

**To: Department of Mining, Industry Regulation and Safety**

**Re: Draft guidelines: Mineralisation Report and Supporting Statement for a Mining Lease Application & templates**

11 April 2023

## Introduction

AMEC welcomes the opportunity to provide comment to the Department of Mining Industry Regulation and Safety on the proposed draft guidelines for the preparation of Mineralisation Reports. Ensuring mineralisation reports are submitted in a manner that is compliant is a priority for AMEC.

## 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 is supportive of the updating of the guidelines and the template to ensure the current drafting practice meets legislated requirements. There have been several recent Warden Court cases that have underlined why ensuring the completeness of documentation is vital.

We are fundamentally concerned where the validity of mining tenure could be eroded by an overly strict interpretation of a Section of the Act that could be interpreted more broadly.

## Guidance: Mineralisation Report

Industry feedback has suggested that these expectations align with the JORC reports and expectations from the Australian Securities Exchange (ASX) that Industry meets. We appreciate the requirements do not step beyond the ASX requirements.

## Guidance: Statement of Likely mining.

### Year mining is to be expected.

In the Statement of Likely Mining the guidance state:

*The statement needs to provide a specific timeframe i.e. the year mining is expected to commence is enough detail to satisfy this requirement. A statement to the effect that mining will commence once*

*feasibility studies are finalised is not definitive enough. Note this date can also be supported with an assortment of development clauses.*

The Mining Act does not use the word 'specify'. Section 58 uses the word specify and there is a number of Wardens court decisions that turn on the use of the word specify. It would appear this requirement to 'specify' comes from these Warden's Court decisions, which is inconsistent with the Act.

The wording of S74(1a) asks 'When is mining likely to commence'. The Act does not demand a specific date, nor is it implied. The wording current guidance creates an unrealistic and false impression in the community. It also undercuts the very purpose of a feasibility study. A feasibility study is undertaken to see what is feasible and *when*.

Seeking a specific timeframe at such an early stage is similar to the inventive fiction in the last few years of the S58 statements demanding five years' worth of proposed exploration expenditure. Following the True Fella decision, the cost to Industry, the Government, and the fundamental uncertainty it creates for the tenure framework it is unclear why the Department considers the perpetuation of an

This is also discussed in the section of 'Recommended content of supporting statement'.

Furthermore, the consequences of not meeting this date are unclear. If it is not met will the company be found to be in breach? Will the Department the following day after failing to achieve the selected date, seek forfeiture? It could be argued to be in line with the Department's strict compliance approach. That seems unlikely compliance action and is an undesired outcome from Industry.

AMEC recommends the wording in this section is altered to align with the legislation, asking for a company to specify when, rather than the year.

### **Method of likely mining**

Detailing the method of likely mining meetings the legislative requirements. If a company proposes to mine by open cut – but an assessing officer feels it could be done underground, what happens then? It seems unlikely an assessing officer will comment. As discussed above, what happens if they choose to shift their plans and change how they mine? Will the Department move immediately to forfeiture?

### **The location, and the area, of land that is likely to be required for the operation of plant, machinery and equipment and for other activities associated with those mining operations.**

The development of critical minerals has underlined the difficulties nascent companies can have developing further down the value chain and building processing facilities. There are generally understood to be two options for processing: at the mine site or at an Industrial facility/park.

The wording in the guideline: *the location of the plant is not included due to processing at an alternate location, then a statement needs to be made on where processing is to be conducted*, ignores the constraints on identifying how processing will occur prior to the completion of a feasibility study. More fundamentally, it ignores the basic challenge of the Industrial land shortage in Western Australia.

AMEC asks that the Department provide somewhat more flexibility in the language of the guideline and the expectation, allowing a company to work towards further processing.

### **Templates**

The templates are greatly appreciated as a reduction in the administrative burden for both mining companies and the Government. The use of templates also reduces the potential for invalidity which is appreciated.

The above commentary on the guidance should be translated through to the Templates.

### **Final comments**

AMEC's commentary is focussed on concern that the Department may take a narrow interpretation that is beyond the wording in the legislation. Mineralisation Reports have created invalidity risks for organisations, and have been rarely used for forfeiture by the Government. Reducing the invalidity risks must be a priority, and the Template is a positive step towards doing so.

### **For further information please contact:**

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