

1 February 2019

Our ref: VK-MR

Committee Secretary
State Development, Natural Resources and
Agricultural Industry Development Committee
Parliament House
George Street
Brisbane Qld 4000

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

Dear Committee Secretary

Mineral Resources (Galilee Basin) Amendment Bill 2018

Thank you for the opportunity to provide comments on the Mineral Resources (Galilee Basin) Amendment Bill 2018 (the **Bill**). The Queensland Law Society (**QLS**) appreciates being consulted on this important piece of legislation.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This response has been compiled with the assistance of the QLS Mining and Resources Law Committee, whose members have substantial experience in this area.

We make no comments in relation to the stated policy intention of the proposed legislation. QLS is concerned that some aspects of the Bill breach fundamental legislative principles. This includes facets of the Bill which would appear to not have sufficient regard to the rights and liberties of individuals.

The *Legislative Standards Act 1992* (the **Legislative Standards Act**) sets out fundamental legislative principles which underlie a parliamentary democracy based on the rule of law. The principles require that legislation must have sufficient regard to the rights and liberties of individuals.

The Bill provides for the unilateral termination or amendment of lawful mining interests, and the exclusion of compensation payable to those affected parties. The Bill also requires the unilateral rejection of applications for a 'coal mining lease'. These provisions will effectively deny a party who presently lawfully enjoys use of one of the affected mining interests a portion

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of their legitimate expectation without recourse to any form of compensation or review of the decision, in relation to rights which have been extinguished by the State.

In addition, we raise the following issue for your consideration:

Retrospective application

Clause 3 of the Bill seeks to amend section 234 of the *Mineral Resources Act 1989* (the **Act**). In particular, we draw your attention to subsections (4) and (5):

(4) *In addition, the Minister must not grant a coal mining lease for land in the Galilee Basin.*

(5) *Subsection (4) applies to an application for a mining lease whether the application was made before or after the commencement of that subsection.*

The proposed retrospective application of the Bill in relation to applications made prior to its commencement is clear. Retrospective laws imposing obligations make the law less reliable and less certain. The proposition as outlined above does not align with section 4(3)(g) of the Legislative Standards Act.

The Explanatory Notes to the Bill describe a policy objective which, it appears, is intended to primarily affect the ability of mining lease holders to operate within the Galilee Basin. However, the retrospective effect of the Bill is likely to impact a significant number of stakeholders and individuals. In addition to individual shareholders, this may include landholders who have entered into access agreements which may not contemplate the unilateral termination of a mining lease, as well as other individuals, organisations and locally-operated businesses who have entered into supply or service contracts with a mining lease holder.

Thank you again for the opportunity to provide comments. If you have any queries regarding the contents of this letter, please do not hesitate to contact our Senior Policy Solicitor, Vanessa Krulin by phone on (07) 3842 5872 or by email to v.krulin@qls.com.au.

Yours faithfully



Bill Potts
President