

To: **VICTORIAN Earth Resources Regulator**

Re: **DRAFT OPERATIONAL POLICY – COMPETING EXPLORATION LICENCE APPLICATIONS**

29 January 2024

## Introduction

The Association of Mining and Exploration Companies (AMEC) welcomes the opportunity to provide a submission to the Victorian Department of Energy, Environment and Climate Action (DEECA), Earth Resources Regulation (ERR) on the updated draft *Operational Policy – Competing Licence Applications* (Draft Policy) provided for review in December 2023.

## About AMEC

The Association of Mining and Exploration Companies (AMEC) is the national peak industry body representing over 550 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 represents a growing number of companies working and investing in Victoria.

## Industry welcomes operational policies to provide guidance and clarity

AMEC welcomes the initiative to further develop operational policy that provides clarification on the important matter of competing licence applications that has significantly delayed tenure processing. This is a key issue for the Victorian minerals industry and clear guidance will support the industry to maximise compliance.

We note that this is the second draft of this policy provided for review, with the previous draft provided for review in July 2023. We appreciate that Government has included many industry suggestions and recommendations from previous consultations in this updated draft policy.

To support the minerals industry, maximise the resources of Victoria for the people of the State, the Victorian Government needs to provide a stable, fair, outcomes and risk-based regulatory framework with operational policies that should proactively support and encourage renewed interest and investment in the State.

AMEC offers the following comments and recommendations to ensure that this operational policy provides clear and concise guidance to Victoria's minerals industry stakeholders.

### 1. Amend the weighting of the criteria

This Draft Policy sets out scalable components that will be assessed in consideration of the relative merits of an applicant's proposed program that are summarised as follows:

- Geological rationale, location, justification – 35%
- Work program, activities, timing and expenditure – 30%
- Expertise and experience – 10%
- Community and Traditional Owner engagement – 25% (community 12.5% and TO engagement 12.5%)

The work program is the crux of the application and any exploration program. This component is weighted only 30% (or together with geological rationale, 65%). The Draft Policy also notes that compliance after the licence grant (Section 7.1 of Draft Policy) is focussed on the work program and expenditure “*Earth Resources Regulator will hold them accountable to deliver their full work program...meet expenditure commitment*”.

AMEC recommends that the weighting for the work program is increased to at least 35% and then reducing the community and Traditional Owner engagement to 20% or 10% each, especially as community and traditional engagement already form part of the work program.

## **2. Include timeframes for submission of application information and assessment**

The Draft Policy is silent on the timeframe that is provided for applicants to submit information to the Department when applicants are advised of competing licence status, as well as the timeframe for the assessment process of competing applications and advice back to applicants. Companies need to plan work and budgets and need a timeframe for assessment of tenure applications, including competing applications.

AMEC recommends that timeframe for submission and assessment of applications is included in the Policy. We recommend that applicants are given 60 days to provide advice to Government when advised of competing application status and that Government has 30 days to assess the application and advise the applicants of the outcome.

## **3. Clarify the assessment process and outcome**

This Draft Policy sets out the factors that will be considered in ranking more than one valid application for an exploration licence in respect of the same land that is received on the same day. Many of the merit considerations and judgments will be subjective and so should be undertaken by a Panel with broad expertise and at least one independent member. Decisions should be transparent and consistent with replicable processes. The assessment process must be transparent, objective and consistent.

AMEC recommends that a Panel of at least three members with appropriate expertise and experience as well as probity should be implemented to assess the competing applications.

Further, AMEC recommends that the outcome of the assessment, with clear reasoning against standard criteria, should be provided promptly to all applicants.

## **4. Implement a Departmental appeals process with an Independent Panel**

Following the outcome of an assessment, the Draft Policy notes that the only appeals process is via the Supreme Court of Victoria as the Mining Warden does not have jurisdiction.

AMEC recommends that an appeal stage managed by DECCA with an independent panel (not including Government staff who were involved with the application and assessment) is stood up to assess any appeals prior to legal proceedings.

## 5. Clarify the compliance requirements

As noted above, the Draft Policy notes the compliance requirements after the licence grant (Section 7.1 of Draft Policy) as “*Earth Resources Regulator will hold them accountable to deliver their full work program...meet expenditure commitment*”. There are many factors that can lead to issues with delivery of a full work program, some of which are out of the control of the licence holder, including weather and access to land.

AMEC recommends that compliance should be based on ‘*best endeavours*’ or this sentence should be simply amended to:

*“If the highest ranked applicant is subsequently granted a licence, compliance will be assessed by the Earth Resources Regulator through delivery of the full proposed program of work and meeting the proposed expenditure commitment”.*

AMEC looks forward to further consultation on this policy and if you have any queries regarding this submission, please do not hesitate to contact:

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