatory framework that is efficient and effective.

Q7 How can we ensure the new participation process is accessible and responsive to the diverse needs of communities?

AMEC does not support a new participation model and believes that the type of engagement undertaken must be industry led, place based and fit for operations and risk.



P2 A central online Government portal should be established to facilitate public notice and give up-to-date information about mining proposals. The Mineral Resources Act 1989 and the Environmental Protection Act 1994 should be amended to require material to be published on the online portal, including:

(a) notice of applications

(b) notice of opportunities to participate

(c) outcomes of participation processes

(d) information requests

(e) decisions.

Q8 What are your views on proposal 2?

AMEC supports proposal 2, that is the centralised online notification portal to help deliver efficiency in doing this through one integrated system and not multiple departmental systems.

Q9 What additional notice and information-sharing requirements should be included in legislation as part of the new participation process?

AMEC does not believe there is a need for further notice or information sharing requirements.

Q10 What direct notice requirements should be included for applications for: (a) mining leases? (b) associated environmental authorities?

AMEC would like to see some of the definitions around who can make an objection tightened and restricted to parties impacted by a development, and vexatious objections to development not allowed by parties that are not directly impacted.

Q11 What else is required to notify Aboriginal peoples and Torres Strait Islander peoples who may have an interest in the mining proposal?

AMEC does not believe there is a need for further notice requirements.

P3 An Independent Expert Advisory Panel should be established that is:

(a) comprised of people with recognised expertise in matters relevant to the assessment of environmental authority applications

(b) formed as project-specific committees to give independent expert advice to inform decisions on environmental authority applications that meet specified criteria.

Q12 What are your views on proposal 3?

AMEC does not support proposal 3 for the following reasons:

- This mechanism is not required unless there is a failure in departmental competency to assess and make decisions. If there is a failure, more bureaucracy will not address it. AMEC has consistently advocated that capability uplift of assessment staff to be technical experts, would be a positive step forward for government in reducing assessment timeframes.
- It is an additional level of administration that will not deliver value but extend assessment timeframes further.



- It is not clear in the proposal as to what the decision maker must or must not do with the advice from the proposed panel.
- It undermines the expertise of the work being undertaken by the companies' consultants in completing the necessary information in making a complete application.

Q13 *What should be the criteria to form an Independent Expert Advisory Committee for an environmental authority application?*

Nil comment. AMEC does not support this proposal.

P4 The statutory criteria in the Mineral Resources Act 1989 and the Environmental Protection Act 1994 should be amended to require the relevant decision-maker to consider:

(a) for decisions about mining lease and associated environmental authority applications – information generated through the new participation process

(b) for decisions about environmental authority applications – any advice of the Independent Expert Advisory Committee.

P5 The statutory criteria in the Mineral Resources Act 1989 and the Environmental Protection Act 1994 for decisions about mining lease and associated environmental authority applications should be amended to require each decision-maker to consider the rights and interests of Aboriginal peoples and Torres Strait Islander peoples in land, culture and cultural heritage.

Q14 *What are your views on proposal 4?*

Consistent with comments under P1, AMEC does not support this proposal.

Q15 *What are your views on proposal 5?*

AMEC does not support this proposal as it is seen as duplicative of current processes.

Q16 *Should the decision-maker for the mining lease application be required to consider the decision (and reasons for decision) of the decision-maker for the environmental authority application in reaching their decision on the statutory criteria for:*

- (a) *public interest?*
- (b) *adverse environmental impacts?*
- (c) *the rights and interests of Aboriginal peoples and Torres Strait Islander peoples in land, culture and cultural heritage (see proposal 5)?*
- (d) *any other criteria?*

AMEC considers that this is duplicative of the current process; the decision maker for a mining lease already considers public interest when assessing a project. Specifically, under the MRA they are required to consider the potential impacts—i.e. the benefits and potential adverse effects of the proposed mining activities—on the community, environment, and economy are evaluated.

Q17 *Are there additional reforms to the statutory criteria under the Mineral Resources Act 1989 and the Environmental Protection Act 1994 you would like us to consider?*

No.



P6 Review by the Land Court should be available after the Government has decided the mining lease and environmental authority applications. Decisions of the Land Court should be appealable to the Court of Appeal on the grounds of errors of law or jurisdictional error. The Land Court should:

(a) conduct proceedings after decisions on both applications are made

(b) conduct combined (merits and judicial) review

(c) conduct the review on the evidence before the primary decision-makers, unless exceptional circumstances are established

(d) apply existing practices and procedures.

Q18 What are your views on proposal 6?

AMEC does not support this proposal.

The decision to grant or otherwise a mining lease should be based on the policy of the government of the day. It is therefore appropriate that the elected official and Minister for the MRA is the final decision maker, not the judiciary. The current systems deliver this.

It is not appropriate for the court, who is not elected by the people of Queensland, to be making decisions, namely reviewing and possibly overturning decisions, made by an elected official and Minister. The current role of the court is seen as appropriate.

Q19 What preconditions, if any, should there be to commence combined review?

No response, refer to Q18 answer.

Q20 Should the Land Court have the power to substitute its own decision on the application or should it be required to send it back to the decision-maker?

No response, refer to Q18 answer.

Q21 Should each party pay their own costs of the merits review or should a different rule apply?

No response, refer to Q18 answer.

Q22 Are there any issues arising from interactions with decisions made under other Acts that we should consider?

No response, refer to Q18 answer.

Q23 What opportunities are there, if any, to integrate interacting Queensland Acts with the processes to decide mining lease and associated environmental authority applications?

A more robust pre-lodgement process with all line departments for a mining project to identify collaboratively any obstacles that might be faced would be beneficial.

Q24 Should there be a legislated pre-lodgement process?

No, pre-lodgement should not be legislated.

Q25 Is there anything else you would like to tell us about the current processes?

No.

Q26 Are there any additional options for reform of the current processes you would like us to consider?

No.



Conclusion

AMEC appreciates the opportunity to provide feedback on the review of the mining lease objections process. Please contact [REDACTED] for further information.

For further information contact:

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