JUNE 2020

# STREAMLINING REPORT

A decade in review and reforms for supporting future growth

QUEENSLAND resources COUNCIL

# FOREWORD & ACKNOWLEDGEMENTS

I am pleased to deliver this second industry report as part of the streamlining processes series. This is the fourth report in a series of reviews focused on streamlining Queensland's assessment processes in the resources sector:

| | |
|---|---|
| **2009** | Streamlining Approvals Project: mining and petroleum tenures approval process report – led by the Queensland Government |
| **2010** | Supporting Resources sector Growth – Review of Queensland's exploration and development approval processes – **first industry report** |
| **2011** | **Government-Industry Implementation Group – On the Right Track** - led by the Queensland Government |
| **2020** | Queensland resources sector recovery plan – A decade in review & reforms for supporting resources sector growth – second industry report |

I pay my respects to my predecessor, Michael Roche, who delivered the first report on behalf of the resources sector in 2010. At that time the industry was seeking reforms to enhance growth opportunities after the Global Financial Crisis and the resources sector was pegged to shoulder the responsibility to get Queensland's economy ticking again. Many businesses fell under the pressures of falling revenues and were unable to reign in high operating costs. The 2010 industry report delivered many growth reforms for the resources sector and this in turn translated to stable employment levels and in conjunction with a period of strong commodity prices delivered a sequence of new project opportunities in the Galilee Basin, some of which are progressing towards being operating mines. The 2009-11 reforms supported record industry investment which peaked for Queensland in 2012-13 at around $38 billion in direct expenditure. Right now, there are 12 new greenfield and brownfields resource projects coming through the assessment pipeline with more to come in a stable and efficient regulatory environment.

Once again, the resources sector is in a unique position to power forward through these challenging economic times and deliver stable income for Queenslanders. The largest resources town in terms of spending and employment in Queensland is Brisbane. The industry also supports many regional cities and towns and I am proud of our strong relationships with our resource regions such as Banana Shire, Burdekin, Burke Shire, Central Highlands, Cloncurry Shire, Gladstone, Isaac, Livingstone Shire, Mackay, Maranoa, Mount Isa, North and South Burnett, Quilpie Shire, Toowoomba, Townsville, Western Downs, Weipa, Whitsunday and more.

I acknowledge the contributions made by the QRC membership in this report. Thank you for all the time committed outside of demanding day jobs. Thank you to members of my QRC team who are passionate in their work to deliver a better future to the resources sector and to all Queenslanders.

I. Macfarlane

**Ian Macfarlane**
**Chief Executive**
**Queensland Resources Council**

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# GLOSSARY

| Abbreviations | Definitions |
|---|---|
| **ATP** | means an authority to prospect granted under the *Petroleum and Gas (Production and Safety) Act 2004 (Qld)* or Petroleum Act |
| **CCA** | means Conduct and Compensation Agreement under the Land Access Code |
| **CSG** | means coal seam gas |
| **DES** | means the Queensland Department of Environment and Science |
| **DNRME** | means the Queensland Department of Natural Resources, Mines and Energy |
| **EA** | means an environmental authority issued under Chapter 5 of the *Environmental Protection Act 1994* (Qld) |
| **EIS** | means an environmental impact statement, prepared in accordance with the provisions of the *Environmental Protection Act 1994* (Qld) |
| **EO Act** | means *Environmental Offsets Act 2014* |
| **EPBC Act** | means *Environmental Protection & Biodiversity Conservation Act 1999* |
| **EPC** | means an exploration permit for coal granted under the *Mineral Resources Act 1989* (Qld) |
| **ESA** | means Environmentally Sensitive Area |
| **FP** | means Financial Provision under the *Mineral and Energy Resources (Financial Provisioning) Act 2018* |
| **GFC** | means the Queensland Gasfields Commission |
| **IESC** | means Independent Expert Scientific Committee |
| **LAO** | means Land Access Ombudsman |
| **LNG** | means liquefied natural gas |
| **MDL** | means a mineral development licence (a mining exploration retention tenure) granted under the *Mineral Resources Act 1989* (Qld) |
| **MERFP Act** | *Mineral and Energy Resources (Financial Provisioning) Act 2018* |
| **ML** | means a mining lease granted under the *Mineral Resources Act 1989* (Qld) |
| **MLA** | means a mining lease application |
| **MRA** | means the *Mineral Resources Act 1989* (Qld) |
| **MSES** | means Matters of State Environmental Significance |
| **PRCP** | means Progressive Rehabilitation and Certification Plan |
| **P&G Act** | means the *Petroleum and Gas (Production and Safety) Act 2004* (Qld) |
| **PCA** | means a potential commercial area (a petroleum exploration retention tenure) granted under the *Petroleum and Gas (Production and Safety) Act 2004* (Qld) |
| **Petroleum Act** | means the *Petroleum Act 1923* (Qld) |
| **PFL** | means a petroleum facility licence granted under the *Petroleum and Gas (Production and Safety) Act 2004* (Qld) |
| **PL** | means a petroleum lease granted under the *Petroleum and Gas (Production and Safety) Act 2004* (Qld) or Petroleum Act |
| **PLA** | means a petroleum lease application |
| **PPL** | means a petroleum pipeline licences granted under the *Petroleum and Gas (Production and Safety) Act 2004* (Qld) |
| **QAO** | means Queensland Audit Office |
| **QRC** | means the Queensland Resources Council |
| **RE** | means Regional Ecosystem |
| **RIDA** | means Regional Planning Interests Development Application under the *Regional Planning Interests Act 2014* |
| **RPI Act** | means *Regional Planning Interests Act 2014* |
| **VMA** | means *Vegetation Management Act 1999* |

# EXECUTIVE SUMMARY

This report continues the journey that was started over a decade ago by the then Premier of Queensland, Anna Bligh, to instigate continuous improvement through streamlining assessment processes in the resources sector.

The resources sector is globally competitive and constrained by geology. The industry operates in parallel to the state planning system; unlike roads and other civil infrastructure, resources in the ground can't be moved a kilometre down the road.

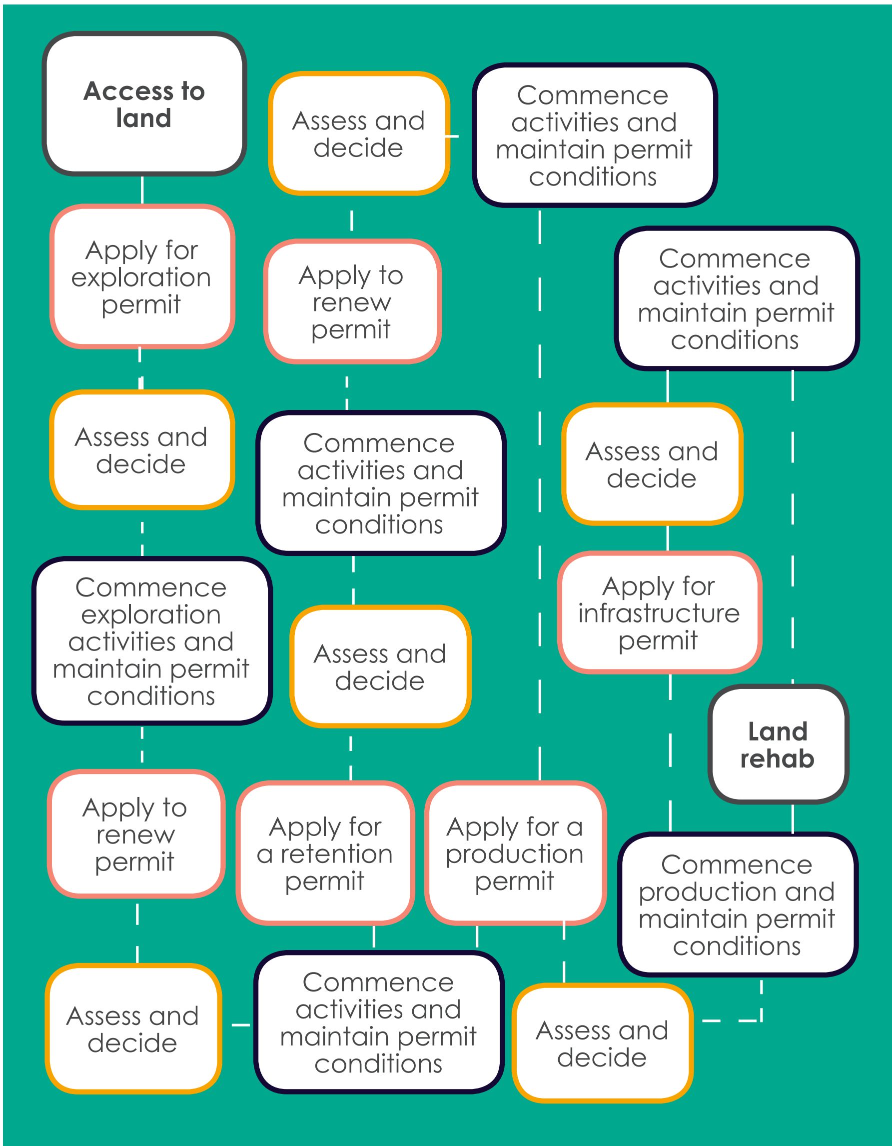
Queensland's mineral and energy resources are used as inputs for fundamental infrastructure such as roads, rail, house structures but also used for emerging needs and technologies that are crucial in long term sustainability such as batteries and renewable energy sources.

The resources sector is well known for innovation and constant technological progression. The modern petroleum industry today still models some of its drilling equipment and technology from early dentistry techniques. One of the most prolific advances in the past few years has been automation and robotics which has been driven by improving safety in the workplace.

So why is a modern regulatory system critical to the resources sector? Fundamentally, regulation seldom evolves at the same rate as the industries they govern. This is true of other industries such as modern medicine, information technology and artificial intelligence, automation and robotics. This is not specific to Queensland, or even specific to Australia. A stable framework is a robust regulatory framework, however there is a need to find ways to maintain stability as well as have a regulatory framework that advances with the innovations of the industry. It's well understood our regulatory frameworks are not well suited to a quick change. The recent Novel Coronavirus-19 pandemic has put a spotlight on our ability to respond quickly.

Unfortunately, in Queensland resources sector regulation is complex, duplicative and in some areas completely outdated. This has a direct impact on the way the resources sector operates. This report identifies 20 problem areas that impede on the industry's ability to operate efficiently and productively. QRC has prioritised these 20 recommendations from a broader pool given they each have a direct impact on:

- Productivity and output;
- Jobs for Queensland; and
- Queensland maintaining a global competitive advantage.



# INTRODUCTION

It's testament to the complexity of the mining and petroleum project assessment process, that a streamlining reform process has been underway for over a decade in Queensland.  It's extremely rare to have a reform agenda extend to encompass three different Premiers. This reform agenda was initiated in 2009 by the '*Streamlining Approvals Project: mining and petroleum tenures approval process*' report ('the Streamlining Report').

In 2010, Premier Anna Bligh asked industry to review this report as well as provide any further recommendations. This work was led by the Queensland Resources Council (QRC), with a report released in April 2010 outlining 23 recommendations titled *'Supporting Resources sector Growth – Review of Queensland's exploration and development approval processes'* ('Industry Working Group Report').

Following both reviews, a Government-Industry Implementation Group (GIIG) was formed. The GIIG developed a public response, *On the Right Track*, October 2011 responding to the Streamlining Report and the Industry Working Group Report.

Many of the key recommendations in these reports led to significant reform processes that have delivered significant improvements and efficiencies for both industry and the Queensland Government.

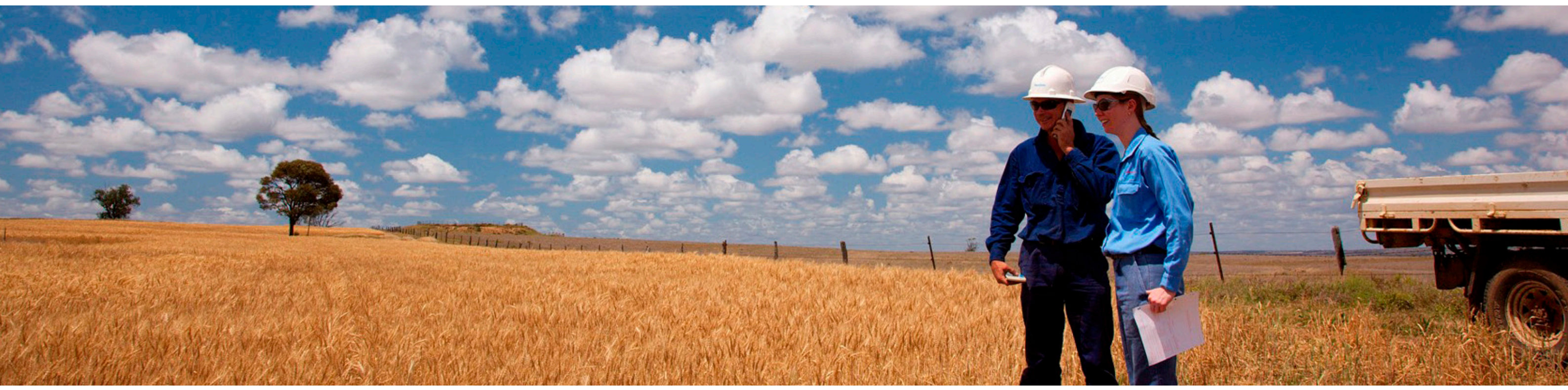
In this report, QRC reflects on the recommendations made in the 2010 report and what reforms have led us to our current regulatory setting. Most importantly, this report looks to the future and what will be needed to work more efficiently and sustainably over the next decade.

The three key themes in the 2010 report are still relevant 10 years on and have been used in this process as guiding principles for reform:

**CERTAINTY OF PACE**
industry's recommendations to improve speed and predictability of assessment processes

**CERTAINTY OF SCOPE**
industry's recommendations to address the growing complexity of approval processes

**REGULATORY CERTAINTY**
industry's recommendations to achieve consistency of application across and within departments



# OVERVIEW OF THE 2020 PROCESS

This report has been developed by QRC and its members through an Industry Working Group representing all commodities. In the first instance members were sent a survey seeking feedback on what they consider to be the main issues in the assessment and approval system. This survey focused on four key themes:

1. PREDICTABILITY FOR DECISION TIMEFRAMES
2. LAND ACCESS SUPPORT & PROCESS
3. STREAMLINING DUPLICATIVE PROCESSES
4. IMPROVING PEOPLE, PROCESS & SYSTEMS

As a subset of these four themes, a total of 33 issues were identified and workshopped to be distilled down into 19 recommendations outlined in this report under the above four themes. The summary of recommendations is presented on the following page. Throughout this report are member quotes from the QRC member survey.

# SUMMARY OF RECOMMENDATIONS

## 1 PREDICTABILITY FOR DECISION TIMEFRAMES

**A.** Grant and renewal of resource tenures

**B.** Associated water licence statutory decision timeframe

**C.** Land release tender process

**D.** DNRME & DES assessment process performance scorecard.

## 2 LAND ACCESS SUPPORT & PROCESS

**A.** Establish a fit for purpose land access process for minerals

**B.** Establish a stakeholder driven landholder support program across all commodities

**C.** Streamlining of land access related statutory bodies & functions

**D.** Clarity on reasonable professional fees

**E.** Simplified process for asset handover to landholders, including as it relates to progressive certification, surrender and residual risk.

## 3 STREAMLINING DUPLICATIVE & INCONSISTENT PROCESSES

**A.** A commitment to whole of government streamlining reporting requirements for the resources sector

**B.** A commitment for inter-departmental streamlining of mapping and assessment processes across vegetation conservation and management legislation

**C.** Streamlining the multiple notification process across resource related Acts for a project

**D.** Remove duplicative processes for seeking security for legacy equipment

**E.** Maximise opportunities for aligning with the *Environment Protection and Biodiversity Conservation Act 1999*:

*i.* Shift to early joint engagement, planning and assessment

*ii.* Work towards achieving Commonwealth accreditation of Queensland's offsetting laws

*iii.* Establishing an agreement with the Commonwealth to recognise models and assessments developed by the Office of Groundwater Impact Assessment and adopted by the sector for approvals

*iv.* A commitment to work with the Commonwealth to facilitate or align with recommendations for streamlining resulting from the review of the *Environment Protection and Biodiversity Conservation Act 1999*.

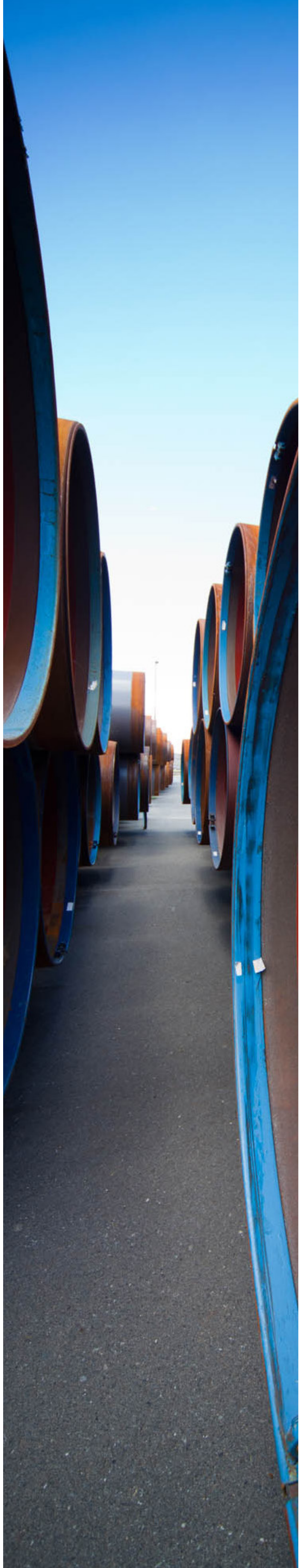
## 4 IMPROVING PEOPLE, PROCESSES AND SYSTEMS

**A.** A one-stop-shop for project administration system

**B.** Proactive engagement and support from Departments

**C.** Department staff expertise and communication

**D.** Activity based fees and charges retained by the relevant business unit to improve service delivery (e.g. resourcing)



# A DECADE IN REVIEW 2010 - 2020

A key attribute of best practice regulation is ensuring that regulation remains relevant and effective over time[1] through regular reviews. A 2013 Productivity Commission review of *Major Project Assessment Processes* recommended a regular review of regulatory objectives to ensure they are clear, consistent and coherent.[2] In 2019 a QRC's submission commented that how a regulation is administered can be just as important as the wording of the regulation itself.[3]

This report focuses on the improvement of assessment processes, identifying areas that are duplicative or unnecessarily complex. Inefficient processes have significant impacts on the investment profile of Queensland, as they increase the cost of doing business and can create an uncertain operating environment. For governments, the impacts are unnecessary costs, consuming scarce resources that could be deployed more effectively elsewhere in the public sector.

Industry has participated in a number of reform processes over the last decade with varying degrees of success (recommendations partially actioned or not fully implemented as intended).

**These reviews include:**

- Streamlining Mining and Petroleum Approvals 2009
- Supporting Resources Sector Growth 2010
- Government Industry Implementation Group – Back on Track 2011
- Greentape Reduction Project 2010
- Coordinator-General Environmental Impact Statement Review 2012
- Productivity Commission Review into Major Development Project Assessment 2013
- Productivity Commission Review into Mineral and Energy Resource Exploration 2013
- Queensland Competition Authority Review into Coal Seam Gas Regulation 2013
- Tenure Reform Taskforce 2015
- Gas Supply and Action Plan 2016 (never released)
- DNRME Duplication and Efficiency Review 2019
- Productivity Commission Review in Resources sector Regulation 2019
- Queensland Audit Office – Managing Coal Seam Gas Activities 2020

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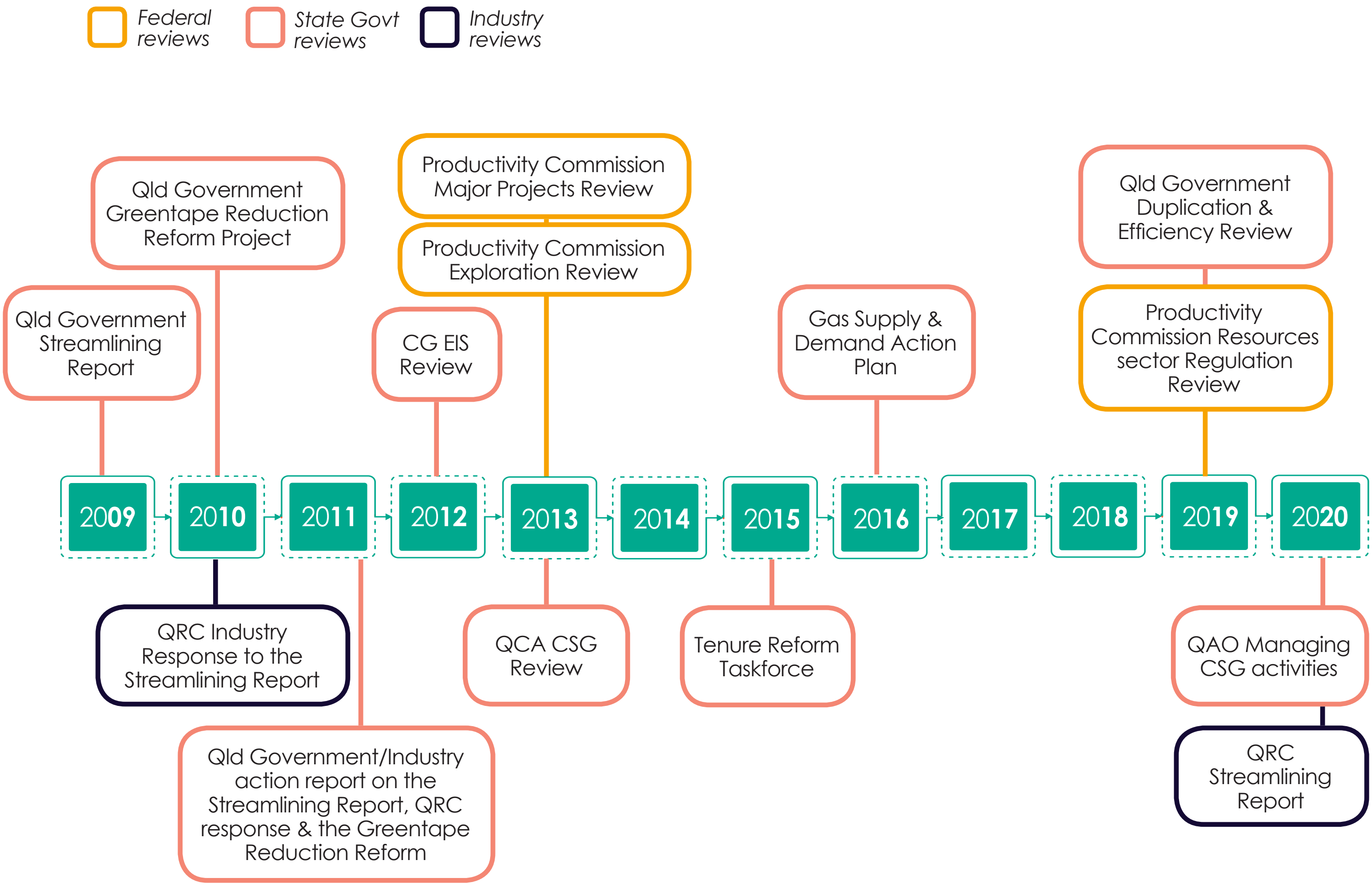
[1] COAG Best Practice Regulation 2007. Accessed at https://www.pmc.gov.au/sites/default/files/publications/COAG_best_practice_guide_2007.pdf

[2] Productivity Commission (2013), 'Major Project Assessment Processes – Final Report' p86-93.

[3] QRC submission to the Productivity Commission review in Resources sector Regulation (2019). Submission accessed at https://www.pc.gov.au/__data/assets/pdf_file/0003/247251/sub027-resources.pdf p5.

# TIMELINE OF REVIEWS




All of these reviews repeat a common theme – there is a need for more certainty around timeframes of assessments. The number of reviews is an acknowledgement there is a need for reform, yet they have not delivered these desired outcomes.

The resources sector regularly cites fatigue from the churn of reviews.

**QRC seeks a commitment from government to a timely response to these issues and also to the proposed solutions outlined in this report.**

*"Many surveys have been conducted over the years, as well as several years invested in tenure reform... it is frustrating when time is invested to identify improvements when the department does not provide a response"*

**QRC member comment**

# 1. PREDICTABILITY FOR DECISION TIMEFRAMES

In October 2019, the Department of Natural Resources Mines and Energy (DNRME) released the *Resource authority regulatory efficiency and duplication report* which summarises investigations, outcomes and action in response to the 2017 Palaszczuk Government commitment to seek improvements and efficiencies in the resources and environmental assessment process.

The report response was focused on five key themes, one of which was decision-making timeframes. Specifically, the report states:

> *"While the Queensland Government does not support prescribing timeframes in the resources legislation – and considers it is important that flexibility is retained - we acknowledge that the current arrangements represent an ongoing issue for industry".*[4]

The report further commits to *"publish key performance indicators for resources and tendering decision timeframes by March 2020."*

> *"Delays in responses from government departments can make it difficult for proponents, and their financiers can walk if there is uncertainty in the process and the timing for decisions."*
>
> **QRC member comment**

While industry acknowledges and appreciates the commitment made by DNRME, there is a consensus that while a published performance report will go some way to providing improved transparency, there is a middle ground between statutory approval processes and published Key Performance Indicators which will provide for improved accountability and certainty around decision timelines.

Timeliness of approval processes have been raised repeatedly over the last ten years:

- In 2010, the Industry Working Group Report, raised the issue of the trend towards increasing timeframes for decisions. A recommendation within that report was to publish a scorecard to track the average time to grant as well as the applications under assessment each quarter.
- In 2011, the Government's On the right track report also highlighted the need for clear performance measures and for "deemed approved" provisions to be considered. This was enacted through the Greentape Reduction agenda by the environmental regulator but was not actioned by the mining tenure regulator. The 2011 report also committed to publishing timelines to drive improved accountability to support timely decision making.

Industry supports DNRME's commitment to publishing and reporting against performance standards and within this report, industry has suggested what these reporting measures could be in section D.

[4] At page 5

# A. GRANT AND RENEWAL OF RESOURCE TENURES

## THE PROBLEM

QRC members report unnecessary risk where development plans are not approved in a reasonable timeframe. The development plan that is submitted for approval is on the verge of being out of date by the time it is approved. When seeking investors, this uncertainty introduces a compliance risk that has the potential to increase the cost of capital.

The decision timeframe for grants, renewals and post grant applications can be variable. Industry's frustration, however, is around the timeliness of the decision at the conclusion of the process, once all prerequisites have been met. If the holder is "delaying" the progress of an application, the Department can rely on a legislative provision requiring the applicant to do all things reasonably necessary to progress an application for decision.  If the notice is not complied with, the application can be rejected. There is no corresponding provision available to industry to progress applications within the Department.

## POST-GRANT DECISIONS

As an example, the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) specifically requires the Later Development Plan (LDP) to be lodged at least 40 business days, but no more than 100 business days before the end of the plan period. As detailed in the explanatory notes to the Act[5], the timeframe provided was to allow for the work of assessing and deciding the new LDP to be completed prior to the expiry of the current plan. If the plan is lodged after the prescribed period, a fee ten times the prescribed fee to encourage holders to lodge on time.

## RENEWAL APPLICATION DECISIONS

Similar to post-grant decisions, the various Resources Acts contemplate a timeframe for decision making for a renewal application. While there are variances across the different Acts, all frameworks generally require:

- Lodgement of the renewal application within a minimum and maximum period before expiry
- Demonstration of compliance with prior term
- Satisfaction that the requirements for making and deciding the application have been met
- Suitability of future work being proposed on the tenure.

In some instances, ten times the application fee is applied where the renewal application is not lodged within the prescribed period.[6] However even after all the prerequisites have been met, members have expressed that it can take an unreasonable long period of time before a decision on the renewal is made.

## NEW TENURE APPLICATION DECISIONS

Industry acknowledges the complexity of decision making and the differing processes for each resource permit type under the various Resources Acts. Industry also understands the statutory time periods for new grants have been considered and dismissed by Government on several occasions. As an example, there are provisions requiring rent (as a prerequisite for grant) to be made within 20 business days or the application will be refused, but no corresponding provision or obligation on the Department for a timely decision once rent is paid.

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[5] *"the time for lodgement of a later development plan has been determined with a view to completing the necessary work of assessing and approving or rejecting the later development plan before the expiry of the current development plan approved for the petroleum lease. The late lodgement of the later development plan greatly reduces the time for this. To discourage the late lodgement of the development plans, and to reduce unnecessary increases in the Minister's and administering department's workloads, a late fee significantly greater than the lodgement fee is proposed."* Clause 159 of the Petroleum and Gas (Production & Safety) Bill 2004, Explanatory Notes.

[6] Mineral Resources Act 1989 S318DI (mining lease renewals), s318EB for later development plans and Petroleum and Gas (Production and Safety) Act 2004 S82 (ATP renewals), s162 (petroleum lease renewals), s79(6) later work program renewals and s159(6) later development plan renewals

## RECOMMENDED SOLUTION

It is proposed that legislative mechanisms be introduced to provide for certainty around the decision-making timeframe once all the prerequisites have been met. These amendments would also provide the opportunity for the decision maker to intervene if there is an issue with the application submitted.

Below is a summary of the three main application processes that would benefit from introducing a timeliness mechanism on Government when processing the applications.

| Type | Post Grant Decisions LWP/LDP | Renewals (all permits) | Grants (all permits) |
|---|---|---|---|
| **Overview** | Deemed Approved (Automatic) | Deemed Approval (legislative trigger) - legislative trigger to advise applicants intention to rely on deemed approval in absence of a decision being made. | Requirement to make a decision – either within a period of time, or referred to the Land Court for decision. |
| **Process** | If a decision is not made within 100 business days after the application being made, the LWP/LDP is taken to be approved under the Act and the prior work program or development plan is taken to be complied with. | Triggered only when applicant has met all the requirements of renewal and only after applicant writes to decision-maker advising intent to rely on deemed approval, unless otherwise advised in a within 30 business days.<br><br>Decision-maker (within the period) may write to the applicant to advise they have formed a view that the deemed approval provision cannot be relied upon. (stating reasons for that view) | Triggered only after applicant writes to decision-maker, advising that all prerequisites have been met, and applicant is requiring the decision-maker to consider the application within period of time.<br><br>Decision-maker can write and advise that the prerequisites have not been met and the provision can not be relied upon, or, make a decision within the time period. If the decision is not made within a period time, tenure application is referred to the Land Court for decision. |
| **Risk to Govt** | Low risk decision process for the State and community. High value to industry to provide certainty.<br><br>LWP/LDP is only in effect for 4 or 5 years. QRC is not aware of any decisions to refuse a LWP or LDP. | Low to moderate risk to the State and community this decision making process. On-ground disturbance will likely to have already occurred and renewal will be required for rehabilitation.<br><br>QRC understands that a decision to refuse the renewal of a permit is rare. However, does acknowledge that additional conditions are occasionally added to the tenure at time of renewal. | Moderate risk to the State but recognises investment made by the applicant and provides certainty of process. Application will have already undertaken environmental assessment and (where required) public notification.<br><br>Provides avenue to bring to a conclusion to the application process but with a clear pathway for a court based decision if required (without a deemed refusal provision) |
| **Process 'safety net'** | If the department has formed a preliminary view that the LWP/LDP may not be compliant with the application provisions, they may write the holder within 30 business days of receiving the application advising them of that the "deemed approved" provisions cannot be relied upon. | As per Post Grant Decision process - the department may write the holder within 30 business days advising them that the "deemed approved" provisions cannot be relied upon (due to non compliance)<br><br>Where the provision has been relied upon, conditions can be applied to the renewal at any time within 12 months from the renewal date. | The department may write to advise that the prerequisites have not been met and the permit cannot be decided.<br><br>Land Court is the independent decision maker on the permit – not a deemed approval. |

## for **industry**

- Certainty around the timeliness of decisions, lowering investor risk where there is application or program
- Encourages the Department to take action early to remedy issues on applications
- It introduces a mechanism to finalise the application.

## for **government**

- Provides sufficient time to assess decisions and certainty of timeframes for compliant holders
- Greater focus on applications which are not meeting compliance obligations, or in the best interests of the State
- There is a mechanism to stop the deemed approvals if there is a performance issue
- Will encourage robust applications to be made at time of lodgement to rely on the provisions
- Provides for the decision for grants to be made by an independent body and is not a deemed refusal or approval.

## for **community**

- Removes the current lack of certainty around the decision-making process which introduces a lack of certainty for landholders where tenure holders delay activity pending a decision on the appropriateness of the development plan.

# B.ASSOCIATED WATER LICENCE STATUTORY DECISION TIMEFRAME

## THE PROBLEM

Similar to the grant of a production lease in the resources sector Acts, there are no statutory timeframes for decision for an Associated Water Licence under Subdivision 2 of the *Water Act 2000*.

> *There are very few timeframes which apply to water licence applications meaning it is difficult to appropriately schedule them... Clear timeframes should be imposed (with the ability to extend if necessary)."* **QRC member comment**

## RECOMMENDED SOLUTION

For reasons of predictability and certainty of process, QRC recommends statutory timeframes for decision i.e. 60 business days.

for **industry**

- Certainty around the timeliness of decisions.

for **community**

- Certainty of government decisions on water related activities.

# C. LAND RELEASE TENDER PROCESS

## THE PROBLEM

The industry is carrying investment uncertainty on exploration tenders which are not decided promptly. Applicants are carrying exposure to capital investment commitments for extended periods of time while the State decides applications. If the applications are insufficient, industry's preference would be to cancel the process promptly and clarify and re-release expectations of requirements from the preferred tenderer.

> *Applicants are carrying exposure to capital investment commitments for extended periods of time while State decide applications.....12 or 24 months later the market is in a different place and companies will have made other investments."*
> **QRC member comment**

QRC had previously recommended that efficiencies could be achieved in the process if the release and closing dates of the tenders were published in the Queensland Exploration Program document. QRC would like to acknowledge the Department of Natural Resources, Mines and Energy improvements on the recent [Queensland Exploration Program] release included the land release timeframes.

QRC also acknowledges the recent Queensland Audit Office report on Managing CSG Activities. In recent submissions to DNRME on the tender process QRC recommended the use of public weightings of the criteria used to assess applications. QRC acknowledges the recent Queensland Audit Office also recommends published weightings stating *'Disclosing to applicants the basis on which the department will assess them against the criteria (including any weightings or other considerations) would be a good practice, as it would provide greater transparency to applicants.'*[7]

## RECOMMENDED SOLUTION

QRC recommends the decision relating to the preferred tender should be advised within 6 months of the close of tenders or tender process is cancelled. This removes the applicant's obligation to meet their tender submission commitments if the preferred tenderer is not decided promptly. With this commitment, companies continue to carry this exposure and risk forward to future projects. QRC suggests one way might be to specify in the tender document that the tender will be cancelled if a decision on the preferred tenderer is not made within 6 months of the close of tenders.

### for **industry**

- Increased certainty around capital investment requirements and planning
- Provides opportunity for improved project and capital investment planning
- Transparency around timeframes for a decision.

### for **government**

- Clear mechanism to cancel the process, which may be beneficial for an incoming government or under a changing policy environment.
- Allows applicants to retender under any new process.

### for **community**

- Provides certainty around the timeframes for a process.


[7] Queensland Audit Office (2020) *'Managing Coal Seam Gas Activities,'11.*

# D. DNRME & DES ASSESSMENT PROCESS PERFORMANCE SCORECARD

## THE PROBLEM

There is a need for greater transparency of Queensland's assessment process through improved accountability for grant, renewal and application timeframes. This was also recognised in the 2010 Industry Working Group report which recommended a published scorecard that tracks the average time to make a decision for each category of application as well as the number of applications received and processed each quarter.[8] This recommendation was one of the few that were not ultimately implemented, however the need for greater transparency in approval timelines remains.

## RECOMMENDED SOLUTION

QRC would like to work with both DNRME and DES on a published scorecard to better understand assessment timeframes. Below and over the page is an indication of the type of data industry would be seeking as part of the scorecard.

> *"Published report card on performance against the service standards. Industry should be specific about what it would like to measure. LDP decisions, transfers, RTN processes etc."*
>
> **QRC member comment**

Ideally this data would be produced every 6 months. The scorecard should highlight any changes in the preceding 6 month period. It would be beneficial in the short term for a "draft" scorecard to be produced for discussion with Industry so the merits of the performance measures can be discussed and agreed, to ensure they are of value to both industry and Government.

| Tenure Type | Proposed measure |
|---|---|
| **Production Permits (Grants and Renewals)** | • Median time to decide months (yrs) *(Given the extended duration of some decision-making processes, the median would be more meaningful than the average or mean)*<br>• 95% of decisions made with X months (yrs) *(i.e. 2 standard deviations from the mean)*<br>• Broken down by resource type: coal, minerals, alluvial, petroleum & gas<br>    • Also break down by native title process and Environmental Authority (EA) type (standard or site specific as this impacts on timeframes)<br>    • For mining leases, the median time frame for decision where an objection to the EA or ML is received as opposed to where there is no objection made<br>    • Median time frame for decision once all prerequisites have been completed.<br>• Number of applications on hand pending decision<br>• Count of those applications on hand longer than the median time to decide<br>• If removing any outliers* from the data, identify them specifically and explain why *(*outliers should be defined, for example 3 deviations outside the mean)* |

[8] Industry Working Group Report, p8.

| | |
|---|---|
| **Exploration & Retention Permits (Grants and Renewals)** | • Median time to decide months (yrs)<br>• 95% of decisions made with X months (yrs)<br>• By Coal, Minerals, Petroleum<br>  ◦ Also break down by native title process and EA type (standard or site specific as this can have an impact on timeframes)<br>  ◦ Median time frame for decision once all prerequisites have been completed.<br>• Number of applications on hand pending decisions<br>• Count of those applications on hand longer than the median time to decide<br>• If removing any outliers from the data, identify them specifically and explain why |
| **Infrastructure Permits (Grants and Renewals)** | • Median time to decide months (yrs)<br>• 95% of decisions made with X months (yrs)<br>• By Coal, Minerals, Petroleum<br>  ◦ Also break down by native title process and EA type (standard or site specific as this impacts on timeframes)<br>  ◦ Median time frame for decision once all prerequisites have been completed.<br>• No of applications on hand pending decisions<br>• Count of those applications on hand longer than the median time to decide<br>• If removing any outliers from the data, identify them specifically and explain why |
| **Post Grant Decisions** | • Median time to decide months (yrs)<br>• 95% of decisions made with X months (yrs)<br>• By Coal, Minerals, Petroleum and specifically LWP, LDP. Transfers, Indicative Approvals,<br>• No of applications on hand pending decisions<br>• Count of those applications on hand longer than the median time to decide<br>• If removing any outliers from the data, identify them specifically and explain why |
| **Native Title** | • Median time for S29 notice to be advertised from date of lodgement<br>• Median time for s31 agreement to be signed from date of lodgement<br>• Median time for private ILUA to be registered from date of lodgement<br>• Broken down by Native Title Claimant area and permit type. (rationale is to better understand the likely timeframe) |

# EXAMPLE FORMAT FOR COAL

Figure one below outlines an example of what the performance scorecard for the Department could look like. The example shows five year rolling data on applications received, decided and on hand for each major decision type.

*Figure 1: Example Performance Scorecard for Coal*

| Coal | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Production Permits (New Applications) | | | | | | Production Permits (Renewal Applications) | | | | |
| | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
| Lodged | 20 | 15 | 10 | 12 | 14 | Lodged | 20 | 15 | 10 | 12 | 14 |
| Decided | 12 | 10 | 11 | 12 | 15 | Decided | 12 | 10 | 11 | 12 | 15 |
| On-hand | 30 | 35 | 34 | 34 | 33 | On-hand | 30 | 35 | 34 | 34 | 33 |
| | | | | | | | | | | | |
| | Mineral Development Licences (New Applications) | | | | | | Mineral Development Licences (Renewal Applications) | | | | |
| | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
| Lodged | 20 | 15 | 10 | 12 | 14 | Lodged | 20 | 15 | 10 | 12 | 14 |
| Decided | 12 | 10 | 11 | 12 | 15 | Decided | 12 | 10 | 11 | 12 | 15 |
| On-hand | 30 | 35 | 34 | 34 | 33 | On-hand | 30 | 35 | 34 | 34 | 33 |
| | | | | | | | | | | | |
| | Exploration Permits (New Applications) | | | | | | Exploration Permits (Renewal Applications) | | | | |
| | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
| Lodged | 20 | 15 | 10 | 12 | 14 | Lodged | 20 | 15 | 10 | 12 | 14 |
| Decided | 12 | 10 | 11 | 12 | 15 | Decided | 12 | 10 | 11 | 12 | 15 |
| On-hand | 30 | 35 | 34 | 34 | 33 | On-hand | 30 | 35 | 34 | 34 | 33 |
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| | Indicative Approvals | | | | | | Later Development Plans | | | | |
| | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
| Lodged | 20 | 15 | 10 | 12 | 14 | Lodged | 20 | 15 | 10 | 12 | 14 |
| Decided | 12 | 10 | 11 | 12 | 15 | Decided | 12 | 10 | 11 | 12 | 15 |
| On-hand | 30 | 35 | 34 | 34 | 33 | On-hand | 30 | 35 | 34 | 34 | 33 |

As the timeframe for decisions can vary due to complex policy and environmental factors, it would be beneficial to consider timeframes for decisions over longer periods. This would better reflect the complexity of the process and the impact of changing policy environments.

Presenting the data for new and renewal applications of exploration permits and production permits in a 'box and whisker' plot would also be beneficial. Following is a representation of the data set for mining lease decisions in that format, broken into five year buckets. It has been developed utilising data from GeoResources Globe. Although it may not be a complete data set, the representation may provide insight to assist in understanding policy impacts on the approval process.

The box represents the decisions in the 25-75% timeframe range, with the tails the longest and shortest period for a mining lease in that timeframe. By 2010-2014 the median (the solid line in the box) was greater than the preceding periods, but the range was less, suggesting that less variance provides greater certainty for planning processes. With access to the full data set (current and historical permits) this type of reporting has the potential to provide improved insight.

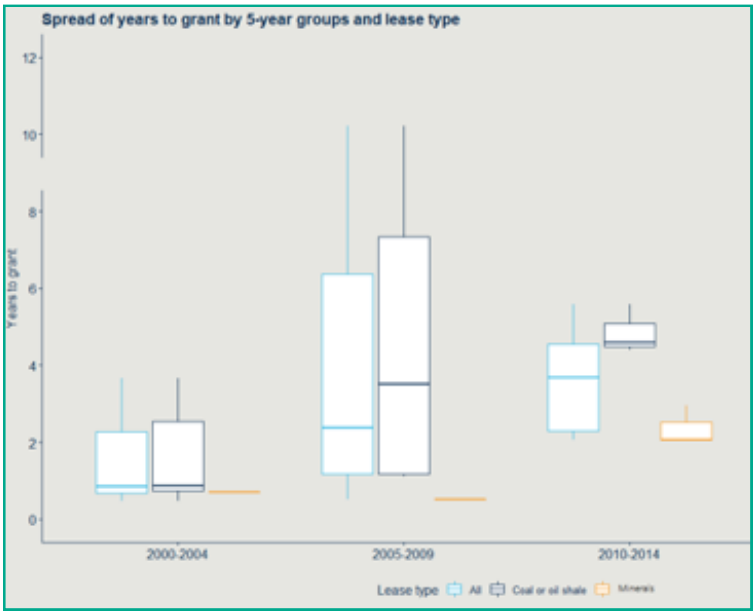



*Figure 2: Example 'box and whiskers' plot to support Performance Scorecard*

### for **industry**

- Transparency around decision making timeframes. Provides opportunity for improved planning.
- Clarity around Department workload provides opportunity to work with Government on improving process around specific decisions rather than "approvals" generally.
- Provides indicative timeframes for other "investment impacting" decisions, such as indicative approvals and transfers.

### for **government**

- Transparency around workload and opportunity to highlight the "other decisions" (other than new grants) that also form part of the Departments workload.
- Introduces compliance reporting to provide a level of transparency on industry performance.

### for **community**

- Provides clarity to community on timeframes
- Transparency around level of compliance and authorised officer activity.

# 2. LAND ACCESS SUPPORT & PROCESS

Under the 2019 exploration program, the Queensland Government released 39 areas for exploration in 18 months, totalling 44,300km$^2$ of tenure.[9] The land released for exploration often overlaps with landholder's private property. While landowners hold property rights over the surface of their land, the state owns the rights to the resources under it and resource authority holders develop resources on behalf of the state.

Coexistence is central to resource authority holders and landholders both exercising their rights over the property at the same time. A resource operator accessing private land to undertake activities must first enter into an agreement with the landholder: a Conduct and Compensation Agreement (CCA). Under these agreements, both parties negotiate ongoing access and conduct arrangements, as well as any compensation to account for the loss of income and amenity of the land.

The land access regulatory regime must encourage and facilitate long term positive working relationships between the two parties, thus optimising the productivity of the land for everyone. These relationships must be mutually beneficial. In the gas industry alone, cumulative compensation paid (as at Q1 2019) under CCAs is estimated to be more than $500 million.[10] Many landholders have also negotiated in-kind outcomes,[11] such as new fencing, roads, grids, and perhaps most valuably in the recent fires, access to firefighting equipment and the resources to deploy them.

In a recent draft report of the Productivity Commission Resources Regulation Review, Queensland was called out as having leading practice land access laws and access to independent organisations such as the Gasfields Commission.[12]

Despite the overwhelming success of coexistence in Queensland, there are pockets of the industry that continue to experience issues accessing land in a timely and efficient manner. This is largely due to a one-size-fits-all approach to resources sector regulation and there is clear evidence where a different approach is required to ensure the growth of that sector. Speaking more holistically, the land access space has been plagued with a small cadre of opportunistic lawyers who have taken advantage of complicated regulatory processes. QRC members have seen these issues manifest even more severely in the past year, particularly with the introduction of a myriad of regulatory and statutory body changes.

[9] https://www.dnrme.qld.gov.au/__data/assets/pdf_file/0008/1397699/queensland-exploration-program-report.pdf
[10] https://gasfieldscommissionqld.org.au/landholders/land-access
[11] Ibid
[12] Productivity Commission (2020) 'Review into Resources Sector Regulation – Draft Report,' p35

# A. PRIORITY: ESTABLISH A FIT FOR PURPOSE LAND ACCESS PROCESS FOR MINERALS

## THE PROBLEM

There is huge focus on the North West Minerals Province as a priority development area for Queensland. The North West is home to one of the most prospective mineral regions in the world. The Australian Government and the Queensland Government have both acknowledged the region's significance to date as well as future potential not just in base metals like copper, zinc and lead, but also critical minerals used for batteries and other new technologies and defence systems.

There is no question of the North West Minerals Province's potential and there have been a number of initiatives focussed on unlocking the barriers to future development, such as energy and infrastructure (QRC knows of eight review initiatives since 2008). There is a need to look at current policy settings for the region, which currently apply to the sector as whole, in acknowledgement that a-one-size-fits-all approach is not enough to ensure the future development of the region. One such policy setting which needs adjustment for the North West Minerals Province is land access.

CCAs can sometimes be unnecessarily long and complex and the time and costs involved can be disproportionate to the exploration activities being considered. The minerals sector is continuously compared to other sectors which have variant impacts. The differences in exploration activities between gas, coal and mineral exploration is not widely understood. Reports from members is that often what would be considered a preliminary activity is often being contested as an advanced activity, particularly in areas of mineral exploration. Land access delays and costs in the minerals sector is a significant barrier to investment and future projects. A different approach is needed to reduce the time to get on the ground to undertake early mineral exploration activities, whilst still ensuring landholders are fairly compensated for the impacts on business operations and land use.

> *"(A need for reform of) Land Access costs for exploration on mineral projects in low intensity grazing areas - as compared to others resource types."*
>
> **QRC member comment**
>
> *"Mineral exploration has a lower intensity than gas – and to some extent coal – it also has a lower capacity to pay – where the exploration is more speculative in term of an economic discovery."*
>
> **QRC member comment**

## RECOMMENDED SOLUTION

QRC would like to explore the option to pilot a Priority Mineral Exploration Area that allows for an alternate land access regime to be applied. Ideally this would be legislated to provide certainty to industry and the community but may be able to be commenced operationally in the first instance.

QRC envisages the Priority Mineral Exploration Area would provide for a standard compensation framework for certain activities, with a mechanism for the landholder to justify a higher rate of compensation due to business impacts. The framework could also include model conduct conditions that would attach to the CCA.

QRC would welcome the opportunity to work with all stakeholders on compiling a compensation guide and model conditions for mineral exploration in this priority area. If legislative change is supported, it is proposed in the standard CCA could be relied upon to undertake advanced activity (after the minimum 20 business days) while the parties consider arbitration or the land court for compensation determination where a formal agreement is still pending. This approach would allow activity to occur earlier.

The North West Minerals Province is an example pilot area as the land use is largely understood (grazing). QRC acknowledges that standard conduct and compensation conditions have been considered previously, however QRC's suggestion is regionally focused where both the State and community have a strong interest in advancing exploration investment.

**for industry**

- A fit for purpose process that recognises level of impact
- Recognises the unique issues faced by mineral explorers
- Less cost and time for a standard model.

**for government**

- A barrier to exploration improved to aide in further discorvery of new economy minerals.

**for community**

- Improved predictability of process
- Less cost and time for a standard model.

# B. ESTABLISH A STAKEHOLDER DRIVEN LANDHOLDER SUPPORT PROGRAM ACROSS ALL COMMODITIES

## THE PROBLEM

Queensland has a crowded space of land access statutory bodies (see related **Recommendation 2C** below), who all manage or participate in various land access events across regional Queensland focused on landholder support. This arrangement has come about largely as a result of the very successful Agforce run *AgForward* program being defunded in 2018, and statutory changes which created the office of the Land Access Ombudsman and increased the Land Court's role in alternative dispute resolution. As well as streamlining statutory bodies in the land access space, QRC's view is landholder support programs need to be run by a single body to ensure consistency of message and reduce the cost of delivery to tax payers.

> *"Preliminary activities are being contested as Advanced Activities by the Landholder – arguing an impact to the business"*
>
> **QRC member comment**
>
> *"As a rural landowner, there is a need for simple communications… Lawyers being engaged for a role government could fulfil… Communications fact sheets through industry groups eg. Agforce."*
>
> **QRC member comment**

The QAO audit of CSG regulation identified issues with the provision of information to landholders. Landholders reported difficulties gaining access to information, which they felt put them at a disadvantage in negotiating agreements. The QAO report recommended that DNRME, the Department of Environment and Science (DES) and the GasFields Commission (GFC) 'facilitate ways to further enhance the exchange of information between industry, government and landholders in situations where landholders have not been given the information to make an informed decision'.[13]

The majority of the current land access bodies only focus on petroleum activities. Any such landholder support program would need to cover all commodities. QRC has continued to encourage the Queensland Government's initiatives to promote exploration through land releases and a commitment to the Collaborative Exploration Initiative. As exploration continues to expand into new areas, community members must be engaged and educated about the resources life-cycle and the land access framework. The absence of effective engagement at the early stages of exploration risks community concern, and risks undermining genuine coexistence.

## RECOMMENDED SOLUTION

The AgForce *Agforward* program was a very successful project in engaging landholders and providing them with the information and support they needed to negotiate CCA's with resource holders. Prior to being defunded, the program benefited from AgForce's depth of membership and knowledge about rural businesses. QRC believes the revival of a similar program would be ideal. The co-existence of the sectors is vital to the Queensland economy, particularly in terms of jobs, exports, investment and regional development.

Note that previously the project focused heavily on the petroleum and gas industry, and that was reflected in the funding distribution. This time around, the increased focus on coal and mineral areas would need to be reflected in an increase in funding contribution from Government Departments in order to cover the full breadth of commodities.

### for **industry**

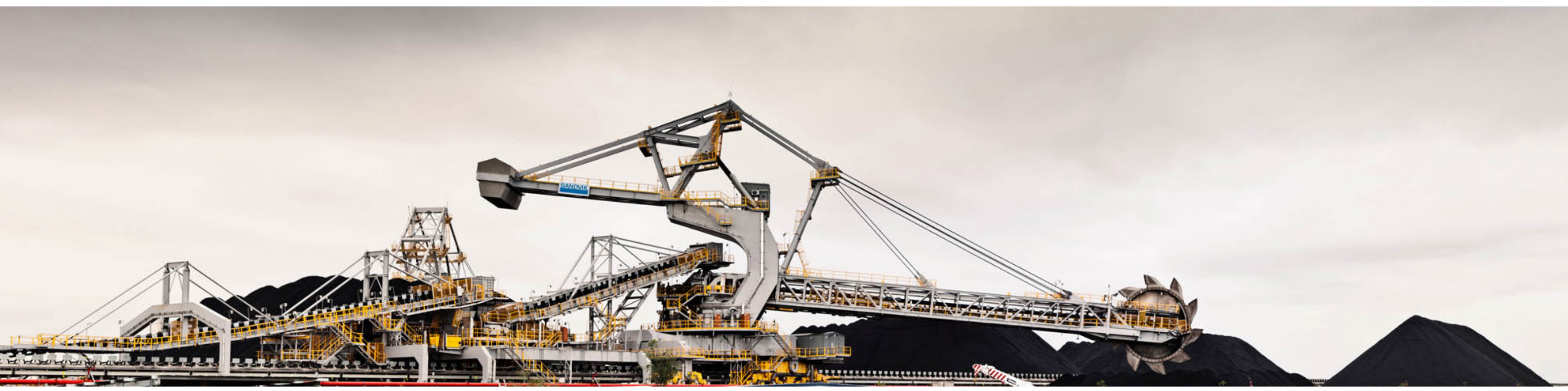
- Confidence that landholders are being given the right information in an easy too understand way.

### for **government**

- A program dedicated to the long term mutually benficial relationships between landholders and resource companies.

### for **community**

- Increased provision of information, both formal materials from Government as well as information information sharing between landholders at Agforce events.



[13] Queensland Audit Office (2020) 'Managing Coal Seam Gas Activities – Report 12 2019-20.' p8.

# C. STREAMLINING OF LAND ACCESS RELATED STATUTORY BODIES AND FUNCTIONS

## THE PROBLEM

QRC is concerned about the crowded and complex nature of the land access space. Currently there are the following statutory bodies with various roles in land access:

- the Land Access Ombudsman;
- the Land Court of Queensland;
- the DNRME Engagement and Compliance Unit;
- DNRME;
- DES; and
- the GasField Commission, Queensland.

Each body has a slightly different (yet overlapping) jurisdiction and role. This is confusing for stakeholders and has resulted in a significant amount of time and resources being spent educating landholders. Upon establishment, the Land Access Ombudsman found the space so confusing they created a 'roadmap' to assist landholders navigate the land access landscape.[14] While the roadmap is an excellent resource, it highlights the complexity of the process and supporting bodies as landholders are encouraged to contact no less than four different statutory bodies when experiencing a land access dispute. This complexity is inefficient in terms of time, money and outcomes.

The QAO audit of CSG regulation also identified this issue in terms of engaging and managing stakeholders:

*"Some stakeholders are confused and frustrated by the number of entities (including the regulators, the commission, the Land Access Ombudsman, and other government departments) the perform roles and provide information about coal seam gas activities and processes. Some stakeholders are also confused about the rights, entitlements, and obligations of industry and stakeholders. It is difficult for some landholder to know who to ask for, and how to access, information relevant to their requires or concerns. It also leads to the risk of incomplete or conflicting information being provided on occasion."*

## RECOMMENDED SOLUTION

In addition to the previous recommendation 2B, a streamlining reform initiative should be undertaken to improve efficiency in dispute resolution options for resources companies and landholders. Any review of the statutory bodies would also need to address gaps in engagement for coal and mineral land access is needed.

**for industry**

- Easy to understand process including of refering landholders.

**for government**

- Efficient use of taxpayer monies into streamlined statutory bodies with clear roles and responsibilities.

**for community**

- A less complex land access system with clear pathways for referral of an issue or to gain information.

[14] https://www.vision6.com.au/v/80550/1000044/email.html?k=_dHKJOcwOqBNg3XBdb3cGTND7vb22c52rMIlhk7K_p0

# D. CLARITY ON REASONABLE PROFESSIONAL FEES

## THE PROBLEM

In 2010, the Queensland Land Access Framework was introduced with the aim of balancing the interests of landholders and resource authority holders. The framework specifically introduced requirements for:

- Providing landholders with entry notices for ‘preliminary activities’
- Negotiating a CCA before accessing private land to undertake ‘advanced activities’
- A statutory graduated negotiation and dispute resolution process for CCAs, with the Land Court being the last resort
- Compensating landholders for reasonable and necessary costs incurred in negotiating or preparing a CCA.

The legislation outlines that the resource authority holder is liable to pay the landholder’s necessary and reasonably incurred negotiation and preparation costs. These costs are now payable regardless of whether an agreement is ultimately reached. 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, the framework does little to discourage opportunistic legal representative interest in drawing out the process in which there are many examples of this occurring.

The increasing involvement of lawyers in the negotiation process and corresponding increase in ‘reasonable and necessary’ negotiation costs has been an ongoing issue for resource companies over several years. QRC members report that lawyers are often involved from the beginning of the process, rather than brought in to finalise the agreement and outstanding issues. QRC is aware of numerous examples where the legal costs far exceed the benefits paid to the affected landholder.

QRC understands that DNRME are working on some clarifying material on reasonable and necessary costs, to be included in the land access guide. This material will not offer interpretation guidance as to what is ‘reasonable and necessary’ but will provide clarify in terms of liability and the intent of the legislation. For example, if some costs are deemed to be unreasonable by the Court, the landholder will be liable to pay those costs (not their lawyer).

## RECOMMENDED SOLUTION

The inclusion of this material in the land access guide should offer some clarity on liability. However, it would useful if some guidelines could be provided as to what fees are actually ‘necessary and reasonable’. Such material could define what ‘reasonable and necessary’ reasonable fees are in generic circumstances. This would help cap the cost of negotiating and mirror protections available in other jurisdictions such as NSW.

### for **industry**

- Clear guideline on costs.

### for **government**

- Improved coexistence framework through improved certainty of costs.

### for **community**

- Clear guidance on what is deemed reasonable professional fees. Greater clarity and control for landholders on legal guidance.

# E. SIMPLIFIED PROCESS FOR ASSET HANDOVER TO LANDHOLDERS, INCLUDING AS IT RELATES TO PROGRESSIVE CERTIFICATION, SURRENDER AND RESIDUAL RISK

## THE PROBLEM

The issue of asset handover to landolders, including rehabilitated land or beneficial use infrastructure resulting from operations, relate primarily to the petroleum and gas sector. Although it is possible that they may also occasionally be relevant to the mining sector.

The normal position for petroleum and gas tenures is that the underlying land titles are not acquired by the resource company. For each sub-block within a petroleum and gas tenure, the resource activities may be relatively short-term for each stage of work, followed by prompt rehabilitation, after which the common sense approach is to allow the land to revert to the activities of the underlying private landholder. In some instances, the best way to achieve this is by way of a partial surrender under Section 261 of the *Environmental Protection Act 1994* (EP Act). This would be the preferred approach where the sub-blocks of the petroleum tenure align with property boundaries.

However, in most instances, a petroleum lease and its associated campaign of works are divided into sub-blocks that generally do not align with landholder property boundaries. As such, it is not possible to partially surrender a property where activities may still be occurring across one or multiple properties also in that sub-block. In this situation, it would appear that the default position should be to undertake progressive certification for the sub-block where the petroleum and gas activities have been completed, obtain landholder sign-off for the work and allow the landholder to return to normal activities within that area.

Given a petroleum lease can have a maximum term of 30 years, a CCA for a particular area should usually only last for the period in which activities are being undertaken on an individual landholder's property or properties. It is not sensible to continue a CCA beyond the agreed period as it places unnecessary conditions on both the landholder and Environmental Authority (EA) holder and creates a financial obligation for the EA holder for no return. Following expiry of a CCA, the EA holder does not have the right to enter the land without the permission, and generally compensation of the landholder.

The unnecessary obstacle created by the EP Act is that, if the area of land is not able to be partially surrendered and can only be addressed by progressive certification, Section 318ZB (2) and (4) (and consequential provisions) impose an ongoing responsibility on the EA holder to maintain the rehabilitation in the same condition as at certification. This means that the petroleum and gas company either cannot lose control over the sub-area by allowing it to revert to the landholder, or, if the company does allow the land to revert to the landholder, the EA holder is at risk of liability for the landholder's activities.

Where land is proposed to revert to private landholder control following progressive certification, there ought to be a legislative exemption from Section 318ZB(2) and (4). This should recognise that, as part of the transfer process, the landholder provides a statement of their overall satisfaction with the rehabilitation or any proposed transfer of remaining infrastructure or disturbed areas.

In most cases, there would be zero residual risk associated with retained infrastructure. However, there may be some instances where there is some level of credible risk, which the subsequent landowner is comfortable with taking over contractually. Where the landholder has agreed to retain this infrastructure and signed the relevant application forms to accept responsibility, this should be exempt from any residual risk assessment or payment. Furthermore, this should be allowed to occur prior to surrender of the petroleum tenure.

The current situation appears to conflict with the Government policy position to maximise land uses post the resources activity in a timely manner, which is, in any case, the preferred approach of the petroleum and gas sector.

It is noted that this situation is less likely to arise for the mining industry, but it is still possible, particularly in relation to a very large mining lease with staged operations, including exploration wells, where there are underlying third party private property owners. There are some instances in Queensland, particularly for some older underground coal mines.

## RECOMMENDED SOLUTION

QRC recognise that there may be a number of possible options, or a combination of these, to address this practical issue, including:

- Make it easier to undertake partial surrender where the surrender boundaries match property boundaries;
- Create exemptions in relation to ongoing responsibility for progressively certified land and retained infrastructure, where there is evidence rehabilitation requirements have been met and the land has reverted to a private landholder who has accepted the responsibility; and/or
- Recognition of early progressively certified land and relevant documentation (at the time of exemption as suggested above) upon application for surrender, including the Final Rehabilitation Report.

QRC is open to exploring the options with DES and other government agencies with an interest in the partial surrender and CCA processes.

for **industry**

- Clear process that enhances landholder relationships.

for **government**

- Provide support to enable mutually beneficial relationships between resource companies and landholders.

for **community**

- Clear arrangements when taking on resource company assets.

# 3. STREAMLINING DUPLICATIVE & INCONSISTENT PROCESSES

There are a number of areas of resources sector regulation that are duplicative. In many cases this is a result of multiple government departments needing access to the same information to appropriately govern, yet the regulatory framework is too rigid to support a whole of government approach. A whole of government approach is too often treated as too difficult and expensive. Industry argues the benefits of whole of government approaches far outweigh the upfront costs of building and implementing, with huge efficiencies to be gained for both government and industry, as well as a more holistic and consistent governing foundation. It is fair to say the State would also have improved compliance of the industry.

## A. A COMMITMENT TO WHOLE OF GOVERNMENT STREAMLINING REPORTING REQUIREMENTS FOR THE RESOURCES SECTOR

### THE PROBLEM

Without taking away from the importance of the other recommendations in this report, streamlining of reporting requirements is one of the most crucial reforms that must be urgently prioritised across the entire Queensland Government. The duplicative reporting requirements on the industry have hit record levels, creating unnecessary time and cost for both industry and government departments.

QRC would like to acknowledge the ambitious reporting reform initiative being undertaken by the Geological Survey of Queensland which was underpinned by the Queensland Government's funding commitment in 2018 to develop one data portal for all geoscience data. The Geoscience Data Modernisation Project will deliver long term efficiencies for companies as well as foster new development through greater access to geoscience data.

The Geoscience Data Modernisation Project is one piece in the puzzle of improving efficiency and removing duplicative reporting. There is an urgent need for a whole of government commitment to reporting reform, evidenced below by a sample of examples of the issue:

*Petroleum Reporting*

Petroleum proponents are required to report petroleum production in four separate ways:

- 6 monthly reports in the MyMinesOnline system.
- 6 monthly cumulative reports through QDEX.
- Production testing reports through QDEX.
- Safety returns via pdf forms.

This is one example where information is reported in various formats with slightly different requirements. It would be more efficient for this information to be lodged into a single system at the same time and be reviewable across all agencies.

*Water reporting for coal and minerals*

There is a requirement under the *Minerals and Energy Resources (Common Provisions) Act 2016* to provide information on underground water take on Mining Leases and Mineral Development Licences. The requirement applies to all Mining Leases, including infrastructure leases where a miner is not authorised to mine and therefore not likely to have an impact on groundwater. The legislation does not make any distinction between leases. QRC members have reported providing reports of “0” which while not onerous do not stand up in terms of efficiency and effectiveness. Furthermore, the requirement to report all water take on all Mineral Development Licences regardless of whether there is any impact on underground water, is equally as inefficient as very few coal and mineral exploration activities would use the threshold amount. In effect drilling activities do not reach the reportable threshold, and so it would only be in the rare event of a bulk sample pit that proponents might take water.

*Progressive Certification & Rehabilitation Plan and Development Plans*

QRC acknowledges there is some work now underway to determine what information is further required from a company through the Development Plan required by DNRME that is not already provided to DES through the Progressive Certification and Rehabilitation Plan (PRCP). Duplication in these two plans must be avoided through the sharing of information between agencies.

## RECOMMENDED SOLUTION

QRC recommends the Queensland Government establish a whole of government taskforce on resources sector reporting reform, prioritising environment, tenure, water (including the Office of Groundwater Impact Assessment) and health and safety reporting. The objective of the taskforce is to develop a single interface for reports to reduce duplicative reporting and so information can be accessed across all agency users.

### for **industry**

- Efficient and consistent reporting processes.

### for **government**

- Streamlining reporting processes provide for increased accountability
- Better data management.

### for **community**

- Confidence in government processes, including knowing each agency has visibility to each others’ regulatory requirements.

# B.A COMMITMENT FOR INTER-DEPARTMENTAL STREAMLINING OF MAPPING AND ASSESSMENT PROCESSES ACROSS VEGETATION CONSERVATION

## THE PROBLEM

Over the last five years, industry has raised difficulties with determining which vegetation mapping is relevant to the identification of a company's significant impact under an EA and, where relevant, then the determination of an offset, specifically:

- Regional Ecosystem (RE) mapping (administered by the Herbarium);
- Environmentally Sensitive Areas (ESA) mapping (administered by DES); and
- *Vegetation Management Act* 1999 (VMA) mapping (administered by DNRME and called up under the *Environmental Offsets Act 2014 (EO* Act*)*).

As a result of the three different maps, there are often inconsistencies across the EA process, namely that DES utilises the three main maps listed above at different stages throughout the assessment and conditioning cycle of a project. Two of the maps have a statutory basis, while one (ESA maps) does not, but is often used as though it does. This has often made implementation and administration of EA conditions unworkable and the demonstration of compliance difficult for companies. For example, the Biodiversity Status under the RE database and the VMA status often places different status levels over the same area of vegetation. For example, the RE 11.9.8 Biodiversity Status is endangered (Category B Environmentally Sensitive Area) while the VMA status is "least concern" and is therefore not a MSES (so it does not trigger the offsetting legislative framework). This has meant that some project conditions have constraints applying to the development but that an offset is not required.

Although DES has some guidance material to clarify the conditioning process around offsets, the underlying problem of inconsistent mapping remains. The proliferation of vegetation mapping systems across Departments only serves to increase uncertainty and place unnecessary costs on industry, who have to undertake ground-truthing vegetation surveys against not one map, but against three different and inconsistent maps.

## RECOMMENDED SOLUTION

While it is understood that there are slightly different purposes and uses for the maps, QRC believes that DES and DNRME should investigate establishing a wholesale review of the mapping process, and work towards identifying a simpler vegetation mapping system for Queensland, which works across Departments.

The review should consider where terminology and descriptions can be made consistent and duplication of uses minimised. A better system of overlaying maps and clearer rules about the acceptability of ground-truthing would also be valuable components, as well as a much more expeditious and open processes for mapping amendments and corrections. QRC would be happy to assist with this review.

### for **industry**

- Easy to identify what mapping instrument/s needs to be used for what regulatory requirement leading to better use of time and resources for vegetation surveys etc.

### for **government**

- Improvement in intergovernmental communication regarding the role of each of the maps.
- Better applications by companies as they are aware of exactly how to use each instrument.

### for **community**

- Easy to understand differences and similarities, as well as the role of each of the maps.

# C.STREAMLINING THE MULTIPLE NOTIFICATION PROCESS ACROSS RESOURCE RELATED ACTS FOR A PROJECT

## THE PROBLEM

In the 2010 Industry Working Group report reviewing Queensland's exploration and development approval process, a recommendation was made for "*A shift towards parallel rather than sequential approval processes wherever possible, particularly in regard to notification processes*."[15] This recommendation remains relevant in 2020, in particular for notifications which largely remain a sequential process.

The public notification and objection processes can be long and duplicative. This is a source of frustration for the industry, who are required to issue multiple different public notifications over a period of time adding delays, costs and uncertainty to their projects. As an example, one QRC member had to undertake five separate public notifications over four years, with the last public notification taking place three months after operations had commenced. This posed a risk to the continuation of the project, adding additional cost and uncertainty to the organisation and its operations.

> *"Adds costs, and uncertainty to process. Needs a robust notice period – but a resolution in a timely manner."*
>
> **QRC member comment**

Resource projects are required to give numerous public notifications under the following legislation:

- Regional Planning Interests Act 2014 (Qld) (where applicable) – Regional Interest Development Authority (RIDA)
- Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) – Environmental approval
- *Water Act 2000* (Qld) – Associated Water Licence
- EP Act (Qld) – EP Act – EA and Progressive Rehabilitation and Closure Plan (PRCP)
- Mineral Resources Act 1989 (Qld) – Mining Lease

The multiple public notice requirements require significant resources in terms of preparation of documentation for notification and advertising for submissions. The multiple public notices result in duplication of submissions and appeal processes, including in different courts (Land Court for EA and PRCP, Mining Lease and Associated Water Licence), Planning and Environment Court for aa RIDA and the Federal Court for the EPBC Act.

This duplication results in significant delay and waste of resources, both for the assessing agencies, the Courts and the proponent. It also imposes significant burden on objectors who feel that they need to remake submissions. The current process enables vexatious objectors to systematically undertake a lawful process to delay and frustrate resource decisions as objections are made under each legislative process.

[15] At page 5

### RECOMMENDED SOLUTION

QRC recommends a legislative mechanism to provide for an integrated public notice that would apply to specific State legislation and allow for a single submission process. Should objections later be made, this would provide an opportunity for all objections to be heard concurrently, assuming the timing of the decisions supports an integrated process. While there is a level of complexity to implement this proposed solution, it would yield significant benefit is terms of costs reductions for industry and the community, to work within a single process.

**for industry**

- Consolidating public notification processes provides opportunity to invest in a richer community engagement process.
- Reduced costs.

**for government**

- Integrated engagement process provides improved opportunity for community to be informed on the all aspect of the development
- Community concerns to all aspects of the project can be considered by the regulators, rather than component parts.

**for community**

- Meaningful and richer engagement on a project rather than aspects as required for each piece of regulation.

## D. REMOVE DUPLICATIVE PROCESSES FOR SEEKING SECURITY FOR LEGACY EQUIPMENT

### THE PROBLEM

The Resources Acts require security to be held by DNRME for a Resource Authority. Under the MRA, security is held as security for:

- compliance with the conditions of the resource authority (including those set out under the MRA and any additional conditions that may be placed on the authority);
- compliance with the provisions of the MRA;
- rectification of any actual damage that may be caused by any person whilst acting under the resource authority to pre-existing improvements; and
- amounts payable to the State (other than penalties) under the MRA.

Resource Authority holders are also required to meet financial provisioning (FP) requirements under the *Mineral and Energy Resources (Financial Provisioning) Act 2018*, the amount of which is calculated under the EP Act. The FP Scheme operates under the MERFP Act to provide security for compliance with both the environmental authority and PRCP associated with the resource authority. The purpose of the Scheme is to improve the State's management of its financial risk in the event holders of a resource activity environmental authority or small scale mining tenure (SSMT) fail to comply with their environmental management and rehabilitation obligations.[16] Over time, the scheme will also provide funds to support rehabilitation of abandoned mines and expand research into mine rehabilitation. It should be noted that there have been very few examples of such failures in the last decade given changing government requirements and community expectations. Successful rehabilitation is a vital part of the industry's performance to ensure it maintains its social license to operate.

[16] https://www.treasury.qld.gov.au/resource/financial-provisioning-scheme/

Provisions in the MERFP Act make it very clear that DNRME is one of the parties that can access the Scheme's pooled fund through specific mention of 'abandoned operating plant', which includes legacy equipment, including at 3(d)(ii) of the Act. The issue of abandoned plant occupies nearly all of the DNRME Operational Policy number MIN/2018/4110[17], but with the MERFP Act now operating QRC suggests it is completely redundant. It is disappointing that DNRME does not recognise the existence of the Scheme (in fact this Policy came into being more than three months <u>after</u> the FP Scheme commenced). However, on the positive side, the Policy states that it will be reviewed by 20 July 2020, so there is the ideal (and easy) opportunity to rectify this duplication.

If there are other reasons which DNRME suggests security should be held by them, then the Operational Policy should be completely re-written to ensure that companies know under what basis they may be charged security, which is not a duplication of FP requirements.

### RECOMMENDATION SOLUTION

QRC recommends that DNRME work with the Scheme Manager and DES with the aim of streamlining the duplication of security collection with that established under the FP process.

for **industry**

- Reduced cost for the same rehabilitation and FP requirements.

for **government**

- Reduction in billing duplication and costs involved in holding funds when there is a whole of government independent Scheme specifically set up to do so.

for **community**

- All FP is securely held in one place.

## E. MAXIMISE OPPORTUNITIES FOR ALIGNING WITH THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT

Commonwealth and state/territory environmental approval processes often overlap and are rarely synchronised. Different triggers, timeframes, reviews, requests for further information and a lack of efficient inter-agency coordination create unnecessary complexity, costs and delays.

These processes should be integrated and/or harmonised as far as possible through existing mechanisms.

QRC and its members have long advocated for the Queensland Government to move beyond an assessment bilateral under the EPBC Act, to an approval bilateral. Without a doubt this would be the most efficient way, while still maintaining tight environmental oversight, of the Queensland and Commonwealth assessment processes. There are various ways safeguards could be built into such a system, for example a regular process of the Commonwealth auditing of the Queensland performance in its use of the bilateral.

[17] https://www.dnrme.qld.gov.au/?a=109113:policy_registry/security-assessment-mineral-and-coal-resource-authorities-policy.pdf

While recognising that support for, and work to achieve, an approvals bilateral are challenging, it should attempt to be progressed. However, there is reform that can be implemented in the meantime where QRC believes the Queensland Government could play an active role in streamlining the key inefficiency concerns under the EPBC Act, working hand in hand with the Commonwealth Government.

## *(I) SHIFT TO EARLY JOINT ENGAGEMENT, PLANNING AND ASSESSMENT*

### THE PROBLEM

As noted above, the variations in processes and practices between the Commonwealth and Queensland governments has resulted in differences in expectations and priorities across agencies for environmental assessment, including methods, assumptions, criteria and outputs. These generally become evident in an adhoc manner throughout or towards the end of assessments causing significant delays, additional works and increased costs.

### RECOMMENDED SOLUTION

The Commonwealth and Queensland Government could improve current processes through joint scoping of environmental assessments, including requirements, timelines and assigning assessment tasks to regulators with relevant expertise.

Commonwealth officers could also be embedded in Queensland agencies and the process supported by a service charter established between the governments. The recent Productivity Commission Draft Report on their Review of Resources sector Regulation called out New South Wales as a leading practice jurisdiction for initiatives to aid in cooperation between the Commonwealth and the State which include:

- the Commonwealth out-posting staff with State and Territory regulators, prioritising jurisdictions where more projects require approval by both levels of government
- State and Territory regulators taking up opportunities to have their staff trained in the application of the EPBC Act.[18]

for **industry**

- Using the Queensand system for offsets only creates certainty of process and a one outcome result, as well as flexibility in offset provision.

for **government**

- Queensland Government control over the operation of offsets in Queensland.
- Does not raise community concerns the way an approvals bi-lateral might.
- Allows for a true landscape approach to offsetting.

for **community**

- Not an approvals bilateral, but see the benefits of a holistic process for the treatment of offsets in Queensland.

[18] Productivity Commission (2020) 'Review into Resources Sector Regulation – Draft Report,' p42.

# *(II) WORK TOWARDS ACHIEVING COMMONWEALTH ACCREDITATION OF QUEENSLAND'S OFFSETTING LAWS*

## THE PROBLEM

Members regularly experience the situation where having successfully moved through the Queensland offsetting system, additional, often larger offsets are requested from the Commonwealth Government through the offsetting provisions in the EPBC Act. This is due to a range of inconsistencies in application and management of the system at the Commonwealth level, such as ongoing shifts in habitat descriptions and condition, and limited consideration for risk of loss and ground-truthed data.

In addition, the Queensland EO Act framework allows optionality with payment into a fund, securing land-based offsets or a mixture to manage offset requirements. On the other hand, the Commonwealth mandates 90% of offsets must be land based and approval of the offsets management plan is staged.

The Queensland system also has a very usable way to establish advanced offsets, which is a practical and valuable option. Unfortunately, this is not matched by the advanced offsets system offered by the Commonwealth. For example, the Queensland system involves a process of indicative recognition of the condition of the advanced offset at the time of it being secured by the company, the Commonwealth does not.

## RECOMMENDED SOLUTION

The Queensland Government could seek to have the State's offsets framework and processes accredited by the Commonwealth Government, as New South Wales has done, supported by robust assurance arrangements and standards. Since the Queensland EO Act came into place in 2014, QRC has been advocating for such works to be taken forward.

Additionally, the Queensland and/or Commonwealth governments could investigate the establishment of appropriate land banks.

QRC proposes the DNRME and DES fast-track the establishment of the OGIA models and systems as meeting IESC project requirements, specifically through strong support for the JIF.

### for **industry**

- Using the Queensand system for offsets only creates certainty of process and a one outcome result, as well as flexibility in offset provision.

### for **government**

- Queensland Government control over the operation of offsets in Queensland.
- Does not raise community concerns the way an approvals bi-lateral might.
- Allows for a true landscape approach to offsetting.

### for **community**

- Not an approvals bilateral, but see the benefits of a holistic process for the treatment of offsets in Queensland.

# *(III) ESTABLISHING AN AGREEMENT WITH THE COMMONWEALTH TO RECOGNISE MODELS AND ASSESSMENTS DEVELOPED BY THE OFFICE OF GROUNDWATER IMPACT ASSESSMENT AND ADOPTED BY THE SECTOR FOR APPROVALS*

## THE PROBLEM

The Independent Expert Scientific Committee (IESC)was established as part of the precursor to the water trigger under the EPBC Act. Unfortunately, the duplicative and unnecessary nature of the EPBC Act water trigger means the IESC often asks for information provided to the state and Commonwealth Government as part of an EIS process or developed for other overlapping purposes. Approval conditions can also unnecessarily go beyond those the comprehensive Queensland system already requires, leading to further unnecessary duplication.

## RECOMMENDED SOLUTION

One of the ways to mitigate this duplicative information is for the IESC to recognise Queensland's cumulative management area (CMA) models for Coal Seam Gas and Coal. Such recognition needs to be directed by the Commonwealth Government, however it is critical that the Queensland Government actively supports such an approach.

Petroleum and gas members have proposed to the Commonwealth Government, with support from the Queensland Government, that the Queensland Office of Groundwater Impact Assessment (OGIA) model is accepted by all parties as the point of truth for regional scale groundwater modelling for the Surat CMA (in the first instance) through the development of a Joint Industry Framework (JIF). The objectives of the JIF are:

1. Providing faster EPBC Act approvals;
2. Providing clarity on EPBC requirements, water trigger requirements in particular, and workable EPBC Act approval conditions;
3. Compliance with Queensland regulation will achieve compliance with the EPBC Act; and
4. Achieving the above by aligning via the JIF EPBC Act approval and post approval processes with Queensland regulation to the maximum extent possible. If there are any gaps in Queensland regulation versus EPBC Act requirements the Commonwealth's first port of call will be to see if Queensland can fill the gap.
5. The JIF reflects and adopts relevant aspects of the comprehensive regulatory environment that applies to the Surat CMA.

Legislated three yearly updates and annual reviews of the Underground Water Impact Report (UWIR) provide routine opportunities to re-assess the risks associated with each associated user, and to update site-specific risk assessments and monitoring and management plans accordingly. Approval of the UWIR and the springs mitigation plans required under the Springs Impact Management Strategy of the UWIR by DES provides an end-to-end State-based compliance process for EPBC-listed springs. The routine reporting associated with the JIF provides hold points for regular feedback to the Commonwealth government.

QRC proposes the DNRME and DES double their efforts to establish the OGIA models and systems as meeting IESC project requirements, specifically through strong support for the JIF.

**for industry**

- Use of time and resources reduced by having a consistent and non-duplicative assessment, approval and post approval systems through one government.

**for government**

- Queensland maintains regualtory mangement of its groundwater resource, while also having a formal process of quality control with the Commonwealth Government.
- Government officer time spent on negiotiating with the Commonwealth and seeking additional information is reduced.

**for community**

- One scientific point of truth for the application of the water trigger eg the use of the UWIR, supported by a range of continuous improvement and monitoring feedback loops.

## *(IV) A COMMITMENT TO WORK WITH THE COMMONWEALTH TO FACILITATE OR ALIGN WITH RECOMMENDATIONS FOR STREAMLINING RESULTING FROM THE REVIEW OF THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999*

### THE PROBLEM

The formal ten-year review of the EPBC Act commenced in October 2019. The timeframe for the completion of the review was extended due to the horrendous summer bushfire season, but is still due to be completed in December 2020. Graeme Samuel, the Independent Reviewer, has released a discussion paper for consultation as well as undertaking direct consultation activities. One of the ways to mitigate this duplicative information is for the IESC to recognise Queensland's cumulative management area (CMA) models for Coal Seam Gas and Coal. Such recognition needs to be directed by the Commonwealth Government, however it is critical that the Queensland Government actively supports such an approach.

### RECOMMENDED SOLUTION

QRC proposes that the Queensland Government support and work with the Commonwealth to implement any relevant recommendations arising from the review, specifically where they are related to streamlining systems in consultation with industry.

**for industry**

- Relevant recommendations that require state support are able to be implemented expeditiously.
- Industry involvement enables the best and most effective implementation.

**for government**

- Best advantage is able to be taken of improvement recommendations that benefit both governments, including those that have positive implications for resourcing.

**for community**

- See a bipartisan approach to achieving logical and workable recommendations from the review.

# 4. IMPROVING PEOPLE, PROCESSES & SYSTEMS

Industry looks to Queensland Government Departments for guidance, however there is often a high changeover of staff, and a resulting lack of experience in the staff. This has the capacity to create inconsistency of decisions between officers and offices.

QRC acknowledges the Resource authority regulatory efficiency and duplication report released by DNRME in October 2019, and recognises the Department's focus on improving processes. QRC proposes to progress this issue of inconsistency around three key initiatives that would upskill staff within the departments to provide greater subject matter expertise and improved clarity on key parts of the tenure processes and decision points:

1. Project administration systems that are customer focused and aimed at efficiency of process;
2. Proactive engagement and support from Departments; and
3. Department staff expertise and communication.

## A. ONE-STOP-SHOP FOR PROJECT ADMINISTRATION SYSTEM

### THE PROBLEM

QRC has received feedback from members about the need to improve cooperation and information sharing between relevant Departments. There is a lack of coordination between DESDES and DNRME in facilitating interrelated components of various secondary approvals like EAs, which need to be secured for tenure to be granted. This problem manifests in unforeseen delays associated with administrative issues or conflicting interdepartmental advice at various stages in the approvals process.

Much time is wasted in the assessment and approvals process providing the same information to different departments and dealing with the same questions and queries. This could be addressed by improved integration and information sharing between Departments.

Exacerbating this issue are the separate online management systems used for Resource Authorities and EAs – *MyMinesOnline* and *Connect*. Overall industry feedback on the *MyMinesOnline* system is positive and QRC acknowledges more improvements in the pipeline, however there are still significant issues with *Connect* as well as the overall failing of these two central online management systems not able to speak to each other.

### RECOMMENDED SOLUTION

For many years industry has been seeking a fully integrated online management system to manage the assessment processes from end to end for a project. This was also a vision of previous Queensland Governments, where in the 2011 Queensland Government report, On the right track, it was stated "*The ultimate goal is an online lodgement system for industry and a fully integrated* *electronic work flow within government. For Queensland, faster decisions by government will see successful projects delivering investments in jobs and regional communities earlier."*[19] The report goes onto say "*System-to-system integration between DEEDI and DERM (Department of Environment and Resource Management) will deliver a 'whole of mines' view of the resources sector.*"

QRC recommends the government act immediately to implement this decade-long commitment.

**for industry**

- Efficient and transparent management of assessment requirements
- Ability to track all transactions across all relevant regulators.

**for government**

- Efficient and transparent management of assessment requirements
- Ability to track all transactions across all relevant regulators.

**for community**

- More cost effective and transparent process for managing resources sector assessments and access to information.

# B. PROACTIVE ENGAGEMENT AND SUPPORT FROM DEPARTMENTS

## THE PROBLEM

A recommendation from 2010 Industry Working Group report was to review of Queensland's exploration and development approval process by "*Publish guidelines and templates to clarify departmental intent – further industry recommends the development of a clear notification process to avoid confusion when these documents are being developed or updated*"[20]

Since this 2010 recommendation, QRC and its members have seen an increase in use of guidelines and operational policies in some areas to clarify intent and deliver a more consistent approach in administering the Resource Acts. One example of this is the increased number of operational policies being updated and created by DNRME for the petroleum industry. These activities have opened up discussions with the broader industry about regulator expectations and practical interpretation.

There are still a range of documents/sources that guide the content of supporting technical reports for resource assessments i.e. Terms of Reference, IESC, Queensland Guidelines etc. Whilst the principles of these are similar, dealings with government have seen different standards or expectations. An example is expectations around Consequence Category Assessments for water infrastructure in the approval stage. The level of detail and certainty (i.e. certification) DES expects for Consequence Category Assessments does not correlate with the conceptual level of detail for the project in the assessment stage. This particular example often holds up approvals when a Consequence Category Assessment must be repeated during the detailed design phase (post-approvals).

Another example for improved consistency of decision making and predictability of timeframes for decision is applications for hydraulic fracturing through DES.

[19] At page viii

[20] Industry Working Group Report (2010) at p16.

There have also been regular reports of government advising applicants of new requirements when they have not been formalised or consulted on with industry.

> *Four years ago, we used to meet with the regulator about 4 times a year. They would suggest what they wanted to talk about so we could be prepared material to respond. Now they don't even come. This is DES. We now battle to get them to come out to site. Assessment and compliance are now separate teams – and assessment teams who make the decisions don't come out and do site visits"*
>
> **QRC member comment**

## RECOMMENDED SOLUTION

QRC recommends the following three initiatives:

- Clear, easy to access, guidelines and templates, and promotion of services available to support tenure process e.g. that a company can request that DES ensure certain expertise are present at pre-lodgement meetings or engaged in a timely manner to assist.
- Current policies are applied consistently and only changed following consultation with industry.
- Increased engagement with community on the regulator roles of government and why decisions are made.

### for **industry**

- Clear guidelines and understanding of services available to support the tenure, application and approval processes
- Better utilisation of expertise in DES, proactive engagement with Government on strategic focuses, priorities and reforms.

### for **government**

- Better quality submissions and information from industry due to clearer guidelines and expectations
- Greater Industry understanding of Government strategic focuses, priorities and reforms.

### for **community**

- Better understanding of DES' role as a regulator, including what type of decisions they make, and why.

# C. DEPARTMENT STAFF EXPERTISE AND COMMUNICATION

## THE PROBLEM

It is a common theme that environment departments are insufficiently staffed to address the increasing complexity of the assessment process. There appears to be significant staff turnover and this loss of experience is impacting the assessment process, including information being requested, delays in timeframes and technical accuracy of decisions. This increases assessment costs for both industry and government along with greater potential for challenges in court. It is also driving prescriptive conditions rather than an ***outcome-based performance model*** where industry assesses the best method to achieve the desired outcome.

## RECOMMENDED SOLUTION

Turnover of skilled assessment staff is inherent in the system, as technical experts with regulatory experience are highly valued by industry. Recognising industry's role in staff turnover, it is proposed that industry work more collaboratively with Government to assist in building the capability of the assessment teams. Options could include:

- Industry led field visit program, where companies offer site visits to a number of resource operations in an operating field or basin. This might be able to be designed as a yearly program through QRC for coal (open cut and underground) mineral and gas operations. Various companies could participate based on capacity at the time and participation is open to assessment teams from DES and DNRME.
- Government rates to industry seminars to assist in upskilling new staff.
- Offer positions to Department staff to participate in introductory training offered to new industry staff members so they understand industry terminology. QRC members have suggested their internally run 'Mining 101' staff induction would provide an introduction to the operations of a mine site, and basic terminology that would assist a new starter.
- University courses designed for new starters entering into the industry, such as the University of Queensland's Mine Site Environmental Management training course.[21]

**for industry**

- Government officers have relevant and up to date technical mining expertise
- Expertise and experience to support an outcomes-based model, instead of prescriptive conditions.

**for government**

- Development of expertise in the new approaches and technology advancements that are occurring in industry
- Lower cost and high quality professional development and training opportunities.

**for community**

- Confidence that the State's mining regulators have the skills and expertise to efficiently and effectively govern for the community.

[21] University of Queensland, Sustainable Minerals Institute Training Course 'Queensland's Mine Site Environmental Management.' Accessed at https://smi.uq.edu.au/files/49151/Mine%20Site%20Environmental%20Management%20Flyer.pdf

# D. ACTIVITY BASED FEES AND CHARGES SHOULD BE RETAINED BY THE RELEVANT BUSINESS UNIT TO IMPROVE SERVICE DELIVERY (E.G. RESOURCING)

## THE PROBLEM

A perennial issue for the administration of exploration and development assessment processes is that industry activities are strongly cyclical. For departments that manage these processes, workload is largest at the time when industry's imperative for prompt decisions is greatest. This is inconsistent with a system of fixed departmental resources.

Industry can see the benefits of setting fees at a level where they provide a degree of 'price signal' to the department to secure additional resources. Any revenue raised needs to be applied to securing additional resources in order to maintain the timeliness of decisions being made. These revenues should supplement, not replace, the base level of public funding for administration to avoid theoretical debates over the efficiency of government processes and the degree of public good generated by the administration. The calibration of a system of fees and charges needs to be developed in close consultation with industry. Given the diversity of resources sector activity in Queensland across companies ranging from start-up to major global commodity producers, the system of industry contributions needs to be constructed so as not to distort industry structure or unfairly disadvantage one sector.

## RECOMMENDED SOLUTION

QRC recommends, consistent with the 2010 Industry Working Group report, that the government automatically increase department resourcing as industry activity grows, through a balanced system of fees and charges, with the right elements of user pays and public benefit.

**for industry**

- Understanding of what fees are paying for and sufficient resourcing of those areas which are seeking the fees.

**for government**

- Departments get the resources they need, rather than fees going to consolidated revenue.

**for community**

- Knowledge that fees are going to the right place to sufficiently support the regualtion of the resources sector.

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