

**To: Department of Primary Industries and Regions (PIRSA)**

**Re: Draft Biosecurity Bill**

14 September 2023

## Introduction

AMEC appreciates the opportunity to provide a submission PIRSA's 2023 consultation on a new Biosecurity Bill for South Australia. This submission is in addition to the feedback we provided in 2020 to the initial process. We welcome continued engagement throughout the next stages of the process, to ensure mineral explorers and miners can contribute to the State's new biosecurity framework.

## About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry association representing over 540 member companies across Australia, with over 37 member companies with direct project interests in South 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 2021/22 Industry generated a record high \$413 billion in resources exports, invested \$3.86 billion in exploration expenditure to discover the mines of the future, and collectively paid over \$63 billion in royalties and taxes.

In South Australia in 2021-2022(FY) mineral exploration expenditure was at an 8-year high at \$122.3 million, a 34% increase from the previous year, and \$2.5 billion was spent on capital expenditure. In 2020-21, over \$237 million was generated in royalties from the \$7.1 billion in mineral commodity sales, representing a record high.

## Draft Biosecurity Bill

### General Comments

AMEC appreciates the briefings and opportunities to engage provided through this consultation process, and the separate meeting for AMEC to discuss proposed changes in more detail. The draft Biosecurity Bill proposes a new legislative framework to replace and amalgamate five existing Acts. It will undoubtedly require substantial consultation, meaningful discussion, and transition phases, to ensure unintended consequences can be mitigated prior to passage and commencement.

Mineral explorers and miners across Australia comply with robust biosecurity protocols, to ensure risks to the environment, communities, and our viability, from the impacts of pests, diseases, and other biosecurity matter, have been appropriately managed. We are committed to ensuring these risks have been duly considered and addressed in a risk-based manner, minimising the need for red

tape, administrative burden, and increasing cost. A modernised framework that is well deliberated on and transitioned to, is anticipated to deliver these outcomes.

### **National Biosecurity Strategy**

AMEC would appreciate an update of South Australia's planned alignment with the Commonwealth Biosecurity Strategy. We understand the proposed South Australian reforms have been informed by New South Wales and Queensland's relatively recent biosecurity reforms, however, note the different environmental conditions and land uses within each jurisdiction must be a key consideration rather than like-for-like adoption.

COVID-19, the most recent biosecurity challenge that captured global attention, highlighted the fragility of networks and critical transport routes when biosecurity zones were decreed with little-to-no forewarning and consultation. As the nation and state traversed the pandemic, a pragmatic approach was adopted to ensure access to regional areas and within zones could be permitted subject to suitable measures. When modernising the legislative framework and policies that underpin biosecurity management in South Australia it is imperative that lessons are learned from this experience, and best-practice consultation, communication and engagement across industries and Government are maintained.

### **Cost recovery**

AMEC opposes cost recovery for core Government business. It is a last resort measure that should only be used in the absence of other suitable alternatives. There are no details on the proposed fees for permits, or how these costs will be recovered. This should be transparently consulted on. Further, fees for registration, accreditation, authorisation, and certification, as well as proposed amounts to be levied for land outside of the dog fence, should be transparently disclosed and avoid the use of cost recovery from industry. We welcome further detail.

### **Appeal**

AMEC seeks clarity if there will be appeal rights against the proposed powers of a biosecurity officer and or their delegate? This is an important point to consider, prior to next stages, as the proposed increased decision-making authorisation of officers has increased.

### **Specific clauses of the draft Bill**

AMEC raises the following comments relating to specific clauses within the draft Bill:

- S15(c) – the definition of environment is proposed to include human-made or modified structures or areas; this does not align with the widely adopted definition of environment under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).
- S12(e) – the meaning of reasonably practicable mentions whether the cost is grossly disproportionate to the risk. It is unclear who will assess this, and if it will be in isolation or as a cumulative set of risks and/or costs. Clarity is sought.
- S41(1) – unclear if 'natural person' has been defined for failure to comply with general biosecurity duty. Substantial fines for a newly introduced duty.

- S49(a) – a biosecurity duty arises ‘if this person is the owner, occupier or person in charge of, or who has the care, custody or control of, premises on which, or in relation to which, the biosecurity event has occurred, is occurring or is likely to occur’. AMEC seeks clarity if the duty will be incumbent on the mineral tenement holder, or the landholder?
- S117 – AMEC recommends the audit frequency policy is transparent and subject to industry consultation, and a review period to monitor effectiveness. It must also consider other legislation and approvals processes that can include biosecurity provisions and audits at a state and Commonwealth level, with a view to minimise duplication wherever possible.
- S120(2) – The draft Bill proposes “an audit target is responsible for any fee payable in connection with a compliance audit performed by a biosecurity auditor who is not an authorised officer (being a fee specified by the biosecurity auditor for the conduct of the audit and recoverable by the biosecurity auditor as a debt)”. AMEC questions what will be considered ‘any fee payable’? This is essentially cost recovery. It is important that all fees associated with audits are clear, consistent, and minimised. It is concerning that this wording creates the potential for additional fees to be created at the discretion of the auditor, beyond what has been prescribed.
- S142(2)(b) – AMEC is concerned with the proposal that the types of conduct or actions to be indemnified by a condition imposed on a permit to take out a policy of insurance could be prescribed. Explorers and miners comply with legal requirements, but prescribing insurance provisions extends beyond expected legislative parameters.
- S152(e) – when preparing a draft biosecurity program, AMEC questions the efficacy of creating a management committee for each program. If a program is of a quantum or impact that warrants the constitution of a management committee it could be reasonable to establish one, but many would not. Similarly, the inclusion of the Chief Executive on a management committee for a program should only be in circumstances that warrant this inclusion.
- S152(m) – Industry questions if it is standard practice to include compensation and/or commercial terms in a biosecurity management plan? It is important to maintain reasonable expectations and ensure the State has the capacity to regulate items outlined in proposed legislation.
- S167 – AMEC recommends the consultation requirements include consultation with other Ministers including the relevant Minister for Mining, in the event a biosecurity zone regulation is created. This is an omission, given the importance of the industry to the state’s communities and economy, and its strong presence across rural South Australia. As experienced during COVID-19, biosecurity zones can prevent access to tenure, preventing tenement holder from meeting their obligations under the *Mining Act 1971* (Mining Act, SA), *Corporations Act 2001* (Cwlth), and a range of other legislative and governance frameworks. Robust consultation and transparency is required to ensure reasonable steps can be taken, and a reasonable approach to risk management is maintained.
- S209(1)(c) – Clarity is sought that in the event an animal, plant or property is covered by a Government biosecurity program, and the program provides for reimbursement in respect of that death or destruction – it is Government liable for costs, not industry, unless otherwise agreed?

### **Final comment**

AMEC welcomes ongoing engagement with PIRSA and other industry groups as the consultation and deliberation of a new biosecurity framework for South Australia progresses. Ensuring a risk-based approach that permits access in an efficient and cost-effective manner for multiple users of land, is the primary objective.

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

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