

To: Department of Primary Industries and Regions, South Australia

Re: Biosecurity Act

24 November 2020

Introduction

AMEC appreciates the opportunity to provide a submission to the Department on the development of a new Biosecurity Act. We continue to welcome engagement with the South Australian Government as they undertake a suite of reforms which will impact the mineral exploration and mining sector.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry body representing over 350 member companies across Australia, with 21 member companies actively exploring, mining and developing projects in South Australia. Collectively, AMEC's membership accounts for over \$100 billion of the mineral exploration and mining sector's capital value.

The mining and exploration industry make a critical contribution to the Australian economy, employing over 255,000 people. In 2018/19, these companies collectively paid over \$39 billion in royalties and taxation, invested \$36.1 billion in new capital and generated more than \$283 billion in mineral exports. In 2019/20, \$2.8 billion was spent on minerals exploration, representing an 18% increase from the previous year.

Comments on the new Biosecurity Act

The need for a simpler, modern and more effective legislative framework to manage biosecurity issues in South Australia is acknowledged. Currently, these issues are regulated by five separate pieces of State legislation, in addition to Commonwealth environmental legislation, and orders enacted in response to the COVID-19 pandemic. South Australia's competitive advantage of a strong existing biosecurity framework is critical to maintaining its lucrative export markets. The ability of these industries to remain open and producing, correspondingly enables mineral exploration and mining to continue, in the absence of pests and diseases threatening South Australia's unique biosphere.

Measures to strengthen biosecurity management in South Australia need to be carefully implemented and consulted on, to avoid unintended repercussions which will impact the mineral exploration and mining sector, and subsequently affect other areas of the minerals supply chain.

AMEC has long-term objectives to streamline processes and reduce red tape, to reduce the cost of doing business in Australia. These measures will enable States and Territories, and the overall Australian economy, to sooner realise the wide-ranging benefits that mineral exploration and mining projects offer.

Mining and mineral exploration industry

There are currently eight operating mines in South Australia¹. AMEC welcomes improvements to the Biosecurity Act that will not impede or jeopardise the viability of industry, and its ongoing ability to attract investment.

AMEC has provided submissions to various consultation processes as South Australia's legislative reforms continue. Our recent submission to the draft South Australian Mining Regulations 2020 presented a thorough description of the state of industry, and the impact that the proposed amendments to the regulatory framework would have on industry, local communities, the South Australian economy, and the wider Australian economy²; these issues are relevant to biosecurity management practices as it continues to evolve.

AMEC supports policy that is fair and consistent, to provide stable regulation without unintentionally disadvantaging certain areas of industry. With continued consultation, industry welcomes measures by the Department to develop a Biosecurity policy that reduces the complexity of biosecurity management and should provide more consistent regulations and flexibility for industry to meet emerging challenges.

Cost recovery

AMEC opposes cost recovery for core Government initiatives, including the provision of 'appropriate services' proposed in the new Act.

It is understood that licence applications will have associated fees, but there is an expectation that where Government charges fees, they need to have the capacity to provide the requested services in a timely and consistent manner.

The "issues-based co-funding measures, such as regional or industry-based contributions" appear to be another cost recovery initiative. AMEC requests further consultation, as increasing fees and charges for industry will be counterproductive to economic growth following the significant COVID-19 induced economic constriction.

Permits

AMEC requests further consultation to discuss the new Biosecurity Act's prescription of fees for the issuing of permits, and the roles and processes involved in obtaining these permits. The broad range of permits proposed to be introduced under the permit system should be standardized and align with those already utilised in other jurisdictions where possible.

A clear approval authority will need to be communicated to industry, and the appropriate regulatory authority will need to have the capacity to approve applications in a timely manner.

Capacity to detect, respond and recover

The South Australian Government is responsible for the management of biosecurity issues on public land, which includes national parks, conservation reserves, state forests, marine parks, unallocated

¹ https://www.energymining.sa.gov.au/minerals/mining/mines_and_quarries#mines

Crown Land, and unmanaged reserves; these are areas where mineral exploration and mining can occur.

For industry to continue operating without significant restrictions, the early detection and prevention of biosecurity threats from entering the State is important. This can be achieved by undertaking surveillance and diagnoses of threats and trends across other Australian jurisdictions, but will require dedicated resourcing.

When Western Australia implemented its Biosecurity Strategy, a key priority in the Strategy was the importance of capacity to undertake biosecurity detection, response and recovery measures³. The requirement for suitably trained staff, adequate equipment, facilities, diagnostic capability, and tried and tested detection systems should also be implemented in South Australia's introduction of the new Biosecurity Act, for it to serve its intended purpose.

Scope of the new Act

A number of the proposed provisions in the new Act have raised questions among industry, seeking further clarification from the Department.

Proposed extraterritorial powers:

The provision to aid risk mitigation by allowing officers to direct vessels interstate raises industry concern. This authority would need to be used sparingly, if constitutionally permitted, and have significant evidence to warrant this direction. Risk-based assessment should be undertaken to ensure the management of potential risks is commensurate with the actual level of risk posed.

Further, as there will be three chief officers and five pre-existing Acts to coexist under this new framework, who will the ultimate authority be?

Accreditation and Certification:

The *Plant Health Act 2009* provides for the establishment of accreditation schemes whereby authorised persons issue assurance certification in accordance with the terms and conditions of the accreditation. The *Livestock Act 1997* does not provide for these schemes.

The Technical Directions Paper states "the new Biosecurity Act will continue to be applied more broadly than what currently exists for the plant industries". Industry questions the intent of the Department behind this statement. Will accreditation now be required by the other four co-existing Acts of relevance to the new Biosecurity Act? If yes, is the additional administrative requirement on Government and industry commensurate with the actual risk and potential benefit?

The Paper also proposes that the new Biosecurity Act will "enable the certification scheme to be expanded across other industries". Similarly, industry questions the benefit of extending certification requirements. Certification is a lengthy and costly process to introduce; it should be ensured that

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<https://www.agric.wa.gov.au/sites/gateway/files/WA%20Biosecurity%20Strategy%20%28A1756933%29.pdf>

benefits are significant enough to warrant certification before it is introduced as a standard requirement.

National Traceability Framework:

The remit of the national traceability framework mentioned in the Technical Directions Paper is questioned, given this is State legislation. AMEC welcomes measures to reduce duplication and improve data sharing across all Australian jurisdictions, but notes there should be an element of agreement across all jurisdictions that they will be party to this.

It is noted all Australian jurisdictions are signatory to the Intergovernmental Agreement on Biosecurity⁴. Given existing information requirements under this Agreement, is there opportunity to utilise the existing framework to facilitate data sharing, before introducing new data sharing arrangements under subsequent legislation?

This idea is supported by the CSIRO, acknowledging that while management and response approaches differ across sectors, stronger relationships and data sharing can assist in the early detection of risks, providing more understanding of the threats and impacts they can have on other sectors⁵.

Biosecurity officer powers

While it is noted the new Biosecurity Act proposes to introduce a review element in the protections against the general powers of biosecurity officers, Industry recommends this process should also include a clear rights of appeal element.

Biosecurity officers should be required to report their actions and directions to applicants, in writing, to their chief officer, within one week. This will provide more consistency in the application of biosecurity officers' powers, and allow for review should it be required.

Final comments

AMEC acknowledges and supports the intent of increasing the Biosecurity protection measures in South Australia, to enable the State to effectively manage risks that threaten its environmental and economic strength.

Our key messages throughout the new Act's consultation process remain consistent; that changes to biosecurity management in South Australia should not restrict land access for mineral explorers and miners, and should not result in unintended commercial constrictions across various sectors.

AMEC welcomes further consultation with the Department as the regulations and directions are developed.

⁴ <https://www.coag.gov.au/about-coag/agreements/intergovernmental-agreement-biosecurity-0>

⁵ CSIRO "Australia's Biosecurity Future – Unlocking the next decade of resilience (2020-2030)"

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