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# MINING SECTOR UPDATE

AUSTRALIA AND PAPUA NEW GUINEA

NOVEMBER 2018

## INTRODUCTION

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Welcome to the November edition of the Mining Sector Update from Corrs Chambers Westgarth. This briefing keeps you up-to-date with recent mining deals, market rumours, potential opportunities and relevant regulatory updates.

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# IN THIS EDITION

- Papua New Guinea's potential foray into thermal coal exports
- AMEC's 2018/2019 Federal Election Platform
- Queensland's *Mineral, Water and Other Legislation Amendment Act 2018* (Qld)
- The new *Mines Legislation (Resources Safety) Amendment Act 2018* (Qld)

# RECENT ANNOUNCEMENTS

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## Doray Minerals to sell Andy Well Gold Project to Galane Australia

On 5 October 2018, ASX listed **Doray Minerals Limited** announced that it has agreed to divest the **Andy Well Gold Project** to **Galane Australia Pty Ltd**, a subsidiary of Canadian gold miner **Galane Gold Limited**, for a total consideration of A\$10 million.

Completion is expected to occur in early 2019.

In conjunction with this sale, Doray Minerals has reached a non-binding agreement with Galane for a farm out and joint venture of the **Gnaweeda Project**. The final agreement is currently being negotiated.

## Doray Minerals and Silver Lake Resources to merge

In other news for Doray Minerals, on 14 November 2018 the company announced its merger with ASX listed **Silver Lake Resources** by way of a Doray Scheme of Arrangement.

The two companies have entered into a binding Scheme Implementation Deed under which the transaction will occur. Under the current terms, shareholders of Silver Lake and Doray will own 62.7% and 37.3%, respectively, of the issued ordinary shares in the newly formed organisation.

In a joint ASX announcement, the companies expressed their intention was to form a leading ASX mid-tier growth-focused gold producer.

The joint ASX announcement can be read in full [here](#).

## Square, Mayur in coal offtake deal

ASX listed company **Mayur Resources** has announced the signing of a non-binding letter of intent with Australian based coal marketing and trading company **Square Resources** for the promotion of seaborne exported coal produced from the **Depot Creek Project** in Gulf Province, Papua New Guinea.

Square resources will facilitate trial cargo coal acceptance testing with end user customers, and if these prove successful, then a commercial framework for long term binding sale and purchase offtake agreements will be agreed with Square Resources and the end users for when a full-scale mining operation is achieved.

Mayur Resources' ASX announcement can be read in full [here](#).

## Bauxite Resources in discussions with potential JV partners for Gingin, Albany and Esperance silica sand projects

On 26 October 2018, ASX listed **Bauxite Resources Limited** announced that it is seeking joint venture partners to assist in the development and funding of their silica sand projects at Albany, Esperance and Gingin.

At this stage, Bauxite Resources has undertaken briefings with the local authorities and a number of potential partners, with high levels of initial interest reported.

Bauxite Resources is proposing to commence detailed exploration fieldwork once a joint venture or offtake partner is secured.

Bauxite Resource's September 2018 Quarterly Report can be read in full [here](#).

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## Ramu Project

ASX listed **Highlands Pacific Limited** has confirmed media reports that **Metallurgical Corporation of China Limited (MCC)**, the manager and majority partner in the **Ramu nickel and cobalt project** in Papua New Guinea, is investigating the expansion of the project which may cost in the order of US\$1.5 billion.

Highlands Pacific holds an 8.56% interest in the Ramu Project (increasing to 11.3% upon repayment of project loans to MCC).

Details of any proposed expansion will be announced when they are finalised.

Highlands also reported that the project has been achieving record rates of production and strong profitability in recent quarters, and has recently increased its Ore Reserves and Mineral Resources and has plans for further drilling programs.

Highlands Pacific's ASX announcement can be read in full [here](#).

## Tungsten Mining acquisition of Hatches Creek will not proceed

ASX listed **Tungsten Mining NL** announced on 26 October 2018 that the company's planned acquisition of the **Hatches Creek Tungsten Project** from ASX listed **GWR Group Limited** will not proceed.

Following consultation with the ASX, the company was advised that the transaction could not proceed on the basis of the proposed structure (purchase by way of cash consideration of A\$8.68 million).

Despite this setback, Tungsten Mining has expressed its ongoing commitment to investing in the project and that it will continue to negotiate in good faith with GWR Group.

Tungsten Mining's ASX announcement can be read in full [here](#).

record rates  
of production  
and strong  
profitability



# RECENTLY COMPLETED DEALS

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completion  
of the deal is  
expected before  
the end of 2018

## AUSTRALIA

### **BCI Minerals sells Kumina Iron Ore Project to Mineral Resources Limited**

On 22 October 2018, ASX listed **BCI Minerals Limited** announced that it had agreed to sell its **Kumina Iron Ore Project** to ASX listed **Mineral Resources Limited** for a total consideration of A\$35 million.

The company's Managing Director, Alwyn Vorster, said that, *"A positive return on the Kumina investment has been achieved given that the tenements were acquired for less than A\$9 million in late 2017 followed by a modest initial 6-month exploration program which resulted in a maiden JORC Mineral Resource of 115Mt at 58% Fe"*.

Although subject to transfer of tenement ownership and third-party consents and assignments, completion of the deal is expected before the end of 2018.

BCI's broader iron ore asset divestment process is ongoing, and discussions with potential purchasers on several other assets continue.



# MARKET RUMOURS AND OPPORTUNITIES

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## Aurizon considers sale of rail maintenance business

On 24 October 2018, the *Australian Financial Review* reported that ASX Listed **Aurizon Holdings Limited** may be considering selling one of its rail maintenance businesses.

The business is reported to be worth between A\$200 and A\$400 million.

## Downer's mining services division draws interest from offshore group

The *Australian Financial Review* has reported that an unnamed offshore group has expressed interest in the mining services division of ASX listed **Downer EDI Limited**. No source was cited.

Although only accounting for about 12% of Downer earnings, the division remains one of the biggest mining services businesses in Australia.

## Queensland Magnesia for sale

**Queensland Magnesia (QMAG)**, reported to be the world's largest high-quality magnesia producer outside of China, is up for sale. Currently owned by Belgium-headquartered materials company **SCR-Sibelco N.V.**, *Mergermarket* reports that sources have indicated that an IM has been circulated and teasers were distributed around three weeks ago.

It was also reported in *Mergermarket* that potential buyers may include mining companies such as ASX listed **Mineral Resources Limited**, or **Resource Capital Funds**, the Colorado-based mining-focused private equity firm which previously owned the asset.

## King River Copper to sell or partner major vanadium project

ASX listed **King River Copper Limited** will be seeking a joint venture partner, offtake partner or outright buyer for its **Speewah vanadium project** in Western Australia.

If an outright sale goes ahead, *Mergermarket* reported that the buyer would most likely be a large Chinese conglomerate dealing in titanium, alumina or iron.

King River Copper is in the process of determining the best leaching or extraction method and will then begin a pre-feasibility study for the project.

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# REGULATORY UPDATES

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increase  
the success  
of mineral  
exploration

## COMMONWEALTH

### AMEC releases 2018/2019 Federal Election Policy Platform

The Association of Mining and Exploration Companies (**AMEC**) has recently released its 2018/19 Federal Election Policy Platform.

Through this Platform, AMEC's primary goal is to maximise Australia's natural resource potential. The recommendations set out for the incoming Federal Government to consider are in the interests of driving increased mineral exploration activity and reducing the cost of doing business in Australia.

In broad terms, AMEC's 2018/19 recommendations include:

#### 1 Continuation of the Junior Minerals Exploration Incentive (**JMEI**)

The JMEI was introduced to attract and encourage investment in greenfield mineral exploration projects in Australia through exploration related tax-offset arrangements. At present, it is proposed to apply until the 2020/21 financial year. AMEC recommends a further four-year term for the initiative and increased funding, both being necessary to measure and assess the initiative's success.

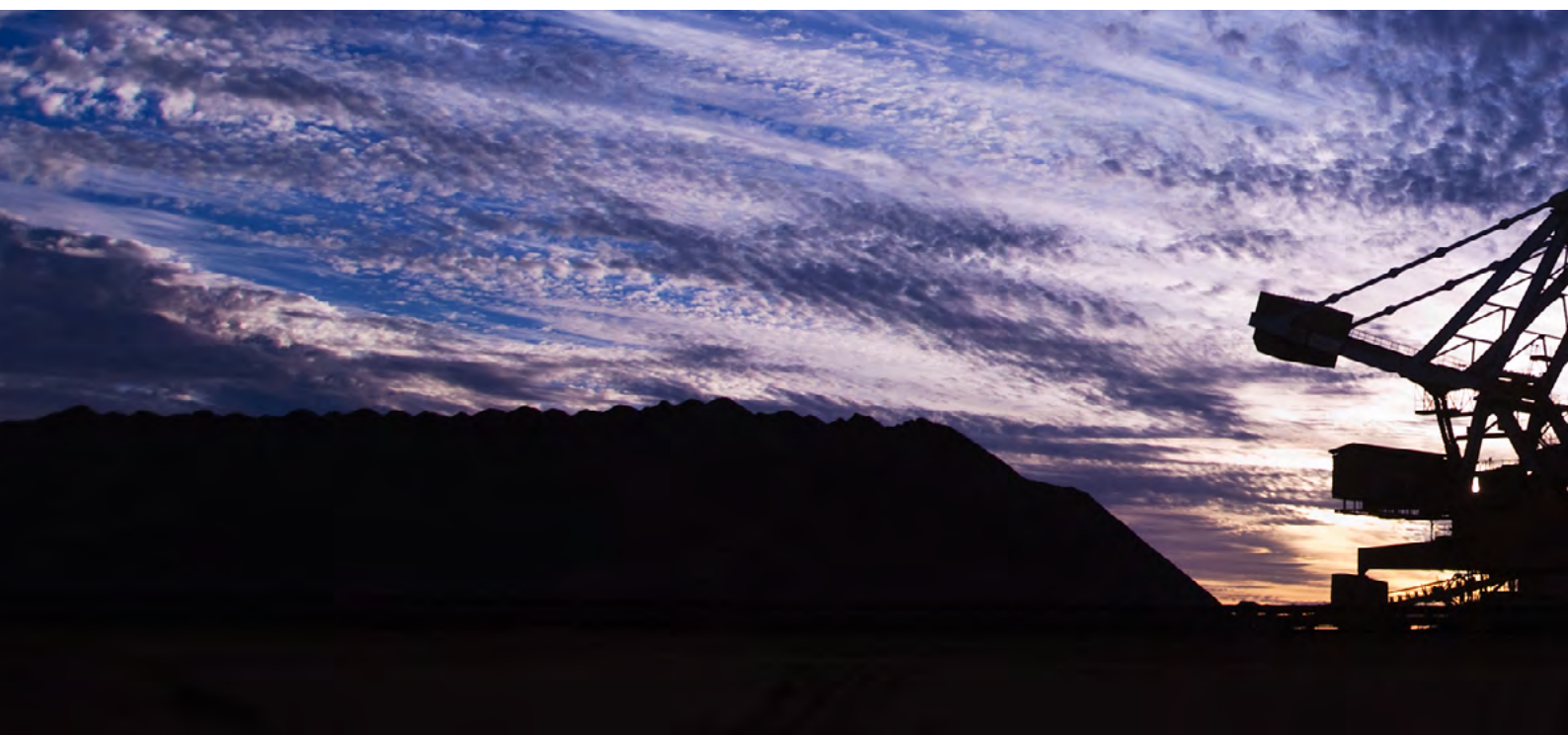
#### 2 Supporting the implementation of the 'UNCOVER' initiative

As a component of the National Mineral Exploration Strategy, the UNCOVER initiative is focused on providing the knowledge and technology necessary to increase the success of mineral exploration at greater depths in Australia. AMEC recommends that the Government continue its support of the initiative and assist in the identification of a reliable funding source moving forward.

#### 3 Implementing a series of fiscal policy initiatives

AMEC has proposed a number of fiscal policy initiatives, including:

- no new cost recovery on industry;
- retention of the diesel fuel tax credit;



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- promotion of innovation and retention of the R&D Tax Incentive (with some administrative reforms); and
  - horizontal fiscal equalisation reform, including amendment of the current GST redistribution calculation methodology.

#### 4 *Environment Protection and Biodiversity Conservation Act reform*

This recommendation proposes legislative reform which would remove 'mining and milling uranium ore' from the definition of 'nuclear action' in section 22(1)(d) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the Act), and duplicated processes regarding the 'water trigger'. AMEC suggest that the Act should be amended to prevent vexatious and frivolous anti-development appeals and that standing to appeal should be limited to those with a direct interest in a project.

#### 5 Native title reforms, including to the *Native Title Act 1993* (Cth)

AMEC's recommendations in respect of reforms to the Native Title Act are designed to increase the clarity, certainty, efficiency and effectiveness of native title processes, reduce delays and costs, and ensure fair and equitable outcomes and benefits for all stakeholders.

#### 6 Introducing internationally competitive climate change policies

#### 7 Ensuring a skilled workforce exists

#### 8 Ensuring a fair and flexible industrial relations framework exists through the continued use of flexible agreements and the skilled migration scheme

#### 9 Enhancing competition in the upstream energy sector

#### 10 Prioritising the lithium and battery minerals sector

#### 11 Reducing duplication and red tape

#### 12 Improving statistical reporting

AMEC's 2018/19 Federal Election Policy Platform can be read in full [here](#).



# REGULATORY UPDATES (CONTINUED)

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## STATE

### Queensland Mineral, Water and Other Legislation Amendment Bill passed

*The Mineral, Water and Other Legislation Amendment Act 2018* (Qld) (**MWOLA Act**) was passed by Parliament on 18 October 2018 and assented to on 25 October 2018.

The MWOLA Act was introduced for the purpose of implementing recommendations from the *Independent Review of the Gasfields Commission Queensland and Associated Matters*, and to improve the operation of resources legislation.

It makes significant changes to the process of negotiation and dispute resolution for land access and compensation under the *Mineral and Energy Resources (Common Provisions) Act 2014* (Qld) (**MERCP Act**) and to the mining lease provisions of the *Mineral Resources Act 1989* (Qld).

#### Changes to the *Mineral Resources Act 1989* (Qld)

##### ***Removal of automatic referral of compensation disputes to Land Court:***

In relation to the initial grant or renewal of a mining lease, the MWOLA Act removes the automatic referral of compensation matters to the Land Court if compensation has not been agreed within the specified timeframe. Instead, the applicant for the mining lease or the relevant landowner can apply to the Land Court to determine the amount of compensation.

In relation to the initial grant of a mining lease, the Minister can refuse to grant the mining lease if compensation has not been agreed or determined (or referred to the Land Court for determination) by three months after:

- if the land or part of the land subject to the mining lease application is a reserve, the day the Governor in Council consents to the grant of the mining lease in respect of the reserve;
- if no objection to the mining lease application is lodged and the bullet point above does not apply, the last objection day for the application; or
- the day after the Land Court makes a recommendation about the grant of the mining lease.

In relation to the renewal of a mining lease, the Minister can refuse to grant the renewal if compensation has not been agreed or determined (or referred to the Land Court for determination) within three months after the day the current term of the mining lease would end (ignoring the automatic continuation of the mining lease under section 286C while the renewal is being considered).

##### ***Changes in relation to restricted land:***

The MWOLA Act relaxes the time period within which an applicant for a mining lease over restricted land must obtain and lodge the landowner's consent to the application. Previously, landowner consent was required to be obtained and lodged with the chief executive before the end of the last objection day. The amendments allow landowner consent to be given at any time prior to the grant of the mining lease. The MWOLA Act also creates a new process to allow restricted land to be added to the area of a granted mining lease.



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***Changes to eligibility requirements for coal mining lease applications:***

The MWOLA Act has reintroduced the requirement of pre-requisite tenure for applications for coal mining leases. Now, the proposed area for a coal mining lease must be within the area of a prospecting permit, EPC or MDL and the applicant for the coal mining lease must be either the holder of such pre-requisite tenure or have the consent of the holder of such pre-requisite tenure.

***Changes to application process for EPCs:***

The MWOLA Act also introduces a limited new 'over the counter' process, in addition to the existing competitive tender process, for applying for exploration permits for coal. In limited circumstances, an applicant can apply for an exploration permit for coal which shares a common border with the area of an existing coal mining project. Under the new process, 'coal mining project' is defined as one or more coal interests (including an EPC or MDL) that is or includes a coal mining lease, or an application for a coal mining lease, if authorised activities for the coal interest or interests are or will be carried out as a single integrated operation.

The area of the new exploration permit must not be more than 6 sub-blocks and must not be the subject of a coal interest, an application for a coal exploration tenement, or a call for EP (coal) tenders. Only one application can be made under the new process in respect of any single coal mining project.

***Changes to the Mineral and Energy Resources (Common Provisions) Act 2014 (Qld)***

The MWOLA Act also amends the statutory negotiation process for conduct and compensation agreements under the MERC Act.

Amongst other matters, the amendments allow the parties to a dispute in relation to a CCA to agree to undertake binding arbitration in relation to the dispute, as an alternative to determination by the Land Court.

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# REGULATORY UPDATES (CONTINUED)

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## Health and safety changes: Mines Legislation (Resources Safety) Amendment Act 2018

The Queensland parliament has passed the *Mines Legislation (Resources Safety) Amendment Act 2018* (Qld) (**Act**) in a move that will strengthen the existing regulatory framework for health and safety in the mining industry.

The Act makes a number of key amendments to the *Coal Mining Safety and Health Act 1999* (Qld) (**CMSHA**) and the *Mining and Quarrying Safety and Health Act 1999* (Qld) (**MQSHA**), particularly in terms of officer's duties, penalties for non-compliance, greater inspection powers and improved health surveillance in the industry.

Changes include:

### Positive duty on officers

- Under the new provisions, officers of a corporation have a positive duty to exercise due diligence so as to ensure legislative compliance, bringing the CMSHA and MQSHA into line with equivalent provisions in the *Work Health and Safety Act 2011* (Qld) (**WHS Act**).
- Officers can be convicted of an offence, irrespective of whether or not the corporation is also convicted or found guilty.
- These provisions reflect a deliberate policy shift to impose a positive, proactive duty on officers to ensure compliance and therefore compliment the obligations that currently rest primarily with the Site Senior Executive (**SSE**).

### Increases to maximum penalties

- Maximum penalties for failure to discharge obligations have increased. By way of example:
  - *Where a breach caused multiple deaths*, a corporation will now face a maximum fine of \$3,916,500, and an officer a maximum fine of \$783,300 or three years imprisonment; and
  - *Where a breach caused death or grievous bodily harm*, a corporation will now face a maximum fine of \$1,958,250, and an officer a maximum fine of \$391,650 or 2 years imprisonment.

### Ability to impose civil penalties

- The chief executive of the Department of Natural Resources, Mines and Energy (**chief executive**), is now able to impose civil penalties on corporations for non-compliance with its obligations.
- Procedurally, the chief executive must first provide the corporation with a notice setting out details such as facts and grounds and the proposed penalty, following which the corporation has an opportunity to respond.
- Any subsequent decision by the chief executive to impose a penalty must be communicated in writing, including reasons. Corporations aggrieved by a decision can appeal to the Industrial Magistrates Court.
- The provisions dealing with the imposition of civil penalties cannot be instituted after a successful conviction. They can however be instituted if the criminal proceeding ends without the corporation being convicted or found guilty.
- The Act provides for three categories of civil offences and a maximum penalty depending on the nature and gravity of the safety and health risk. The maximum penalty amounts vary from \$130,550 for a category one offence to \$65,275 for a category three offence.

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the Act  
commenced on  
9 November 2018

### **Right of entry by inspectors**

- The Act closes a number of legislative gaps that have existed in respect of entry by inspectors to workplaces outside of the mining lease.
- Entry powers will now operate so as to enable inspectors to enter any workplace that has the potential to affect safety and health of workers at a mine.

### **Safety and health management systems (SHMS)**

- Contractors and service providers are required to provide a copy of their safety and health management plan to the SSE for consideration and integration (as appropriate) into the mine's SHMS.
- In conjunction, SSEs are required to keep and administer a single, integrated SHMS.
- The policy objective is to improve collaboration between contractors and service providers and the relevant SSE, so as to facilitate a single, integrated SHMS at each mine for all mine workers.

### **Ventilation officer competencies**

- Amendments have been made to improve standards of proficiency for ventilation officers.

### **Access to information about holders of certificates etc**

- A single register of holders of certificates of competency, SSE notices and other relevant notices is to be established and administrative red tape has been cut so as to enable access to this information by mine operators and SSEs.

### **Broader reporting requirements**

- Designers, manufacturers, importers and suppliers have an obligation to notify the mines inspectorate and mine operators when they become aware of hazards or defects in supplied equipment and substances that may cause unacceptable levels of risk.

### **Release of safety information**

The Act strengthens provisions enabling timely release of safety information by regulators (e.g. safety alerts about incidents) in an effort to improve implementation of learnings from those incidents.

### **Notification of diseases**

- Following recent legislative amendments in relation to pneumoconiosis, medical officers now owe a duty to notify reportable diseases, complementing the existing duty applicable to SSEs.


### **Health surveillance**

The Act includes provisions to emphasise ongoing health surveillance of workers in the mining industry, both past and present.

The Act commenced on 9 November 2018. It provides for a transitional period of three years during which certain provisions relating to the appointment of ventilation officers under the CMSHA and MQSHA will not apply. The Act similarly provides for a transitional period of one year, during which certain provisions relating to the appointment of site senior executives under the MQSHA will not apply.

The Act otherwise came into force on 9 November 2018.

In summary, the amendments bring greater alignment between the relevant mines safety legislation and model workplace health and safety laws and strengthen the regulatory framework for health and safety in the mining industry. Mine operators, SSEs and officers of corporations should familiarise themselves with the changes and ensure they comply with them.



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