



Tenure Matters



A column by Sue Slater, Senior Advisor Petroleum, RLMS

Issue No. 16

If you were a regular reader of Tenure Matters, I apologise for the long hiatus since the last issue. Over the next few months I will be completing the missing issues of Tenure Matters, between February and June, so please bear with me.

In this issue I want to talk about a different perspective on land release. Since the introduction of the *Petroleum & Gas (Production & Safety) Act 2004*, all exploration tenures for petroleum and gas have been by a competitive tender process. The first competitive land release under this regime was in 2005. These have continued annually, usually with a release date to coincide with the APPEA conference each year.

In 2013, the *Mining and other Legislation Amendment Act, 2013* introduced the ability for the government to instigate a cash-bidding process for the land releases; and since then most years have included one or more areas subject to cash-bidding.

Time frames to go from land release to actual work on-the-ground have typically between 4 and 5 years. If you think that is excessive and doesn't seem like it could be the case, consider this:

- Typically the time submissions close is at least 6 months after the land release,
- It has then typically been another 12 months to the announcement of a preferred tenderer,
- Until the introduction of the Eligibility Criteria and Standard Conditions for Petroleum Exploration¹ under the *Environmental Protection Act 1994* Environmental Authorities (EA) for exploration were taking about 12 months to negotiate with the relevant department,
- If native title negotiations were required, add up to 2 years for a Right to Negotiate to be finalised,
- Once the requisite EA and native title have been finalised, there is no decision-making timeframe imposed, so actual grant of the ATP may still take several more months, and

¹ <https://www.ehp.qld.gov.au/management/non-mining/environmental-authority.html>

- Once finally granted, land access negotiations which have got more time consuming over the last 5 years, could take up to 9-12 months.

It would be a brave explorer indeed who expects to achieve actual work on-the-ground in Year 1 of the first 4-year work program!

In the department, the time taken to collate the areas for land release and the associated data and information package is significant. They are probably under-resourced to do more than one land release per year, if they continue to follow the same format.

Expressions of interest in land release areas are also apparently not dealt with effectively, although I have only anecdotal evidence of this.

Currently the Act allows that the State can invite tenders for an ATP. The call must state the proposed area and the excluded land. To now, this has translated as specifically defined graticular blocks grouped into areas of less than 100 graticular blocks. So each specific ATP area is defined and decided by the Department. An applicant may not apply for only part of the area. Whilst this is a reasonable approach in the producing basins, such as the Bowen, Surat and Cooper, where vacant land is fairly constrained anyway; it may not be the best approach in frontier or greenfield basins such as the Galilee Basin, Carpentaria Basin, Georgina Basin, or even the Eromanga Basin where it doesn't overlie the Cooper Basin. See Figure 1 for the current distribution of ATPs and PLs.

In these areas, whilst I would ultimately and ideally argue that we go back to an over-the-counter approach, this would require legislation change. I believe that a change in thinking and policy application could achieve a similar result without necessarily having to change legislation. In these less explored, and mostly so far unproduced, basins, could the Department save time and effort by making certain basins "open for business"? So, an example of this might be, that the tender would state that applications within the boundaries, of let's say, the Carpentaria Basin, of up to 100 graticular blocks can be made between 1 January 2016 and 30 March 2016.

In this way, the explorer determines the area of interest and the Department can do less preparation. The criteria for assessment will have to be clear, and the process in the event of an overlap or partial overlap clear – but the Department has dealt with this before for petroleum with the land release in 2003 and also under the *Mineral Resources Act 1989*. It could be that within that timeframe of submission, the first application has priority over the overlapped area; or that the competing areas are assessed critically for the, hopefully, best public interest outcome. It is certainly not an insurmountable problem.

This may help encourage exploration, by improving the perception of land availability in the State, and could hopefully result in some additional exploration over currently unheld areas of the State.

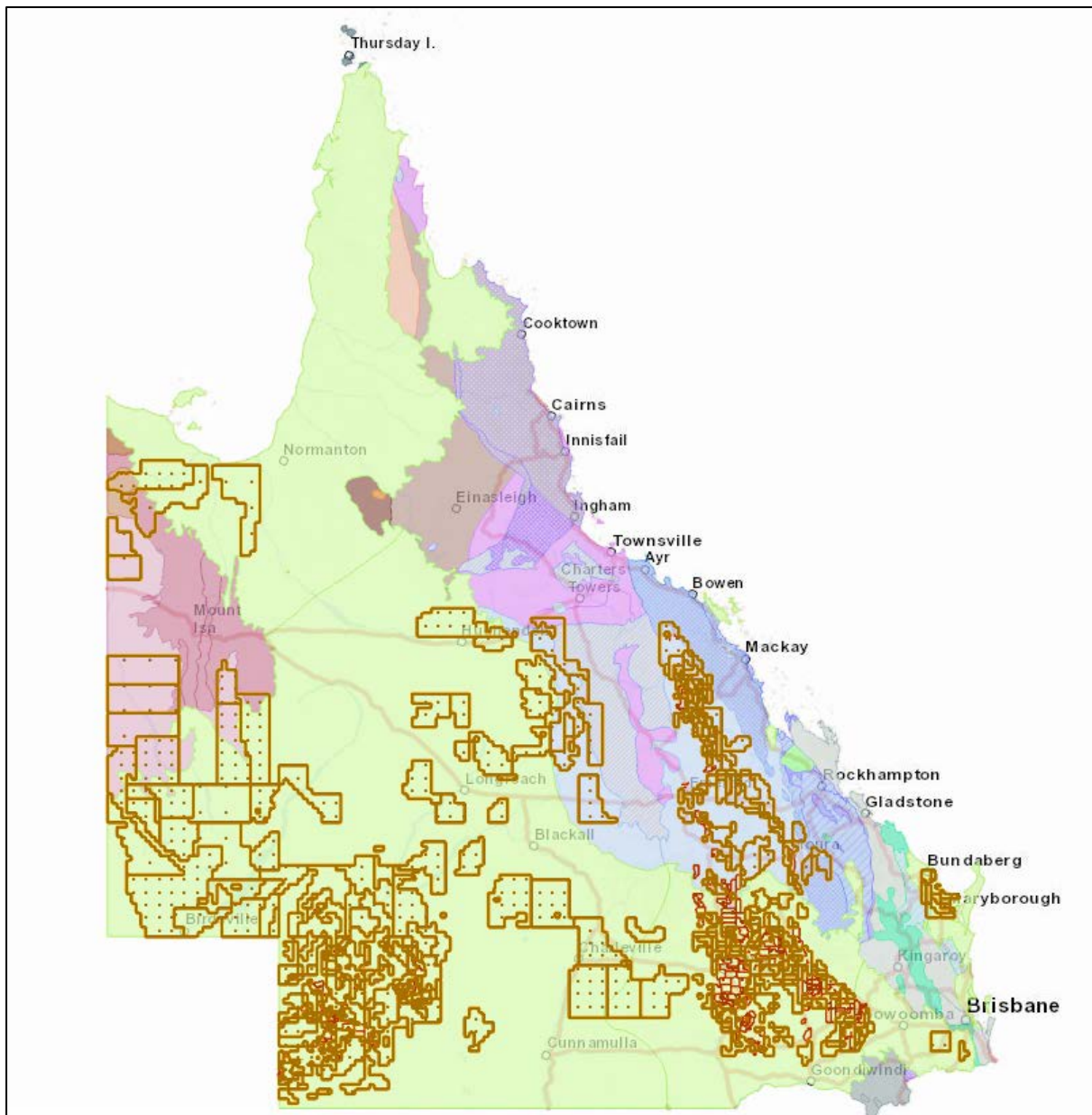
I would love to know what you think about this idea. It might free up land availability without the time and cost impact of legislative change.

I am happy to hear suggestions about topics you would like covered. Feel free to email me at sue.slater@rlms.com.au with the subject heading Tenure Matters.

In the meantime, remember "Tenures make the Project; the Project doesn't make the Tenures".

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Figure 1 Current distribution of ATPs and PLs



Screenshot from MinesOnlineMaps, August 21 2015²

RLMS covers the project spectrum from planning through to State and Federal government approvals, including land access, compensation, environmental impact statements and work schedules for clients ranging from entrepreneurs to major corporations, from start-ups to government agencies, and state significant projects such as Queensland's LNG giants. Contact RLMS at:

Level 14, 10 Eagle St
BRISBANE QLD 4000
P. +61 7 3229 8472
E. rlms@rlms.com.au

² <https://minesonlinemaps.business.qld.gov.au/>