

To: Department of Mining, Industry Regulation and Safety

Re: Guidance Statement – Use of ‘No Mining’ Conditions under the Act version 0.1

28 February 2023

Introduction

AMEC welcomes the opportunity to comment on an early draft. Following the *Blue Ribbon Mines Pty Ltd v Roy Hill Infrastructure Pty Ltd* [2022] WASC 362 (Blue Ribbon Decision) it is important that this guidance is provided to clarify the use of no mining conditions.

AMEC appreciates the alacrity of the Department of Mining, Industry Regulation and Safety (DMIRS) in the production of these documents. The continued speed is needed.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry association representing over 540 member companies across Australia. Our members are mineral explorers, emerging miners, producers, and a wide range of businesses working in and for the industry. Collectively, AMEC's member companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

Mineral exploration and mining make a critical contribution to Australia's economy, directly employing over 274,000 people. In 2020/21 Industry generated a record high \$301 billion in mining exports, invested \$3.2 billion in exploration expenditure to discover the mines of the future, and collectively paid over \$43.2 billion in royalties and taxes.

General Comments

AMEC has no comments of substance regarding the content of the guidance statement.

We note the acerbic commentary Wardens have made in recent decisions regarding the alignment of Departmental guidance with the legislation. Industry has reviewed the documentation and believes what has been drafted aligns with the particulars of the Mining Act and reflects the outcomes of Blue Ribbon. However, we suggest a legal review to ensure the symmetry between the guidance and the Mining Act may be appropriate.

Appendix

The detail of the proposed no mining conditions is excellent. The inclusion of such detail operationalises the guideline and clarifies the key question emerging from the Blue Ribbon case: what is the appropriate no mining condition.

AMEC is willing to facilitate consultation with Pilbara rail infrastructure owners within our membership, as their acceptance of such standard conditions is critical.

We have received the following alternate wording from a confidential consultation that we undertook with specific members, that we relay unedited:

- No mining on or within 100 metres of either side and to a depth of 30 metres from the natural surface of the land of the boundaries of <option a> (and any rail sidings) (being the Consultation Area), without the mining tenement holder and the holder of the railway reaching agreement on any mining activities to be undertaken within the Consultation Area

Legislative reform

The Government must consider legislative reform to introduce excisions for Exploration Licences.

Final Comment

AMEC appreciates the opportunity to comment and looks forward to future consultation that applies this model of early engagement.

For further information please contact:

Neil van Drunen

Director: WA, NT, Commonwealth Policy

Association of Mining and Exploration Companies

0407 057 443