

## QUEENSLAND\*

### AN UPDATE ON THE EPP FOR MINING

In 1995 the Queensland Government decided to review the environmental regulation of Queensland's mining and petroleum industries. The aim of the review was to produce an Environmental Protection Policy (EPP) specific to those industries. In Queensland, EPPs are subordinate legislation under the *Environmental Protection Act 1994*. The EPPs for mining and petroleum were intended to be the first industry specific EPPs in Queensland.

A first Draft Discussion Paper was released for public comment in March 1996. Representatives of industry and government were then invited to join a Stakeholder Consultative Committee to prepare the EPPs.

There are significant differences in the way mining and petroleum activities are carried out and are to be regulated. Separate EPPs are to be prepared for each industry.

From late 1996 through to mid 1997 the Stakeholder Consultative Committee identified a number of matters of concern in the current system of regulating the environmental impacts of mining. In July 1997 a Writing Group of the Stakeholder Consultative Committee was set up to commence drafting a document that contained all of the reform proposals put forward by the Committee.

The draft discussion paper was presented to the Queensland Government for consideration in March this year. Cabinet is expected to decide shortly on the key issues, which are expected to include:-

- the identity of the regulator;
- the identity of the decision maker for major mining projects;
- the identity of the decision maker for mineral development and exploration projects; and
- changes to the Warden's Court.

Queensland Mining Council has given the Government a paper that sets out its position on the key issues. The major elements of QMC's position are:-

- QMC conditionally supports the transfer of environmental regulation from the Department of Mines and Energy to the Department of Environment and Heritage.
- The whole of government approach is necessary for major mining projects.
- Applications for mineral development and exploration tenements should be decided by the Minister for Mines and Energy.
- The Warden's Court should be replaced with a specialist mining tribunal administered by the Justice Department.
- There should be a single integrated process covering all tenure and environmental matters for major mining projects.

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- With the exception of mines under special Agreement Acts, there should be a review of the adequacy of current environmental consent for existing mines.
- The existing security deposit system should be essentially retained.
- Public participation should be sought in relation to proposed “significant impact” changes to major mines.
- QMC supports reforms that will mean better rehabilitation outcomes.
- Native title and cultural heritage should be addressed as part of a statewide regime.
- Any reforms to improve environmental regulation of the mining industry should be funded from consolidated revenue.

There is some indication that the Government has taken QMC’s points on board (see following article). Once Cabinet has made a final decision, drafting of the EPP and associated changes to legislation will occur, with the draft EPPs expected to be released for public comment early next year.

### **THE WARDEN’S COURT – NEWSFLASH**

Legislation is expected to be introduced into Parliament before the end of November 1998 to replace the existing Warden’s Court with a new Land and Resources Tribunal. At the time of writing (Tuesday, 10 November 1998) no draft Bill is available. However, it is understood that the Tribunal will have the following features:-

- It will be presided over by a President who will have qualifications of about Supreme Court judge level. The President will be assisted by a Judicial Registrar.
- There will be Deputy President of about District Court level.
- Sitting under the Deputy President will be 3 Referees - a Mining Referee (responsible for the straight forward ex-Mining Warden type work), a Mediation Referee and an Indigenous Issues Referee.
- There will be other panel members who can be called upon for their particular expertise - an ex-officio Land Court member, senior members and other members.
- For complex matters the Tribunal will sit as a panel of 3, presided over by the President.
- The Mining Referee will not deal with native title issues.

The legislation to set up the Tribunal will be required to support Queensland’s proposed alternative to the right-to-negotiate provisions in the *Native Title Act (Commonwealth)*. If the legislation is passed, the Tribunal may be in place by mid-1999.