

To: **MINISTER HOUSSOS**  
**DRNSW MINING, EXPLORATION AND GEOSCIENCE**

Re: **COMPETING LAND USE IN NEW SOUTH WALES**

**4 August 2023**

## **Introduction**

The Association of Mining and Exploration Companies (AMEC) welcomes the opportunity to provide a submission to the Department of Regional NSW, Mining Exploration and Geoscience (MEG) on the issue of competing land use in NSW that is increasingly impacting the minerals industry.

## **About AMEC**

AMEC is a leading national minerals industry association representing over 500 member companies across Australia. Our members are explorers, emerging miners, producers, and a wide range of businesses and services working in and for the minerals industry. AMEC has a growing number of companies working and investing in NSW.

## **Importance of multiple land use in NSW**

NSW is generously endowed with mineral potential as well as a popular place to live and work. Land is increasingly sought for multiple purposes including residential development, agriculture, energy production, mineral exploration and mining to name a few, all of which contribute to the State's economic and social prosperity. With the many land users and activities in NSW, it is critical that land is managed by the NSW Government to maximise the benefit for the people of NSW.

Increasingly, areas sought for renewable energy production such as solar, wind and carbon farming have significantly grown as the State moves to transition to future focussed energy sources to achieve net-zero. In many cases, these facilities are being developed in areas that are prospective and the site of active mineral exploration projects. It is important to remember that natural mineral resources cannot be moved, unlike the location of most renewable energy projects.

Competing land use is a topic of concern in the minerals industry due to increasing challenges associated with competing interests. It is crucial for Government to balance equitable land management to support co-existence and growth.

## Five Renewable Energy Zones are currently under development across NSW

The *NSW Electricity Infrastructure Roadmap* (Roadmap) is the State's Government's 20-year plan to create a "secure, reliable, and affordable electricity system for the State", and is enabled by the *Electricity Infrastructure Investment Act 2020*<sup>1</sup>. The objective of the Roadmap is to

*"Maximise the long-term financial interests of NSW electricity consumers. It has strong governance in place to achieve this. Each entity has a distinct role in the coordination, monitoring and oversight of the Roadmap's implementation."*

The Energy Corporation of Australia (EnergyCo)<sup>2</sup> has been appointed as the Infrastructure Planner for five identified Renewable Energy Zones (REZs) to power regions and cities as coal-fired power stations retire<sup>3</sup>:

- Central-West Orana Renewable Energy Zone
- New England Renewable Energy Zone
- Southwest Renewable Energy Zone
- Hunter-Central Coast Renewable Energy Zone
- Illawarra Renewable Energy Zone.

REZs are termed the equivalent of modern-day power stations that combine new renewable energy infrastructure, including generators, storage and high-voltage transmission infrastructure<sup>4</sup>.

Development of the first REZ is currently underway in Central-West Orana (CWO) which covers approximately 20,000 square kilometres centred by Dubbo and Dunedoo<sup>5</sup>. The Roadmap states that the location was chosen based on its strong resource potential, proximity to electricity network, and consideration of potential interactions with existing land uses.

Like many other REZs, the CWO zone is situated on areas of extraordinary geological formation with rich mineral deposits and value potential. These areas attract strong interests as demand for metals and rare earth elements used in renewable energy technology increases.

## Renewable Energy Zones cover areas with strong mineral potential

In developing the REZ system around the State, NSW Government pledges to take a holistic approach to "work on the ground with communities in achieving a balance between electricity, agriculture, visual amenity, mining, and other land uses, hence, sharing the benefits with communities<sup>6</sup>."

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<sup>1</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/act-2020-044>

<sup>2</sup> <https://www.energyco.nsw.gov.au/>

<sup>3</sup> <https://www.energyco.nsw.gov.au/renewable-energy-zones/whats-involved-renewable-energy-zone>

<sup>4</sup> <https://www.energyco.nsw.gov.au/renewable-energy-zones>

<sup>5</sup> <https://www.energyco.nsw.gov.au/cwo-rez>

<sup>6</sup> <https://www.energyco.nsw.gov.au/renewable-energy-zones/whats-involved-renewable-energy-zone>

Despite having a strategic Roadmap outlining the REZ development process supporting the *Electricity Infrastructure Investment Act 2020*<sup>7</sup>, there is a gap in facilitating a genuine balance between renewable energy projects and existing operations such as minerals exploration. Broadly, the issues include:

- Minimal guidance on how renewable facility developments can coexist with current and potential minerals projects
- Limited opportunity for minerals industry input on development plans for renewables projects
- Lack of consistent communication channels between project developers and other land users
- Insufficient guidance on competing land use rights under the current regulatory framework or the next step for affected users.

### **Privately owned renewable energy projects are conflicting with minerals projects**

In NSW, renewable energy system development approvals are assessed based on its scale and type. Under the *State Environmental Planning Policy (State and Regional Development) 2011*, proposals for renewable system with capital costs greater than \$30 million (or \$10 million in environmentally sensitive areas) such as wind farms and solar farms, are considered large-scaled which are assessed by conditions of the State Significant Development (SSD)<sup>8</sup>.

In a typical SSD assessment approval process, impacted or potentially impacted individuals and communities take part in the preliminary consultation stage to inform the development's siting and design process. The public exhibition of the Environmental Impact Statement (EIS) enables the wider community to make a submission related to the project and learn more about it.

Unfortunately, in many cases reported by the minerals industry, exploration licence holders are not included in the preliminary consultation stage and are only given the chance to express their opinions at the EIS public exhibition (if they are made aware of the project).

As a result, the renewable energy facilities, and development locations are regularly a 'surprise' to minerals explorers who are then consulted late in the process and regularly locked out of exploration activities that they are contracted to perform by the NSW Government.

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<sup>7</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/act-2020-044#statusinformation>

<sup>8</sup> <https://www.planning.nsw.gov.au/policy-and-legislation/renewable-energy>

### **Case study 1 - Wind farm development delays significant NSW copper-gold project for three years**

*Company X is an ASX-listed explorer and producer of gold with proven track record of discovering strong economic deposits in the Central West of NSW. The company made a significant discovery that has the real potential to prove a substantial resource, and the company was eager to work towards further development.*

*However, the exploration was interrupted in 2016 when a wind farm developer received approval over the area. Although the windfarm developer claimed that community consultation had been undertaken with no objections, the company with the granted exploration licence had never been contacted.*

*As a result, exploration activities were halted and only after three years of negotiations, Company X could recommence exploration in 2019 with restrictions on activities and an agreed formula for relocating the wind turbines and associated infrastructure should development proceed. After exploration re-commenced, a 'once in a generational discovery' was announced just a couple of months later.*

It is disappointing that exploration licence holders are not consulted on these projects early, as are other directly impacted stakeholders including landowners, despite being the targets of considerable development impact.

It is important to remember that mineral exploration tenure holders have been granted the right to explore for the minerals owned by the State and pay considerable fees and charges, on an area basis, to Government for the privilege. All exploration tenure holders are also required to submit annual reports with full exploration results and reporting against the approved work plans and so Government has up to date records of activities and complete data and results.

### **Case study 2 – Wind farm development significantly impacts the value of the tenement.**

*Company C is an ASX-listed gold-copper exploration company with projects throughout the discovery 'hotspot' in the Central West NSW.*

*Exploration was interrupted over multiple tenements by multiple renewable energy farm development projects. Company C was not consulted as part of the renewable energy farm approvals, even though the renewable energy farm was located on active exploration sites where progressive exploration results were regularly reported to NSW Government.*

*The landholder receives significant compensation from the renewable energy farm developer and has denied access for exploration because the renewable developer initiated an exclusive rights agreements. Company C attempted to negotiate with the renewable energy farm developer and landholder but there is little progress and it appears as a foregone conclusion that Company C would be denied access to conduct exploration activities. Company C requested access to soil sample during the surface disturbance during the construction of the renewable energy farm while the land surface was disturbed, and that was denied but an offer of a tour post-completion was offered. Stakeholder engagement was tokenistic and appeared as a 'box ticking exercise' with no actual attempt at compensation for significant loss.*

*Like many other cases, Company C received no compensation, limited notices, or advice from the company and no notice or advice from the Government and have now had to abandon the high-potential prospects.*

## Issues with alternative developers and the minerals industry

AMEC has had representations from many members with operations in NSW on the issues with alternative developers and the REZs that can be summarised to include:

- Exploration companies are not consulted early on wind and solar project development proposed by private enterprises
- Landholders who have formed (often significantly lucrative) agreements with wind or solar developers 'veto' exploration or require the exploration company to consult directly with the wind or solar developer, both of whom have little incentive to support exploration
- Explorers are often forced to reduce or cease all exploration activities when development of a renewables project is underway, often on short notice and for an extended period of time
- Stakeholder that are impacted by REZs have not been given adequate consultation, support and guidance
- No compensation for sterilisation of land by renewable energy developers have been given to mineral exploration licence holders by Government.

Further examples from the NSW minerals industry include:

### ***Case study 3 – Important renewable energy project delays high-potential renewable metal supplier***

*Company E is a subsidiary exploration project of an ASX-listed company focussed on critical minerals.*

*A windfarm development was proposed over the key tenure area and contacted Company E almost a year after the developer signed an 'Exclusive Wind Energy Facility Access Licence' with the landowner. The landowner advised that they would not engage with Company E for land access for exploration until Company E has an agreement with the developer. The windfarm developer proposed a tripartite agreement to address the multiple land uses and after over 12 months of negotiation, the tripartite agreement has still not been agreed to by the parties. During this extended negotiation period, Company E had been unable to access these tenements and conduct any field-based activities. The company sought support from MEG, however, the only suggestion was to flag the issue in annual reports that 'may prompt a review' by MEG.*

*The irony is that this exploration tenement is prospective for Rare Earth Elements (REE's) that are required for renewables projects.*

#### **Case study 4 – Landholder denies access for exploration following a discovery**

*Company B is an ASX-listed company with numerous projects located across NSW that specialises in the exploration and development of gold, copper, and tin, as well as rare earth elements projects.*

*Company B was notified that a solar farm developer was seeking approval for a solar farm over a tenement held by its subsidiary B Metals. Following an initial sampling program organised between Company B and the solar developer, a gold occurrence was discovered. However, the landholder has communicated via the solar developer that they will deny access for further exploration. It was agreed that the solar farm developers would negotiate access for exploration on Company B's behalf as they had preexisting and ongoing relationships with the landholders.*

*The company is now seeking further legal advice to gain access to the tenement and minimise further disruption to the project and to evaluate the size and tenure of this gold discovery.*

#### **Case study 5 – Family-owned business left in the dark about multiple alternative projects on tenement**

*Company D is a family-owned business with projects in Central West NSW. The Company became aware of a proposed 500kv transmission corridor that is proposed to traverse through the central portion of a key exploration licence. This information was passed on by a landowner in the district. The Company has since made contact with the energy company and the state representative body for the Central West Orana Renewable Zone. During these discussions, the Company expressed concern about the location of the transmission lines through the central portion of the licence but no change of the transmission lines will be proposed before public exhibition.*

*The Company has since been made aware of a wind farm development currently at early planning stage, in addition to the 500kv transmission corridor, over the same tenement without any prior consultation with the exploration tenure holder.*

*As a small company, Company D will not be able to resource multiple legal matters on the same tenement and is considering their options going forward. Company D notes that no Government notice or compensation for the inability to explore in these areas has been provided.*

## **Management of multiple land use in other key mining jurisdictions**

### **Western Australia**

In Western Australia, legislation to support 'diversification leases' on Crown land has been passed by Parliament earlier this year. Diversification leases are a form of non-exclusive form of land tenure introduced to provide for proponents to conduct single or multiple land uses on a large area of Crown land, where the primary land use can coexist with other land uses<sup>9</sup>. Multi-land use allows mining-related activities including exploration

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<sup>9</sup> <https://www.hopgoodganim.com.au/page/knowledge-centre/blog/diversification-lease>

programs, surveying, testing, and more to co-exist with other types of infrastructures. A *Policy Framework Guiding the Use of Diversification Leases on Crown Land*<sup>10</sup> has been produced by the WA Government.

## South Australia

In 2017, the South Australian Government released the *South Australian Multiple Land Use Framework*<sup>11</sup> to “balance the interests of multiple stakeholders and build long-term wealth for the common good.” The Government established the Framework to support individuals and groups involved in multiple land use, with the “importance of early consideration” as its underpinning message<sup>12</sup>. The Framework supports multiple land use, recognises timely stakeholder engagement, and promotes transparency in the decision-making process<sup>13</sup>.

## Queensland

The Queensland Government released a draft *Queensland Renewable Energy Zone Roadmap*<sup>14</sup> in 2023. The proposed Roadmap demonstrates a disregard for the geology and tenures that fall within the roadmap as the land is at risk of being sterilised for uses outside of developing renewable energy projects and agriculture. The lack of transparency and certainty of multiple land use could discourage exploration projects from operating in Queensland, especially during times of market downturns and industry instability.

## Recommendations

The minerals industry supports the objectives of multiple land use in NSW, however, the future of the minerals industry must be also supported and protected.

The existing policies and regulations providing for multiple land use in NSW are insufficient and outdated to appropriately manage the expansion of development in the transition to Net Zero. To optimise coexistence of the minerals and renewable energy industries, Government needs to do more to facilitate a balance between the priorities for the State.

AMEC provides the following recommendations to support multiple land use in NSW:

1. Review and reform policies and strategies in NSW to support co-existence and multiple land use before the situation intensifies and more important mineral resource projects are delayed or sterilised.
2. Provide guidance for renewables developers including transparent processes and clear consultation requirements with early engagement with all alternative land users including not only landholders but exploration licence holders and other mining tenure holders.
3. Formulate a compensation program for exploration licence holders that are impacted by both private and public renewable energy projects.

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<sup>10</sup> Land and Public Works Legislation Amendment Bill 2022 ([www.wa.gov.au](http://www.wa.gov.au))

<sup>11</sup> <https://www.energymining.sa.gov.au/industry/minerals-and-mining/communities-and-land-access/mineral-exploration-and-land-access/multiple-land-use-policy-framework>

<sup>12</sup> <https://www.energymining.sa.gov.au/industry/minerals-and-mining/communities-and-land-access/mineral-exploration-and-land-access/multiple-land-use-policy-framework>

<sup>13</sup> <https://sariqbasis.pir.sa.gov.au/WebtopEw/ws/samref/sariq1/image/DDD/RB201600036.pdf>

<sup>14</sup> <https://www.epw.qld.gov.au/about/initiatives/renewable-energy-zones>



AMEC would welcome further consultation on this important matter. If you have any queries regarding this submission, please do not hesitate to contact:

Warren Pearce  
CEO

Lucy McClean  
Director – New South Wales, Victoria & Tasmania