

I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.



Legislative Assembly Chamber,
Brisbane,

M. Riis
The Clerk of the Parliament.

26 September 2014

In the name and on behalf of the Queen, I assent to this Bill.

Michael de Jersey
Government House,

Brisbane,

26 September 2014



Queensland

No. 47 of 2014
A BILL for

An Act to provide for the first step in creating a simplified common framework for managing resource authorities in order to optimise development and use of Queensland's mineral and energy resources and to manage overlapping coal and petroleum resource authorities for coal seam gas, and further to repeal the Coal and Oil Shale Mine Workers' Superannuation Act 1989, and to amend this Act, the Aboriginal Cultural Heritage Act 2003, the Environmental Protection Act 1994, the Geothermal Energy Act 2010, the Greenhouse Gas Storage Act 2009, the Land Court Act 2000, the Mineral Resources Act 1989, the Mount Isa Mines Limited Agreement Act 1985, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the Property Law Act 1974, the State Development and Public Works Organisation Act 1971, the Torres Strait Islander Cultural Heritage Act 2003 and the Mineral Resources Regulation 2013 for particular purposes



Queensland

Mineral and Energy Resources (Common Provisions) Bill 2014

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2014

A Bill

for

An Act to provide for the first step in creating a simplified common framework for managing resource authorities in order to optimise development and use of Queensland's mineral and energy resources and to manage overlapping coal and petroleum resource authorities for coal seam gas, and further to repeal the *Coal and Oil Shale Mine Workers' Superannuation Act 1989*, and to amend this Act, the *Aboriginal Cultural Heritage Act 2003*, the *Environmental Protection Act 1994*, the *Geothermal Energy Act 2010*, the *Greenhouse Gas Storage Act 2009*, the *Land Court Act 2000*, the *Mineral Resources Act 1989*, the *Mount Isa Mines Limited Agreement Act 1985*, the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *Property Law Act 1974*, the *State Development and Public Works Organisation Act 1971*, the *Torres Strait Islander Cultural Heritage Act 2003* and the *Mineral Resources Regulation 2013* for particular purposes

The Parliament of Queensland enacts—

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Mineral and Energy Resources (Common Provisions) Act 2014*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Purposes and application of Act

3 Main purposes

The main purposes of this Act are—

- (a) to consolidate particular provisions common to each of the Resource Acts; and
- (b) to provide for particular common processes that apply to resource authorities; and
- (c) to manage overlapping coal and petroleum resource authorities for coal seam gas; and

- (d) to assist in achieving the purposes of each of the Resource Acts.

4 How main purposes are achieved

- (1) The main purposes are achieved by providing for the following matters mainly in this Act, rather than in each of the Resource Acts—
 - (a) dealings, caveats and associated agreements;
 - (b) land access;
 - (c) the new framework for overlapping coal and petroleum resource authorities for coal seam gas;
 - (d) the resource authority register;
 - (e) other miscellaneous matters.
- (2) It is the intention of Parliament that this Act be the first step towards the replacement of the Resource Acts with a simplified common framework that will apply to all resource authorities.

5 Act binds all persons

- (1) This Act binds all persons, including the State and as far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Nothing in this Act makes the State, the Commonwealth or another State liable to be prosecuted for an offence against this Act.

6 Relationship with Resource Acts

- (1) This Act is to be read and construed with, and as if it formed part of, each Resource Act.
- (2) Without limiting subsection (1), the following principles apply—

[s 6]

- (a) this Act is not intended to exclude, limit or otherwise affect the operation of a Resource Act unless this Act otherwise expressly provides;
 - (b) a reference to ‘this Act’ in a provision of a Resource Act relating to any of the following matters includes a reference to this Act—
 - (i) the functions or powers of an authorised officer under a Resource Act, including, for example, the power to give a compliance direction;
 - (ii) the functions or powers of a Minister under a Resource Act, including, for example, the power to take noncompliance action;
 - (iii) proceedings for an offence against a provision of a Resource Act;
 - (c) if the context permits, a reference to ‘this Act’ in a provision of a Resource Act, other than a provision mentioned in paragraph (b), includes a reference to this Act.
- (3) Without limiting subsection (2)(a), this Act is not intended to exclude, limit or otherwise affect the following unless this Act otherwise expressly provides—
- (a) the power under a Resource Act to grant a resource authority;
 - (b) the carrying out of authorised activities for a resource authority;
 - (c) the duties, obligations, requirements or restrictions imposed on a resource authority holder.
- (4) Despite subsections (2)(a) and (3), if this Act is inconsistent with a Resource Act, this Act prevails to the extent of the inconsistency.
- (5) Without limiting subsection (1), (2), (3) or (4)—
- (a) if a provision of this Act deals with a particular matter and a provision of a Resource Act deals with the same

matter and it is impossible to comply with both provisions, a person must comply with the provision of this Act and is excused from complying with the provision of the Resource Act, to the extent that it can not be complied with; and

- (b) if a provision of this Act deals with a particular matter and a provision of a Resource Act deals with the same matter and it is possible to comply with both provisions, a person must comply with both provisions.

7 Reference to a Resource Act includes reference to this Act

If the context permits, a reference in another Act or document to a Resource Act is taken to include a reference to this Act.

Part 3 Interpretation

Division 1 Dictionary

8 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

Division 2 Key definitions

9 What is a *Resource Act*

Each of the following is a *Resource Act*—

- (a) the Mineral Resources Act;
- (b) the P&G Act;

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- (c) the 1923 Act;
- (d) the Geothermal Act;
- (e) the Greenhouse Gas Act.

10 What is a *resource authority*

Each of the following is a *resource authority*—

- (a) any of the following under the Mineral Resources Act—
 - a prospecting permit;
 - a mining claim;
 - an exploration permit;
 - a mineral development licence;
 - a mining lease;
- (b) any of the following under the P&G Act—
 - an authority to prospect;
 - a petroleum lease;
 - a data acquisition authority;
 - a water monitoring authority;
 - a survey licence;
 - a pipeline licence;
 - a petroleum facility licence;
- (c) any of the following under the 1923 Act—
 - an authority to prospect;
 - a lease;
 - a water monitoring authority;
- (d) any of the following under the Geothermal Act—
 - a geothermal exploration permit;
 - a geothermal production lease;

- (e) any of the following under the Greenhouse Gas Act—
- a GHG exploration permit;
 - a GHG injection and storage lease;
 - a GHG injection and storage data acquisition authority.

11 What is the *authorised area*

The *authorised area*, for a resource authority, means the area to which the resource authority relates.

12 Who is an *owner* of land and other things

- (1) An *owner*, of land, means each person as stated in schedule 1 for the land.
- (2) Also, a mortgagee of land is the *owner* of land if—
- (a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or
 - (b) the mortgagee, or a person appointed by the mortgagee, is in possession of the land and has the exclusive management and control of the land.
- (3) If land or another thing has more than 1 owner, a reference in this Act to the owner of the land or thing is a reference to each of its owners.

13 What is *private land*

- (1) *Private land* is—
- (a) freehold land; or
 - (b) an interest in land less than fee simple held from the State under another Act.

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- (2) However, land is not private land to the extent of an interest in any of the following relating to the land—
 - (a) a mining interest under the Mineral Resources Act;
 - (b) a petroleum authority under the P&G Act or 1923 Act petroleum tenure under the 1923 Act;
 - (c) a geothermal tenure under the Geothermal Act;
 - (d) a GHG authority under the Greenhouse Gas Act;
 - (e) an occupation right under a permit under the *Land Act 1994*.
- (3) Also, land owned by a public land authority is not private land.

14 What is *public land*

- (1) ***Public land*** is any land other than—
 - (a) private land; or
 - (b) to the extent an interest in any of the following relates to the land—
 - (i) a mining interest under the Mineral Resources Act;
 - (ii) a petroleum authority under the P&G Act or 1923 Act petroleum tenure under the 1923 Act;
 - (iii) a GHG authority under the Greenhouse Gas Act;
 - (iv) a geothermal tenure under the Geothermal Act;
 - (v) an occupation right under a permit under the *Land Act 1994*.
- (2) ***Public land*** includes a public road.

15 What is a *public road*

A ***public road*** is an area of land that—

- (a) is open to or used by the public; and

- (b) is developed for or has as 1 of its main uses—
 - (i) the driving or riding of motor vehicles; or
 - (ii) pedestrian traffic; and
- (c) is controlled by a public road authority.

Examples of an area of land that may be included in a road—

- a bridge, culvert, ford, tunnel or viaduct
- a pedestrian or bicycle path

Chapter 2 Dealings, caveats and associated agreements

Part 1 Dealings

16 What is a *dealing*

A *dealing*, in relation to a resource authority, is—

- (a) any transaction or arrangement that causes the creation, variation, transfer or extinguishment of an interest in the resource authority; or
- (b) another transaction or arrangement, prescribed by regulation, that affects the resource authority.

17 Prescribed dealings require registration

- (1) A regulation may prescribe the dealings with a resource authority (each a *prescribed dealing*) that must be registered under this part to have effect.
- (2) A prescribed dealing must not be registered without the Minister's approval.

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- (3) A prescribed dealing has no effect unless, and until, it is registered under this part.

18 Prohibited dealings have no effect

- (1) The following dealings with a resource authority are prohibited—
- (a) a dealing with a resource authority that transfers a divided part of the authorised area for the resource authority, unless the dealing is—
 - (i) a sublease of a resource authority that is a lease; or
 - (ii) a transfer of a sublease mentioned in subparagraph (i) or of a share in the sublease;
 - (b) a dealing with a resource authority prescribed by regulation as prohibited.
- (2) A dealing with a resource authority prohibited under subsection (1) must not be registered under this part and has no effect.

19 Application for Minister's approval to register dealing

- (1) The *ordinary rule* is that the following entities may apply to the Minister for approval to register a prescribed dealing—
- (a) the affected resource authority holder;
 - (b) any other entity with the affected resource authority holder's consent.
- (2) However, if a prescribed dealing is required to be executed because of the operation of a law, a regulation may change the ordinary rule by prescribing the following—
- (a) who may or must make the application;
 - (b) the period within which the application must be made.

Example of dealing required to be executed because of the operation of a law—

the transfer of an interest in a resource authority because of the death of the resource authority holder

- (3) Chapter 5, part 1 applies for processing the application, and the Minister must decide to either refuse to give the approval or give the approval with or without conditions.

Note—

See section 23 if the approval relates to a prescribed dealing for which an indicative approval has been given under that section.

- (4) In this section—

affected resource authority holder means—

- (a) for a prescribed dealing affecting the whole of a resource authority—the holder of the resource authority; or
(b) for a prescribed dealing affecting a share in a resource authority—the holder of the share.

20 Unpaid royalties prevent transfer of resource authority

- (1) This section applies if a prescribed dealing is a transfer of a resource authority or of a share in a resource authority.
- (2) However, this section does not apply if—
- (a) the share in the resource authority is being transferred to a person who already holds a share in the resource authority; and
- (b) the person transferring the share continues, after the transfer, to hold a share in the resource authority.
- (3) The Minister must not give an approval under section 19 while any royalty payable by the holder of the resource authority remains unpaid.

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21 Security may be required

- (1) This section applies if a prescribed dealing is a transfer of a resource authority or of a share in a resource authority.
- (2) As a condition of deciding to give an approval under section 19, the Minister may require the proposed transferee to give the State security for the resource authority.
- (3) The provisions of the relevant Resource Act for giving security for the type of resource authority are taken to apply to the proposed transferee and the security as if the security were given under those provisions.

Examples of the provisions of the relevant Resource Act—

- For the Geothermal Act, see chapter 6, part 4.
- For the Greenhouse Gas Act, see chapter 5, part 6.
- For the Mineral Resources Act, see sections 83, 144, 190 and 277.
- For the 1923 Act, see part 6G.
- For the P&G Act, see chapter 5, part 1.

22 Effect of registration and Minister's approval

The registration of a prescribed dealing, or the Minister's approval to register the dealing under section 19, allows the dealing to have effect according to its terms but does not of itself give the dealing any more effect or validity than it would otherwise have.

23 Indication of Minister's approval to register

- (1) This section applies for a proposed prescribed dealing.
- (2) The prescribed applicant for the proposed prescribed dealing may apply to the Minister for an indication of (an *indicative approval*)—
 - (a) whether the Minister is likely to give approval to register the proposed prescribed dealing; and

- (b) what, if any, conditions are likely to be imposed by the Minister.
- (3) Chapter 5, part 1 applies for processing the application, and the Minister must decide to either refuse to give the indicative approval or give the indicative approval with or without conditions.
- (4) Subsection (5) applies if—
 - (a) the indicative approval indicates the Minister will give approval to register the proposed prescribed dealing; and
 - (b) within the prescribed period, the prescribed applicant applies to the Minister under section 19 for approval to register the proposed prescribed dealing.
- (5) The Minister must grant the approval in accordance with the indicative approval unless—
 - (a) the proposed prescribed dealing is a transfer of the resource authority and the proposed transferee is not eligible to be a resource authority holder under this Act or the relevant Resource Act; or
 - (b) the application for the indicative approval contained incorrect material information or omitted material information and, had the Minister been aware of the discrepancy, the Minister would not have given the indicative approval; or
 - (c) preconditions for the indicative approval have not been complied with.
- (6) To remove any doubt, it is declared that granting of the approval is subject to sections 20 and 21.
- (7) In this section—

preconditions, for an indicative approval, means conditions imposed on the approval under this section that must be complied with before a related application is made for approval under section 19.

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prescribed applicant, for a proposed prescribed dealing, means the entity that may, under section 19(1) or (2), apply for approval to register the dealing.

Part 2 Caveats

24 Definition for pt 2

In this part—

affected resource authority, for a caveat, means the resource authority over which the caveat is lodged.

25 Lodging of caveat

- (1) A person claiming an interest in a resource authority may lodge a caveat over the resource authority if the caveat—
 - (a) complies with the prescribed requirements for it; and
 - (b) is not a prohibited caveat; and
 - (c) is accompanied by the fee prescribed by regulation.
- (2) On receipt of the caveat, the chief executive must—
 - (a) record its existence in the register; and
 - (b) notify each holder of the affected resource authority of the receipt of the caveat; and
 - (c) notify all other persons who have a registered interest in the resource authority, and any subsisting prior caveator, of the receipt of the caveat.
- (3) A caveat has no effect for this Act if—
 - (a) it does not comply with the prescribed requirements for it; or
 - (b) it is a prohibited caveat.

- (4) In this section—

prohibited caveat means a caveat of a type, prescribed by regulation, that can not be lodged.

registered interest, in a resource authority, means an interest in the resource authority recorded in the register.

26 Effect of lodging caveat

- (1) Until a caveat lapses, is withdrawn or is removed, the caveat prevents registration of a dealing in relation to the affected resource authority from the date and time endorsed by the chief executive on the caveat as the caveat's date and time of lodgement.
- (2) However—
- (a) lodgement of a caveat does not prevent registration of an instrument of a type prescribed by regulation; and
 - (b) if a caveat is lodged over only a share in a resource authority, lodgement of the caveat does not prevent registration of a dealing in relation to the other shares in the resource authority.
- (3) A caveat does not create an interest in the affected resource authority.

27 Lapsing of caveat

- (1) A caveat lapses—
- (a) for a caveat for which there was consent—at the expiration of the term, if any, stated in the caveat; or
 - (b) for a caveat for which there was no consent—
 - (i) if an order of the Land Court is in force in relation to the caveat—at the expiration of the order; or
 - (ii) otherwise—at the expiration of 3 months after the date of lodgement of the caveat or a shorter term stated in the caveat.

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- (2) If there was consent to a caveat and the caveat does not state a term for which it continues, the caveat continues until it is withdrawn or removed.
- (3) There is consent to a caveat only if each holder of the affected resource authority has consented to the lodgement of the caveat and the consent is lodged together with the caveat.

28 Withdrawal or removal of caveat

- (1) The caveator for a caveat may withdraw the caveat by notifying the chief executive in writing.
- (2) Either of the following persons may apply to the Land Court for an order that a caveat be removed—
 - (a) a person who has a right or interest (present or prospective) in the affected resource authority;
 - (b) a person whose right (present or prospective) to deal with the affected resource authority is affected by the caveat.

Note—

See the *Land Court Rules 2000* for how to make an application to the Land Court.

- (3) The Land Court may make the order—
 - (a) whether or not the caveator has been served with the application; and
 - (b) on the terms it considers appropriate.

29 Recording of lapsing, withdrawal or removal of caveat

As soon as practicable after a caveat lapses, is withdrawn or is ordered to be removed, the chief executive must record the lapse, withdrawal or removal in the register.

30 Further caveat not available to same person

- (1) This section applies if a caveat (the *original caveat*) is lodged over an interest in an affected resource authority.
- (2) A further caveat with the same caveator can not be lodged over the interest on the same, or substantially the same, grounds as those stated in the original caveat unless—
 - (a) the consent of each holder of the affected resource authority is lodged with the caveat; or
 - (b) leave of a court of competent jurisdiction to lodge the further caveat is granted.

31 Compensation for lodging caveat without reasonable cause

The caveator for a caveat lodged over a resource authority without reasonable cause is liable to compensate anyone else who suffers loss or damage because of the caveat.

Part 3 Associated agreements

32 What is an *associated agreement*

- (1) An *associated agreement*, for a resource authority, means an agreement relating to the resource authority.
- (2) However, neither of the following agreements is an *associated agreement*—
 - (a) a prescribed dealing;
 - (b) another agreement prescribed by regulation.

33 Recording associated agreements

- (1) The holder of a resource authority to which an associated agreement relates may apply to the chief executive to have the agreement recorded in the register against the resource authority.
- (2) The application may include the date on which the associated agreement expires and it is to be removed from the register.
- (3) Chapter 5, part 1 applies for processing the application.
- (4) After lodgement of a valid application, the chief executive must record the associated agreement in the register against the resource authority to which the agreement relates.
- (5) The chief executive is not required to examine, or to determine the validity of, an associated agreement.

34 Effect of recording associated agreements

The recording of an associated agreement in the register does not of itself—

- (a) give the agreement any more effect or validity than it would otherwise have; or
- (b) create an interest in the resource authority against which it is recorded.

35 Removing associated agreements from register

- (1) The holder of a resource authority to which an associated agreement relates may apply to the chief executive to have the agreement removed from the register.
- (2) Chapter 5, part 1 applies for processing the application.
- (3) After lodgement of a valid application, the chief executive must remove the associated agreement from the register.

Chapter 3 Land access

Part 1 Land access codes

36 Making of land access codes

A regulation may make 1 or more codes for all Resource Acts (each a *land access code*) that—

- (a) states best practice guidelines for communication between the holders of resource authorities and owners and occupiers of land, public land authorities and public road authorities; and
- (b) imposes on resource authorities mandatory conditions concerning the conduct of authorised activities on land.

Part 2 Private land

Division 1 Application of pt 2

37 Application of pt 2

This part does not apply in relation to the following resource authorities under the Mineral Resources Act—

- (a) a prospecting permit;
- (b) a mining claim;
- (c) a mining lease.

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Division 2 Entry for authorised activities and access requires entry notice

38 Application of div 2

This division applies to an entry to private land for the purpose of—

- (a) carrying out an authorised activity for a resource authority; or
- (b) crossing access land for the resource authority; or
- (c) gaining entry to access land for the resource authority.

39 Obligation to give entry notice to owners and occupiers

- (1) A person must not enter private land for a purpose mentioned in section 38 unless the resource authority holder has given each owner and occupier of the land an entry notice about the entry.

Maximum penalty—500 penalty units.

- (2) An entry notice is invalid if—
 - (a) it does not comply with the prescribed requirements for the notice; or
 - (b) it states a period for entry that is longer than the maximum period for entry; or
 - (c) it is not given to an owner or occupier at least 10 business days before the entry.
- (3) However, an entry notice is not invalid if—
 - (a) given to an owner or occupier less than 10 business days before the entry; and
 - (b) the owner or occupier has agreed in writing to the shorter period.
- (4) In this section—

give includes to give by publication if the resource authority holder has been given an approval to do so under section 41 and complies with the approval.

maximum period for entry means the maximum period, prescribed under a regulation, that access to land is to be allowed for a particular entry to the land.

40 Exemptions from obligations under div 2

- (1) An obligation under this division to give an entry notice about an entry to private land for a purpose mentioned in section 38 does not apply if—
 - (a) the resource authority holder owns the land; or
 - (b) the resource authority holder has an independent legal right to enter the land for the purpose; or
 - (c) the entry is to preserve life or property or because of an emergency that exists or may exist; or
 - (d) the entry is authorised under the relevant Resource Act for the resource authority; or
 - (e) the entry is of a type prescribed under a regulation.
- (2) An obligation under this division to give an entry notice about an entry to private land for a purpose mentioned in section 38 also does not apply if the resource authority holder has 1 of the following with each owner and occupier of the land—
 - (a) a waiver of entry notice for the entry that is in effect;

Note—

An owner or occupier of land may give a waiver of entry notice for an entry to the land. See section 42.

- (b) a conduct and compensation agreement for the land and—
 - (i) the agreement provides for alternative obligations for the entry; and

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- (ii) the holder complies with the alternative obligations for the entry;
 - (c) an opt-out agreement.
- (3) In this section—

independent legal right, to enter land, means a right to enter the land that is enforceable under any law, including a common law right, but does not include a right to enter the land under this Act or a Resource Act.

Example of an independent legal right to enter land—

a contractual arrangement allowing a party to the contract to enter particular land

41 Approval to give entry notices by publication

- (1) A resource authority holder may apply to the chief executive for approval to give an entry notice by publishing it in a stated way.
- (2) The application may relate to more than 1 entry notice or a particular type of entry.
- (3) The chief executive may give the approval only if satisfied—
 - (a) the publication will happen at least 20 business days before the entry; and
 - (b) for an owner or occupier who is an individual—it is impracticable to give the owner or occupier the notice personally.
- (4) Chapter 5, part 1 applies for processing the application, and the chief executive must decide to either refuse to give the approval or give the approval with or without conditions.

42 Right to give waiver of entry notice

- (1) An owner or occupier of land may give a waiver of entry notice for an entry made to the land for a purpose mentioned in section 38.

- (2) A waiver of an entry notice—
 - (a) is invalid if it does not comply with the prescribed requirements for the notice; and
 - (b) can not be withdrawn during the notified period; and
 - (c) ceases to have effect at the end of the notified period.
- (3) In this section—

notified period, for a waiver of entry notice, means the period stated in the notice as the period during which the land may be entered.

Division 3 Entry for advanced activities requires agreement

43 Carrying out advanced activities on private land requires agreement

- (1) A person must not enter private land to carry out an advanced activity for a resource authority unless each owner and occupier of the land—
 - (a) is a party to a conduct and compensation agreement about the advanced activity and its effects; or
 - (b) is a party to a deferral agreement; or
 - (c) has elected to opt out from entering into a conduct and compensation agreement or deferral agreement under section 45; or
 - (d) is an applicant or respondent to an application relating to the land made to the Land Court under section 96.

Maximum penalty—500 penalty units.

- (2) This section does not apply for an entry to private land to carry out an advanced activity for a resource authority if—
 - (a) the resource authority holder owns the land; or

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- (b) the resource authority holder has an independent legal right to enter the land to carry out the activity; or
 - (c) the entry is to preserve life or property or because of an emergency that exists or may exist; or
 - (d) the entry is authorised under the relevant Resource Act for the resource authority; or
 - (e) the entry is of a type prescribed under a regulation.
- (3) In this section—

independent legal right, to enter land, means a right to enter the land that is enforceable under any law, including a common law right, but does not include a right to enter the land under this Act or a Resource Act.

44 Deferral agreements

- (1) An owner or occupier of land may enter into an agreement (a *deferral agreement*) with a resource authority holder that a conduct and compensation agreement can be entered into after entry to the land.
- (2) A deferral agreement is invalid if it does not comply with the prescribed requirements for the agreement.

45 Right to elect to opt out

- (1) An owner or occupier of land may elect to opt out of entering into a conduct and compensation agreement or a deferral agreement with a resource authority holder.
- (2) The election to opt out is an *opt-out agreement* and is invalid if it does not comply with the prescribed requirements for the agreement.
- (3) Despite any term of the opt-out agreement, either party to the agreement may, by giving written notice to the other parties to the agreement, unilaterally terminate the agreement within 10 business days of a signed copy of the agreement being given to the owner or occupier of land.

- (4) An opt-out agreement for land ends—
- (a) according to its terms; or
 - (b) if the resource authority ends; or
 - (c) if it is terminated by the parties or under subsection (3); or
 - (d) if the parties enter into any of the following agreements—
 - (i) a deferral agreement;
 - (ii) a conduct and compensation agreement;
 - (iii) another opt-out agreement for the land.

Note—

An opt-out agreement does not negate a resource authority holder's liability to compensate an eligible claimant. See section 81.

Division 4 Access to private land outside authorised area

Subdivision 1 Application

46 Application of div 4

This division does not apply in relation to mineral development licences under the Mineral Resources Act.

Subdivision 2 Access rights and access agreements

47 Limited access to private land outside authorised area

- (1) A resource authority holder may exercise an access right over access land if—

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- (a) the following have agreed orally or in writing to the exercise of the rights—
 - (i) if exercising the rights is likely to have a permanent impact on access land—each owner and occupier of the land;
 - (ii) if exercising the rights is unlikely to have a permanent impact on access land—each occupier of the land; or
 - (b) the exercise of the rights is needed to preserve life or property or because of an emergency that exists or may exist.
- (2) An agreement about the exercise of the rights mentioned in subsection (1)(a) is an ***access agreement***.
- (3) In this section—

access land, for a resource authority, means land, outside the authorised area for the resource authority, that it is reasonably necessary to allow the holder to cross in order to enter the authorised area.

Note—

See section 49 for the criteria for deciding whether access is reasonable.

access rights, over access land for a resource authority, means the right to—

- (a) cross the access land if it is reasonably necessary to allow the holder to enter the authorised area; and
- (b) carry out activities on the access land that are reasonably necessary to allow the crossing of the land.

Example for paragraph (b)—

opening a gate or fence

permanent impact, on land, means a continuing effect on the land or its use or a permanent or long-term adverse effect on its current lawful use by an occupier of the land.

Example of an exercise of access rights that is likely to have a permanent impact—

building a road

Example of an exercise of access rights that is unlikely to have a permanent impact—

opening or closing a gate

48 Owner or occupier must not unreasonably refuse to make access agreement

- (1) An owner or occupier of access land must not, if asked by a resource authority holder, unreasonably refuse to make an access agreement with the holder.
- (2) For subsection (1), the owner or occupier does not unreasonably refuse only because the owner or occupier asks for the agreement to be subject to reasonable and relevant conditions offered by the owner or occupier.
- (3) If an owner or occupier has not made an access agreement within 20 business days after being asked to make the agreement by a resource authority holder, the owner or occupier is taken to have refused to make the agreement.

Note—

Either party may refer a refusal under subsection (1) or (3) to the Land Court to decide whether the refusal is unreasonable. See section 52.

49 Criteria for deciding whether access is reasonable

- (1) This section provides for matters to be considered in deciding whether—
 - (a) it is reasonably necessary for a resource authority holder to cross access land to allow the holder to enter the authorised area for the resource authority; or
 - (b) it is reasonably necessary for a resource authority holder to carry out activities on access land to allow the crossing of the land; or

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- (c) an owner or occupier of access land has unreasonably refused to make an access agreement.
- (2) The resource authority holder must first show it is not possible or reasonable to exercise the access rights by using a formed road.
- (3) After subsection (2) has been satisfied, the following must be considered—
 - (a) the nature and extent of any impact the exercise of the access rights will have on access land and the owner or occupier's use and enjoyment of it;
 - (b) how, when and where, and the period during which, the resource authority holder proposes to exercise the access rights.
- (4) In this section—

formed road means any existing road or track on private land or public land used, or that may reasonably be capable of being used, to drive or ride motor vehicles.

50 Additional topics for access agreements

- (1) This section applies if a resource authority holder and an owner or occupier of access land make an access agreement for the exercise of access rights over the access land.
- (2) The access agreement may provide for alternative obligations, for entry to the access land, to the entry notice obligations under section 39.
- (3) If the access agreement is in writing, it may include a conduct and compensation agreement for the exercise or future exercise of access rights by the resource authority holder.

51 Other rights to grant entry not affected

This subdivision does not limit or otherwise affect the ability of an owner or occupier to grant a resource authority holder a

right of access to land, including, for example, by the grant of an easement.

Subdivision 3 Land Court resolution

52 Power of Land Court to decide access agreement

- (1) If a dispute arises between a resource authority holder and an owner or occupier of land (the *parties*) about a matter mentioned in section 49(1), either party may apply to the Land Court for it to decide the matter.
- (2) In deciding the matter, the Land Court—
 - (a) must have regard to section 49(2) and (3); and
 - (b) may impose conditions it considers appropriate for the exercise of the access rights.
- (3) Conditions imposed under subsection (2)(b) are taken to be—
 - (a) if there is already an access agreement between the parties—conditions of that agreement; or
 - (b) if there is no access agreement between the parties—an access agreement between the parties.

53 Power of Land Court to vary access agreement

- (1) A resource authority holder, or an owner or occupier of land, may apply to the Land Court to vary an access agreement between them.
- (2) In deciding the application, the Land Court must have regard to section 49(2) and (3).
- (3) The Land Court may vary the access agreement only if it considers the change is appropriate because of a material change in circumstances.

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- (4) This section does not prevent the owner or occupier and the resource authority holder from agreeing to vary the access agreement.
- (5) The power of the Land Court to vary an access agreement is not limited by part 6.

Division 5 Periodic notice after entry of land

54 Notice to owners and occupiers

- (1) This section applies if—
 - (a) private land has been entered to carry out authorised activities for a resource authority; or
 - (b) access land for a resource authority has been entered in the exercise of the access rights over the land.
- (2) The holder of the resource authority must, within the prescribed period, give each owner and occupier of the land a notice complying with the prescribed requirements for it.

Division 6 Access to carry out rehabilitation and environmental management

55 Right of access for authorised activities includes access for rehabilitation and environmental management

- (1) This section applies if, under this part, the holder of a resource authority has the right to enter private land to carry out authorised activities for the resource authority.
- (2) The right includes a right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.

Part 3 Public land

Division 1 Entry to public lands and particular uses of public roads

56 Application of div 1

- (1) This division applies for—
- (a) an entry to public land; and
 - (b) the use of a public road, other than a notifiable road use.

Note—

For the obligations of a resource authority holder for a notifiable road use, see division 2.

- (2) However, this division does not apply in relation to the following resource authorities under the Mineral Resources Act—
- (a) a prospecting permit;
 - (b) a mining claim;
 - (c) a mining lease.

57 What is a *periodic entry notice*

- (1) A *periodic entry notice* is the first notice about an entry, or series of entries, to public land to carry out an authorised activity for a resource authority.
- (2) A periodic entry notice must—
- (a) state the period (the *entry period*) for which the resource authority holder, or any of the holder's employees or agents, may enter the land to carry out the authorised activity; and

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- (b) be given to the public land authority no less than the prescribed period before the start of the entry period; and
 - (c) otherwise comply with the prescribed requirements for the notice.
- (3) An entry period can not be longer than the prescribed period applying for the entry unless the public land authority agrees in writing to a longer period.
- (4) A periodic entry notice that does not comply with this section is invalid.

58 Entry to public land to carry out authorised activity is conditional

- (1) A person must not enter public land to carry out an authorised activity for a resource authority unless—
 - (a) the activity is an activity that may be carried out by a member of the public without requiring specific approval of the public land authority for the land; or
Example—
travelling on a public road in the area of the resource authority
 - (b) the public land authority for the land has given a waiver of entry notice for the entry; or
 - (c) the entry is made in compliance with a periodic entry notice given by the resource authority holder to the public land authority for the land under section 57; or
 - (d) the entry is needed to preserve life or property or because of an emergency that exists, or may exist.

Maximum penalty—100 penalty units.

- (2) A person may comply with subsection (1)(b) or (c) despite merely being an applicant for the resource authority at the time of giving the notice.

59 Conditions public land authority may impose

- (1) This section applies if a resource authority holder gives a public land authority a periodic entry notice about an entry to public land to carry out an authorised activity for the resource authority.
- (2) The public land authority may, for the entry period stated in the notice, impose reasonable and relevant conditions on the resource authority holder about the entry to the public land or the carrying out of the authorised activity.
- (3) The conditions may, for example, be about—
 - (a) giving the public land authority, at stated intervals, notice of particular activities being carried out on the land by or for the holder; or
 - (b) affecting other owners and occupiers of the public land.
- (4) However, if the public land authority imposes a condition about giving the authority further notice of subsequent entries made during the entry period, the condition must require the notice be given—
 - (a) generally—at least 2 business days before the entry; or
 - (b) if the holder and the public land authority have agreed to a longer or shorter period for giving the notice—within the agreed period.
- (5) The public land authority can not impose a condition for a resource authority or its relevant environmental authority that is—
 - (a) the same as a condition already applying to the authority; or
 - (b) substantially the same as a condition already applying to the authority; or
 - (c) inconsistent with a condition already applying to the authority.
- (6) However, if the public land authority is the chief executive of the department in which the *Nature Conservation Act 1992* is

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administered, that chief executive may impose a condition more stringent than the environmental authority's conditions.

- (7) The public land authority may vary any condition it imposes if the condition would otherwise be inconsistent with the requirements under subsection (5).
- (8) If the public land authority decides—
 - (a) to impose a condition, other than a condition agreed to or requested by the resource authority holder; or
 - (b) to vary a condition, other than a variation agreed to or requested by the resource authority holder;

it must give the holder an information notice about the decision.

- (9) The resource authority holder must comply with the conditions imposed by the public land authority.

Maximum penalty for subsection (9)—100 penalty units.

- (10) In this section—

entry period, for a periodic entry notice, see section 57(2).

60 Right to give waiver of entry notice

- (1) A public land authority for land may give a waiver of entry notice for an entry made to the land to carry out an authorised activity for a resource authority.
- (2) A waiver of an entry notice—
 - (a) is invalid if it does not comply with the prescribed requirements for the notice; and
 - (b) can not be withdrawn during the notified period; and
 - (c) ceases to have effect at the end of the notified period.
- (3) In this section—

notified period, for a waiver of entry notice, means the period stated in the notice as the period during which the land may be entered.

Division 2 Notifiable road use

61 Application of div 2

This division applies to the use of a public road if the use is a notifiable road use.

62 What is a *notifiable road use*

A *notifiable road use*, of a public road, is the use of the road as prescribed under a regulation.

63 Use of public roads for notifiable road use

- (1) A resource authority holder must not use a public road for a notifiable road use unless—
 - (a) the holder has given the public road authority for the road a notice, complying with the prescribed requirements, that the holder proposes to carry out the use; and
 - (b) 1 of the following applies—
 - (i) the holder and the relevant public road authority have signed a compensation agreement for the use;
 - (ii) the public road authority has given written consent to the carrying out of the use;
 - (iii) an application has been made under section 100 to decide the holder's compensation liability to the public road authority relating to the road.
- (2) A requirement of a resource authority holder under subsection (1) is taken to be a condition of the resource authority.

64 Directions about notifiable road use

- (1) The public road authority for a public road may, by written notice, give a resource authority holder a reasonable direction

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(a ***road use direction***) about the way the holder may use the road for a notifiable road use.

Examples of what a direction may be about—

- when the road may be used
- the route for the movement of heavy vehicles
- safety precautions the holder must take

(2) The road use direction may also require the holder to—

- (a) carry out an assessment of the impacts likely to arise from a notifiable road use the subject of the notice; and
- (b) consult with the public road authority in carrying out the assessment.

(3) However—

- (a) an assessment can not be required if the notifiable road use is transport relating to a seismic survey or drilling activity; and
- (b) the public road authority can not require an assessment of an impact to the extent it has already been assessed under an EIS under the Environmental Protection Act or a similar document under another Act.

(4) A road use direction is invalid—

- (a) to the extent it is about more than the following matters—
 - (i) preserving the condition of the road;
 - (ii) the safety of road users or the public; and
- (b) if it is not accompanied by, or does not include, an information notice about the decision to give the direction.

(5) Compliance with a road use direction given to a resource authority holder is taken to be a condition of the resource authority.

65 Exemptions from div 2

- (1) A resource authority or a project may be prescribed under a regulation as being exempt from some or all of the provisions of this division.
- (2) An exemption prescribed under subsection (1) may include conditions that must be complied with for the exemption to apply.

Part 4 Restricted land

Division 1 Preliminary

Subdivision 1 Application

66 Application of pt 4

This part does not limit part 2 or 3.

Subdivision 2 Interpretation

67 Definitions for pt 4

In this part—

prescribed activity, for a resource authority—

- (a) means an authorised activity for the resource authority that is carried out—
 - (i) on the surface of land; or
 - (ii) below the surface of land in a way that is likely to cause an impact on the surface of the land, including, for example, subsidence of the land; and

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- (b) does not include—
- (i) the installation of an underground pipeline or cable if the installation, including the placing of backfill, is completed within 30 days; or
 - (ii) the operation, maintenance or decommissioning of an underground pipeline or cable; or
 - (iii) an activity that may be carried out on land by a member of the public without requiring specific approval of an entity; or

Example—

travelling on a public road in the area of a resource authority

- (iv) crossing land in order to enter the area of the resource authority if the only entry to the area is through the land and—
 - (A) each owner and occupier of the land has agreed in writing to the resource authority holder crossing the land; or
 - (B) if an owner or occupier of the land has refused to agree to the resource authority holder crossing the land—the refusal is unreasonable having regard to the matters mentioned in section 49(2) and (3); or
- (v) an activity prescribed by regulation.

prescribed distance means a distance prescribed by regulation.

relevant owner or occupier, for restricted land for a resource authority, see section 69.

restricted land, for a resource authority, see section 68.

68 What is ***restricted land***

- (1) ***Restricted land***, for a resource authority—

- (a) means land within a prescribed distance of any of the following—
 - (i) a permanent building used for any of the following purposes—
 - (A) a residence;
 - (B) a place of worship;
 - (C) a childcare centre, hospital or library;
 - (ii) an area used for any of the following purposes—
 - (A) a school;
 - (B) a cemetery or burial place;
 - (C) aquaculture, intensive animal feedlotting, pig keeping or poultry farming within the meaning of the *Environmental Protection Regulation 2008*, schedule 2, part 1;
 - (iii) a building used for a business or other purpose if it is reasonably considered that—
 - (A) the building can not be easily relocated; and
 - (B) the building can not co-exist with authorised activities carried out under resource authorities;
 - (iv) an area, building or structure prescribed by regulation; and
 - (b) does not include land within a prescribed distance of an area, building or structure prescribed by regulation.
- (2) However, despite subsection (1)(a), land is only restricted land for a production resource authority if the use of the area, building or structure mentioned in the subsection started before the application for the resource authority was made.
- (3) In this section—

place of worship means a place used for the public religious activities of a religious association, including, for example,

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the charitable, educational and social activities of the association.

production resource authority means a resource authority that is—

- (a) any of the following under the Mineral Resources Act—
 - a mining claim;
 - a mining lease; or
- (b) any of the following under the P&G Act—
 - a petroleum lease;
 - a pipeline licence;
 - a petroleum facility licence; or
- (c) a lease under the 1923 Act; or
- (d) a geothermal production lease under the Geothermal Act; or
- (e) a GHG injection and storage lease under the Greenhouse Gas Act.

residence does not include accommodation for non-resident workers.

Examples of accommodation for non-resident workers—
accommodation for shearers or seasonal fruit pickers

69 Who is a *relevant owner or occupier*

A ***relevant owner or occupier***, for restricted land for a resource authority, is—

- (a) for restricted land mentioned in section 68(1)(a)(i)—an owner or occupier of the permanent building; or
- (b) for restricted land mentioned in section 68(1)(a)(ii)—an owner or occupier of the area; or
- (c) for restricted land mentioned in section 68(1)(a)(iii)—an owner or occupier of the building; or

- (d) for restricted land mentioned in section 68(1)(a)(iv)—an owner or occupier of the area, building or structure.

Division 2 Entry for particular authorised activities requires consent

70 Consent required for entry on restricted land

- (1) A person must not enter restricted land for a resource authority, to carry out a prescribed activity for the resource authority, unless each relevant owner or occupier for the restricted land has given written consent to the resource authority holder to carry out the activity.
- (2) The consent may be given on conditions.
- (3) The conditions of the consent are taken to be conditions of the resource authority.
- (4) The consent can not be withdrawn during the period stated in the consent as the period during which the holder may enter the land.

71 Consent not required for entry on particular land to carry out prescribed activities for mining lease

- (1) This section applies to the holder of a mining lease.
- (2) The holder may enter restricted land for the mining lease, despite not obtaining written consent under section 70 from the relevant owner or occupier of the restricted land, if—
 - (a) the holder has entered into a compensation agreement under the Mineral Resources Act, section 279 with the relevant owner or occupier; and
 - (b) the compensation agreement relates to the restricted land; and
 - (c) the holder has complied with the compensation agreement.

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72 Application to Land Court for declaration

- (1) A prescribed person may apply to the Land Court for an order declaring the following—
 - (a) whether particular land is restricted land for a resource authority;
 - (b) whether a particular activity is a prescribed activity for a resource authority.
- (2) The Land Court must—
 - (a) if an application is made under subsection (1)(a)—make an order declaring whether the land is restricted land for the resource authority; or
 - (b) if an application is made under subsection (1)(b)—make an order declaring whether the activity is a prescribed activity.
- (3) The Court may make the other orders the Court considers appropriate.
- (4) In this section—

prescribed person, for land, means—
 - (a) an owner or occupier of the land; or
 - (b) a holder of a resource authority for an area including the land.

Part 5 Other resource authorities' authorised areas

73 Application of pt 5

- (1) This part applies for a resource authority (the ***first resource authority***) in relation to entry to land that is—
 - (a) outside its authorised area; and

- (b) in the authorised area of another resource authority (the *second resource authority*).
- (2) However, this part does not apply if the first resource authority is any of the following resource authorities under the Mineral Resources Act—
 - (a) a prospecting permit;
 - (b) a mining claim;
 - (c) a mining lease.
- (3) If the land is also private land or public land (including restricted land), this part applies in addition to any obligations under part 2, 3 or 4.

74 Definitions for pt 5

In this part—

first resource authority, for chapter 3 part 5, see section 73(1).

second resource authority, for chapter 3, part 5, see section 73(1)(b).

75 Access if second resource authority is a lease

If the second resource authority is a lease, the first resource authority holder may enter the land only if the second resource authority holder has consented in writing to the entry.

76 Access if second resource authority is not a lease

- (1) If the second resource authority is not a lease, the first resource authority holder may do the following without the second resource authority holder's consent—
 - (a) cross the land if it is reasonably necessary to allow the first resource authority holder to enter the first resource authority's authorised area;

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- (b) carry out activities on the land that are reasonably necessary to allow the crossing of the land.
- (2) However, a right under subsection (1) may be exercised only if its exercise does not adversely affect the carrying out of an authorised activity for the second resource authority.
- (3) Subsection (2) applies whether or not the authorised activity has already started.

Part 6 Enduring effect of particular agreements, notices and waivers

77 Access agreements, entry notices and waivers not affected by dealing

A dealing in relation to a resource authority does not affect any of the following—

- (a) an access agreement made in relation to the resource authority;
- (b) an entry notice given for the resource authority;
- (c) a waiver of entry notice made for the resource authority.

78 Entry notice and waivers not affected by change in ownership or occupancy

- (1) If, after the giving of an entry notice under section 39, the ownership or occupancy of the affected land changes, the resource authority holder for which the entry notice was given is taken to have given that notice to each new owner or occupier of the land.
- (2) If, after the giving of a waiver of entry notice, the ownership or occupancy of the affected land changes, each new owner or

occupier of the land is taken to have given that waiver of entry notice.

- (3) However, subsections (1) and (2) cease to apply for an entry notice or waiver of entry notice if the resource authority holder becomes aware of a new owner or occupier for the affected land and the holder does not give the new owner or occupier a copy of the notice or waiver within 15 business days.

79 Written access agreement binds successors and assigns

A written access agreement binds the parties to it and each of their personal representatives, successors in title and assigns.

Part 7 Compensation and negotiated access

Division 1 Compensation relating to private and public land

80 Application of div 1

This division does not apply in relation to the following resource authorities under the Mineral Resources Act—

- (a) a prospecting permit;
- (b) a mining claim;
- (c) a mining lease.

81 General liability to compensate

- (1) A resource authority holder is liable to compensate each owner and occupier of private land or public land that is in the

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authorised area of, or is access land for, the resource authority (each an ***eligible claimant***) for any compensatable effect the eligible claimant suffers caused by authorised activities carried out by the holder or a person authorised by the holder.

- (2) The resource authority holder's liability to compensate an eligible claimant is the holder's ***compensation liability*** to the claimant.
- (3) This section does not apply in relation to a public land authority for a notifiable road use.
- (4) In this section—

compensatable effect means all or any of the following—

- (a) all or any of the following relating to the eligible claimant's land—
 - (i) deprivation of possession of its surface;
 - (ii) diminution of its value;
 - (iii) diminution of the use made or that may be made of the land or any improvement on it;
 - (iv) severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
 - (v) any cost, damage or loss arising from the carrying out of activities under the resource authority on the land;
- (b) accounting, legal or valuation costs the claimant necessarily and reasonably incurs to negotiate or prepare a conduct and compensation agreement, other than the costs of a person facilitating an ADR;

Examples of negotiation—

an ADR or conference

- (c) consequential damages the eligible claimant incurs because of a matter mentioned in paragraph (a) or (b).

Division 2 Provisions for conduct and compensation agreements

Subdivision 1 Application of div 2

82 Application of div 2

This division does not apply in relation to the following resource authorities under the Mineral Resources Act—

- (a) a prospecting permit;
- (b) a mining claim;
- (c) a mining lease.

Subdivision 2 Conduct and compensation agreement

83 Conduct and compensation agreement

- (1) An eligible claimant and a resource authority holder may enter into an agreement (a *conduct and compensation agreement*) about—
 - (a) how and when the holder may enter the land for which the eligible claimant is an eligible claimant; and
 - (b) how authorised activities, to the extent they relate to the eligible claimant, must be carried out; and
 - (c) the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.
- (2) However, a conduct and compensation agreement can not be inconsistent with this Act, the relevant Resource Act, a condition of the resource authority or a mandatory provision of the relevant land access code, and is unenforceable to the extent of the inconsistency.

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- (3) A conduct and compensation agreement—
- (a) may relate to all or part of the liability or future liability; and
 - (b) may be incorporated into another agreement.

Example for paragraph (b)—

an easement

- (4) A conduct and compensation agreement is invalid if it does not comply with the prescribed requirements for the agreement.

Subdivision 3 Negotiation process

84 Notice of intent to negotiate

- (1) A resource authority holder may give an eligible claimant to whom the holder has a compensation liability a notice (the ***negotiation notice***) that the holder wishes to negotiate a conduct and compensation agreement or a deferral agreement with the eligible claimant.
- (2) The negotiation notice is invalid if it does not comply with the prescribed requirements for the notice.

85 Negotiations

- (1) On the giving of the negotiation notice, the resource authority holder and the eligible claimant (the ***parties***) must use all reasonable endeavours to negotiate a conduct and compensation agreement or a deferral agreement (a ***relevant agreement***).
- (2) The period of the negotiations—
 - (a) must be at least for the prescribed period (the ***minimum negotiation period***); but
 - (b) may continue for a longer period agreed to by the parties.

- (3) The negotiations under this subdivision end if the parties enter into an opt-out agreement.

86 No entry during minimum negotiation period

- (1) If, during the minimum negotiation period, the parties enter into a relevant agreement, the resource authority holder can not enter the relevant land to carry out advanced activities for the resource authority until the period ends.
- (2) Subsection (1) applies despite the terms of the agreement.

87 Cooling-off during minimum negotiation period

- (1) This section applies if the parties enter into a conduct and compensation agreement or a deferral agreement during the minimum negotiation period.
- (2) Either party may, within the minimum negotiation period, terminate the agreement by giving notice to the other party.
- (3) On the giving of a notice under subsection (2), the terminated agreement is taken never to have had any effect.
- (4) To remove any doubt, it is declared that subsection (3) does not change the time when the negotiation notice was given.

88 Parties may seek conference or ADR

- (1) This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement or deferral agreement.
- (2) Either party may, by written notice (an ***election notice***)—
 - (a) to the other party and an authorised officer—ask for an authorised officer to call a conference to negotiate a conduct and compensation agreement; or
 - (b) to the other party—call upon the other party to agree to an alternative dispute resolution process (an ***ADR***) to negotiate a conduct and compensation agreement.

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- (3) The ADR may be a process of any type, including, for example, arbitration, conciliation, mediation or negotiation.
- (4) If the election notice calls for an ADR, it must—
 - (a) identify the type of ADR; and
 - (b) state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR (the *facilitator*); and
 - (c) be given to the other party.

89 Conduct of conference

- (1) This section applies if an election notice calling for a conference is given under section 88.
- (2) The conference must be conducted under the prescribed requirements for it.
- (3) The authorised officer conducting the conference must take all reasonable steps to ensure the conference is finished within 20 business days after the notice is given (the *usual period*).
- (4) Either party may, within the usual period, ask the other party to agree to a longer period to finish the conference because of stated reasonable or unforeseen circumstances.
- (5) If the parties agree to the longer period, that period applies instead of the usual period.
- (6) Nothing said by a person at the conference is admissible in evidence in a proceeding without the person's consent.
- (7) If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be in writing and signed by or for the parties.

90 Conduct of ADR

- (1) This section applies if an election notice calling for an ADR is given under section 88.

- (2) The facilitator of the ADR must be independent of either party.
- (3) The parties must use reasonable endeavours to finish it within 20 business days after the notice is given (also the *usual period*).
- (4) Either party may, within the usual period, ask the other party to agree to a longer period to finish the ADR because of stated reasonable or unforeseen circumstances.
- (5) If the parties agree to the longer period, that period applies instead of the usual period.
- (6) Nothing said by a person at the ADR is admissible in evidence in a proceeding without the person's consent.
- (7) If, at the ADR, the parties negotiate an agreement about the concerns the subject of the ADR, the agreement must be in writing and signed by or for the parties.

91 Nonattendance at a conference or ADR

- (1) This section applies if a party given notice under section 88 calling for a conference or ADR does not attend.
- (2) A party who attended the conference or ADR may apply to the Land Court for an order requiring the nonattending party to pay the attending party's reasonable costs of attending.
- (3) The Land Court can not order the nonattending party to pay costs if it is satisfied the party had a reasonable excuse for not attending.
- (4) If the Land Court makes the order, it must decide the amount of the costs.
- (5) If the notice called for a conference, the authorised officer may hold the conference even though someone given notice of it does not attend.

Subdivision 4 Recording particular agreements

92 Particular agreements to be recorded on titles

- (1) A resource authority holder that is a party to either of the following agreements must, within 28 days after entering into the agreement, give the registrar notice of the agreement in the appropriate form—
 - (a) a conduct and compensation agreement;
 - (b) an opt-out agreement.
- (2) If given a notice under subsection (1), the registrar must record in the relevant register the existence of the agreement.
- (3) Subsection (4) applies if—
 - (a) the agreement ends; or
 - (b) the land the subject of the agreement is subdivided, in whole or part, and the agreement does not apply to land within a new lot that is created as a result of the subdivision.
- (4) The resource authority holder that is a party to the agreement must give the registrar notice of the matter in the appropriate form within 28 days after—
 - (a) if subsection (3)(a) applies—the agreement ends; or
 - (b) if subsection (3)(b) applies—the day the resource authority holder becomes aware the land has been subdivided.
- (5) If the registrar is given a notice under subsection (4) in relation to an agreement that has ended, the registrar must, if satisfied the agreement has ended or is no longer relevant for the land, remove the particulars of the agreement from the relevant register.
- (6) If the registrar is given a notice under subsection (4) in relation to the subdivision of land, the registrar must, if satisfied the agreement is not relevant for a new lot created by

the subdivision, remove the particulars of the agreement from the relevant register to the extent it relates to the new lot.

- (7) The registrar must also remove the particulars of the agreement from the relevant register if—
 - (a) requested to do so, in the appropriate form, by a party to the agreement; and
 - (b) the registrar is satisfied the agreement has ended or is no longer relevant for the land.
- (8) A resource authority holder complying with subsection (1) or (4) is liable for the costs of recording the agreement in, or removing the agreement from, the relevant register.
- (9) A notice given under this section is invalid if it does not comply with the prescribed requirements for the notice.
- (10) A requirement of a resource authority holder under subsection (1) or (4) is a condition of the resource authority.
- (11) In this section—

appropriate form—

- (a) if the agreement relates to land to which the *Land Title Act 1994* applies—see schedule 2 of that Act;
- (b) if the agreement relates to land to which the *Land Act 1994* applies—see schedule 6 of that Act.

party, to a conduct and compensation agreement, includes the personal representatives, successors and assigns of the party that are bound by the agreement under section 79.

registrar means—

- (a) for freehold land—the registrar under the *Land Title Act 1994*; or
- (b) for any other land—the chief executive under the *Land Act 1994*.

relevant register means—

- (a) for freehold land—the freehold land register; or

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- (b) for any other land—the registry under section 275 of the *Land Act 1994*.

Division 3 Compensation for notifiable road uses

93 Liability to compensate public road authority

- (1) A resource authority holder is liable to compensate the public road authority for a public road for any cost, damage or loss the authority incurs or will incur that is or will be caused by notifiable road uses carried out by the holder that relate to the road.

Examples of a possible cost for subsection (1)—

- repair costs to rectify damage to the road caused or that will be caused by any of the uses
 - capital costs for unplanned upgrades of the road incurred or that will be incurred because of any of the uses
 - bring-forward costs, including interest charges, for a planned upgrade of the road that because of any of the uses is or will be required earlier than planned
- (2) The resource authority holder's liability under subsection (1) is the holder's ***compensation liability*** to the public road authority.
- (3) The compensation liability—
- (a) applies whether or not the holder has given notice of the use; and
 - (b) is in addition to and does not limit or otherwise affect the holder's liability under another provision of this Act about compensating the public road authority or anyone else.

94 Road compensation agreement

- (1) A resource authority holder and the public road authority for a public road may enter into an agreement (a ***road compensation agreement***) about the holder's compensation liability to the public road authority.
- (2) A road compensation agreement is invalid if it does not comply with the prescribed requirements for the agreement.

Division 4 Changes not affecting compensation

95 Compensation not affected by change in administration or of resource authority holder

- (1) A conduct and compensation agreement, or decision of the Land Court under section 98 or 101 about the compensation liability of a resource authority holder to an eligible claimant is for the benefit of and binding on—
 - (a) the eligible claimant; and
 - (b) the resource authority holder; and
 - (c) the personal representatives, successors and assigns of the eligible claimant and the resource authority holder.
- (2) A road compensation agreement, or decision of the Land Court under section 100 or 101 about the compensation liability of a resource authority holder to a public road authority, is for the benefit of and binding on—
 - (a) the public road authority; and
 - (b) the resource authority holder; and
 - (c) the personal representatives, successors and assigns of the public road authority and the resource authority holder.
- (3) An opt-out agreement is for the benefit of and binding on—
 - (a) the parties to the agreement; and

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- (b) the personal representatives, successors and assigns of the parties.

Division 5 Land Court jurisdiction for compensation and conduct

Subdivision 1 Negotiation process

96 Land Court may decide if negotiation process unsuccessful

- (1) This section applies if an election notice is given under section 88 and—
 - (a) a party asked an authorised officer to call a conference and the authorised officer does not finish it within the period required under section 89 (the *required period*); or
 - (b) a party called for an ADR and the person facilitating the ADR does not finish it within the period required under section 90 (also the *required period*); or
 - (c) only 1 party attended the conference requested or ADR called for; or
 - (d) both parties attended the conference or ADR and, at the end of the required period, there is no conduct and compensation agreement between the parties.
- (2) An eligible party may apply to the Land Court for it to decide—
 - (a) the resource authority holder's compensation liability to the claimant; or
 - (b) the resource authority holder's future compensation liability to the claimant for an authorised activity for the resource authority proposed to be carried out by or for the holder; or

- (c) a matter mentioned in section 83(1)(a) or (b).
- (3) However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement.
- (4) In hearing the application, the Land Court—
 - (a) may, for the purpose of making an order mentioned in section 97(2)(c), have regard to the behaviour of the parties in the process leading to the application; and
 - (b) must, as much as practicable, ensure the hearing happens together with, or as closely as possible to, the hearing of any relevant environmental compensation application.
- (5) In this section—

eligible party means a party who attended the conference or ADR.

relevant environmental compensation application means an application to the Land Court for compensation that is or may be payable by the resource authority holder to the eligible claimant under the Environmental Protection Act.

97 Orders Land Court may make

- (1) The Land Court may make any order it considers appropriate to enable or enforce its decision on an application under this part.
- (2) Without limiting subsection (1), the Land Court may order—
 - (a) non-monetary compensation as well as monetary compensation; or
 - (b) that a party not engage in particular conduct; or
 - (c) that the parties attend a conference conducted under section 89 or engage in further ADR.

Subdivision 2 Additional jurisdiction

98 Additional jurisdiction for compensation, conduct and related matters

- (1) This section applies to a resource authority holder and an eligible claimant (the *parties*) if any of the following apply—
 - (a) the holder has carried out a preliminary activity;
 - (b) the parties can not reach agreement about a conduct and compensation agreement;
 - (c) there is a conduct and compensation agreement or deferral agreement between the parties.
- (2) The Land Court may do all or any of the following—
 - (a) assess all or part of the relevant resource authority holder's compensation liability to the eligible claimant;
 - (b) decide a matter related to the compensation liability;
 - (c) declare whether or not a proposed authorised activity for the relevant resource authority would, if carried out, interfere with the carrying out of lawful activities by the eligible claimant;
 - (d) make any order it considers necessary or desirable for a matter mentioned in paragraph (a), (b) or (c).

Example—

The Land Court declares that a particular proposed authorised activity interferes with the carrying out of lawful activities by the eligible claimant. It may also order that a stated modification of, or reduction in, the activity would remove the interference.

99 Jurisdiction to impose or vary conditions

- (1) In deciding a matter mentioned in section 98(2), the Land Court may—
 - (a) impose any condition it considers appropriate for the exercise of the parties' rights; or

-
- (b) vary any existing condition under an agreement between the parties.
 - (2) The variation may be made on any ground the Land Court considers appropriate.
 - (3) The imposed or varied condition is taken to be—
 - (a) if there is an agreement between the parties—a condition of the agreement; or
 - (b) if there is no agreement between the parties—an agreement between the parties.
 - (4) In this section—

agreement means a conduct and compensation agreement.

condition means a condition of or for a conduct and compensation agreement.

Subdivision 3 Compensation for notifiable road use

100 Deciding compensation by Land Court

- (1) Either of the following entities may apply to the Land Court for the Court to decide a resource authority holder's compensation liability to a public road authority—
 - (a) the public road authority;
 - (b) the resource authority holder.
- (2) However, the Land Court may decide the compensation liability only to the extent it is not subject to a road compensation agreement.
- (3) In making the decision, the Land Court may have regard to—
 - (a) all prescribed criteria relating to the public road authority, resource authority and notifiable road use; and

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- (b) whether the applicant has attempted to mediate or negotiate the compensation liability; and
- (c) any other matter the Court considers relevant to making the decision.

Subdivision 4 Later review of compensation by Land Court

101 Review of compensation by Land Court

- (1) This section applies if—
 - (a) the compensation liability or future compensation liability of a resource authority holder to either of the following has been agreed to under a compensation agreement or decided by the Land Court (the *original compensation*)—
 - (i) an eligible claimant;
 - (ii) a public road authority; and
 - (b) there has been a material change in circumstances (the *change*) since the agreement or decision.
- (2) The following may apply to the Land Court for a review of the original compensation—
 - (a) the resource authority holder;
 - (b) the eligible claimant;
 - (c) the public road authority.
- (3) In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.
- (4) If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.

- (5) The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the Court considers appropriate.
- (6) In making the decision, the Land Court must have regard to—
 - (a) all criteria prescribed by regulation applying for the compensation; and
 - (b) whether the applicant has attempted to mediate or negotiate the compensation liability; and
 - (c) any other matter the Court considers relevant to making the decision.
- (7) If the decision is to amend the original compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.
- (8) In this section—

compensation agreement means—

 - (a) a conduct and compensation agreement; or
 - (b) a road compensation agreement.

Chapter 4 Overlapping coal and petroleum resource authorities

Part 1 Preliminary

Division 1 Purposes of chapter

102 Main purposes of ch 4

- (1) The main purposes of this chapter are to—
 - (a) facilitate the co-existence of the State's coal and coal seam gas industries; and
 - (b) ensure that participants in each of the industries co-operate to optimise the development and use of the State's coal and coal seam gas resources to maximise the benefit for all Queenslanders; and
 - (c) establish a statutory framework that applies if the participants do not otherwise agree.
- (2) The main purposes are achieved by—
 - (a) removing barriers to the grant of resource authorities for coal and coal seam gas production; and
 - (b) allowing a right of way for coal production subject to notice and compensation requirements; and
 - (c) imposing ongoing obligations on participants in each of the industries to exchange relevant information; and
 - (d) providing for participants in each of the industries to negotiate arrangements as an alternative to particular legislative requirements.

Division 2 Interpretation

103 Definitions for ch 4

In this chapter—

18 months notice, for an ML (coal), see section 122.

abandonment date see section 129(2)(b).

acceleration notice see section 128(2).

advance notice, for an ML (coal), see section 121.

agreed joint development plan means—

- (a) an agreed joint development plan for which a notice has been given to the chief executive under section 130 or 142; or
- (b) if an agreed joint development plan is amended by the resource authority holders under section 133 or 146—the agreed joint development plan as amended; or
- (c) if an agreed joint development plan is required to be amended by the Minister under section 158—the agreed joint development plan as required to be amended by the Minister; or
- (d) if an agreed joint development plan is arbitrated as an agreed joint development plan under part 6, division 4—the agreed joint development plan as arbitrated.

agreed mining commencement date, for an IMA or RMA, see section 116.

arbitration, of a dispute, means arbitration of the dispute under part 6, division 4.

area means—

- (a) of a coal resource authority—the area of the coal resource authority under the Mineral Resources Act; or
- (b) of a petroleum resource authority—the area of the petroleum resource authority under the P&G Act.

ATP means authority to prospect (csg).

ATP major gas infrastructure, for an ATP, see section 166.

authority to prospect (csg) means an authority to prospect granted under the P&G Act, if the intention of the holder is to explore and test for coal seam gas.

coal mine see the *Coal Mining Safety and Health Act 1999*.

coal mining operations see the *Coal Mining Safety and Health Act 1999*.

coal resource authority means—

- (a) an exploration permit (coal); or
- (b) a mineral development licence (coal); or
- (c) a mining lease (coal).

coal seam gas is a substance (in any state) occurring naturally in association with coal, or with strata associated with coal mining, if the substance is petroleum under the P&G Act.

column 1 resource authority means a coal resource authority or petroleum resource authority listed in column 1 of a table in this chapter.

column 2 resource authority means a coal resource authority or petroleum resource authority listed in column 2 of a table in this chapter.

compensation liability—

- (a) of an ML (coal) holder to a PL holder—see section 167(3); or
- (b) of an ML (coal) holder to an ATP holder—see section 168(3).

concurrent notice see section 149(2).

confirmation notice, for an ML (coal), see section 123.

corresponding column 1 resource authority, for a column 2 resource authority, means the column 1 resource authority

opposite the column 2 resource authority in a table in this chapter.

corresponding column 2 resource authority, for a column 1 resource authority, means a column 2 resource authority opposite the column 1 resource authority in a table in this chapter.

diluted incidental coal seam gas see section 136.

EP (coal), for part 3, see section 139.

exceptional circumstances notice see section 127.

exploration permit (coal) means an exploration permit for coal granted under the Mineral Resources Act.

FMA see section 110.

future mining area see section 110.

holder, of a coal resource authority or petroleum resource authority, means—

- (a) for a coal resource authority—the person who is the holder of the resource authority under the Mineral Resources Act; or
- (b) for a petroleum resource authority—the person who is the holder of the resource authority under the P&G Act.

IMA see section 109.

incidental coal seam gas means coal seam gas able to be mined by an ML (coal) holder under the Mineral Resources Act.

initial mining area see section 109.

joint development plan means a proposed joint development plan or an agreed joint development plan.

joint occupancy, of a SOZ for an IMA or RMA, see section 114.

lost production see section 162.

MDL (coal), for part 3, see section 139.

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mineral development licence (coal) means a mineral development licence for coal granted under the Mineral Resources Act.

mining commencement date means—

- (a) for an IMA or RMA, the date for starting to carry out authorised activities for the ML (coal) the subject of the IMA or RMA; or
- (b) for an ML (coal) generally, the date for starting to carry out authorised activities for the ML (coal) in an overlapping area.

mining lease (coal) means a mining lease for coal granted under the Mineral Resources Act.

mining safety legislation means—

- (a) the *Coal Mining Safety and Health Act 1999*; or
- (b) the *Mining and Quarrying Safety and Health Act 1999*; or
- (c) the P&G Act.

ML (coal)—

- (a) generally—means a mining lease (coal); or
- (b) for part 3—see section 139.

ML (coal) holder—

- (a) generally—see section 105; or
- (b) for part 3—see section 139.

overlapping area see section 104.

petroleum see the P&G Act.

petroleum lease (csg) means a petroleum lease granted under the P&G Act if coal seam gas is proposed to be produced under the lease.

petroleum production notice see section 141(1).

petroleum resource authority—

- (a) generally, means—
 - (i) an authority to prospect (csg); or
 - (ii) a petroleum lease (csg); or
- (b) for part 2, see section 118.

petroleum well has the meaning given by the P&G Act.

PL—

- (a) generally—means a petroleum lease (csg); or
- (b) for part 3—see section 139.

PL connecting infrastructure, for a PL, see section 165.

PL holder—

- (a) generally—see section 106; or
- (b) for part 3—see section 139.

PL major gas infrastructure, for a PL, see section 163.

PL minor gas infrastructure, for a PL, see section 164.

prescribed arbitration institute see section 176.

proposed joint development plan means—

- (a) for part 2, division 2—a proposed plan for development of an overlapping area that includes the matters mentioned in section 130(2); or
- (b) for part 3—a proposed plan for development of an overlapping area that includes the matters mentioned in section 142(3).

proposed mining commencement date, for an IMA or RMA, see section 115.

reconciliation payment see section 172(2)(a) and (c)(i).

relevant matter means the size, or location within an overlapping area, of an IMA, an RMA or a SOZ.

replace, for part 6, division 3, see section 161.

replacement gas see section 172(2)(b) and (c)(ii).

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resource authority means a coal resource authority or a petroleum resource authority.

RMA see section 111.

RMA notice, for an ML (coal), see section 125.

rolling mining area see section 111.

simultaneous operations zone, for an IMA or RMA, see section 112.

site senior executive, for a coal mine, see the *Coal Mining Safety and Health Act 1999*.

sole occupancy, of an IMA or RMA, see section 113.

SOZ see section 112.

surface mine see the *Coal Mining Safety and Health Act 1999*.

underground mine see the *Coal Mining Safety and Health Act 1999*.

undiluted incidental coal seam gas see section 136.

104 What is an *overlapping area*

- (1) An ***overlapping area*** is land that is the subject of both a column 1 resource authority and a corresponding column 2 resource authority for the column 1 resource authority.
- (2) However, land is an ***overlapping area*** only if the column 1 resource authority was granted after the corresponding column 2 resource authority was granted.
- (3) A reference to an overlapping area includes, if the circumstances permit, an area that will become an overlapping area when a column 1 resource authority that has been applied for is granted.
- (4) Even if subsections (1) to (3) do not apply to make land an overlapping area, land is an ***overlapping area*** if it is the subject of both a coal resource authority and a petroleum resource authority.

105 What is an *ML (coal) holder*

- (1) An *ML (coal) holder* is the holder of an ML (coal).
- (2) A reference to an ML (coal) holder includes, if the circumstances permit, a reference to the applicant for an ML (coal).

106 What is a *PL holder*

- (1) A *PL holder* is the holder of a PL.
- (2) A reference to a PL holder includes, if the circumstances permit, an applicant for a PL.

107 Extended meaning of ML (coal) and PL

For this chapter, a reference to an ML (coal) or a PL includes, if the circumstances permit, a reference to an ML (coal) or PL that has been applied for but has not been granted.

Division 3 Other key provisions

108 Purpose of div 3

This division contains definitions and other provisions relevant to the operation of this chapter.

109 What is an *initial mining area* or *IMA*

- (1) An *initial mining area*, or *IMA*, is an area in an overlapping area, identified in a joint development plan for the overlapping area, for which an ML (coal) holder to which the plan applies requires sole occupancy to carry out authorised activities for the ML (coal).
- (2) The total area that may be identified as an IMA is the minimum area that is reasonably considered to be required for 10 years of safe mining.

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- (3) An IMA may be a single area, or a number of separate areas, each of which is an IMA.

110 What is a *future mining area* or *FMA*

- (1) A *future mining area*, or *FMA*, is an area in an overlapping area, identified in a joint development plan for the overlapping area, in which the ML (coal) holder to which the plan applies intends to carry out authorised activities for the ML (coal) as mining operations advance outside the IMA.
- (2) An FMA must be contiguous with an IMA.

111 What is a *rolling mining area* or *RMA*

- (1) A *rolling mining area*, or *RMA*, is an area in an overlapping area, identified in a joint development plan for the overlapping area, for which an ML (coal) holder to which the plan applies requires sole occupancy to carry out authorised activities for the ML (coal).
- (2) The total area that may be identified as an RMA is the minimum area that is reasonably considered to be required for 1 year of safe mining.
- (3) An RMA must be within an FMA.
- (4) Each RMA must be considered on a sequential, year by year basis.
- (5) An RMA for a particular year must not be more than 10% of the total of the areas that are an IMA or FMA in the overlapping area.

112 What is a *simultaneous operations zone* or *SOZ*

The *simultaneous operations zone*, or *SOZ*, for an IMA or RMA, is an area in an overlapping area, contiguous with an IMA or RMA, in relation to which safety and health arrangements for the co-existence of an ML (coal) and a

petroleum resource authority are reasonably considered to be required.

113 What is *sole occupancy*

- (1) If an ML (coal) holder has *sole occupancy* of an IMA or RMA, to the extent the ML (coal) is for a surface mine—
 - (a) the ML (coal) holder may carry out any authorised activity for the ML (coal) in the IMA or RMA; and
 - (b) the holder of a corresponding column 2 resource authority for the ML (coal) may not carry out any authorised activity for the authority in the IMA or RMA.
- (2) If an ML (coal) holder has *sole occupancy* of an IMA or RMA, to the extent the ML (coal) is for an underground mine—
 - (a) the ML (coal) holder may carry out any authorised activity for the ML (coal) in the IMA or RMA; and
 - (b) the holder of a corresponding column 2 resource authority for the ML (coal) may carry out an authorised activity for the authority in the IMA or RMA unless the site senior executive for the underground mine directs the holder not to carry out the authorised activity for the purpose of facilitating safety and health arrangements for the co-existence of an ML (coal) and a petroleum resource authority that are reasonably considered to be required.
- (3) The ML (coal) holder's sole occupancy of an IMA or RMA does not limit the right of the corresponding column 2 resource authority holder to carry out authorised activities for the authority within the overlapping area but outside the IMA or RMA.
- (4) If the corresponding column 2 resource authority is a PL, and it is necessary for PL major gas infrastructure for the PL on an IMA or RMA to be replaced, the PL holder is not required to abandon the use of the infrastructure on the IMA or RMA

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until replacement PL major gas infrastructure has been constructed and commissioned, and is in operation.

114 What is *joint occupancy*

If an ML (coal) holder and the holder of a corresponding column 2 resource authority for the ML (coal) have *joint occupancy* of a SOZ for an IMA or RMA—

- (a) the ML (coal) holder may carry out authorised activities for the ML (coal) in the SOZ subject to any safety and health arrangements for the co-existence of an ML (coal) and a petroleum resource authority that are reasonably considered to be required; and
- (b) the holder of the corresponding column 2 resource authority for the ML (coal) may carry out authorised activities for the authority subject to any safety and health arrangements for the co-existence of an ML (coal) and a petroleum resource authority that are reasonably considered to be required.

115 What is the *proposed mining commencement date*

- (1) The *proposed mining commencement date*, for an IMA or RMA, is the date, identified in a proposed joint development plan for an overlapping area, on which the ML (coal) holder to which the plan applies proposes to start carrying out authorised activities for the ML (coal) in the IMA or RMA.
- (2) The proposed mining commencement date for an IMA must be—
 - (a) if the corresponding column 2 resource authority for the ML (coal) is an ATP—at least 18 months after the date on which the advance notice for the ML (coal) is given; or
 - (b) if the corresponding column 2 resource authority for the ML (coal) is a PL—at least 11 years after the date on which the advance notice for the ML (coal) is given.

-
- (3) The proposed mining commencement date for an RMA must be—
- (a) for the first RMA in an overlapping area—at least 10 years after the proposed mining commencement date for the IMA to which the RMA is contiguous; and
 - (b) for each subsequent RMA in the overlapping area—at least 1 year after the proposed mining commencement date for the immediately preceding RMA.

116 What is the *agreed mining commencement date*

- (1) The *agreed mining commencement date*, for an IMA or RMA, is the date, identified in an agreed joint development plan for an overlapping area, on which the ML (coal) holder to which the plan applies may start carrying out authorised activities for the ML (coal) in the IMA or RMA.
- (2) The agreed mining commencement date for an IMA or RMA may be earlier than the proposed mining commencement date for the IMA or RMA.

Division 4 Mandatory requirements

117 Mandatory requirements for participants

- (1) The following provisions apply for all overlapping areas—
 - (a) section 121;
 - (b) part 2, division 3;
 - (c) part 3, other than section 143;
 - (d) part 4;
 - (e) part 6, divisions 1, 2 and 5.
- (2) The resource authority holders for an overlapping area may agree that provisions of this chapter, other than the provisions

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mentioned in subsection (1), do not apply for the overlapping area.

Part 2 Right of way for coal

Division 1 Preliminary

118 Definitions for pt 2

In this part—

petroleum resource authority means a corresponding column 2 resource authority, for a column 1 resource authority, mentioned in the table for part 2.

petroleum resource authority holder means the holder of a petroleum resource authority.

119 Table for pt 2

The following table applies for this part—

Column 1	Column 2
mining lease (coal)	either of the following— (a) authority to prospect (csg); (b) petroleum lease (csg)

Division 2 Sole occupancy

120 Sole occupancy of IMA

- (1) An ML (coal) holder has sole occupancy of an IMA for an overlapping area the subject of the ML (coal), as provided for

in an agreed joint development plan for the overlapping area, from the agreed mining commencement date for the IMA, but only if the ML (coal) holder has given each petroleum resource authority holder the notices mentioned in subsection (2) or (3) as required under this division.

- (2) If the petroleum resource authority is an ATP, the notices are—
 - (a) an advance notice for the ML (coal); and
 - (b) an 18 months notice for the ML (coal).
- (3) If the petroleum resource authority is a PL, the notices are—
 - (a) an advance notice for the ML (coal); and
 - (b) a confirmation notice for the ML (coal).

121 Advance notice

- (1) An *advance notice*, for an ML (coal), is a notice that—
 - (a) states that the ML (coal) holder has applied for the grant of the ML (coal); and
 - (b) includes a copy of the application for the ML (coal), other than any statement detailing the applicant's financial and technical resources; and
 - (c) includes a joint development plan for the overlapping area the subject of the ML (coal); and
 - (d) includes any other information prescribed by regulation.
- (2) An advance notice must be given to a petroleum resource authority holder within 10 business days after the day the ML (coal) holder applies for the grant of the ML (coal).

122 18 months notice

- (1) An *18 months notice*, for an ML (coal), is a notice that—
 - (a) states that the ML (coal) holder has applied for the grant of the ML (coal) and intends to start carrying out

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- authorised activities for the ML (coal) in an IMA in an overlapping area the subject of the ML (coal); and
- (b) states the proposed mining commencement date for the IMA; and
 - (c) includes any other information prescribed by regulation.
- (2) An 18 months notice must be given to an ATP holder at least 18 months before the proposed mining commencement date for the IMA.
- (3) Subject to subsection (2)—
- (a) an 18 months notice may be given at the same time as an advance notice; or
 - (b) an 18 months notice and an advance notice may be given as a combined notice.

123 Confirmation notice

- (1) A **confirmation notice**, for an ML (coal), is a notice that—
- (a) states that the ML (coal) holder intends to start carrying out authorised activities for the ML (coal) in an IMA in an overlapping area the subject of the ML (coal); and
 - (b) states the agreed mining commencement date for the IMA; and
 - (c) confirms the ML (coal) holder will start coal mining operations in the IMA on the agreed mining commencement date for the IMA; and
 - (d) includes any other information prescribed by regulation.
- (2) A confirmation notice must be given to a PL holder at least 18 months, but no more than 2 years, before the agreed mining commencement date for the IMA.

124 Sole occupancy of RMA

An ML (coal) holder has sole occupancy of each RMA for an overlapping area the subject of the ML (coal), as provided for in an agreed joint development plan for the overlapping area, from the agreed mining commencement date for the RMA, but only if the ML (coal) holder has given each petroleum resource authority holder an RMA notice for the ML (coal) as required under this division.

125 RMA notice

- (1) An ***RMA notice***, for an ML (coal), is a notice that—
 - (a) states that the ML (coal) holder intends to start carrying out authorised activities for the ML (coal) in an RMA in an overlapping area the subject of the ML (coal); and
 - (b) states the agreed mining commencement date for the RMA; and
 - (c) confirms the ML (coal) holder will start coal mining operations in the RMA on the agreed mining commencement date for the RMA; and
 - (d) includes any other information prescribed by regulation.
- (2) An RMA notice must be given to a petroleum resource authority holder at least 18 months before the agreed mining commencement date for the RMA.

126 Joint occupancy of SOZ

An ML (coal) holder and a petroleum resource authority holder have ***joint occupancy*** of a SOZ for an IMA or RMA for an overlapping area from the agreed mining commencement date for the IMA or RMA.

127 Exceptional circumstances notice may be given by petroleum resource authority holder

- (1) This section applies if—

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- (a) a petroleum resource authority holder —
 - (i) has received an advance notice for an ML (coal) but has not yet agreed to a joint development plan; or
 - (ii) has received a proposal, under section 133 or 146, to amend an agreed joint development plan to change the size or location of, or the agreed mining commencement date for, an IMA or RMA, but has not yet agreed to the proposal; and
- (b) the holder considers an extension of the period (the ***relevant period***) before the ML (coal) holder may carry out authorised activities for the ML (coal) in the IMA or RMA is justified because of the following exceptional circumstances—
 - (i) there are high performing petroleum wells or fields in the IMA or RMA;
 - (ii) the relevant period is not sufficient to allow for production of petroleum from the high performing wells or fields at the prescribed threshold.
- (2) The petroleum resource authority holder may give the ML (coal) holder a notice (an ***exceptional circumstances notice***) stating—
 - (a) the exceptional circumstances justifying the extension mentioned in subsection (1)(b); and
 - (b) the petroleum resource authority holder's preferred mining commencement date, which must not be more than 5 years after the proposed or agreed mining commencement date for the IMA or RMA.
- (3) However, if subsection (1)(a)(i) applies, the exceptional circumstances notice must be given within 3 months after the petroleum resource authority holder receives the advance notice.
- (4) The exceptional circumstances notice must be accompanied by technical data, including, for example, data about

production modelling, justifying the preferred mining commencement date.

- (5) The ML (coal) holder must, within 3 months after receiving the exceptional circumstances notice, give the petroleum resource authority holder a notice stating whether the ML (coal) holder accepts the petroleum resource authority holder's preferred mining commencement date.
- (6) If the ML (coal) holder does not accept the petroleum resource authority holder's preferred mining commencement date under subsection (5), or claims that exceptional circumstances justifying the extension do not exist, the petroleum resource authority holder may apply for arbitration of the dispute.
- (7) Despite subsection (6), the petroleum resource authority holder and the ML (coal) holder may jointly apply for arbitration of the dispute at any time.
- (8) In this section—

prescribed threshold means the threshold for production of petroleum that is prescribed by regulation.

128 Acceleration notice may be given by ML (coal) holder

- (1) This section applies if an ML (coal) holder considers a proposed mining commencement date, or an agreed mining commencement date, for an IMA or an RMA, should be an earlier date.
- (2) The ML (coal) holder may give the PL holder a notice (an ***acceleration notice***) that—
 - (a) states an earlier proposed mining commencement date for the IMA or RMA; and
 - (b) includes any other information prescribed by regulation.
- (3) The acceleration notice may be given only in the period—
 - (a) starting on the day an advance notice is given to the PL holder; and

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- (b) ending on the day that is 18 months before the proposed or agreed mining commencement date for the IMA or RMA.
- (4) The ML (coal) holder must amend any joint development plan that applies to the ML (coal) holder to ensure it is consistent with the acceleration notice.
- (5) The acceleration notice has effect to change a proposed or agreed mining commencement date whether or not the PL holder agrees to the change.

Note—

See section 167(1)(a) for the liability of an ML (coal) holder who gives an acceleration notice to a PL holder to compensate the PL holder.

129 Abandonment of sole occupancy of IMA or RMA

- (1) This section applies if an ML (coal) holder no longer requires sole occupancy of the whole or a part of an IMA or RMA for an overlapping area.
- (2) The ML (coal) holder must give each petroleum resource authority holder for the overlapping area a notice (an ***abandonment notice***) that—
 - (a) identifies the area of the IMA or RMA for which the ML (coal) holder proposes to abandon sole occupancy; and
 - (b) states the date (the ***abandonment date***), as provided for in an agreed joint development plan for the overlapping area, on which the ML (coal) holder proposes to abandon sole occupancy; and
 - (c) includes any other information prescribed by regulation.
- (3) The site senior executive for the coal mine must facilitate the petroleum resource authority holder's access to the area mentioned in subsection (2)(a) from the abandonment date.
- (4) An abandonment of sole occupancy does not limit—

- (a) any obligation of the ML (coal) holder to carry out rehabilitation or environmental management required of the holder under the Environmental Protection Act; or
- (b) the ML (coal) holder's right to occupy the IMA or RMA to comply with an obligation mentioned in paragraph (a).

Division 3 Joint development plan

130 Requirement for agreed joint development plan

- (1) An ML (coal) holder must ensure that, within 12 months after giving an advance notice to a petroleum resource authority holder—
 - (a) there is in place a joint development plan that has been agreed with the petroleum resource authority holder; and
 - (b) written notice is given to the chief executive stating the following—
 - (i) that the plan is in place;
 - (ii) the period for which the plan has effect;
 - (iii) other information prescribed by regulation.
- (2) The agreed joint development plan must—
 - (a) identify the ML (coal) holder and petroleum resource authority holder under the plan; and
 - (b) set out an overview of the activities proposed to be carried out in the overlapping area by the ML (coal) holder, including the location of the activities and when they will start; and
 - (c) set out an overview of the activities proposed to be carried out in the overlapping area by the petroleum resource authority holder, including the location of the activities and when they will start; and

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- (d) identify any IMA and RMA proposed for the overlapping area, and any SOZ proposed for any IMA or RMA for the overlapping area; and
 - (e) state the agreed mining commencement date for any IMA or RMA; and
 - (f) state how the activities mentioned in paragraphs (b) and (c) optimise the development and use of the State's coal and coal seam gas resources; and
 - (g) state the period for which the agreed joint development plan is to have effect; and
 - (h) include any other information prescribed by regulation.
- (3) For 2 or more overlapping areas in the area the subject of the ML (coal)—
 - (a) to the extent practicable, there may be in place a single agreed joint development plan for 2 or more of the overlapping areas; and
 - (b) if there are 2 or more agreed joint development plans in place for the overlapping areas, the ML (coal) holder may give the chief executive a single notice as mentioned in subsection (1)(b) for all the agreed joint development plans.

131 Negotiation of agreed joint development plan

- (1) A petroleum resource authority holder who receives an advance notice must negotiate in good faith with the ML (coal) holder to enable the ML (coal) holder to give a notice under section 130(1)(b).
- (2) If a petroleum resource authority holder and the ML (coal) holder can not agree on a joint development plan to the extent it relates to a relevant matter within 6 months after the petroleum resource authority holder receives the advance notice, the ML (coal) holder must apply for arbitration of the dispute.

- (3) Despite subsection (2), the petroleum resource authority holder and the ML (coal) holder may jointly apply for arbitration of the dispute, to the extent it relates to a relevant matter, at any time.

132 Consistency with work programs and development plans

- (1) The ML (coal) holder must ensure any development plan under the Mineral Resources Act for the ML (coal) is consistent to the greatest practicable extent with each agreed joint development plan that applies to the ML (coal) holder.
- (2) The petroleum resource authority holder must ensure any work program or development plan under the P&G Act for the petroleum resource authority is consistent to the greatest practicable extent with each agreed joint development plan that applies to the petroleum resource authority holder.
- (3) This section applies even if any of the following takes place for the ML (coal) or the petroleum resource authority—
 - (a) a renewal;
 - (b) a transfer;
 - (c) a complete or partial subletting.

133 Amendment of agreed joint development plan

- (1) An agreed joint development plan may be amended by agreement at any time.
- (2) A resource authority holder mentioned in this division who receives a proposal for an amendment of an agreed joint development plan must negotiate in good faith about the amendment.
- (3) Subsection (4) applies if the amendment provides for a cessation, or significant reduction or increase, of any of the following—
 - (a) mining under the ML (coal);

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- (b) production under the PL;
 - (c) exploring and testing activities under the ATP.
- (4) Within 20 business days after making the amendment, the resource authority holders must jointly give the chief executive a written notice that—
 - (a) states the agreed joint development plan has been amended; and
 - (b) if there is a cessation or significant reduction of an authorised activity for a resource authority—includes, or is accompanied by, a statement about—
 - (i) whether the cessation or reduction is reasonable in the circumstances; and
 - (ii) whether the resource authority holders have taken all reasonable steps to prevent the cessation or reduction.
- (5) A resource authority holder who can not obtain a proposed amendment of an agreed joint development plan under this section may apply for arbitration of the dispute to the extent it relates to a relevant matter.

134 Authorised activities allowed only if consistent with agreed joint development plan

- (1) An ML (coal) holder may carry out an authorised activity for the ML (coal) in an overlapping area the subject of the ML (coal) only if—
 - (a) the ML (coal) holder has complied with section 130; and
 - (b) the carrying out of the activity is consistent with each agreed joint development plan that applies to the ML (coal) holder.
- (2) A petroleum resource authority holder may carry out an authorised activity for the petroleum resource authority in an overlapping area the subject of the petroleum resource

authority only if carrying out the activity is consistent with each agreed joint development plan that applies to the petroleum resource authority holder.

135 Condition of authorities

It is a condition of both an ML (coal) and a petroleum resource authority that the holder must comply with each agreed joint development plan that applies to the holder.

Division 4 Incidental coal seam gas

136 Definitions for div 4

In this division—

diluted incidental coal seam gas means incidental coal seam gas that is subject to air contamination.

Note—

Diluted incidental coal seam gas will generally result from using underground in-seam and goaf drainage techniques for gas production.

undiluted incidental coal seam gas means incidental coal seam gas that is free of air contamination.

Note—

Undiluted incidental coal seam gas will generally result from using surface to in-seam techniques for gas production.

137 Resource optimisation

An ML (coal) holder must, in relation to incidental coal seam gas in an overlapping area that is subject to the ML (coal), use reasonable endeavours to—

- (a) minimise unnecessary contamination or dilution of the incidental coal seam gas; and
- (b) maximise production of undiluted incidental coal seam gas.

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138 Right of first refusal

- (1) An ML (coal) holder must offer to supply, on reasonable terms, any incidental coal seam gas in an overlapping area that is subject to the ML (coal), to which the ML (coal) holder is otherwise entitled under the Mineral Resources Act, section 318CN, to a petroleum resource authority holder in the overlapping area.
- (2) The ML (coal) holder must make the offer by giving the petroleum resource authority holder written notice of the offer—
 - (a) for undiluted incidental coal seam gas in an IMA in the overlapping area—as early as practicable; or
 - (b) for diluted incidental coal seam gas in an IMA in the overlapping area—when the ML (coal) holder gives the petroleum resource authority holder—
 - (i) if the petroleum resource authority is a PL holder—a confirmation notice; or
 - (ii) if the petroleum resource authority is an ATP holder—an 18 months notice; or
 - (c) for undiluted or diluted incidental coal seam gas in an RMA in the overlapping area—when the ML (coal) holder gives the petroleum resource authority holder the RMA notice.
- (3) The petroleum resource authority holder may accept the offer—
 - (a) for an offer made under subsection (2)(a) or (b)—within 12 months after receiving the notice, or a later period agreed to by the ML (coal) holder; or
 - (b) for an offer made under subsection (2)(c)—within 3 months after receiving the notice, or a later period agreed to by the ML (coal) holder.
- (4) If the petroleum resource authority holder accepts the offer, the petroleum resource authority holder must—

- (a) enter into a contract with the ML (coal) holder for delivery of the gas; and
 - (b) take supply of the gas within 2 years after accepting the offer, or a later period agreed to by the ML (coal) holder; and
 - (c) pay the ML (coal) holder the amount of royalty that is payable for the gas under the Mineral Resources Act, section 320.
- (5) A contract mentioned in subsection (4)(a) must include the matters prescribed by regulation.
- (6) If the petroleum resource authority holder does not accept the offer under subsection (3), or take supply of the gas under subsection (4), the ML (coal) holder may use the gas under the Mineral Resources Act, section 318CN.
- (7) However, if the ML (coal) holder has not, under the Mineral Resources Act, section 318CN, used gas offered to a petroleum resource authority holder under subsection (2)(a) within 12 months after becoming entitled to use the gas under subsection (6), the ML (coal) holder must not use the gas under the Mineral Resources Act, section 318CN until—
 - (a) the ML (coal) holder re-offers to supply the gas to the petroleum resource authority holder; and
 - (b) either—
 - (i) the petroleum resource authority holder rejects the re-offer; or
 - (ii) 3 months, or a longer period agreed to by the ML (coal) holder, elapses after the re-offer is made without the petroleum resource authority holder accepting the re-offer.
- (8) A notice of offer under subsection (2), or a notice of re-offer under subsection (7), must include the matters prescribed by regulation.

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- (9) This section does not limit or otherwise affect the obligations imposed on a petroleum resource authority holder under the P&G Act.

Part 3 Subsequent petroleum production

139 Definitions for pt 3

- (1) In this part—

EP (coal) means a corresponding column 2 resource authority for a PL, mentioned in the table for this part, that is an exploration permit (coal).

EP (coal) holder means the holder of an EP (coal).

MDL (coal) means a corresponding column 2 resource authority for a PL, mentioned in the table for this part, that is an MDL (coal).

MDL (coal) holder means the holder of an MDL (coal).

ML (coal) means a corresponding column 2 resource authority for a PL, mentioned in the table for this part, that is a mining lease (coal).

ML (coal) holder means the holder of an ML (coal).

PL means a column 1 resource authority, mentioned in the table for this part, that is a petroleum lease (csg).

PL holder means the holder of a PL.

Note—

The PL holder may or may not hold an ATP for the overlapping area that is the subject of the PL.

- (2) A reference to a PL holder includes, if the circumstances permit, an applicant for a PL, whether or not an ATP holder.

- (3) A reference to an ML (coal) holder includes, if the circumstances permit, an EP (coal) holder or MDL (coal) holder who is an applicant for an ML (coal).

140 Table for pt 3

The following table applies for this part—

Column 1	Column 2
petroleum lease (csg)	any of the following— <ul style="list-style-type: none">(a) exploration permit (coal);(b) mineral development licence (coal);(c) mining lease (coal)

141 Petroleum production notice

- (1) A PL holder must give a coal resource authority holder a notice (a *petroleum production notice*) that—
- (a) states that the PL holder has applied for the grant of the PL; and
 - (b) includes a copy of the application for the PL, other than any statement detailing the applicant's financial and technical resources; and
 - (c) if the PL holder holds an ATP for the overlapping area that is the subject of the PL and the coal resource authority, and has an agreed joint development plan with the coal resource authority holder—states the amendments to the agreed joint development plan the PL holder intends to seek under section 133; and
 - (d) if the PL holder does not hold an ATP for the overlapping area that is the subject of the PL and the coal resource authority is an ML (coal) that has been granted—includes a proposed joint development plan; and

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- (e) includes any other information prescribed by regulation.
- (2) A petroleum production notice must be given to a coal resource authority holder within 10 business days after the day the PL holder applies for the grant of the PL.

142 Requirement for agreed joint development plan

- (1) This section applies if a PL holder does not hold an ATP for an overlapping area that is the subject of the PL and an ML (coal).
- (2) The PL holder must ensure that, within 12 months after giving a petroleum production notice to an ML (coal) holder—
 - (a) there is in place a joint development plan that has been agreed with the ML (coal) holder; and
 - (b) written notice is given to the chief executive stating the following—
 - (i) that the plan is in place;
 - (ii) the period for which the plan has effect;
 - (iii) other information prescribed by regulation.
- (3) The agreed joint development plan must—
 - (a) identify the ML (coal) holder and petroleum resource authority holder under the plan; and
 - (b) set out an overview of the activities proposed to be carried out in the overlapping area by the PL holder, including the location of the activities and when they will start; and
 - (c) identify any IMA and RMA for the overlapping area, and any SOZ for any IMA or RMA for the overlapping area; and
 - (d) state the agreed mining commencement date for any IMA or RMA; and

- (e) state how the activities mentioned in paragraph (b) optimise the development and use of the State's coal and coal seam gas resources; and
- (f) state the period for which the agreed joint development plan is to have effect; and
- (g) include any other information prescribed by regulation.

143 Exceptional circumstances notice previously given by ATP holder when PL holder

- (1) This section applies if—
 - (a) the PL holder under this part, when the holder of an ATP that preceded the PL, gave, under part 2, division 2, an exceptional circumstances notice to the ML (coal) holder; and
 - (b) a new mining commencement date was established, whether by agreement or by arbitration, for an IMA or RMA for the overlapping area.
- (2) The new mining commencement date applies under this division as the agreed mining commencement date for the IMA or RMA.

144 Negotiation of agreed joint development plan

- (1) An ML (coal) holder who receives a petroleum production notice that includes a proposed amendment of an agreed joint development plan or a proposed joint development plan must negotiate in good faith with the PL holder to enable the PL holder to give a notice under section 133(4) or 142(2).
- (2) If an ML (coal) holder and the PL holder can not agree on a joint development plan to the extent it relates to a relevant matter within 6 months after the ML (coal) holder receives the petroleum production notice, the PL holder must apply for arbitration of the dispute.

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- (3) Despite subsection (2), the ML (coal) holder and the PL holder may jointly apply for arbitration of the dispute, to the extent it relates to a relevant matter, at any time.

145 Consistency of development plans

- (1) This section applies if the PL holder is granted a PL for the overlapping area.
- (2) The PL holder must ensure any development plan under the P&G Act for the PL is consistent to the greatest practicable extent with each agreed joint development plan that applies to the PL holder.
- (3) The ML (coal) holder must ensure any development plan under the Mineral Resources Act for the ML (coal) is consistent to the greatest practicable extent with each agreed joint development plan that applies to the ML (coal) holder.
- (4) This section applies even if any of the following takes place for the PL or the ML (coal)—
 - (a) a renewal;
 - (b) a transfer;
 - (c) a complete or partial subletting.

146 Amendment of agreed joint development plan

- (1) An agreed joint development plan may be amended by agreement at any time.
- (2) A resource authority holder mentioned in this part who receives a proposal for an amendment of an agreed joint development plan must negotiate in good faith about the amendment.
- (3) Subsection (4) applies if the amendment provides for a cessation, or significant reduction or increase, of mining under an ML (coal) or production under a PL.

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- (4) Within 20 business days after making the amendment, the resource authority holders must jointly give the chief executive a written notice that—
 - (a) states that the joint development plan has been amended; and
 - (b) if there is a cessation or significant reduction of mining under the ML (coal) or production under the PL—includes, or is accompanied by, a statement about—
 - (i) whether the cessation or reduction is reasonable in the circumstances; and
 - (ii) whether the resource authority holders have taken all reasonable steps to prevent the cessation or reduction.
 - (5) A resource authority holder who can not obtain a proposed amendment of an agreed joint development plan under this section may apply for arbitration of the dispute, to the extent it relates to a relevant matter.

147 Authorised activities allowed only if consistent with agreed joint development plan

- (1) A PL holder may carry out an authorised activity for the PL in an overlapping area only if—
 - (a) the PL holder has complied with section 142; and
 - (b) the carrying out of the activity is consistent with each agreed joint development plan that applies to the PL holder.
- (2) An ML (coal) holder may carry out an authorised activity for the ML (coal) in an overlapping area only if carrying out the activity is consistent with each agreed joint development plan that applies to the ML (coal) holder.

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148 Condition of authorities

It is a condition of both a PL and an ML (coal) that the holder must comply with each agreed joint development plan that applies to the holder.

Part 4 Concurrent applications

149 Concurrent notice may be given by ATP holder

- (1) This section applies if an ATP holder—
 - (a) receives an advance notice under part 2 in relation to an overlapping area from the holder of an EP (coal) or MDL (coal) that includes the overlapping area; and

Note—

Under part 2, an advance notice for an ML (coal) is given by the applicant for the ML (coal).

 - (b) intends to apply for a PL, that will include the overlapping area, within 6 months after the ATP holder receives the advance notice.
- (2) The ATP holder may give the holder of the EP (coal) or MDL (coal) a written notice (a **concurrent notice**) in relation to the overlapping area.
- (3) The concurrent notice must be given within 3 months after the ATP holder receives the advance notice.
- (4) If the concurrent notice is given and the application for the PL is made within the 6 months mentioned in subsection (1)(b), this chapter must, to the greatest practicable extent, be applied as if the ATP holder was already a PL holder when the advance notice was given to the ATP holder.
- (5) Without limiting subsection (4)—

- (a) the requirement for an agreed joint development plan to be in place within 12 months after giving the advance notice applies under section 130(1); and
- (b) the proposed mining commencement date for an IMA in the overlapping area, for the purposes of the advance notice, is taken to be at least 11 years after the date on which the advance notice was given; and
- (c) the ATP holder may give an exceptional circumstances notice under part 2, if the necessary exceptional circumstances are considered to exist, at the same time as the concurrent notice is given.

150 Requirements for holder of EP (coal) or MDL (coal) if concurrent PL application

- (1) This section applies if the holder of an EP (coal) or MDL (coal)—
 - (a) receives a petroleum production notice under part 3 in relation to an overlapping area from the holder of an ATP that includes the overlapping area; and
 - (b) lodges an application for an ML (coal) before the PL the subject of the petroleum production notice is granted.

Note—

Under part 3, a petroleum production notice is given by the applicant for a PL.

- (2) The holder of the EP (coal) or MDL (coal) must give the ATP holder an advance notice as required under part 2, but the proposed mining commencement date must be at least 11 years after the date on which the advance notice for the ML (coal) is given.
- (3) Without limiting part 2, the requirement for an agreed joint development plan to be in place within 12 months after giving the advance notice applies under section 130(1).

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Part 5 Adverse effects test

151 Table for pt 5

The following table applies for this part—

Column 1	Column 2
exploration permit (coal)	either of the following— (a) authority to prospect (csg); (b) petroleum lease (csg)
mineral development licence (coal)	either of the following— (a) authority to prospect (csg); (b) petroleum lease (csg)
authority to prospect (csg)	any of the following— (a) exploration permit (coal); (b) mineral development licence (coal); (c) mining lease (coal)

152 Authorised activities allowed only if no adverse effects

An authorised activity for a column 1 resource authority may be carried out in an overlapping area the subject of the resource authority only if—

- (a) it does not adversely affect carrying out in the overlapping area an activity that is an authorised activity for a corresponding column 2 resource authority for the column 1 resource authority; and
- (b) carrying out the authorised activity for the corresponding column 2 resource authority has already started in the overlapping area.

153 Expedited land access for petroleum resource authority holders

- (1) This section applies if—
- (a) a petroleum resource authority holder gives an ML (coal) holder a negotiation notice under section 84; and
 - (b) the petroleum resource authority holder and ML (coal) holder have not entered into any of the following before the end of the minimum negotiation period—
 - (i) a conduct and compensation agreement;
 - (ii) a deferral agreement;
 - (iii) an opt-out agreement.
- (2) Despite a requirement under chapter 3 to give an entry notice, the petroleum resource authority holder may enter an overlapping area the subject of the petroleum resource authority to carry out an authorised activity for the authority if—
- (a) the petroleum resource authority holder gives the ML (coal) holder an expedited entry notice; and
 - (b) the first day the petroleum resource authority holder enters the overlapping area is at least 10 business days after the day the petroleum resource authority holder gives the ML (coal) holder the expedited entry notice.
- (3) Nothing in this section limits any other provision of chapter 3, including, for example, a provision requiring the petroleum resource authority holder and the ML (coal) holder to enter into an agreement mentioned in subsection (1)(b).
- (4) In this section—
- expedited entry notice*** means a notice that—
- (a) states the petroleum resource authority holder intends to enter an overlapping area on a stated date; and
 - (b) includes any other information prescribed by regulation.
- ML (coal) holder*** means the holder of an ML (coal).

Part 6 General provisions

Division 1 Information exchange

154 Resource authority holders must exchange information

- (1) The resource authority holders for an overlapping area must give each other all information reasonably necessary to allow them to optimise the development and use of coal and coal seam gas resources in the overlapping area.
- (2) Without limiting subsection (1), the information that must be given includes the following—
 - (a) operational and development plans;
 - (b) location of gas and mining infrastructure;
 - (c) development and production goals;
 - (d) scheduling of authorised activities;
 - (e) rehabilitation and environmental management;
 - (f) safety and health arrangements;
 - (g) information about any application relating to the overlapping area made by the resource authority holder under a Resource Act;
 - (h) any amendment of a mine plan required to be kept by the resource authority holder under a Resource Act;
 - (i) any other information prescribed by regulation.
- (3) The information must be given at least once during each year that the resource authorities are in force.
- (4) Subsections (1) to (3) do not require the giving of information that is only in the form of a draft.
- (5) In this section—
draft includes a preliminary or working draft.

155 Annual meetings

- (1) The resource authority holders for an overlapping area must convene at least 1 meeting during each year the resource authorities are in force.
- (2) The purpose of the meeting is to facilitate compliance with section 154.

156 Confidentiality

- (1) This section applies if a resource authority holder (the *information-giver*) gives another resource authority holder (the *recipient*) information that this chapter requires or permits the information-giver to give to the recipient.
- (2) The recipient must not disclose the information to another person unless—
 - (a) the information is publicly available; or
 - (b) the disclosure is—
 - (i) to a person (a *secondary recipient*) whom the recipient has authorised to carry out authorised activities for the recipient's resource authority; or
 - (ii) made with the information-giver's consent; or
 - (iii) expressly permitted or required under this or another Act; or
 - (iv) to the Minister.
- (3) Subject to subsection (2), the recipient must not use the information for a purpose other than for which it is given.
- (4) If the recipient does not comply with subsection (2) or (3), the recipient is liable to pay the information-giver—
 - (a) compensation for any loss the information-giver incurs because of the failure to comply with the subsection; and
 - (b) the amount of any commercial gain the recipient makes because of the failure to comply with the subsection.

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- (5) A secondary recipient must not use the information for a purpose other than for which it is given.
- (6) If a secondary recipient does not comply with subsection (5), the secondary recipient is liable to pay the information-giver—
 - (a) compensation for any loss the information-giver incurs because of the failure to comply with the subsection; and
 - (b) the amount of any commercial gain the secondary recipient makes because of the failure to comply with the subsection.

Division 2 Ministerial powers

157 Requirement to give copy of agreed joint development plan

- (1) The Minister may, by written notice, require a resource authority holder to give the Minister a copy of an agreed joint development plan.
- (2) The resource authority holder must give the copy to the Minister within 30 business days after the notice is given under subsection (1).
- (3) This section does not apply if the agreed joint development plan has ceased to have effect.

158 Amendment of agreed joint development plan

- (1) The Minister may, by written notice, require a resource authority holder to amend an agreed joint development plan.
- (2) The matters the Minister must consider in deciding whether to require an amendment include each of the following—
 - (a) the potential of each of the resource authority holders to which the plan applies to develop coal and coal seam

- gas resources to maximise the benefit for all Queenslanders;
- (b) the extent to which each of the resource authority holders have complied with the plan;
 - (c) whether, if the amendment was made, compliance with the plan would continue to be commercially and technically feasible for the resource authority holders;
 - (d) the content of any work program or development plan for each of the resource authorities.
- (3) A notice given under subsection (1) must include an information notice about the Minister's decision to require the amendment.

159 Request for information

The Minister may, by written notice, ask a resource authority holder to give the Minister any information the Minister considers appropriate to—

- (a) optimise the development and use of the State's coal and coal seam gas resources to maximise the benefit for all Queenslanders; or
- (b) ensure safe mining in an overlapping area the subject of the resource authority.

160 Right of appeal

- (1) This section applies if the Minister decides to exercise a power under section 158(1).
- (2) The P&G Act, chapter 12, part 2 applies, with necessary changes, to the decision as if—
 - (a) the decision were mentioned in the P&G Act, schedule 1, table 2; and
 - (b) the P&G Act, schedule 1, table 2 stated the Land Court as the appeal body for the decision; and

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- (c) a reference in the P&G Act, chapter 12, part 2 to an information notice included a reference to an information notice under section 158(3).

Division 3 Compensation

Subdivision 1 Preliminary

161 Definitions for div 3

In this division—

ATP major gas infrastructure, for an ATP, see section 166.

lost production see section 162.

PL connecting infrastructure see section 165.

PL major gas infrastructure, for a PL, see section 163.

PL minor gas infrastructure, for a PL, see section 164.

reconciliation payment see section 172(2)(a) and (c)(i).

replacement gas see section 172(2)(b) and (c)(ii).

replace includes remove and relocate.

162 What is *lost production*

- (1) *Lost production* means coal seam gas production foregone by a PL holder.
- (2) Lost production must be calculated in the way, and consistent with the principles, prescribed by regulation.

163 What is *PL major gas infrastructure*

- (1) *PL major gas infrastructure*, for a PL, means a gas facility for the PL that is—
 - (a) a pipeline within the meaning of the P&G Act; or

- (b) a petroleum facility within the meaning of the P&G Act; or
 - (c) a water observation bore within the meaning of the P&G Act; or
 - (d) significant infrastructure necessarily associated with a gas facility mentioned in paragraph (a), (b) or (c), including, for example, accommodation camps, major roads, communication facilities, workshops, stores and offices; or
 - (e) equipment or facilities used by the PL holder to carry or transmit gas, water or other substances, telecommunications or electricity, other than gathering lines upstream of field or nodal compressor stations; or
 - (f) another gas facility prescribed by regulation.
- (2) The cost of replacement of PL major gas infrastructure must be assessed in the way, and consistent with the principles, prescribed by regulation.
- (3) In this section—
- gas facility**, for a PL, means equipment and other major facilities included in infrastructure established or used by the PL holder, its contractors or other persons authorised by the PL holder to carry out an authorised activity under the PL.

164 What is **PL minor gas infrastructure**

- (1) **PL minor gas infrastructure**, for a PL, means a field asset for the PL, other than PL major gas infrastructure for the PL, that is—
- (a) a pilot or producing petroleum well; or
 - (b) a sub-nodal collection network; or
 - (c) a minor access road or track; or
 - (d) minor facilities and infrastructure associated with, or servicing, anything mentioned in paragraph (a), (b) or (c); or

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- (e) minor facilities associated with, and servicing, major gas infrastructure, if the major gas infrastructure does not need to be relocated; or
 - (f) another field asset prescribed by regulation.
- (2) The cost of replacement of PL minor gas infrastructure must be assessed in the way, and consistent with the principles, prescribed by regulation.
- (3) In this section—
field asset, for a PL, means equipment and other minor facilities included in infrastructure established or used by the PL holder, its contractors or other persons authorised by the PL holder to carry out an authorised activity under the PL.

165 What is *PL connecting infrastructure*

- (1) *PL connecting infrastructure*, for a PL, means infrastructure that connects PL major gas infrastructure for the PL to a petroleum well in an overlapping area the subject of the PL.
- (2) The cost of replacement of PL connecting infrastructure must be assessed in the way, and consistent with the principles, prescribed by regulation.

166 What is *ATP major gas infrastructure*

- (1) *ATP major gas infrastructure*, for an ATP, means—
 - (a) a pilot well for the ATP, if—
 - (i) the pilot well was drilled or constructed under the authority of the ATP; and
 - (ii) when the ATP holder was given an 18 months notice by an ML (coal) holder from whom the ATP holder seeks compensation under this division, the pilot well—
 - (A) was being used, or being held, for future production; and

- (B) was not planned to be abandoned; and
- (b) other infrastructure prescribed by regulation.
- (2) The cost of abandonment of ATP major gas infrastructure must be assessed in the way, and consistent with the principles, prescribed by regulation.
- (3) In this section—
pilot well includes any item of infrastructure associated with a pilot well.

Subdivision 2 Liability to compensate

167 Liability of ML (coal) holder to compensate PL holder

- (1) This section applies if—
 - (a) an ML (coal) holder gives an acceleration notice to a PL holder and, because of the acceleration notice, the PL holder—
 - (i) suffers, or will suffer, lost production; or
 - (ii) is, or will be, required to replace PL minor gas infrastructure for the PL; or
 - (b) an ML (coal) holder carries out, or proposes to carry out, authorised activities in an IMA or RMA for an overlapping area and, because of the authorised activities—
 - (i) PL connecting infrastructure for a PL is or will be physically severed and the PL holder is or will be required to replace the PL connecting infrastructure; or
 - (ii) the PL holder is or will be required to replace PL major gas infrastructure for the PL.
- (2) The ML (coal) holder is liable to compensate the PL holder for—

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- (a) if subsection (1)(a)(i) applies—the lost production; or
 - (b) if subsection (1)(a)(ii) applies—the cost of replacement of the PL minor gas infrastructure; or
 - (c) if subsection (1)(b)(i) applies—the cost of replacement of the PL connecting infrastructure; or
 - (d) if subsection (1)(b)(ii) applies—the cost of replacement of the PL major gas infrastructure; or
 - (e) if subsection (1)(a) applies, but the mining commencement date for an IMA or RMA is delayed to later than the agreed mining commencement date—additional costs incurred by the PL holder because of the delay, except to the extent the liability to compensate is reduced under subsection (4).
- (3) The ML (coal) holder's liability under subsection (2) to compensate the PL holder is the ML (coal) holder's *compensation liability* to the PL holder.
- (4) The ML (coal) holder's compensation liability for the PL holder's additional costs as mentioned in subsection (2)(e) is reduced to the extent the delay is caused by any event beyond the control of the ML (coal) holder, but only if the ML (coal) holder—
- (a) as soon as practicable gives written notice to the PL holder of—
 - (i) the event; and
 - (ii) the details of any cause of the event; and
 - (b) takes all reasonable steps to minimise the effect of the event on the agreed mining commencement date.

168 Liability of ML (coal) holder to compensate ATP holder

- (1) This section applies if—
- (a) an ML (coal) holder carries out, or proposes to carry out, authorised activities in an IMA or RMA; and

- (b) because of the authorised activities, an ATP holder is or will be required to abandon ATP major gas infrastructure.
- (2) The ML (coal) holder is liable to compensate the ATP holder for the cost of abandonment of the ATP major gas infrastructure.
- (3) The ML (coal) holder's liability under subsection (2) to compensate the ATP holder is the ML (coal) holder's *compensation liability* to the ATP holder.

169 Meeting compensation liability

- (1) Unless otherwise agreed, a petroleum resource authority holder is entitled to receive an amount to meet a compensation liability only if the petroleum resource authority holder is able to give information that shows the value of any lost production, replacement costs or cost of abandonment for which compensation is claimed.
- (2) A petroleum resource authority holder is not entitled to receive an amount of compensation on more than one occasion to meet any compensation liability that may at any time apply to a particular IMA or RMA.
- (3) An ML (coal) holder is not required to pay an amount to meet a compensation liability arising from lost production until when the production would otherwise have happened.

170 Minimising compensation liability

- (1) An ML (coal) holder and a petroleum resource authority holder must both take all reasonable steps to minimise compensation liability in the way, and consistent with the principles, prescribed by regulation.
- (2) If, after complying with subsection (1), the ML (coal) holder continues to have a compensation liability to the petroleum resource authority holder, the ML (coal) holder must, to the extent reasonable, offer the petroleum resource authority

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holder an amount of coal seam gas that is equal to the amount of the compensation liability.

- (3) If, after complying with subsection (2), the ML (coal) holder continues to have a compensation liability to the petroleum resource authority holder, the ML (coal) holder must give the petroleum resource authority holder a payment equal to the amount of the compensation liability.

171 Offsetting of compensation liability

- (1) An ML (coal) holder's compensation liability to a petroleum resource authority holder is reduced to the extent of the value of the following—
 - (a) incidental coal seam gas supplied to the petroleum resource authority holder on the acceptance of an offer made under section 138;
 - (b) undiluted incidental coal seam gas offered to the petroleum resource authority holder under section 138 but not supplied to the petroleum resource authority holder because the offer is not accepted.
- (2) However, subsection (1)(b) applies only to the extent it was reasonably practicable for the petroleum resource authority holder to take supply of the undiluted incidental coal seam gas when the offer was made under section 138.
- (3) The value of the incidental coal seam gas mentioned in subsection (1) must be calculated in the way, and consistent with the principles, prescribed by regulation.

172 Reconciliation payments and replacement gas

- (1) This section applies if—
 - (a) under this division, a PL holder receives a compensation payment from an ML (coal) holder for lost production;and

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- (b) the PL holder subsequently recovers coal seam gas that was the subject of the compensation payment.
 - (2) The PL holder is liable to give the ML (coal) holder—
 - (a) a payment (a ***reconciliation payment***) for the coal seam gas recovered; or
 - (b) an amount of coal seam gas (***replacement gas***) that is equal to the amount of coal seam gas recovered; or
 - (c) both of the following—
 - (i) a payment (also a ***reconciliation payment***) for part of the coal seam gas recovered;
 - (ii) an amount of coal seam gas (also ***replacement gas***) that is equal to the amount of coal seam gas recovered that is not the subject of the reconciliation payment under subparagraph (i).
 - (3) The amount of a reconciliation payment—
 - (a) must be calculated in the way, and consistent with the principles, prescribed by regulation; and
 - (b) must not be more than the compensation payment.

173 Claiming compensation

- (1) If a petroleum resource authority holder considers an ML (coal) holder has a compensation liability to the petroleum resource authority holder, the petroleum resource authority holder must—
 - (a) advise the ML (coal) holder of the liability as soon as reasonably practicable; and
 - (b) include with the advice a written proposal for calculating the amount of compensation payable.
- (2) The ML (coal) holder may either—
 - (a) accept the proposal; or
 - (b) respond with a written counter proposal.

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174 Availability of dispute resolution

If a petroleum resource authority holder and an ML (coal) holder can not agree on any of the following, either party may apply for arbitration of the dispute—

- (a) the amount of compensation the petroleum resource authority holder is entitled to receive under this division;
- (b) when a compensation payment must be made;
- (c) the amount of a reconciliation payment the ML (coal) holder is entitled to receive under this division;
- (d) when a reconciliation payment must be made;
- (e) the amount of replacement gas the ML (coal) holder is entitled to receive under this division;
- (f) when the replacement gas must be given.

Division 4 Dispute resolution

175 Application of div 4

This division applies to the following disputes between resource authority holders—

- (a) a dispute mentioned in section 127 about an exceptional circumstances notice;
- (b) a dispute mentioned in section 131, 133, 144 or 146 about a joint development plan to the extent it relates to a relevant matter;
- (c) a dispute mentioned in section 174 about compensation.

176 Definition for div 4

In this division—

prescribed arbitration institute means an entity for nominating arbitrators that is prescribed by regulation.

177 Nomination of arbitrator

- (1) A resource authority holder applies, or resource authority holders jointly apply, for arbitration of the dispute by asking a prescribed arbitration institute to nominate an arbitrator.
- (2) The prescribed arbitration institute must nominate an arbitrator to decide the dispute.

178 Arbitrator's functions

- (1) The arbitrator has authority to decide the dispute by the issuance of an award.
- (2) The award must be consistent to the greatest possible extent with—
 - (a) optimising the development and use of the State's coal and coal seam gas resources to maximise the benefit for all Queenslanders; and
 - (b) safety and health requirements under mining safety legislation.
- (3) The award must be made—
 - (a) within 6 months after the appointment of the arbitrator; or
 - (b) if the arbitrator decides—within 9 months after the appointment of the arbitrator.
- (4) A regulation may prescribe matters an arbitrator may consider in deciding an award.
- (5) A regulation made under subsection (4) does not limit the matters an arbitrator may consider.

179 Expert appointed by arbitrator

- (1) The arbitrator —
 - (a) must appoint at least 1 qualified person with expertise in coal mining, and 1 qualified person with expertise in coal seam gas exploration and production (each an

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appointed expert), to report to it on specific issues decided by the arbitrator; and

- (b) may appoint another qualified person (also an *appointed expert*) to report to it on specific issues decided by the arbitrator; and
 - (c) may require a resource authority holder to give an appointed expert any relevant information or to produce, or to provide access to, any relevant documents or other property for the appointed expert's inspection.
- (2) If a resource authority holder requests, or if the arbitrator considers it necessary, the appointed expert must, after delivery of the appointed expert's written or oral report, participate in a hearing where the resource authority holders have the opportunity to put questions to the appointed expert and present persons with relevant expertise to give evidence on the points at issue.
- (3) In this section—
- qualified person* means a person with the experience or qualifications prescribed by regulation.

180 Application of Commercial Arbitration Act 2013

The *Commercial Arbitration Act 2013* applies to the arbitration to the extent it is not inconsistent with this chapter.

181 Costs of arbitration

- (1) The resource authority holders are liable to pay the costs of the arbitration in equal shares, unless the arbitrator decides otherwise.
- (2) In this section—

costs, of the arbitration, includes the fees and expenses of the arbitrator.

182 Effect of arbitrator's decision

- (1) The arbitrator's decision is final.
- (2) The resource authority holders may not apply for review of, or appeal against, the decision.
- (3) The arbitrator's decision does not limit or otherwise affect—
 - (a) a power of the Minister under part 6, division 2; or
 - (b) a power of an inspector under mining safety legislation.
- (4) The arbitrator's decision on a matter in dispute between resource authority holders has the same effect as if the resource authority holders had entered into a binding and enforceable agreement to the same effect as the decision.

183 Copy of award and reasons for award

The resource authority holders must give the chief executive a copy of the award and the arbitrator's reasons for the issuance of the award.

184 Notice to chief executive after arbitration

- (1) This section applies if a joint development plan is amended as a result of arbitration.
- (2) The resource authority holders must jointly give the chief executive written notice of the amendment.
- (3) The notice must be given within 10 business days after the arbitration is completed.

Division 5 Miscellaneous provision

185 Copy of notice to chief executive

A person who gives a notice under this chapter other than to the chief executive must give a copy to the chief executive within 10 business days after giving the notice.

Chapter 5 Applications and other documents

Part 1 Processing applications

Division 1 Preliminary

186 Definitions for pt 1

In this part—

application means an application to which this part applies.

authorising provision, for an application, means the provision of this Act that authorises the making of the application.

deciding authority, for an application—

- (a) means the entity that is to decide the application under the authorising provision for the application; and
- (b) includes an entity to which the power to decide the application has been delegated.

invalid application see section 189(2).

187 Application of pt 1

This part applies for processing an application made under this Act if, and to the extent, the authorising provision for the application applies this part to the application.

Division 2 Making, amending and withdrawing applications

188 Requirements for applications

- (1) An application must—
 - (a) comply with all requirements stated for it in the authorising provision for the application; and
 - (b) comply with all prescribed requirements for it; and
 - (c) be accompanied by all fees, information or other things prescribed by regulation for it; and
 - (d) if a practice manual applies to the application, comply with the manual to the extent it applies to the application.
- (2) Also, if there is an approved form for the application, the application must be made in the approved form.

189 Invalid applications

- (1) An application has no effect if—
 - (a) it does not comply with section 188; or
 - (b) it is of a type prescribed by regulation as an application that can not be made.
- (2) An application that has no effect is an *invalid application* unless the deciding authority allows the application to proceed under section 190.
- (3) The deciding authority must ensure each of following happens in relation to an invalid application—
 - (a) the application is returned to the entity that lodged it together with a written notice about why the application is being returned;
 - (b) any fee accompanying the application is refunded to the person who paid the fee.

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- (4) A person responsible for accepting applications for lodgement may refuse to accept an application if it is incomplete or is not accompanied by the fees, information or other things as mentioned in section 188(1)(c).

190 Substantial compliance

The deciding authority may give effect to an application that does not comply with section 188 and allow it to proceed if reasonably satisfied—

- (a) the application complies with the requirements stated for it in its authorising provision; and
- (b) the application substantially complies with the requirements mentioned in section 188(1)(b) to (d); and
- (c) the application is accompanied by all fees prescribed by regulation for it.

191 Amending applications

An applicant may amend the application or a document accompanying the application only if—

- (a) the application has not been decided; and
- (b) the applicant has complied with the prescribed requirements for amending the application.

192 Withdrawing applications

- (1) An applicant may lodge a written notice withdrawing the application at any time before a decision about the application takes effect.
- (2) A regulation may prescribe the way in which the written notice must be lodged.
- (3) The withdrawal takes effect when the written notice is lodged.
- (4) If an application is withdrawn, the deciding authority may refund all or part of any fee paid for the application.

Division 3 Directions about applications

193 Deciding authority may make directions about applications

- (1) The deciding authority may, by written notice, direct an applicant to do all or any of the following within a stated period—
 - (a) complete or correct the application if it appears to the deciding authority to be incorrect, incomplete or defective;
 - (b) do any thing required of the applicant under this Act or another Act to allow the application to be decided;
 - (c) give the deciding authority or another stated entity additional information about, or relevant to, the application;
 - (d) give the deciding authority or another stated entity an independent report, statement or statutory declaration verifying all or any of the following—
 - (i) any information included in the application;
 - (ii) any additional information required under paragraph (c);
 - (iii) that the applicant meets any eligibility or capability criteria relevant for the application.
- (2) The deciding authority may—
 - (a) require the independent report, statement or statutory declaration required by the direction—
 - (i) to be made by an appropriately qualified independent person or by the applicant; and
 - (ii) if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant; or

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- (b) act under this section more than once in relation to a particular application; or
 - (c) extend the period for complying with the direction.
- (3) A regulation may prescribe—
 - (a) examples of additional information about, or relevant to, an application; and
 - (b) the minimum period for the stated period mentioned in subsection (1).
- (4) The applicant must bear the costs incurred in complying with the direction.
- (5) The applicant is taken to have withdrawn the application if the applicant does not comply with the direction within the stated period in the direction.
- (6) In this section—

executive officer, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

information includes a document.

Division 4 Deciding applications

194 Criteria for considering applications

- (1) In deciding an application, the deciding authority must consider the criteria prescribed by regulation for the authorising provision for the application.
- (2) Unless the authorising provision for an application states the criteria are exhaustive, the deciding authority may also consider any other criteria or matter the authority considers relevant to deciding the application.

195 Notice of decisions

- (1) This section applies if a deciding authority makes a decision about an application.
- (2) If the decision is the decision sought under the application, the deciding authority must give the applicant written notice of the decision.
- (3) If the decision is not the decision sought under the application, or the decision includes conditions, the deciding authority must give the applicant an information notice about the decision.
- (4) A regulation may prescribe other entities a deciding authority is required to notify of its decision.
- (5) To remove any doubt, it is declared that a lawful refusal to accept an invalid application is not a decision about the application.

Part 2 Lodging documents

196 Lodging documents

- (1) This section applies if an entity is to give a document to any of the following authorities under this Act—
 - (a) the Minister;
 - (b) the chief executive;
 - (c) another entity prescribed by regulation.
- (2) A regulation may prescribe—
 - (a) the places at which the document may, or must, be lodged; and
 - (b) the way in which the document may, or must, be lodged.

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- (3) If the document is an application, an obligation prescribed under subsection (2) for the document is taken to be part of the prescribed requirements for the document.

Note—

Failure to comply with the prescribed requirements for a document may result in the document having no effect. See section 189.

Chapter 6 Miscellaneous

Part 1 Resource authority register

197 Register to be kept

- (1) The chief executive must keep a register of details about—
- (a) resource authorities; and
 - (b) applications for the grant of resource authorities other than an excluded application; and
 - (c) dealings with resource authorities; and
 - (d) application transfers under the Mineral Resources Act, chapter 7; and
 - (e) caveats; and
 - (f) acquired land; and
 - (g) trigger thresholds in relation to the make good obligation for 1923 Act petroleum tenures under the 1923 Act; and
 - (h) coordination arrangements under the P&G Act and 1923 Act; and
 - (i) geothermal coordination arrangements under the Geothermal Act; and

- (j) GHG coordination arrangements under the Greenhouse Gas Act; and
- (k) any other relevant matters prescribed under a regulation.
- (2) The chief executive may decide the form in which the register is kept.
- (3) The chief executive may also keep in the register information that the chief executive considers appropriate about matters relating to this Act or another Act.
- (4) In this section—

excluded application means an application for the grant of an exploration permit for an EP tender under the Mineral Resources Act.

make good obligation has the meaning of make good obligation under the 1923 Act, section 2 as in force immediately before the commencement of the *Water and Other Legislation Amendment Act 2010*.

trigger threshold has the meaning of trigger threshold under the 1923 Act, section 2 as in force immediately before the commencement of the *Water and Other Legislation Amendment Act 2010*.

198 Access to register

- (1) The chief executive must—
 - (a) keep the register open for inspection by the public during office hours on business days at the places the chief executive considers appropriate; and
 - (b) allow a person, on payment of the fee prescribed under a regulation, to search and take extracts from the register; and
 - (c) give a person who asks for it a copy of all or part of a notice, document or information held in the register on payment of the fee prescribed under a regulation.
- (2) Subsection (1) is subject to section 199.

199 Arrangements with other departments for copies from register

- (1) The chief executive may enter into an arrangement with another department allowing it to carry out a search of, take extracts from or obtain a copy of, particulars recorded in the register, without payment of the fees prescribed under section 198.
- (2) However, the chief executive may enter into an arrangement under subsection (1) only if the chief executive is reasonably satisfied the information obtained from the search, extract or copy will not be—
 - (a) used for a commercial purpose, including, for example, the marketing or sale of the information or other information; or
 - (b) included in another database of information, in any form, other than with the chief executive's approval.

200 Supply of statistical data from register

- (1) The chief executive may enter into an agreement to supply statistical data derived from instruments or information kept in the register.
- (2) If the chief executive supplies statistical data under subsection (1)—
 - (a) the fees and charges applying for the supply of the data are the fees and charges provided for in the agreement; and
 - (b) without limiting paragraph (a), the agreement may also state—
 - (i) how the fees and charges are to be calculated; and
 - (ii) how payment of the fees and charges is to be made.
- (3) Without limiting subsection (1), an agreement for the supply of statistical data may limit the use to which the data supplied may be put.

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- (4) An agreement for the supply of statistical data must include—
- (a) a provision allowing the chief executive to exclude particulars from data supplied under the agreement, if the chief executive is satisfied, on reasonable grounds, that inclusion of the particulars may result in the particulars being inappropriately disclosed or used; and
 - (b) a provision allowing the chief executive to prohibit disclosure, or to limit distribution or use, of data supplied under the agreement.
- (5) An agreement under this section must not provide for the obtaining of information or anything else that may be obtained under a search of the register permitted under section 198.
- (6) The chief executive must exclude resource authority particulars and personal information from data supplied under the agreement.
- (7) Subsection (6) applies despite anything in the agreement.
- (8) In this section—

personal information means a particular from any instrument or information kept by the chief executive that may allow a person to identify a person to whom the instrument or information relates.

resource authority particulars means particulars from any instrument or information kept by the chief executive that may allow a person to identify a resource authority to which the instrument or information relates.

201 Chief executive may correct register

- (1) The chief executive may correct the register if satisfied—
- (a) the register is incorrect; and
 - (b) the correction will not prejudice any rights recorded in the register of a resource authority holder, a person who holds an interest in a resource authority, a person who

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has lodged a caveat, or a party to a coordination arrangement.

- (2) The power to correct includes power to correct information in the register or a document forming part of the register.
- (3) If the register is corrected, the chief executive must record in it—
 - (a) the state of the register before the correction; and
 - (b) the time, date and circumstances of the correction.
- (4) A correction under this section has the same effect as if the relevant error had not been made.
- (5) For subsection (1)(b), a right is not prejudiced if the relevant person acquired or has dealt with the right with actual or constructive knowledge that the register was incorrect and how it was incorrect.

Part 2 Other provisions

202 Practice manual

- (1) The chief executive may keep, in the way the chief executive considers appropriate, a manual (however called) about resource authority administration practice to guide and inform persons dealing with the department.
- (2) The manual may include—
 - (a) directions about—
 - (i) what information, documents or instruments (*material*) a person must or may give in response to a requirement or permission under this Act or a Resource Act; and
 - (ii) how or when the material must or may be given; and

- (iii) the format of the material; and
 - (b) practices to ensure there is consistency and efficiency in resource authority administration processes; and
 - (c) guidelines about ways to define the boundary of the area of a mining tenement or proposed mining tenement under the Mineral Resources Act.
- (3) If—
 - (a) a person is required or permitted to give the Minister or the chief executive (the *official*) information for a particular purpose relating to this Act or a Resource Act; and
 - (b) the person gives the information—
 - (i) as required or permitted under the manual; or
 - (ii) as would be required or permitted to be given under a regulation if the information were a document;

the person is taken to have given the official the information for the purpose.
- (4) The chief executive must—
 - (a) keep a copy of the manual and a record (however called) of each part of the manual, including the dates when each part was published or superseded; and
 - (b) make the manual and the record available to the public in the way the chief executive considers appropriate.
- (5) Without limiting subsection (4), the chief executive must ensure an up-to-date copy of the manual and the record are available to be read free of charge—
 - (a) on the department's website; and
 - (b) if information relates to a particular application—at the department's office where the application was made.

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203 Fees—payment methods

- (1) A regulation may fix the methods to be used for the payment of fees payable under this Act.
- (2) A method to be used for the payment of fees fixed by either of the following is an *approved payment method* for the fee—
 - (a) a regulation under subsection (1);
 - (b) the chief executive in an approved form under section 207(2).
- (3) However, if a regulation and the chief executive inconsistently fix the methods to be used for the payment of a fee, the approved payment method for the fee is the method fixed by the regulation.

204 Fees—evidence and timing of payment

- (1) This section applies if—
 - (a) a document must be accompanied by a fee when lodged under this Act; and
 - (b) an approved payment method is used to pay the fee; and
 - (c) the fee is received by the entity to which the fee must be paid within the prescribed period for receiving the fee using the approved payment method.
- (2) The fee is taken to accompany the document if the document is accompanied by evidence of the payment of the fee using the approved payment method.

Example—

a receipt for an electronic funds transfer

- (3) If the document is accompanied by evidence of the fee having been paid using the approved payment method, the fee is taken to have been paid at the time the person lodged the document under this Act.

205 Chief executive may require particular information

- (1) The chief executive may require a relevant entity to give the chief executive, within the prescribed period, a copy of a notice or consent given by or to the relevant entity under chapter 3.
- (2) In this section—
relevant entity means—
 - (a) a resource authority holder; or
 - (b) an owner or occupier of land; or
 - (c) a public land authority; or
 - (d) a public road authority.

206 References to right to enter

A right under this Act to enter a place includes the right to—

- (a) leave and re-enter the place from time to time; and
- (b) remain on the place for the time necessary to achieve the purpose of the entry; and
- (c) take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.

207 Delegation of functions or powers

- (1) The Minister may delegate the Minister's functions or powers under this Act to an appropriately qualified public service employee.
- (2) The chief executive may delegate the chief executive's functions or powers under this Act to an appropriately qualified public service employee.

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208 Functions or powers carried out through agents

- (1) This section applies to the following persons—
 - (a) the Minister;
 - (b) the chief executive;
 - (c) a person delegated a function or power under section 207.
- (2) Unless this Act requires the person to carry out a function or power personally, the person may act through a public service employee, as agent, to carry out the function or power.
- (3) This section does not limit the *Acts Interpretation Act 1954*, section 27A.

209 Approved forms

- (1) The chief executive may approve forms for use under this Act.
- (2) The chief executive may fix in an approved form a method to be used for the payment of a fee under this Act.

210 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
 - (a) prescribe fees payable under the Act; or
 - (b) provide for a maximum penalty of 20 penalty units for a contravention of a regulation.

211 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
 - (a) it is necessary or convenient to assist in the transition to a simplified common framework for managing resource

authorities in relation to the particular matters dealt with in this Act; and

- (b) this Act does not make provision or enough provision.
- (2) A transitional regulation may have retrospective operation to a day that is not earlier than the day of commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the day of commencement.

Chapter 7 Savings and transitional provisions

Part 1 Preliminary

212 Definitions for ch 7

In this chapter—

commencement means the commencement of this section.

new register means the register kept under this Act.

Part 2 Provisions for dealings

213 Incomplete registration of dealings

- (1) This section applies if, before the commencement—
 - (a) a person gave the chief executive notice of a dealing under a Resource Act with the intention of registering

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the dealing but, at the commencement, the dealing had not been registered; or

- (b) a person applied to the Minister under a Resource Act for an indication of whether the Minister would approve an assessable transfer under that Act but, at the commencement, the application had not been decided; or
 - (c) a person applied to the Minister under a Resource Act for approval of an assessable transfer under that Act but, at the commencement, the application had not been decided.
- (2) The provisions of the Resource Act relating to the notice or application (the *former provisions*) continue to apply for the notice or application despite any repeal of the provisions by this Act.
- (3) However, a reference to a register in the former provisions is taken to be a reference to the new register.
- (4) To remove any doubt, it is declared that the dealing mentioned in subsection (1)(a) may be registered if it is able to be registered under the former provisions.
- (5) In this section—

assessable transfer, under a Resource Act—

- (a) means an assessable transfer as defined under the Resource Act immediately before the commencement; but
- (b) does not include an application transfer under the Mineral Resources Act.

dealing, under a Resource Act, means a dealing as defined under the Resource Act immediately before the commencement.

214 Continuing effect of indicative approval

- (1) This section applies if, under a Resource Act, the Minister gave a resource authority holder an indicative approval that the Minister was likely to approve an assessable transfer under that Act and the indicative approval was given—
 - (a) before the commencement; or
 - (b) after the commencement under section 213.
- (2) The indicative approval remains binding on the Minister in relation to registering the transfer of the resource authority under this Act if, under the former provisions of the relevant Resource Act for the resource authority, the approval to register the transfer would be taken to have been given.

Example—

For a resource authority under the *Petroleum and Gas (Production and Safety) Act 2004*, see sections 573C and 573D as in force before repeal under this Act.

- (3) In this section—

assessable transfer, under a Resource Act—

 - (a) means an assessable transfer as defined under the Resource Act immediately before the commencement; but
 - (b) does not include an application transfer under the Mineral Resources Act.

former provisions, of a Resource Act, means the provisions of the Resource Act that, immediately before the commencement, related to the Minister deciding whether or not to give an approval of an assessable transfer.

215 Unrecorded associated agreements

- (1) This section applies if, before the commencement, notice of an associated agreement had been given to the chief executive in accordance with a Resource Act but the agreement had not been recorded before the commencement.

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- (2) The associated agreement may be included in the new register if the agreement would have been recorded in a register under the Resource Act as in force immediately before the commencement.

216 Transfer of matters to new register

- (1) A matter recorded in a register under a Resource Act is to be recorded in the new register.
- (2) A caveat (a *previous caveat*) recorded in a register under a Resource Act continues in effect in relation to the new register to the extent it would have effect under the relevant provisions of the Resource Act despite any repeal of the provisions by this Act.
- (3) However, a previous caveat has no effect, and is taken to never have had effect, to prevent a change of name of an entity holding an interest in a resource authority.
- (4) A caveat lodged, but not recorded in a register, under a Resource Act before the commencement must be registered in the new register if it would have been registered under the relevant provisions of the Resource Act.
- (5) To remove any doubt, it is declared that a caveat registered in the new register under this section is taken to be an original caveat for section 30.

Part 3 Provisions for land access

217 Continuation of former land access code

The land access code made under section 24A of the *Petroleum and Gas (Production and Safety) Act 2004* and in force immediately before the commencement, continues in force, despite the repeal of that section, until a new code is made under section 36.

218 Continuation of past conduct and compensation agreements

- (1) This section applies to a past conduct and compensation agreement—
 - (a) in force immediately before the commencement (a *continuing agreement*); or
 - (b) being negotiated immediately before the commencement (an *incomplete agreement*).
- (2) A continuing agreement continues in force under this Act according to its terms and is taken, for this Act, to be a conduct and compensation agreement for the parties to the agreement.
- (3) However, a special agreement can not be the subject of an application under section 101.
- (4) A resource authority holder that is a party to a continuing agreement must comply with section 92(1) in relation to the agreement within 6 months from the commencement of this section, instead of the 28 days provided for under that section.
- (5) A requirement of a resource authority holder under subsection (4) is a condition of the resource authority.
- (6) An incomplete agreement is to be completed under the provisions of the Resource Act (the *relevant provisions*) that, before the commencement, applied to making the agreement.
- (7) Subsection (6) applies despite the repeal of the relevant provisions.
- (8) An incomplete agreement completed under subsection (6) is taken, for this Act, to be a conduct and compensation agreement for the parties.
- (9) In this section—

past conduct and compensation agreement means a conduct and compensation agreement under a Resource Act as in force immediately before the commencement.

[s 219]

special agreement means a compensation agreement under the *Petroleum and Gas (Production and Safety) Act 2004*, section 923.

219 Continuation of past deferral agreements

- (1) This section applies to a past deferral agreement—
 - (a) in force immediately before the commencement (a *continuing agreement*); or
 - (b) being negotiated immediately before the commencement (an *incomplete agreement*).
- (2) A continuing agreement continues in force under this Act according to its terms and is taken, for this Act, to be a deferral agreement for the parties to the agreement.
- (3) An incomplete agreement is to be completed under the provisions of the Resource Act (the *relevant provisions*) that, before the commencement, applied to making the agreement.
- (4) Subsection (3) applies despite the repeal of the relevant provisions.
- (5) An incomplete agreement completed under subsection (3) is taken, for this Act, to be a deferral agreement for the parties.
- (6) In this section—

past deferral agreement means a deferral agreement under a Resource Act as in force immediately before the commencement.

220 Continuation of past access agreements

- (1) This section applies to a past access agreement—
 - (a) in force immediately before the commencement (a *continuing agreement*); or
 - (b) being negotiated immediately before the commencement (an *incomplete agreement*).

- (2) A continuing agreement continues in force under this Act according to its terms and is taken, for this Act, to be an access agreement for the parties to the agreement.
- (3) An incomplete agreement is to be completed under the provisions of the Resource Act (the *relevant provisions*) that, before the commencement, applied to making the agreement.
- (4) Subsection (3) applies despite the repeal of the relevant provisions.
- (5) An incomplete agreement competed under subsection (3) is taken, for this Act, to be an access agreement for the parties.
- (6) In this section—

past access agreement means an access agreement under a Resource Act as in force immediately before the commencement.

221 Continuation of past entry notices

- (1) This section applies to an entry notice (a *continuing notice*)—
 - (a) given to a land owner or occupier under a Resource Act before the commencement; and
 - (b) still in force immediately before the commencement.
- (2) The continuing notice continues in force under this Act according to its terms and is taken to be an entry notice issued under this Act.

222 Continuation of past consent

- (1) This section applies to any consent to enter land (a *past consent*)—
 - (a) given to a resource authority holder to enter land before the commencement; and
 - (b) in force immediately before the commencement.

[s 223]

- (2) The past consent continues in force according to its terms and is taken to be consent to enter land for the purpose of this Act.
- (3) To remove any doubt, it is declared that any conditions of the past consent continue to apply.

223 Continuation of past waiver of entry notice

- (1) This section applies to a past waiver of entry notice—
 - (a) given to a resource authority holder before the commencement; and
 - (b) still in force immediately before the commencement.
- (2) The past waiver of entry notice continues in force under this Act according to its terms and is taken to be a waiver of entry notice given to the resource authority holder under this Act.
- (3) In this section—

past waiver of entry notice means a waiver of entry notice given to a resource authority holder under a Resource Act as in force immediately before the commencement.

224 Continuation of conditions imposed by public land authority

- (1) This section applies to any past conditions—
 - (a) imposed before the commencement; and
 - (b) still in force immediately before the commencement.
- (2) The past conditions continue in force and are taken to be conditions imposed for the purpose of this Act.
- (3) In this section—

past conditions means conditions imposed, by a public land authority in response to a resource authority holder's entry notice about entering public land, under a Resource Act as in force immediately before the commencement.

225 Continuation of past compensation agreements

- (1) This section applies to a past compensation agreement—
 - (a) in force immediately before the commencement (a *continuing agreement*); or
 - (b) being negotiated immediately before the commencement (an *incomplete agreement*).
- (2) A continuing agreement continues in force under this Act according to its terms and is taken, for this Act, to be a road compensation agreement for the parties to the agreement.
- (3) An incomplete agreement is to be completed under the provisions of the Resource Act (the *relevant provisions*) that, before the commencement, applied to making the agreement.
- (4) Subsection (3) applies despite the repeal of the relevant provisions.
- (5) An incomplete agreement completed under subsection (3) is taken, for this Act, to be a road compensation agreement for the parties.
- (6) In this section—

past compensation agreement means a compensation agreement under a Resource Act as in force immediately before the commencement.

226 Continuation of past road use directions

- (1) This section applies to a past road use direction—
 - (a) given to a resource authority holder under a Resource Act before the commencement of this section; and
 - (b) still in force immediately before the commencement.
- (2) The past road use direction continues in force under this Act according to its terms and is taken to be a road use direction given to the resource authority holder under this Act.
- (3) In this section—

[s 227]

past road use direction means a road use direction under a Resource Act as in force immediately before the commencement.

227 Validity of continuing matters

The validity of any of the following matters can not be challenged on the grounds that the matter does not comply with any requirements of this Act for entry notices—

- (a) a conduct and compensation agreement continued under section 218;
- (b) a deferral agreement continued under section 219;
- (c) an access agreement continued under section 220;
- (d) an entry notice continued under section 221;
- (e) a consent continued under section 222;
- (f) a waiver of entry notice continued under section 223;
- (g) conditions continued under section 224;
- (h) a road compensation agreement continued under section 225;
- (i) a road use direction continued under section 226.

228 Application of new restricted land entry provisions

- (1) The new restricted land entry provisions apply only in relation to a resource authority applied for, and granted, after the commencement.
- (2) If a resource authority was granted before, or applied for before and granted after, the commencement, the pre-amended Resource Acts apply in relation to the resource authority as if—
 - (a) the new restricted land entry provisions had not commenced; and

- (b) the Geothermal Energy Act, section 358 had not been repealed.
- (3) In this section—
new restricted land entry provisions means chapter 3, part 4.
pre-amended Resource Act means a Resource Act as in force before the commencement.

Part 4 Provisions for overlapping coal and petroleum resource authorities

Division 1 Preliminary

229 Definitions for pt 4

In this part—

commencement means the commencement of this part.

Common Provisions Act means this Act.

new overlap provisions means chapter 4 of this Act.

overlap see section 231.

pre-amended Mineral Resources Act means the Mineral Resources Act as in force immediately before the commencement.

pre-amended P&G Act means the P&G Act as in force immediately before the commencement.

230 Ch 4 definitions

Unless the context otherwise requires, an expression defined in chapter 4 has the same meaning in this part.

[s 231]

231 Overlapping resource authorities

A resource authority *overlaps* another resource authority if the authorities' areas contain the same overlapping area.

Division 2 Resource authorities granted over existing production resource authorities

232 Coal resource authority granted over existing PL

If a coal resource authority, whenever granted, overlaps a PL that was granted before the commencement, the Mineral Resources Act applies to the circumstance of the coal resource authority overlapping the PL as if the Common Provisions Act had not been enacted.

233 Petroleum resource authority granted over existing ML (coal)

If a petroleum resource authority, whenever granted, overlaps an ML (coal) that was granted before the commencement, the P&G Act applies to the circumstance of the petroleum resource authority overlapping the ML (coal) as if the Common Provisions Act had not been enacted.

Division 3 Existing applications under Mineral Resources Act, chapter 8

234 Application for ML (coal) over land in area of ATP (without consent)

(1) This section applies if—

- (a) a person mentioned in the pre-amended Mineral Resources Act, section 318AO made an application for the grant of an ML (coal) that included the additional

requirements mentioned in the pre-amended Mineral Resources Act, section 318AP; and

- (b) the application was made but not decided before the commencement.
- (2) The new overlap provisions apply to the circumstance of the ML (coal) overlapping an ATP.
- (3) For applying the requirement under the new overlap provisions to give an advance notice for the ML (coal), the application for the grant of the ML (coal) is taken to have been made on the commencement.
- (4) If the applicant for the grant of the ML (coal) has given the ATP holder a copy of the application, as required under the pre-amended Mineral Resources Act, section 318AT(1)(a), the proposed mining commencement date for an IMA, despite section 115(2)(a) of the new overlap provisions, may be a date that—
 - (a) is agreed between the applicant and the ATP holder; or
 - (b) is at least—
 - (i) 18 months after the date on which the applicant for the grant of the ML (coal) has given the ATP holder a copy of the application under the pre-amended Mineral Resources Act, section 318AT(1)(a); and
 - (ii) 3 months after the commencement.
- (5) In this section—

ATP means an authority to prospect mentioned in the pre-amended Mineral Resources Act, section 318AO(1), if the intention of the holder is to explore and test for coal seam gas.

235 Application for ML (coal) over land in area of ATP (with consent)

- (1) This section applies if—

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- (a) a person mentioned in the pre-amended Mineral Resources Act, section 318BO made an application for the grant of an ML (coal) that included the additional requirements mentioned in the pre-amended Mineral Resources Act, section 318BP; and
 - (b) the application was made but not decided before the commencement.
- (2) The new overlap provisions apply to the circumstance of the ML (coal) overlapping an ATP.
- (3) For applying the requirement under the new overlap provisions to give an advance notice for the ML (coal), the application for the grant of the ML (coal) is taken to have been made on the commencement.
- (4) The proposed mining commencement date for an IMA, despite section 115(2)(a) of the new overlap provisions, may be a date that is agreed by the ML (coal) holder and the ATP holder.
- (5) In this section—
ATP means an authority to prospect to which the pre-amended Mineral Resources Act, section 318BO(1)(a) applies, if the intention of the holder is to explore and test for coal seam gas.

236 Application for ML (coal) over land in area of PL (without consent)

- (1) This section applies if—
 - (a) a person mentioned in the pre-amended Mineral Resources Act, section 318BW made an application for the grant of an ML (coal) that included the additional requirements mentioned in the pre-amended Mineral Resources Act, section 318BX; and
 - (b) the application was made but not decided before the commencement.

-
- (2) The Mineral Resources Act applies to the circumstance of the ML (coal) overlapping a PL as if the Common Provisions Act had not been enacted.
 - (3) Despite subsection (2), the new overlap provisions apply to the circumstance of the ML (coal) overlapping a PL if—
 - (a) the ML (coal) holder and the PL holder agree that the new overlap provisions apply; and
 - (b) the ML (coal) holder and PL holder jointly give written notice to the chief executive of the agreement.
 - (4) In this section—

PL means a petroleum lease to which the pre-amended Mineral Resources Act, section 318BW applies, if the petroleum lease authorises the production of coal seam gas.

237 Application for ML (coal) over land in area of PL (with consent)

- (1) This section applies if—
 - (a) a person mentioned in the pre-amended Mineral Resources Act, section 318CC made an application for the grant of an ML (coal) that included the additional requirements mentioned in the pre-amended Mineral Resources Act, section 318CD; and
 - (b) the application was made but not decided before the commencement.
- (2) The Mineral Resources Act applies to the circumstance of the ML (coal) overlapping a PL as if the Common Provisions Act had not been enacted.
- (3) Despite subsection (2), the new overlap provisions apply to the circumstance of the ML (coal) overlapping a PL if—
 - (a) the ML (coal) holder and the PL holder agree that the new overlap provisions apply; and
 - (b) the ML (coal) holder and PL holder jointly give written notice to the chief executive of the agreement.

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(4) In this section—

PL means a petroleum lease to which the pre-amended Mineral Resources Act, section 318CC applies, if the petroleum lease authorises the production of coal seam gas.

Division 4 Existing applications under P&G Act, chapter 3

238 Application for PL over land in area of coal exploration authority (without consent)

(1) This section applies if—

- (a) a person mentioned in the pre-amended P&G Act, section 304 made an application for the grant of a PL that included the additional requirements mentioned in the pre-amended P&G Act, section 305; and
- (b) the application was made but not decided before the commencement.

(2) The new overlap provisions apply to the circumstance of the PL overlapping a coal exploration authority.

(3) For applying the requirement under the new overlap provisions to give a petroleum production notice, the application for grant of the PL is taken to have been made on the commencement.

(4) In this section—

coal exploration authority means an exploration permit granted for coal, or a mineral development licence granted for coal, to which the pre-amended P&G Act, section 304 applies.

239 Application for PL over land in area of coal exploration authority (with consent)

(1) This section applies if—

-
- (a) a person mentioned in the pre-amended P&G Act, section 331 made an application for the grant of a PL that included the requirements mentioned in the pre-amended P&G Act, section 333; and
 - (b) the application was made but not decided before the commencement.
- (2) The new overlap provisions apply to the circumstance of the PL overlapping a coal exploration authority.
 - (3) For applying the requirement under the new overlap provisions to give a petroleum production notice, the application for grant of the PL is taken to have been made on the commencement.
 - (4) In this section—
coal exploration authority means an exploration permit granted for coal, or a mineral development licence granted for coal, to which the pre-amended P&G Act, section 331 applies.

240 Application for PL over land in area of ML (coal) (without consent)

- (1) This section applies if—
 - (a) a person mentioned in the pre-amended P&G Act, section 344 made an application for the grant of a PL that included the additional requirements mentioned in the pre-amended P&G Act, section 345; and
 - (b) the application was made but not decided before the commencement.
- (2) The P&G Act applies to the circumstance of the PL overlapping an ML (coal) as if the Common Provisions Act had not been enacted.
- (3) Despite subsection (2), the new overlap provisions apply to the circumstance of the PL overlapping an ML (coal) if—
 - (a) the PL holder and the ML (coal) holder agree that the new overlap provisions apply; and

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(b) the PL holder and the ML (coal) holder jointly give written notice to the chief executive of the agreement.

(4) In this section—

ML (coal) means a mining lease granted for coal, to which the pre-amended P&G Act, section 344 applies.

241 Application for PL over land in area of ML (coal) (with consent)

(1) This section applies if—

(a) a person mentioned in the pre-amended P&G Act, section 351 made an application for the grant of a PL that included the additional requirements mentioned in the pre-amended P&G Act, section 353; and

(b) the application was made but not decided before the commencement.

(2) The P&G Act applies to the circumstance of the PL overlapping an ML (coal) as if the Common Provisions Act had not been enacted.

(3) Despite subsection (2), the new overlap provisions apply to the circumstance of the PL overlapping an ML (coal) if—

(a) the PL holder and the ML (coal) holder agree that the new overlap provisions apply; and

(b) the PL holder and the ML (coal) holder jointly give written notice to the chief executive of the agreement.

(4) In this section—

ML (coal) means a mining lease granted for coal, to which the pre-amended P&G Act, section 351 applies.

Division 5 Modification of particular provisions of Common Provisions Act for Surat Basin area

242 Application of div 5

- (1) This division applies to the giving of an advance notice or an acceleration notice if—
 - (a) a person holds a petroleum lease (csg) granted after the commencement but not later than 31 December 2016; and
 - (b) another person applies for an ML (coal) after the commencement but before 1 July 2020; and
 - (c) there is an overlapping area that is the subject of both the petroleum lease (csg) and the ML (coal); and
 - (d) some or all of the overlapping area is located in the Surat Basin Transitional Area.

- (2) In this section—

Surat Basin Transitional Area means the area prescribed by regulation.

243 Requirements for advance notice and acceleration notice

- (1) Despite sections 115 and 121, the advance notice given by the applicant for the ML (coal) must not state a proposed mining commencement date for an IMA or RMA for the overlapping area that is before 1 July 2030, unless the holder of the petroleum lease (csg) agrees to an earlier date.
- (2) Despite section 128, if the ML (coal) holder gives the holder of the petroleum lease (csg) an acceleration notice, the proposed mining commencement date stated in the notice must not be earlier than 1 July 2020, unless the holder of the petroleum lease (csg) agrees to an earlier date.

[s 244]

Chapter 8 Repeal of Coal and Oil Shale Mine Workers' Superannuation Act 1989

244 Repeal

The Coal and Oil Shale Mine Workers' Superannuation Act 1989, No. 79 is repealed.

Chapter 9 Amendments of legislation

Part 1 Amendment of this Act

245 Act amended

This part amends this Act.

246 Amendment of long title

Long title, from ' , and further'—
omit.

Part 2 Amendment of Aboriginal Cultural Heritage Act 2003

247 Act amended

This part amends the *Aboriginal Cultural Heritage Act 2003*.

248 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *native title mining provisions*—
omit.
- (2) Schedule 2, definition *native title agreement*, paragraph (c)—
omit.

Part 3 Amendment of Environmental Protection Act 1994

Division 1 Preliminary

249 Act amended

This part amends the *Environmental Protection Act 1994*.

Division 2 Amendments relating to the Common Provisions Act, chapter 2

250 Omission of s 427 (Offence to operate under environmental authority if not a registered suitable operator in particular circumstances)

Section 427—

omit.

251 Insertion of new ch 13, pt 22

Chapter 13—

insert—

Part 22 Transitional provisions for Mineral and Energy Resources (Common Provisions) Act 2014

717 Contraventions of s 427 before its repeal

- (1) This section applies if a person is alleged to have committed, before the commencement, an offence against repealed section 427.
- (2) Proceedings for the offence may be continued or started and the Court may hear and decide the proceedings, as if section 427 had not been repealed.
- (3) This section applies despite the Criminal Code, section 11.

Division 3 Amendments relating to the Common Provisions Act, chapter 4

252 Amendment of s 268 (Criteria for decision)

Section 268, heading, after ‘decision’—

insert—

generally

253 Insertion of new s 268A

Chapter 5, part 10, division 5—

insert—

268A Criteria for decision—prescribed resource activities in overlapping area

- (1) This section applies if—

- (a) the environmental authority the subject of the surrender application—
 - (i) is for a prescribed resource activity; and
 - (ii) relates to land in an overlapping area; and
 - (b) another prescribed resource activity (the ***overlapping prescribed resource activity***) is being, or is proposed to be, carried out in the overlapping area.
- (2) In deciding the surrender application, the administering authority must also consider—
- (a) the extent to which compliance with a rehabilitation condition of the environmental authority is impossible or impractical due to the carrying out of the overlapping prescribed resource activity; and
 - (b) whether an environmental authority for the overlapping prescribed resource activity has been amended to include a condition equivalent to the rehabilitation condition of the environmental authority to be surrendered.

254 Amendment of s 269 (Restrictions on giving approval)

Section 269—

insert—

- (2) Despite subsection (1)(b), the administering authority may approve a surrender application for an environmental authority that relates to land in an overlapping area if—
 - (a) the administering authority is satisfied compliance with a rehabilitation condition

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of the environmental authority is impossible or impractical due to the carrying out of an overlapping prescribed resource activity in the area; and

- (b) an environmental authority for the overlapping prescribed resource activity has been amended to include a condition equivalent to the rehabilitation condition of the environmental authority to be surrendered.

255 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

overlapping area, for chapter 5, part 10, see the *Mineral and Energy Resources (Common Provisions) Act 2014*, section 104.

overlapping prescribed resource activity, for chapter 5, part 10, see section 268A(1)(b).

prescribed resource activity, for chapter 5, part 10, means a resource activity carried out under one of the following—

- (a) an authority to prospect under the P&G Act, if the intention of the holder is to explore and test for coal seam gas;
- (b) an exploration permit for coal;
- (c) a mineral development licence for coal;
- (d) a mining lease for coal;
- (e) a petroleum lease authorising the production of coal seam gas.

Division 4 Amendments relating to gas emissions

256 Amendment of s 426 (Environmental authority required for particular environmentally relevant activities)

Section 426(2)—

insert—

- (d) a remediation activity under the *Petroleum and Gas (Production and Safety) Act 2004*, section 294B.

257 Amendment of s 493A (When environmental harm or related acts are unlawful)

Section 493A(2)—

insert—

- (h) an authorisation under the *Petroleum and Gas (Production and Safety) Act 2004*, section 294B and the authorisation relates to a bore or well mentioned in section 294B(1)(a) or (c) of that Act.

Division 5 Amendments relating to mining applications

258 Amendment of s 139 (Information stage does not apply if EIS process complete)

Section 139(1)—

omit, insert—

- (1) This section applies if—
 - (a) either—

[s 259]

- (i) the EIS process for an EIS for each relevant activity the subject of the application has been completed; or
 - (ii) in evaluating an EIS under the State Development Act, the Coordinator-General has stated conditions mentioned in section 34D(3)(b) of that Act that relate to each relevant activity the subject of the application; and
- (b) the environmental risks of the activity and the way the activity will be carried out have not changed since the EIS mentioned in paragraph (a)(i), or the evaluation mentioned in paragraph (a)(ii), was completed.

259 Amendment of s 149 (When notification stage applies)

Section 149, from ‘if’—

omit, insert—

if the application is a site-specific application and any part of the application is for a resource activity.

260 Amendment of s 150 (Notification stage does not apply if EIS process complete)

- (1) Section 150(1)(a), ‘process under chapter 3 for an EIS’—

omit, insert—

EIS process

- (2) Section 150—

insert—

- (4) In this section—

EIS means an EIS under this Act or the State Development Act.

EIS process, for an EIS under the State Development Act, means the process for the EIS under that Act.

261 Amendment of s 152 (Public notice of application)

(1) Section 152(2)—

omit, insert—

(2) The application notice must be given and published—

(a) in a newspaper circulating generally in the area where the relevant resource activity is proposed to be carried out; or

(b) in another way prescribed under a regulation.

(2A) The application notice must be given and published before the day that is 10 business days after the end of the information stage for the application.

(2) Section 152(2A) to (4)—

renumber as section 152(3) to (5).

262 Omission of s 154 (Submission period for application—mining activities)

Section 154—

omit.

263 Amendment of s 155 (Submission period for application—other resource activities)

(1) Section 155, heading, from ‘—other’—

omit.

(2) Section 155, ‘other than a mining activity’—

omit.

[s 264]

264 Amendment of s 156 (Publication of application notice and documents on website)

- (1) Section 156(1)—
omit.
- (2) Section 156(3), ‘subsection (2)’—
omit, insert—
subsection (1)
- (3) Section 156(2) to (4)—
renumber as section 156(1) to (3).

265 Amendment of s 158 (Declaration of compliance)

- (1) Section 158(1)(b), from ‘if’ to ‘application—’
omit.
- (2) Section 158(1)(b), ‘section 156(3)’—
omit, insert—
section 156(2)

266 Amendment of s 170 (Deciding standard application)

- Section 170(2) and (3)—
omit, insert—
 - (2) The administering authority must decide that the application be approved subject to the standard conditions for the relevant activity or authority.

267 Omission of s 175 (Criteria for decision—standard application)

- Section 175—
omit.

268 Amendment of ch 5, pt 5, div 3, hdg (Applications for mining activities relating to a mining lease)

Chapter 5, part 5, division 3, heading, ‘Applications’

omit, insert—

Site-specific applications

269 Amendment of s 180 (Application of div 3)

Section 180, ‘an application’—

omit, insert—

a site-specific application

270 Amendment of s 181 (Notice of decision)

(1) Section 181(1), ‘division 2, subdivision 2’—

omit, insert—

section 172

(2) Section 181(2)(b), ‘or is a decision under section 170(2)(b)’—

omit.

271 Amendment of s 182 (Submitter may give objection notice)

(1) Section 182(1), ‘or makes a decision under section 170(2)(b)’—

omit.

(2) Section 182(2)—

omit, insert—

(2) A submitter may, by written notice (the ***objection notice***) to the administering authority, request that its submission, other than a part of the submission relating to a Coordinator-General’s

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condition, be taken to be an objection to the application.

Note—

See also the State Development Act, section 47D.

(3) Section 182—

insert—

(3A) The grounds for the objection must not relate to a Coordinator-General's condition.

272 Amendment of s 183 (Applicant may request referral to Land Court)

Section 183(3)—

omit, insert—

- (3) However, the applicant may not make a request under subsection (1) if—
- (a) the only ground for referring the application relates to a Coordinator-General's condition; or
 - (b) the administering authority refused the application under section 173(1).

273 Amendment of s 184 (Application of s div 3)

Section 184, 'an application'—

omit, insert—

a site-specific application

274 Amendment of s 185 (Referral to Land Court)

Section 185(1), after '*decision*'—

insert—

, unless the application is referred to the Land Court under the Mineral Resources Act, section 265

275 Amendment of s 188 (Objections decision hearing)

Section 188(2)—

omit, insert—

- (2) However, the Land Court must make an order or direction that the objections decision hearing happen at the same time as a hearing for an application for the grant of a mining lease and any objections to the grant under the Mineral Resources Act, section 268 for the relevant mining tenure.

276 Insertion of new s 188A

After section 188—

insert—

188A Striking out objection notices

- (1) This section applies to the extent an objection notice is—
 - (a) outside the jurisdiction of the Land Court; or
 - (b) frivolous or vexatious; or
 - (c) otherwise an abuse of the process of the Land Court.
- (2) Despite section 185(1), the Land Court may, at any stage of the hearing, strike out all or part of the objection notice.

277 Amendment of s 194 (Final decision on application)

Section 194(1)(b), after ‘are’—

insert—

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struck out or

278 Amendment of s 195 (Issuing environmental authority)

Section 195, ‘or makes a decision under section 170(2)(b)’—

omit, insert—

or a decision is made under 170(2)

279 Amendment of s 230 (Administering authority may require public notification for particular amendment applications)

Section 230(1)(a), ‘, other than a mining activity’—

omit.

280 Amendment of s 232 (Relevant application process applies)

Section 232(2), ‘activity, other than a mining activity,’—

omit, insert—

activity

281 Omission of s 233 (Public notice of amendment application)

Section 233—

omit.

282 Amendment of s 234 (Submission period)

(1) Section 234(1)—

omit.

(2) Section 234(2), ‘sections 153(1)(g) and 154’—

omit, insert—

section 153(1)(g)

- (3) Section 234(3), ‘under section 233’—
omit.
- (4) Section 234(2) and (3)—
renumber as section 234(1) and (2).

283 Insertion of new s 718

Chapter 13, part 22, as inserted by this Act—
insert—

718 Applications not yet notified before commencement

- (1) This section applies if, before the commencement—
 - (a) an applicant made an application mentioned in the pre-amended Act, section 149; and
 - (b) the applicant had not given and published an application notice about the application under the pre-amended Act, section 152.
- (2) This Act, as amended by the Common Provisions Act, applies to the application.
- (3) In this section—

commencement means the commencement of this section.

pre-amended Act means this Act as in force from time to time before the commencement.

284 Amendment of sch 2 (Original decisions)

- (1) Schedule 2, part 1, division 3, entry for section 171(2)—

[s 285]

omit, insert—

171(2) imposition of a condition (other than a condition stated by the Coordinator-General under the State Development Act, section 34D(3)(b)) on an environmental authority for a resource activity if the condition is not the same, or to the same effect as, a condition agreed to by the applicant

(2) Schedule 2, part 1, division 3, second entry for section 172(2)(a)—

omit, insert—

172(2)(a) imposition of a condition (other than a condition stated by the Coordinator-General under the State Development Act, section 34D(3)(b)) on an environmental authority for a resource activity (other than a mining activity relating to a mining lease) if the condition is not the same, or to the same effect as, a condition agreed to by the applicant

Division 6 Amendments relating to native title

285 Amendment of s 210 (Inconsistencies between particular conditions)

(1) Section 210(1), ‘Subsection (2)’—

omit, insert—

This section

(2) Section 210(3) to (5)—

omit.

286 Insertion of new s 719

Chapter 13, part 22, as inserted by this Act—

insert—

719 Pre-amended Act continues to apply for particular mining leases

- (1) This section applies if, after the commencement, a native title issues decision is made in relation to a proposed mining lease.
- (2) The pre-amended Act continues to apply to the proposed mining lease.
- (3) In this section—

commencement means the commencement of this section.

native title issues decision has the meaning given by the Mineral Resources Act, schedule 1A, section 669(1), immediately before the commencement.

pre-amended Act means this Act as in force immediately before the commencement.

Part 4 Amendment of Geothermal Energy Act 2010

Division 1 Preliminary

287 Act amended

This part amends the *Geothermal Energy Act 2010*.

[s 288]

Division 2 Amendments relating to the Common Provisions Act, chapter 1

288 Insertion of new s 8AA

After section 8—

insert—

8AA Relationship with Common Provisions Act

The relationship between this Act and the Common Provisions Act is provided for under the Common Provisions Act, section 6.

289 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

Common Provisions Act means the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Division 3 Amendments relating to the Common Provisions Act, chapter 2

290 Omission of ch 6, pts 11–11B

Chapter 6, parts 11 to 11B—

omit.

291 Amendment of s 351 (Joint holders of a geothermal tenure)

(1) Section 351(2), ‘If, under this Act’—

omit, insert—

If

- (2) Section 351(2)(a), ‘of an assessable transfer relating to a geothermal tenure’—

omit, insert—

to register a transfer of a geothermal tenure under the Common Provisions Act

292 Amendment of s 369 (Amending applications)

Section 369(1)—

insert—

- (d) the person has paid any fee prescribed by regulation for the amendment.

293 Insertion of new ch 9, pt 4

Chapter 9—

insert—

**Part 4 Transitional provision
for Mineral and Energy
Resources (Common
Provisions) Act 2014**

411 Continued appeal right for particular decisions

- (1) A person who, before the commencement of this section, may have appealed against a relevant decision to the Land Court under section 335(1), may still appeal against the decision, in compliance with chapter 7, part 4, despite the amendment of schedule 1.
- (2) In this section—

[s 294]

previous, for a section of this Act, means the section as in force immediately before the repeal of the section under the Common Provisions Act.

relevant decision means any of the following—

- (a) a decision to give a road use direction under previous section 237;
- (b) the imposition of a condition on entry on public land under previous section 242, other than a condition agreed to or requested by the geothermal tenure holder;
- (c) a refusal to approve an assessable transfer under previous section 286.

294 Amendment of sch 1 (Decisions subject to appeal)

(1) Schedule 1, entries for sections 237, 242 and 286—
omit.

(2) Schedule 1—
insert—

Decisions under Common Provisions Act

- 19(3) decision to refuse to approve registration of a dealing, or to approve registration of a dealing with conditions
- 23(3) decision to refuse to give indicative approval, or to give indicative approval with conditions
- 59(2) imposition of condition on entry on public land, other than a condition agreed to or requested by the geothermal tenure holder
- 59(7) variation of condition imposed on entry on public land, other than a variation agreed to or requested by the geothermal tenure holder
- 64(1) decision to give road use direction

295 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *assessable transfer*, *associated agreement*, *dealing*, *indicative approval* and *non-assessable transfer*—

omit.

- (2) Schedule 2—

insert—

dealing, in relation to a geothermal tenure, means a dealing with a resource authority, under the Common Provisions Act, that is a geothermal tenure.

**Division 4 Amendments relating to the
Common Provisions Act, chapter 3**

296 Amendment of s 30 (Operation of pt 1)

Section 30, notes, ‘chapter 6, part 5, division 2 (Access to private land outside area of geothermal tenure)’—

omit, insert—

the Common Provisions Act, chapter 3, part 2, division 4 (Access to private land outside authorised area)

297 Amendment of s 74 (Operation of pt 1)

Section 74, notes, ‘chapter 6, part 5, division 2 (Access to private land outside area of geothermal tenure)’—

omit, insert—

the Common Provisions Act, chapter 3, part 2, division 4 (Access to private land outside authorised area)

298 Replacement of ch 6, pts 5–8

Chapter 6, parts 5 to 8—

omit, insert—

Part 5 Direction by Minister

233 Direction to ease concerns of owner or occupier

- (1) This section applies if the Minister reasonably believes that, to ease a valid concern of an owner or occupier of land in a geothermal tenure's area, the tenure holder ought reasonably to take action, or cease taking action.
- (2) The Minister may, by notice, direct the holder to take the action, or cease taking the action, within a stated reasonable period.
- (3) However, before deciding to give the notice, the Minister must—
 - (a) give the holder a notice stating—
 - (i) the proposed direction; and
 - (ii) the grounds for giving the proposed direction; and
 - (iii) the facts and circumstances forming the basis for the grounds; and
 - (iv) that the holder may, within a stated reasonable period, make submissions to the Minister about the proposed direction; and
 - (b) consider any submissions made by the holder within the period.
- (4) The decision does not take effect until the holder is given an information notice about the decision.

Note—

For the consequence of noncompliance with the direction, see section 321 (When noncompliance action may be taken).

299 Amendment of s 315 (What happens if a party does not attend)

(1) Section 315(2), note, after ‘election notice’—

insert—

under the Common Provisions Act, section 88

(2) Section 315(2), note, ‘section 256’—

omit, insert—

the Common Provisions Act, section 91

300 Amendment of s 316 (Authorised officer’s role)

Section 316(2), ‘section 255’—

omit, insert—

the Common Provisions Act, section 89

301 Amendment of s 331 (Obstruction of geothermal tenure holder)

Section 331(1)(a), ‘chapter 6, part 5, 6 or 7 to the extent the part’—

omit, insert—

the Common Provisions Act, chapter 3 to the extent
the chapter

302 Amendment of s 333A (Executive officer may be taken to have committed offence)

Section 333A(4)—

omit, insert—

[s 303]

- (4) In this section—
deemed executive liability provision means—
- (a) any of the following provisions—
- section 198
 - section 200(1)
 - section 329
 - section 330
 - section 331(1)
 - section 332(1)
 - section 332(2); or
- (b) the Common Provisions Act, section 59.

303 Omission of s 358 (Restrictions on carrying out authorised activities on particular land)

Section 358—

omit.

304 Amendment of s 362 (Authorisation to enter to facilitate compliance)

- (1) Section 362(2), ‘Chapter 6, parts 5 (other than division 4), 6 and 8 and sections 20 and 132’—

omit, insert—

The Common Provisions Act, chapter 3, parts 2 (other than division 5), 3 and 7, and sections 20 and 132 of this Act

- (2) Section 362(2), editor’s note—

omit.

305 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *land access code*—

omit, insert—

land access code see the Common Provisions Act, section 36.

- (2) Schedule 2, definition *preliminary activity*, item 4(b) and (c)—

omit, insert—

- (b) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

**Division 5 Amendments relating to the
Common Provisions Act, chapter 6**

306 Omission of ch 6, pt 10 (Geothermal register)

Chapter 6, part 10—

omit.

307 Amendment of s 325 (Notice and taking effect of decision)

Section 325, ‘geothermal register’—

omit, insert—

register

308 Amendment of s 345 (Other evidentiary aids)

- (1) Section 345(a)(iv)—

omit.

- (2) Section 345—

[s 309]

insert—

(aa) that a stated document is a register kept
under the Common Provisions Act;

**309 Amendment of s 350A (Extinguishing geothermal
interests on the taking of land in a geothermal tenure's
area (other than by an easement))**

Section 350A, 'geothermal register'—

omit, insert—

register

**310 Amendment of s 351 (Joint holders of a geothermal
tenure)**

Section 351, 'geothermal register'—

omit, insert—

register

311 Omission of s 383 (Practice manual)

Section 383—

omit.

312 Insertion of new s 412

Chapter 9, part 4, as inserted by this Act—

insert—

412 Existing practice manuals

- (1) A practice manual kept under former section 383
continues in effect until the chief executive
makes a manual available under the Common
Provisions Act, section 202(4)(b).
- (2) In this section—

former section 383 means section 383 as in force immediately before the commencement of this section.

313 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions, *area*, *holder* and *registration*, ‘geothermal register’—

omit, insert—

register

- (2) Schedule 2, definition *geothermal register*—

omit.

- (3) Schedule 2—

insert—

register means the register kept by the chief executive under the Common Provisions Act, section 197.

Division 6 Amendments relating to gas emissions

314 Amendment of s 31 (Principal authorised activities)

Section 31—

insert—

- (c) plugging and abandoning, or otherwise remediating, a bore or well the holder reasonably believes is a legacy borehole, and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

[s 315]

315 Amendment of s 75 (Principal authorised activities)

Section 75—

insert—

- (d) plugging and abandoning, or otherwise remediating, a bore or well the holder reasonably believes is a legacy borehole, and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

316 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

legacy borehole means a bore or well that—

- (a) was drilled for the purpose (the ***original purpose***) of—
 - (i) exploration or production of mineral or petroleum resources; or
 - (ii) informing the exploration or production of mineral or petroleum resources; and
- (b) is no longer used for the original or another purpose.

Division 7 Miscellaneous amendments

317 Amendment of sch 2 (Dictionary)

Schedule 2, definition *owner*, paragraph (1)(k), ‘section 84(2) or 84(4)(b)’—

omit, insert—
section 151(2)

Part 5 Amendment of Greenhouse Gas Storage Act 2009

Division 1 Preliminary

318 Act amended

This part amends the *Greenhouse Gas Storage Act 2009*.

Division 2 Amendments relating to the Common Provisions Act, chapter 1

319 Insertion of new s 8AA

After section 8—

insert—

8AA Relationship with Common Provisions Act

The relationship between this Act and the Common Provisions Act is provided for under the Common Provisions Act, section 6.

320 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

[s 321]

Common Provisions Act means the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Division 3 Amendments relating to the Common Provisions Act, chapter 2

321 Omission of ch 5, pts 14–14B

Chapter 5, parts 14–14B—

omit.

322 Amendment of s 370 (Joint holders of a GHG authority)

(1) Section 370(2), ‘under this Act’—

omit.

(2) Section 370(2)(a), ‘of an assessable transfer relating to a GHG authority’—

omit, insert—

to register a transfer of a GHG authority under the
Common Provisions Act

323 Amendment of s 416 (Amending applications)

Section 416(1)—

insert—

(d) the person has paid any fee prescribed by
regulation for the amendment.

324 Insertion of new ch 8, pt 4

Chapter 8—

insert—

Part 4 Transitional provisions for Mineral and Energy Resources (Common Provisions) Act 2014

448 Continued appeal right for particular decisions

- (1) A person who, before the commencement of this section, may have appealed against a relevant decision to the Land Court under section 395(1), may still appeal against the decision, in compliance with chapter 6, part 3, despite the amendment of schedule 1 by the Common Provisions Act.

- (2) In this section—

previous, for a section of this Act, means the section as in force immediately before the repeal of the section under the Common Provisions Act.

relevant decision means any of the following—

- (a) a decision to give a road use direction under previous section 303;
- (b) the imposition of condition on entry on public land under previous section 315, other than a condition agreed to or requested by the relevant GHG authority holder;
- (c) a refusal to approve an assessable transfer under previous section 354.

325 Amendment of sch 1 (Decisions subject to appeal)

- (1) Schedule 1, entries for sections 303, 315 and 354—

omit.

- (2) Schedule 1—

[s 326]

insert—

Decisions under Common Provisions Act

- 19(3) decision to refuse to approve registration of a dealing, or to approve registration of a dealing with conditions
- 23(3) decision to refuse to give indicative approval, or to give indicative approval with conditions
- 59(2) imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant GHG authority holder
- 59(7) variation of condition imposed on entry on public land, other than a variation agreed to or requested by the relevant GHG authority holder
- 64(1) decision to give road use direction

326 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *assessable transfer*, *associated agreement*, *dealing*, *indicative approval* and *non-assessable transfer*—
omit.

- (2) Schedule 2—
insert—

dealing, in relation to a GHG authority, means a dealing with a resource authority, under the Common Provisions Act, that is a GHG authority.

Division 4 Amendments relating to the Common Provisions Act, chapter 3

327 Amendment of s 29 (Operation of pt 1)

Section 29, notes, ‘chapter 5, part 7, division 2 (Access to private land outside area of GHG authority)’—

omit, insert—

the Common Provisions Act, chapter 3, part 2, division 4 (Access to private land outside authorised area)

328 Amendment of s 109 (Operation of pt 1)

Section 109, notes, ‘chapter 5, part 7, division 2 (Access to private land outside area of GHG authority)’—

omit, insert—

the Common Provisions Act, chapter 3, part 2, division 4 (Access to private land outside authorised area)

329 Omission of ch 5, pts 7–10

Chapter 5, parts 7 to 10—

omit.

330 Amendment of s 377D (What happens if a party does not attend)

(1) Section 377D(2), note, after ‘election notice’—

insert—

under the Common Provisions Act, section 88

(2) Section 377D(2), note, ‘section 325B’—

omit, insert—

the Common Provisions Act, section 91

[s 331]

331 Amendment of s 377E (Authorised officer's role)

Section 377E(2), 'section 325AB'—

omit, insert—

the Common Provisions Act, section 89

332 Amendment of s 389 (Obstruction of GHG authority holder)

Section 389(1)(a), 'chapter 5, part 7 or 8 to the extent the part'—

omit, insert—

the Common Provisions Act, chapter 3 to the extent
the chapter

333 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *ADR, compensation application, compensation liability, conduct and compensation agreement, conduct and compensation agreement requirement, deferral agreement, eligible claimant, entry notice, first authority, land access code, minimum negotiation period, negotiation notice, notifiable road use, parties, relevant owner or occupier, second authority* and *waiver of entry notice*—

omit.

- (2) Schedule 2—

insert—

compensation liability, see the Common Provisions Act, section 81(2).

conduct and compensation agreement see the Common Provisions Act, section 83(1).

deferral agreement see the Common Provisions Act, section 44(1).

election notice see the Common Provisions Act, section 88(2).

eligible claimant see the Common Provisions Act, section 81(1).

land access code see the Common Provisions Act, section 36.

notifiable road use see the Common Provisions Act, section 62.

parties, for chapter 7, part 1, see section 313.

- (3) Schedule 2, definition *preliminary activity*, item 2(b) and (c)—

omit, insert—

- (b) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

Division 5 Amendments relating to the Common Provisions Act, chapter 6

334 Omission of ch 5, pt 13 (GHG register)

Chapter 5, part 13—

omit.

335 Amendment of s 369A (Extinguishing GHG interests on the taking of land in a GHG authority's area (other than by an easement))

Section 369A, 'GHG register'—

omit, insert—

register

336 Amendment of s 370 (Joint holders of a GHG authority)

Section 370, 'GHG register'—

[s 337]

omit, insert—
register

337 Amendment of s 384 (Notice and taking effect of decision)

Section 384, ‘GHG register’—

omit, insert—
register

338 Amendment of s 406 (Other evidentiary aids)

(1) Section 406(a)(iv)—

omit.

(2) Section 406—

insert—

(aa) that a stated document is a register kept
under the Common Provisions Act;

339 Omission of s 427 (Practice manual)

Section 427—

omit.

340 Insertion of new s 449

Chapter 8, part 4, as inserted by this Act—

insert—

449 Existing practice manuals

- (1) A practice manual kept under former section 427 continues in effect until the chief executive makes a manual available under the Common Provisions Act, section 202(4)(b).

(2) In this section—

former section 427 means section 427 as in force immediately before the commencement of this section.

341 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *area*, *holder* and *registration*, ‘GHG register’—

omit, insert—

register

(2) Schedule 2, definition *GHG register*—

omit.

(3) Schedule 2—

insert—

register means the register kept by the chief executive under the Common Provisions Act, section 197.

Division 6 Amendments relating to gas emissions

342 Amendment of s 30 (Principal authorised activities)

Section 30—

insert—

- (c) plugging and abandoning, or otherwise remediating, a bore or well the holder reasonably believes is a legacy borehole, and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

[s 343]

343 Amendment of s 110 (Principal authorised activities)

Section 110—

insert—

- (f) plugging and abandoning, or otherwise remediating, a bore or well the holder reasonably believes is a legacy borehole, and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

344 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

legacy borehole means a bore or well that—

- (a) was drilled for the purpose (the ***original purpose***) of—
 - (i) exploration or production of mineral or petroleum resources; or
 - (ii) informing the exploration or production of mineral or petroleum resources; and
- (b) is no longer used for the original or another purpose.

Division 7 Miscellaneous amendments

345 Amendment of sch 2 (Dictionary)

Schedule 2, definition *owner*, paragraph (1)(k), ‘section 84(2) or 84(4)(b)’—

omit, insert—

section 151(2)

Part 6 Amendment of Land Court Act 2000

346 Act amended

This part amends the *Land Court Act 2000*.

347 Amendment of s 32G (Jurisdiction for negotiated agreements)

(1) Section 32G(3)—

omit.

(2) Section 32G(4), ‘subsections (1) to (3)’—

omit, insert—

subsections (1) and (2)

(3) Section 32G(5)—

omit, insert—

(5) In this section—

negotiated agreement means an agreement obtained under the Commonwealth Native Title Act, section 31(1)(b).

(4) Section 32G(4) and (5), as amended—

renumber as section 32G(3) and (4).

348 Omission of s 32I (Jurisdiction for contract conditions)

Section 32I—

omit.

[s 349]

349 Insertion of new pt 6, div 4

Part 6—

insert—

**Division 4 Transitional provision for
Mineral and Energy
Resources (Common
Provisions) Act 2014**

**95 Pre-amended Act continues to apply for
particular negotiated agreements and contract
conditions**

- (1) This section applies in relation to a proposed mining lease if, on or after the commencement—
 - (a) a relevant negotiated agreement is obtained;
or
 - (b) relevant contract conditions take effect.
- (2) The pre-amended Act continues to apply for the relevant negotiated agreement or relevant contract conditions.
- (3) In this section—

commencement means the commencement of this section.

pre-amended Act means this Act as in force immediately before the commencement.

relevant contract conditions means contract conditions under the pre-amended Act, section 32I(4), definition *contract conditions*, paragraphs (a) and (b).

relevant negotiated agreement means a negotiated agreement under the pre-amended Act, section 32G(5), definition *negotiated agreement*, paragraph (a), (b) or (c).

Part 7 Amendment of Mineral Resources Act 1989

Division 1 Preliminary

350 Act amended

This part amends the *Mineral Resources Act 1989*.

Division 2 Amendments relating to the Common Provisions Act, chapter 1

351 Insertion of new s 3BA

After section 3B—

insert—

3BA Relationship with Common Provisions Act

The relationship between this Act and the Common Provisions Act is provided for under the Common Provisions Act, section 6.

352 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

Common Provisions Act means the *Mineral and Energy Resources (Common Provisions) Act 2014*.

[s 353]

Division 3 Amendments relating to the Common Provisions Act, chapter 2

353 Amendment of s 10AA (Joint holders of mining tenement)

(1) Section 10AA(2), ‘under this Act’—

omit.

(2) Section 10AA(2)(a)—

omit, insert—

- (a) any of the following applications are made for more than 1 proposed holder or transferee—
 - (i) an application for a mining tenement;
 - (ii) an application transfer;
 - (iii) an application to register a transfer of a mining tenement under the Common Provisions Act; and

354 Amendment of s 93D (Renewal of claim must be in name of last recorded transferee)

Section 93D(1), ‘section 318AAT’—

omit, insert—

the Common Provisions Act

355 Amendment of s 147F (Renewal of permit must be in name of last recorded transferee)

Section 147F(1), ‘section 318AAT’—

omit, insert—

the Common Provisions Act

356 Amendment of s 160 (Contravention by holder of exploration permit)

Section 160(5), ‘chapter 7, part 2’—

omit, insert—

the Common Provisions Act

357 Amendment of s 193 (Rental payable on mineral development licence)

Section 193(5)(a), ‘chapter 7, part 2’—

omit, insert—

the Common Provisions Act

358 Amendment of s 197F (Renewal of licence must be in name of last recorded transferee)

Section 197F(1), ‘section 318AAT’—

omit, insert—

the Common Provisions Act

359 Amendment of s 209 (Contravention by holder of mineral development licence)

Section 209(5), from ‘associated agreement’—

omit, insert—

associated agreement for the licence recorded in the register under the Common Provisions Act.

360 Amendment of s 231I (Requirements for transferring or mortgaging mineral development licences)

Section 231I(1), ‘despite chapter 7, part 1, division 2 and 3’—

omit, insert—

[s 361]

to restrict a transfer or mortgage of a mineral development licence in addition to any requirements under the Common Provisions Act

361 Amendment of s 286F (Renewal of lease must be in name of last recorded transferee)

Section 286F(1), ‘section 318AAT’—

omit, insert—

the Common Provisions Act

362 Amendment of s 318AAK (Requirements for transferring, mortgaging or subleasing mining leases)

Section 318AAK(1), ‘despite chapter 7, part 1, division 2 and 3’—

omit, insert—

to restrict a transfer or mortgage of a mining licence in addition to any requirements under the Common Provisions Act

363 Replacement of ch 7, hdg (Common provisions for mining tenements)

Chapter 7, heading—

omit, insert—

Chapter 7 Transfers affecting applications for mining leases

364 Replacement of ch 7, pts 1–3

Chapter 7, parts 1 to 3—

omit, insert—

Part 1 Application transfers

Division 1 Preliminary

318AAN Application of pt 1

This part applies to the following transfers (each an *application transfer*)—

- (a) a transfer of an application for a mining lease;
- (b) a transfer of an interest in an application for a mining lease.

Division 2 Registration generally

318AAO Registration required for all application transfers

- (1) An application transfer has no effect until it is registered.
- (2) A registered application transfer takes effect on the day the transfer is approved under division 3.

318AAP Obtaining registration

- (1) Registration of an application transfer is carried out by the chief executive.
- (2) However, an application transfer must be approved by the Minister under division 3 before it can be registered.

318AAQ Effect of approval and registration

The registration of an application transfer, or an approval of an application transfer under division 3,

allows the transfer to have effect according to its terms but does not of itself give the transfer any more effect or validity than it would otherwise have.

Division 3 Approval of application transfers

318AAR Indicative approval

- (1) An applicant for a mining lease, or the holder of an interest in an application for a mining lease, may, before applying for an approval of an application transfer for the mining lease, apply—
 - (a) for an indication of whether the transfer is likely to be approved (an *indicative approval*); and
 - (b) if conditions are likely to be imposed on the giving of the approval—for an indication of what the conditions are likely to be.
- (2) The application must be—
 - (a) made to the Minister; and
 - (b) in the approved form; and
 - (c) accompanied by—
 - (i) the information the Minister requires to make a decision; and
 - (ii) the fee prescribed by regulation.
- (3) In deciding whether or not to give the indicative approval, the Minister must consider the matters mentioned in section 318AAT(2) as if the request were an application for approval of an application transfer.

- (4) The Minister must decide whether or not to give the indicative approval and give the applicant notice of the decision.

318AAS Applying for approval of application transfer

- (1) An applicant for a mining lease, or the holder of an interest in an application for a mining lease, may apply for approval of an application transfer for the application.
- (2) The application must be made to the Minister in the approved form and be accompanied by—
 - (a) a written consent to the transfer by the proposed transferee; and
 - (b) a written consent to the transfer by each person, other than the transferor, who is an applicant for the application; and
 - (c) the fee prescribed by regulation.
- (3) However, an application can not be made under this section if the proposed transferee is not an eligible person.

318AAT Deciding application

- (1) The Minister must decide whether or not to give the approval of the application transfer for the application.
- (2) In deciding whether or not to give the approval, the Minister must consider—
 - (a) the application for approval and any additional information accompanying the application; and
 - (b) whether the transferee has the human, technical and financial resources to comply

[s 364]

with the conditions of a mining lease under section 276; and

- (c) the public interest.
- (3) However, subsection (2) does not apply if, under subsection (5) or (6), the approval is taken to have been given.
- (4) The approval may be given only if the proposed transferee is—
 - (a) an eligible person; and
 - (b) a registered suitable operator under the Environmental Protection Act.
- (5) The approval is taken to have been given if—
 - (a) under section 318AAR, an indicative approval has been given for the proposed transfer; and
 - (b) subsection (4) does not prevent the giving of the approval; and
 - (c) within 3 months after the giving of the indicative approval—
 - (i) an application for approval of the application transfer is made; and
 - (ii) if, under section 318AAR, an indication of likely conditions was given—the conditions are complied with.
- (6) The approval is also taken to have been given if—
 - (a) subsection (5)(a) and (b) is satisfied; and
 - (b) before the expiration of 6 months after the giving of the indicative approval—
 - (i) the applicant gives the chief executive a statement that there has been no

material change relevant to the matters
for which the indicative approval was
given; and

(ii) subsection (5)(c)(i) and (ii) is satisfied.

(7) Despite subsections (5) and (6), the approval of
the application transfer is taken not to have been
given if—

- (a) the request for indicative approval contained
incorrect material information or omitted
material information; and
- (b) had the Minister been aware of the
discrepancy, the Minister would not have
given the indicative approval.

318AAU Written notice about decision

- (1) If the Minister decides to give the approval, the
Minister must give the applicant for the approval
written notice of the decision.
- (2) If the Minister decides not to give the approval,
the Minister must give the applicant for the
approval written notice of the decision stating the
following—
 - (a) the decision and the reasons for it;
 - (b) the rights of appeal under this Act;
 - (c) the period in which an appeal must be
started;
 - (d) how rights of appeal are to be exercised;
 - (e) that a stay of a decision may be applied for
under this Act.

Note—

For appeals against refusal to approve an application
transfer, see part 4.

[s 365]

365 Amendment of ch 7, pt 4, hdg, (Appeals about approvals of assessable transfers)

Chapter 7, part 4, heading, ‘approvals of assessable’—
omit.

366 Amendment of s 318AAZM (Who may appeal)

(1) Section 318AAZM(1)—

omit, insert—

- (1) A person whose interests are affected by any of the following decisions may appeal against the decision to the Land Court—
 - (a) a decision of the Minister to refuse to approve an application transfer under section 318AAT;
 - (b) a decision of the Minister to refuse to approve registration of a dealing, or to approve registration of a dealing with conditions, under the Common Provisions Act, section 19(3);
 - (c) a decision of the Minister to refuse to give an indicative approval, or to give the indicative approval with conditions, under the Common Provisions Act, section 23(3).

(2) Section 318AAZM(2), ‘section 318AAZ’—

omit, insert—

section 318AAU

367 Amendment of s 318AB (Relationship with ch 4–6 and ch 7, pt 1)

(1) Section 318AB, heading, ‘ch 4–6 and ch 7, pt 1’—

omit, insert—

chs 4–6 and the Common Provisions Act

- (2) Section 318AB(1), ‘chapter 7, part 1’—
omit, insert—
the Common Provisions Act
- (3) Section 318AB(3), ‘chapter 7, part 1’—
omit, insert—
the Common Provisions Act
- (4) Section 318AB(4), ‘and chapter 7, part 1’—
omit, insert—
or the Common Provisions Act

368 Amendment of s 318DO (Requirement for coordination arrangement to transfer or sublet mining lease in area of petroleum lease)

Section 318DO(2), ‘section 318AAT’—

omit, insert—

the Common Provisions Act

369 Amendment of s 401A (Protection against liability as condition of approval)

- (1) Section 401A(1), ‘chapter 7, part 1, division 3’—
omit, insert—
the Common Provisions Act, chapter 2, part 1
- (2) Section 401A(4), definition *parties*, paragraphs (b) to (d)—
omit, insert—
 - (b) for a transfer of the mining tenement—the proposed transferee;
 - (c) for a mortgage of the mining tenement—the proposed mortgagee;

[s 370]

- (d) for a sublease of the mining tenement—the proposed sublessee;
- (3) Section 401A(4), definition *relevant matter*, paragraph (c), ‘chapter 7, part 1, division 3’—
omit, insert—
the Common Provisions Act, chapter 2, part 1

370 Amendment of s 406 (Land Court may review direction or requirement)

Section 406(1)(b)—

omit, insert—

- (b) a road use direction, relating to an authority under this Act, given to the person by a public road authority under the Common Provisions Act, section 64;
- (c) a condition imposed by a public land authority on a resource authority holder entering public land under the Common Provisions Act, section 59;
- (d) the variation of a condition mentioned in paragraph (c).

371 Insertion of new ch 15, pt 10

Chapter 15—

insert—

Part 10 Transitional provisions for Mineral and Energy Resources (Common Provisions) Act 2014

824 Continued appeal right for particular decisions

- (1) If, before the commencement of this section, a person may have appealed to the Land Court against a decision of the Minister to refuse to approve an assessable transfer under previous section 318AAZM, the person may still appeal against the decision, in compliance with chapter 7, part 4.
- (2) A person who, before the commencement of this section, may have applied to the Land Court for a review of a road use direction under previous section 406, may still apply to the Land Court for the review in compliance with section 406(2) to (7).
- (3) In this section—
previous section 318AAZM means section 318AAZM as in force immediately before its amendment under the Common Provisions Act, section 366.
previous section 406 means section 406 as in force immediately before its amendment under the Common Provisions Act, section 370.

372 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *assessable transfer*, *associated agreement*, *dealing*, *indicative approval* and *non-assessable transfer*—
omit.

[s 373]

(2) Schedule 2—

insert—

application transfer see section 318AAN.

dealing, in relation to a mining tenement, means a dealing with a resource authority, under the Common Provisions Act, that is a mining tenement.

indicative approval see section 318AAR(1).

Division 4 Amendments relating to the Common Provisions Act, chapter 3

373 Insertion of new ss 7A and 7B

Part 4—

insert—

7A What is a preliminary activity

- (1) A ***preliminary activity***, for a provision about an exploration tenement, means an authorised activity for the tenement that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples—

- walking the area of the permit or licence
- driving along an existing road or track in the area
- taking soil or water samples
- geophysical surveying not involving site preparation
- aerial, electrical or environmental surveying
- survey pegging

- (2) However, the following are not preliminary activities—

- (a) an authorised activity carried out on land that—
 - (i) is less than 100ha; and
 - (ii) is being used for intensive farming or broadacre agriculture;

Examples—

- land used for dryland or irrigated cropping, plantation forestry or horticulture
 - a dairy, cattle or sheep feedlot, piggery or poultry farm
- (b) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

7B What is an advanced activity

An *advanced activity*, for a provision about an exploration tenement, means an authorised activity for the tenement other than a preliminary activity for the tenement.

Examples—

- levelling of drilling pads and digging sumps
- bulk sampling
- open trenching or costeaning with an excavator
- vegetation clear-felling
- constructing an exploration camp, concrete pad, sewage or water
- treatment facility or fuel dump
- geophysical surveying with physical clearing
- carrying out a seismic survey using explosives
- constructing a track or access road
- changing a fence line

[s 374]

374 Amendment of s 129 (Entitlements under exploration permit)

(1) Section 129(1)(a), from ‘may, subject to compliance’—
omit, insert—

may, in compliance with the Common Provisions Act, chapter 3, enter any part of the area of the exploration permit for the purpose of—

- (i) facilitating that exploration; or
- (ii) plugging and abandoning, or otherwise remediating, a legacy borehole and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation; and

(2) Section 129(2) to (6) and (8) to (14)—
omit.

375 Replacement of s 163 (Access and compensation provisions—sch 1)

Section 163—
omit, insert—

163 Access and compensation provisions

The Common Provisions Act, chapter 3 contains provisions about access, compensation and related matters for exploration permits.

376 Amendment of s 181 (Obligations and entitlement under mineral development licence)

(1) Section 181(4)(b), from ‘may, subject to compliance’—
omit, insert—

may, in compliance with the Common Provisions Act, chapter 3, enter any part of the area of the mineral

development licence for any purpose permitted or required under the licence or by this Act; and

(2) Section 181(5), (6), (7), (11), (13) to (17), (20) and (21)—
omit.

377 Replacement of s 211 (Access and compensation provisions—sch 1)

Section 211—

omit, insert—

211 Access and compensation provisions

The Common Provisions Act, chapter 3 contains provisions about access, compensation and related matters for mineral development licences.

378 Omission of ch 10 (Roads)

Chapter 10—

omit.

379 Amendment of s 335I (What happens if a party does not attend)

(1) Section 335I(2), note, after ‘election notice’—

insert—

under the Common Provisions Act, section 88

(2) Section 335I(2), note, ‘schedule 1, section 22’—

omit, insert—

the Common Provisions Act, section 91

380 Amendment of s 335J (Authorised officer’s role)

Section 335J(2), ‘schedule 1, section 21’—

omit, insert—

[s 381]

the Common Provisions Act, section 89

381 Omission of s 391B (Right of access for authorised activities includes access for rehabilitation and environmental management)

Section 391B—

omit.

382 Amendment of s 397B (Obstruction of mining tenement holder)

Section 397B(1)(a), ‘schedule 1, parts 2 to 6’—

omit, insert—

the Common Provisions Act, chapter 3

383 Amendment of s 412B (Executive officer may be taken to have committed offence)

Section 412B(5)—

omit, insert—

(5) In this section—

deemed executive liability provision means—

(a) any of the following provisions of this Act—

- section 20(5)
- section 335C(1)
- section 404
- section 404D(1); or

(b) either of the following provisions of the Common Provisions Act—

- section 39(1)

- section 43(1).

384 Amendment of s 781 (Additional exemption to conduct and compensation agreement requirement)

Section 781—

insert—

- (2A) A reference to conduct and compensation agreement requirement under schedule 1 in subsection (2) is taken to include a reference to conduct and compensation agreement requirement under the Common Provisions Act, chapter 3.

385 Omission of sch 1 (Access and compensation provisions for exploration permits and mineral development licences)

Schedule 1—

omit.

386 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *ADR*, *advanced activity*, *compensation agreement*, *compensation application*, *compensation liability*, *conduct and compensation agreement requirement*, *deferral agreement*, *eligible claimant*, *election notice*, *entry notice*, *exploration tenement*, *land access code*, *minimum negotiation period*, *negotiation notice*, *notifiable road use*, *parties*, *preliminary activity*, *private land*, *public land*, *public land authority*, *restricted land*, *restricted land (category A)*, *restricted land (category B)*, *road authority* and *road use direction*—

omit.

- (2) Schedule 2—

insert—

[s 387]

advanced activity see section 7A.

conduct and compensation agreement see the Common Provisions Act, section 83(1).

eligible claimant see the Common Provisions Act, section 81(1).

election notice see the Common Provisions Act, section 88(2).

exploration tenement means any exploration permit or mineral development licence.

land access code see the Common Provisions Act, section 36.

parties, for chapter 13, part 2, see section 335G.

preliminary activity see section 7B.

restricted land see the Common Provisions Act, section 68.

road use direction see the Common Provisions Act, section 64.

Division 5

Amendments relating to the Common Provisions Act, chapter 4

387 Omission of ss 318A and 318AA

Sections 318A and 318AA—

omit.

388 Amendment of s 318AE (What is a *coal exploration tenement*, a *coal mining lease* and a *special coal mining lease*)

Section 318AE—

insert—

- (4) However, for parts 1 to 7—
 - (a) a coal exploration tenement does not include an exploration permit or mineral development licence granted for coal to which the Common Provisions Act, chapter 4, applies; and
 - (b) a coal mining lease does not include a mining lease granted for coal to which the Common Provisions Act, chapter 4, applies.

389 Amendment of s 318AI (Petroleum tenures)

Section 318AI—

insert—

- (4) However, for parts 1 to 7—
 - (a) a petroleum lease does not include a petroleum lease under the Petroleum and Gas (Production and Safety) Act to which the Common Provisions Act, chapter 4, applies; and
 - (b) an authority to prospect does not include an authority to prospect under the Petroleum and Gas (Production and Safety) Act to which the Common Provisions Act, chapter 4, applies.

Division 6

**Amendments relating to the
Common Provisions Act, chapter 6**

390 Amendment of s 103 (Correction of certificate of grant of mining claim)

Section 103(1), ‘of mining claims kept by the chief executive’—

omit.

[s 391]

391 Amendment of s 149 (Correction of instrument of exploration permit)

Section 149, ‘of exploration permits kept by the chief executive’—
omit.

392 Amendment of s 206 (Correction of instrument of mineral development licence)

Section 206, ‘of mineral development licences’—
omit.

393 Amendment of s 230 (Plant remaining on former mineral development licence may be sold etc.)

Section 230(3)(f), ‘this Act’—
omit, insert—

the Common Provisions Act

394 Amendment of s 314 (Property remaining on former mining lease may be sold)

Section 314(3)(g), ‘this Act’—
omit, insert—

the Common Provisions Act

395 Omission of ss 387–387D

Sections 387 to 387D—
omit.

396 Omission of s 416B (Practice manual)

Section 416B—
omit.

397 Insertion of new s 825

Chapter 15, part 10, as inserted by this Act—

insert—

825 Existing practice manuals

- (1) A practice manual kept under former section 416B continues in effect until the chief executive makes a manual available under the Common Provisions Act, section 202(4)(b).

- (2) In this section—

former section 416B means section 416B as in force immediately before the commencement of this section.

398 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *area*, paragraph 2, from ‘petroleum register’—

omit, insert—

register.

- (2) Schedule 2, definition *area*, paragraph 3, from ‘GHG register’—

omit, insert—

register.

- (3) Schedule 2, definition *area*, paragraph 4, from ‘geothermal register’—

omit, insert—

register.

- (4) Schedule 2, definition *register*—

omit, insert—

[s 399]

register means the register kept by the chief executive under the Common Provisions Act, section 197.

Division 7 Amendments relating to gas emissions

399 Amendment of s 129 (Entitlements under exploration permit)

Section 129(1)(a), ‘exploration; and’—

omit, insert—

exploration, or for the purpose of plugging and abandoning, or otherwise remediating, a legacy borehole and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation; and

400 Amendment of s 181 (Obligations and entitlement under mineral development licence)

Section 181(4)(a)—

insert—

- (iii) may carry out or cause to be carried out the plugging and abandoning, or otherwise remediating, of a legacy borehole and rehabilitating of the surrounding area in compliance with the requirements prescribed under a regulation; and

401 Amendment of s 235 (General entitlements of holder of mining lease)

Section 235(1)(b), ‘Act.’—

omit, insert—

Act, including plugging and abandoning, or otherwise remediating, a legacy borehole and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

402 Amendment of s 344B (Entering land to carry out rehabilitation activities)

- (1) Section 344B(2)(b), ‘5 business days’—

omit, insert—

10 business days

- (2) Section 344B(3)—

omit, insert—

- (3) However, subsection (2) does not authorise the entry of a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part.

403 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

legacy borehole means a bore or well that the holder of the relevant exploration permit, mineral development licence or mining lease reasonably believes—

- (a) was drilled for the purpose (the ***original purpose***) of—
- (i) exploration or production of mineral or petroleum resources; or
 - (ii) informing the exploration or production of mineral or petroleum resources; and

[s 404]

- (b) is no longer in use for the original or another purpose.

Division 8 Amendments relating to incidental coal seam gas

404 Amendment of s 316 (Mining lease for transportation through land)

Section 316—

insert—

- (6) This section does not apply for the transportation of incidental coal seam gas.

Note—

The person may apply for a pipeline licence under the Petroleum and Gas (Production and Safety) Act, chapter 4, part 2.

405 Amendment of s 318CL (Application of pt 8)

Section 318CL(2), after ‘division 2’—

insert—

and the Common Provisions Act, section 138.

406 Replacement of s 318CN (Use that may be made under mining lease of incidental coal seam gas)

Section 318CN—

omit, insert—

318CN Use that may be made under coal mining lease of incidental coal seam gas

- (1) This section applies if the mining lease holder holds a coal mining lease.

- (2) Subject to section 318CO, the mining lease holder may do the following in relation to incidental coal seam gas mined under section 318CM—
- (a) use it beneficially for an authorised activity under the coal mining lease or another coal mining lease;
 - (b) process, store or transport it within the area of the coal mining lease, or within the area of another coal mining lease, to allow it to be used under paragraph (a);
 - (c) use it beneficially for an authorised activity under another resource authority;
 - (d) supply it to another entity;
 - (e) use it to generate power to supply to another entity;
 - (f) process, store or transport it within the area of the coal mining lease, or within the area of another resource authority, to allow it to be used under paragraph (c), (d) or (e).

Examples of uses of incidental coal seam gas authorised under paragraph (a) or (c)—

- 1 power generation for equipment used for an authorised activity under the coal mining lease or another resource authority
- 2 heating

Notes—

- 1 If the mining lease holder wishes to use the incidental coal seam gas in a way not authorised under subsection (2)(a) or (b), the holder may require an authority under the Petroleum and Gas (Production and Safety) Act. For example, a holder must apply for an authority under that Act if the holder wishes to transport the gas by pipeline outside the area of non-contiguous mining leases or utilise a natural underground reservoir.

[s 406]

- 2 If the mining lease holder wishes to use the incidental coal seam gas to generate power to supply to another entity, the holder must comply with the *Electricity Act 1994*.
- (2) This section does not limit or affect a requirement or restriction under another Act.
- (3) In this section—
supply includes sell.

318CNA Use that may be made under oil shale mining lease of incidental coal seam gas

- (1) This section applies if the mining lease holder holds an oil shale mining lease.
- (2) Subject to section 318CO, the mining lease holder may do the following in relation to incidental coal seam gas mined under section 318CM—
 - (a) use it beneficially for mining under the oil shale mining lease;
 - (b) process, store or transport it within the area of the oil shale mining lease to allow it to be used under paragraph (a).

Examples of uses of incidental coal seam gas authorised under paragraph (a)—

- 1 power generation for equipment used for mining under the oil shale mining lease
- 2 heating
- (3) This section does not limit or affect a requirement or restriction under another Act.
- (4) In this section—
mining, under the oil shale mining lease, includes mining for coal seam gas authorised under section 318CM.

407 Amendment of s 318CO (Restriction on flaring or venting of incidental coal seam gas)

(1) Section 318CO(2)—

omit, insert—

(2) Flaring the incidental coal seam gas is authorised if it is not commercially or technically feasible to use it—

(a) for a coal mining lease—under section 318CN(2); or

(b) for an oil shale mining lease—under section 318CNA(2).

(2) Section 318CO(5), ‘a mining lease’—

omit, insert—

an oil shale mining lease

(3) Section 318CO(7), definition *greenhouse abatement scheme*—

omit, insert—

greenhouse abatement scheme means a scheme about the abatement of greenhouse gases prescribed by regulation.

408 Insertion of new s 826

Chapter 15, part 10, as inserted by this Act—

insert—

826 Application of incidental coal seam gas provisions

(1) Subject to subsections (2), (3) and (4), the new incidental coal seam gas provisions apply to a mining lease whether the mining lease is granted before or after the commencement.

(2) Subsection (3) applies if—

[s 408]

- (a) a person holds an ML (coal) granted before the commencement; and
 - (b) another person holds—
 - (i) an ATP granted before the commencement; or
 - (ii) a PL granted before the commencement; or
 - (iii) a PL granted after the commencement that succeeds an ATP granted before the commencement; and
 - (c) the area of the ML (coal) and the ATP or PL overlap.
- (3) Chapter 8, part 8, as in force before the commencement continues to apply as if the new incidental coal seam gas provisions had not commenced.
- (4) Despite subsection (3), the new incidental coal seam gas provisions apply to an ML (coal) granted before the commencement if —
- (a) the ML (coal) holder offers to supply any incidental coal seam gas in the overlapping area to an ATP or PL holder under the Common Provisions Act, section 138; and
 - (b) the ATP or PL holder does not accept the offer under the Common Provisions Act, section 138.
- (5) In this section—

amended means amended, repealed or inserted by the Common Provisions Act.

ATP see the Common Provisions Act, section 103.

commencement means the commencement of this section.

mining lease means a coal mining lease or an oil shale mining lease.

ML (coal) see the Common Provisions Act, section 103.

new incidental coal seam gas provisions means sections 318CL, 318CN, 318CNA and 318CO, as amended by the Common Provisions Act.

PL see the Common Provisions Act, section 103.

Division 9 Amendments relating to mining applications

409 Amendment of s 19 (Consent required to enter certain land)

Section 19(4)—

omit.

410 Amendment of s 20 (Provisions about consents to enter land)

Section 20—

insert—

- (7) Subsection (6) applies despite the Common Provisions Act, section 70.

411 Replacement of s 48 (Land in area of mining claim)

Section 48—

omit, insert—

48 Grant of mining claim

- (1) A mining claim may be granted over an area of land to an eligible person.

[s 412]

Note—

See section 61 for the requirements for making an application for the grant of a mining claim.

- (2) The area of the mining claim must include the whole of the surface area of the land within the area of the mining claim.

Note—

See, however, section 10AAB(3) if land in the area of the mining claim is taken under a resumption law.

412 Amendment of s 51 (Land for which mining claim not to be granted)

Section 51(2) and (3)—

omit, insert—

- (2) A mining claim may be granted over the surface of land that is restricted land when the application for the claim was lodged only if—
- (a) each relevant owner or occupier for the restricted land consents in writing to the application; and
- (b) the applicant lodges each relevant owner's or occupier's consent with the chief executive before the last objection day ends.
- (3) A relevant owner or occupier for restricted land can not withdraw his or her consent under subsection (2) once it has been lodged with the chief executive.
- (4) Subsection (3) applies despite the Common Provisions Act, section 70.

413 Omission of ss 56–60

Sections 56 to 60—

omit.

414 Amendment of s 61 (Application for grant of mining claim)

- (1) Section 61(1) and (2), ‘shall’—

omit, insert—

must

- (2) Section 61(1)(e) to (g)—

omit, insert—

- (e) define the boundary of the area of the proposed mining claim; and

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

- (f) define the boundary of any area of land outside the area of the proposed mining claim intended to be used to access the proposed claim area; and

- (g) be accompanied by a visual representation of the boundaries and land mentioned in paragraphs (e) and (f); and

- (3) Section 61(1)(a) to (d), (h) and (i), after ‘;’—

insert—

and

415 Omission of s 62 (Description of mining claim)

Section 62—

omit.

[s 416]

416 Replacement of ss 64 to 64D

Sections 64 to 64D—

omit, insert—

64 Issue of mining claim notice

- (1) This section applies if the chief executive is satisfied an applicant for a proposed mining claim—
 - (a) is eligible to apply for the mining claim; and
 - (b) has complied with the requirements of this Act for the application.
- (2) The chief executive must give the applicant a written notice for the application (the ***mining claim notice***).
- (3) The mining claim notice must state the following—
 - (a) the number of the proposed mining claim;
 - (b) the date and time the application was lodged;
 - (c) any documents or other information, in addition to the documents mentioned in section 64A(1)(a), (b) and (d), the applicant must give to each affected person within the meaning of section 64A;
 - (d) the last day (the ***last objection day***) for lodging objections to the application.
- (4) The last objection day must be at least 20 business days after the notice is given to the applicant.

64A Documents and other information to be given to affected persons

- (1) The applicant for a proposed mining claim must give the following documents and information to each affected person—
 - (a) the mining claim notice;
 - (b) the application for the mining claim;
 - (c) any other documents or information mentioned in the mining claim notice under section 64(3)(c);
 - (d) if the mining claim is for carrying out small scale mining activities—a copy of the small scale mining code.
- (2) The documents and other information must be given within the later of the following periods to end—
 - (a) 5 business days after the mining claim notice is given to the applicant;
 - (b) if the chief executive at any time decides a longer period—the longer period.
- (3) In this section—

affected person means—

 - (a) an owner of land the subject of the proposed mining claim; or
 - (b) an owner of land necessary for access to land mentioned in paragraph (a); or
 - (c) the relevant local government.

64B Declaration of compliance with obligations

- (1) The applicant for a proposed mining claim must give the chief executive a statutory declaration that the applicant has complied with section 64A.

[s 417]

- (2) The declaration must be given within the later of the following periods to end—
 - (a) 5 business days after the last objection day for the application for the mining claim;
 - (b) if the chief executive at any time decides a longer period—the longer period.
- (3) Until the declaration is given—
 - (a) the Minister must not grant the mining claim; and
 - (b) the Land Court may refuse to hear any matter about the application.

64C Continuing obligation to notify

- (1) This section applies for an application for a proposed mining claim if, after the last objection day but before the hearing day for the application, the applicant gives the chief executive an additional document about the application.
- (2) The applicant must give a copy of the document to each affected person within the meaning of section 64A.

417 Amendment of s 81 (Conditions of mining claim)

Section 81(1)(m)—

omit, insert—

- (m) if the area of the mining claim has not been surveyed and a physical monument is used to define the area's boundary—a condition that the holder must maintain the monument;

418 Omission of s 90 (Duty of holder of mining claim to mark boundary posts)

Section 90—

omit.

419 Amendment of s 121 (Effect of termination of mining claim)

Section 121(3), ‘under this Act’—

omit.

420 Amendment of s 125 (Variation of access to mining claim area)

Section 125(2)(a), ‘sections 61 and 62’—

omit, insert—

section 61

421 Amendment of s 129 (Entitlements under exploration permit)

Section 129(1)(c)(i), example—

omit.

422 Amendment of s 181 (Obligations and entitlement under mineral development licence)

(1) Section 181(8) and (9)—

omit.

(2) Section 181(20), ‘and (8)’—

omit.

[s 423]

423 Amendment of s 183 (Application for mineral development licence)

- (1) Section 183(1), ‘shall’—

omit, insert—

must

- (2) Section 183(1)(e)—

omit, insert—

- (e) define the boundary of the area of the proposed mineral development licence; and

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

- (3) Section 183(1)(h) and (i)—

omit, insert—

- (h) define the boundary of any area of land outside the area of the proposed mineral development licence intended to be used to access the surface area of the land proposed to be included in the proposed licence area; and
- (i) be accompanied by a visual representation of the boundaries and land mentioned in paragraphs (e) and (h); and

424 Omission of s 184 (Description of mineral development licence)

Section 184—

omit.

425 Amendment of s 189 (Abandonment of application for mineral development licence)

(1) Section 189(2A), ‘identify’—

omit, insert—

describe

(2) Section 189(2B), ‘identified’—

omit, insert—

described

426 Amendment of s 210 (Surrender of mineral development licence)

Section 210(3)(b)(ii) and (iii)—

omit, insert—

(ii) a definition of the boundary of the area to be retained; and

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

(iii) if land, other than land in the area of the mineral development licence, is required to access the surface area of the land in the area to be retained—a definition of the boundary of the area of that land; and

427 Amendment of s 231 (Variation of access to mineral development licence area)

Section 231(2)(a), ‘by sections 183 and 184’—

omit, insert—

under section 183

[s 428]

428 Amendment of s 231C (Application for mineral development licence (183))

Section 231C(b) and (c)—

omit, insert—

- (b) define the boundary of the area of the proposed mineral development licence; and

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

- (c) define the boundary of any area of land outside the area of the proposed mineral development licence intended to be used to access the surface area of the land proposed to be included in the proposed licence area; and

429 Omission of s 231D (Alternative way of describing mineral development licence (184))

Section 231D—

omit.

430 Replacement of s 232 (Land subject to mining lease)

Section 232—

omit, insert—

232 Eligible person may apply for mining lease

- (1) An eligible person (an *applicant*) may apply for a mining lease for 1 or more minerals over an area of contiguous land (the *proposed lease area*).

Notes—

- 1 See section 245 for the requirements for making an application.

2 See sections 248 and 249 for the requirements for an applicant to obtain the consent or views of the holder of, or an earlier applicant for, an exploration permit, mineral development licence or mining lease over the same land.

- (2) However, if a mining lease application includes mineral (f), the applicant, or at least 1 of the applicants, must hold a mineral development licence for mineral (f) over all of the proposed lease area.

431 Omission of s 238 (Mining lease over surface of restricted land)

Section 238—

omit.

432 Replacement of s 239 (Restriction on mining leases where land freed from exploration permit)

Section 239—

omit, insert—

239 Restriction on mining leases if land is released from exploration permit)

- (1) This section applies if an area of land is released from an exploration permit.
- (2) However, this section applies only for the period—
- (a) starting when the land is released; and
 - (b) ending 2 months after the end of the month in which the land is released.
- (3) A person can not apply for, hold or have an interest (direct or indirect) in, 1 or more mining leases over the released land if the total area of the mining leases is more than 300ha.

[s 433]

(4) In this section—

released, for land the subject of an exploration permit, means the land stops being the subject of the permit.

433 Omission of ss 240–244

Sections 240 to 244—

omit.

434 Replacement of s 245 (Application for grant of mining lease)

Section 245—

omit, insert—

245 Application for grant of mining lease

- (1) An application for the grant of a mining lease must—
- (a) be in the approved form; and
 - (b) state the name of each applicant; and
 - (c) state the name and address for service of 1 person upon whom any notice may be served on behalf of the applicant or the applicants; and
 - (d) describe all parcels of land the whole or part of which are in or adjoin the proposed lease area; and
 - (e) state the current use of the land in the proposed lease area and whether it is subject to erosion control works; and
 - (f) state the names and addresses of the owners of—

- (i) the land in or adjoining the proposed lease area; and
- (ii) any land that is to be used to access the land mentioned in subparagraph (i); and
- (g) define the boundary of the proposed lease area; and

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

- (h) define the boundary of each of the following—
 - (i) any surface area of land to be included in the proposed lease area;
 - (ii) any restricted land in relation to which the applicant would be required, under section 279(1) and (1A), to enter into a compensation agreement with the owner or occupier of the restricted land before the grant of the proposed mining lease;
 - (iii) any land outside the boundary of the proposed lease area intended to be used to access the proposed lease area; and
- (i) for land mentioned in paragraph (h)(i) or (ii)—state the purpose for which the land is intended to be used; and
- (j) be accompanied by a visual representation of the boundaries and land mentioned in paragraphs (g) and (h); and
- (k) give reasons why the mining lease should be granted in respect of the area and shape of the proposed lease area; and

[s 434]

- (l) for restricted land mentioned in paragraph (h)(ii)—give reasons why authorised activities under the proposed mining lease can not co-exist with activities carried out on the restricted land; and
- (m) identify the mineral or minerals or purpose for which the grant of the proposed mining lease is sought; and
- (n) nominate the term of the proposed mining lease and give reasons for the length of term sought; and
- (o) be lodged; and
- (p) be accompanied by—
 - (i) proof, to the chief executive's satisfaction, of the applicant's identity; and
 - (ii) the number of additional copies of the application, and other documents lodged with the application, the chief executive requires; and
 - (iii) a statement, acceptable to the chief executive—
 - (A) outlining the mining program proposed, its method of operation, and providing an indication of when operations are expected to start or, if a mining program is not proposed, outlining the use proposed for the proposed lease area and providing an indication of when the proposed use is to start; and
 - (B) of proposals for infrastructure requirements necessary to enable the mining program to proceed, or

additional activities to be carried on to work out the infrastructure requirements; and

(C) stating the estimated human, technical and financial resources proposed to be committed to authorised activities for the proposed mining lease during the term of the lease, if granted; and

(q) be accompanied by—

(i) a statement, acceptable to the chief executive and separate from the statement mentioned in paragraph (p)(iii), detailing the applicant's financial and technical resources; and

(ii) the application fee prescribed by regulation.

(2) However, subsection (1)(p)(iii)(A) does not apply if, under chapter 8, the application includes a proposed development plan that complies with the initial development plan requirements.

(3) The chief executive must not accept a mining program mentioned in subsection (1)(p)(iii)(A) that is inconsistent with the provisions of this Act.

435 Omission of s 246 (Description of mining lease)

Section 246—

omit.

436 Replacement of ss 252—252D

Sections 252 to 252D—

omit, insert—

252 Issue of mining lease notice

- (1) This section applies if the chief executive is satisfied the applicant for the grant of a mining lease—
 - (a) is eligible to apply for the mining lease; and
 - (b) has complied with the requirements of this Act for the application.
- (2) The chief executive must give the applicant a written notice for the application (the *mining lease notice*).
- (3) The mining lease notice must state the following—
 - (a) the number of the proposed mining lease;
 - (b) the date and time the application was lodged;
 - (c) any documents or other information, in addition to the documents mentioned in section 252A(1)(a) and (b), the applicant must give to each affected person within the meaning of section 252A;
 - (d) the last day (the *last objection day*) for lodging objections to the application.
- (4) The last objection day must be at least 20 business days after the notice is given to the applicant.

252A Documents and other information to be given to particular persons

- (1) The applicant for a proposed mining lease must give the following documents and information to each affected person—
 - (a) the mining lease notice;

- (b) the application for the mining lease, other than any part of it—
 - (i) that states the applicant's financial and technical resources; or
 - (ii) the chief executive considers is commercial in confidence;
 - (c) the documents and other information mentioned in the mining lease notice under section 252(3)(c).
- (2) Also, the applicant must give notice of the application to the following persons in accordance with a practice manual under the Common Provisions Act, section 202—
 - (a) an occupier of the subject land;
 - (b) an occupier of land necessary for access to the subject land;
 - (c) an owner of adjoining land;
 - (d) an entity that provides infrastructure wholly or partially on the subject land.
- (3) The documents and other information mentioned in subsection (1), and the notice mentioned in subsection (2), must be given within the later of the following periods to end—
 - (a) either—
 - (i) if the notification stage mentioned in the Environmental Protection Act, chapter 5, part 4 does not apply to the application—5 business days after the mining lease notice is given to the applicant; or
 - (ii) if the notification stage mentioned in the Environmental Protection Act, chapter 5, part 4 applies to the

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application—5 business days after the application notice mentioned in the Environmental Protection Act, section 152 is given and published under that section;

- (b) if the chief executive at any time decides a longer period—the longer period.
- (4) Despite subsections (1) to (3), the chief executive may decide an additional or substituted way for the giving of the documents and other information mentioned in subsection (1), or the notice mentioned in subsection (2).
- (5) The chief executive must give written notice of a decision under subsection (4) no later than the giving of the mining lease notice to the applicant.
- (6) In this section—

adjoining land—

- (a) includes land that would adjoin the subject land if it was not separated by a road, watercourse, railway, stock route, reserve or drainage or other easement; and
- (b) does not include land that adjoins land necessary for—
 - (i) access to the subject land; or
 - (ii) transporting things to the subject land.

affected person means—

- (a) an owner of the subject land; or
- (b) an owner of land necessary for access to the subject land; or
- (c) the relevant local government.

infrastructure means infrastructure relating to the transportation, movement, transmission or

flow of anything, including, for example, goods, material, substances, matter, particles with or without charge, light, energy, information and anything generated or produced.

subject land means land the subject of the proposed mining lease.

252B Declaration of compliance with obligations

- (1) The applicant for a proposed mining lease must give the chief executive a statutory declaration that the applicant has complied with section 252A.
- (2) The declaration must be given within the later of the following periods to end—
 - (a) 5 business days after the last objection day for the application for the mining lease;
 - (b) if the chief executive at any time decides a longer period—the longer period.
- (3) If the chief executive considers the declaration given under subsection (2) may not identify each person to whom a document, information or notice must be given under section 252A, the chief executive may require the applicant to give the chief executive another declaration under subsection (1) within the period stated by the chief executive.
- (4) Until a declaration mentioned in subsection (2) or (3) is given—
 - (a) the Land Court must not make a final recommendation to the Minister about the application for the mining lease, other than a recommendation to reject the application; and

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- (b) the Land Court may refuse to hear any matter about the application.

252C Continuing obligation to notify

- (1) This section applies for an application for a mining lease if, after the day the mining lease notice has been given to the applicant but before the hearing day for the application, the applicant gives the chief executive an additional document about the application.
- (2) The applicant must give a copy of the document to each affected person within the meaning of section 252A.

437 Amendment of s 253 (Reissue of certificate of public notice)

- (1) Section 253, ‘certificate of public notice’—
omit, insert—
mining lease notice
- (2) Section 253(1)(b), ‘certificate’—
omit, insert—
notice
- (3) Section 253(2), ‘original certificate’—
omit, insert—
original notice

438 Replacement of s 260 (Objection to application for grant of mining lease)

- Section 260—
omit, insert—

260 Objection by affected person

- (1) An affected person may, on or before the last objection day for the application, lodge with the chief executive an objection in writing in the approved form.
- (2) Whether or not the period for objection under subsection (1) has ended, an owner of land who attends a conference with the applicant for the grant of a mining lease may lodge an objection within 5 business days after—
 - (a) the conclusion of that conference; or
 - (b) if the applicant for the grant of the mining lease fails to attend the conference—the day upon which the conference was convened.
- (3) An objection mentioned in subsection (1) or (2) must state the matters of objection and the facts and circumstances relied on by the objector in support of those matters.
- (4) However, the affected person may object only in relation to the following matters—
 - (a) if the affected person is the owner of land the subject of the proposed mining lease—the matters mentioned in section 269(4)(a), (b), (c) or (d)(i)(A) or (C);
 - (b) if the affected person is the owner of land necessary for access to land mentioned in paragraph (a)—the matters mentioned in section 269(4)(a) or (e);
 - (c) if the affected person is the owner of adjoining land within the meaning of section 252A—the matters mentioned in section 269(4)(a) or (d)(i)(D) or (ii);

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- (d) if the affected person is the relevant local government—the matters mentioned in section 269(4)(a) or (d)(i)(B).
- (5) Each objector to an application for the grant of a mining lease must serve on the applicant, on or before the last day on which the objector may lodge an objection to that application, a copy of the objection lodged by the objector.
- (6) In this section—
affected person means—
 - (a) an owner of land the subject of the proposed mining lease; or
 - (b) an owner of land necessary for access to land mentioned in paragraph (a); or
 - (c) an owner of adjoining land within the meaning of section 252A; or
 - (d) the relevant local government.

439 Replacement of s 265 (Referral of application and objections to Land Court)

Section 265—

omit, insert—

265 Referral of application and objections to Land Court

- (1) Subsections (2) and (3) apply if—
 - (a) a properly made objection is made for an application for a mining lease; and
 - (b) the application for the mining lease relates to a site-specific application under the Environmental Protection Act, section 125 for an environmental authority for a mining

activity relating to a mining lease (the *site-specific application*); and

- (c) either—
 - (i) an objection notice for a submission about the site-specific application is given to the EPA administering authority under the Environmental Protection Act, section 182(2); or
 - (ii) the applicant for the site-specific application has requested, under the Environmental Protection Act, section 183(1), that the application be referred to the Land Court.
- (2) The chief executive must refer the following to the Land Court for hearing—
 - (a) the application for the mining lease;
 - (b) all properly made objections for the application;
 - (c) all objection notices under the Environmental Protection Act, section 182(2);
 - (d) if the chief executive has received a request for referral of the application under the Environmental Protection Act, section 183—a copy of the request.
- (3) The referral must be made within 10 business days after the latest of the following—
 - (a) the last objection day for the application;
 - (b) if an objection is lodged after the last objection day under section 260(2)—the last day of the period for lodging an objection under that subsection;

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- (c) the last day a referral may be made under the Environmental Protection Act, section 185(2).
- (4) Subsections (5) and (6) apply if a properly made objection is made for an application for a mining lease, other than an application mentioned in subsection (1).
- (5) The chief executive must refer the application for the mining lease, and all properly made objections for the application, to the Land Court for hearing.
- (6) The referral must be made within 10 business days after the later of the following—
 - (a) the last objection day for the application;
 - (b) if an objection is lodged after the last objection day under section 260(2)—the last day of the period for lodging an objection under that subsection.
- (7) The Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
 - (a) the chief executive;
 - (b) the applicant;
 - (c) a person who has lodged under section 260 a properly made objection to the application;
 - (d) a submitter who, under the Environmental Protection Act, section 182(2), has requested that its submission be taken to be an objection to the application under the Environmental Protection Act, section 125.
- (8) The hearing date must be at least 20 business days after the last objection day for the application.

-
- (9) The Land Court must make an order or direction that a hearing under section 268 for an application for the grant of a mining lease and any objections to the grant happen at the same time as the objections decision hearing under the Environmental Protection Act, section 188 for the relevant mining tenure.
- (10) If the Land Court fixes a date for the hearing and all properly made objections are struck out or withdrawn before the hearing starts, the Land Court may remit the matter to the chief executive.
- (11) In this section—
objections decision hearing see the Environmental Protection Act, section 188.
properly made objection means an objection lodged under section 260 that has not been withdrawn.
relevant mining tenure see the Environmental Protection Act, schedule 4.

440 Amendment of s 266 (Chief executive may recommend rejection of application for noncompliance)

Section 266, ‘certificate of public notice’—

omit, insert—

mining lease notice

441 Insertion of new s 267A

After section 267—

insert—

267A Striking out objections

- (1) This section applies to the extent an objection lodged under section 260 is—

[s 442]

- (a) outside the jurisdiction of the Land Court; or
 - (b) frivolous or vexatious; or
 - (c) otherwise an abuse of the process of the Land Court.
- (2) Despite sections 265 and 268, the Land Court may, at any stage of the hearing, strike out all or part of the objection.

442 Amendment of s 269 (Land Court's recommendation on hearing)

- (1) Section 269(1)(b) and (c)—
omit.
- (2) Section 269(1)(d)—
renumber as section 269(1)(b).
- (3) Section 269(2), 'subsection (1)(d)'—
omit, insert—
subsection (1)(b)
- (4) Section 269(4)(b) to (m)—
omit, insert—
 - (b) the proposed mining operations are an appropriate land use, having regard to the current and prospective uses of the land the subject of the proposed mining lease; and
 - (c) the proposed mining operations will conform with sound land use management; and
 - (d) the proposed mining operations, including, for example, the extent, type, purpose, intensity, timing and location of the operations, are appropriate, having regard to—

- (i) the likely impact of the activities on—
 - (A) the surface of the land the subject of the proposed mining lease; and
 - (B) infrastructure owned or managed by the relevant local government; and
 - (C) affected persons; and
 - (D) any existing use of adjoining land; and
- (ii) the proximity of adjoining land to the proposed mining operations; and
- (e) the proposed access to the land the subject of the proposed mining lease is reasonable.

(5) Section 269—

insert—

- (7) In this section—

adjoining land see section 252A(6).

affected person see section 260.

proposed mining operations means operations proposed to be carried on under the authority of the proposed mining lease.

443 Amendment of s 271 (Criteria for deciding mining lease application)

- (1) Section 271(c)—

renumber as section 271(d).

- (2) Section 271—

insert—

- (c) the following matters—

[s 443]

- (i) whether the proposed lease area is mineralised or the other purposes for which the lease is sought are appropriate;
- (ii) if the proposed lease area is mineralised, whether there will be an acceptable level of development and utilisation of the mineral resources within the area;
- (iii) whether the applicant has the necessary financial and technical capabilities to carry on mining operations under the proposed mining lease;
- (iv) whether the past performance of the applicant has been satisfactory;
- (v) whether any disadvantage may result to the rights of—
 - (A) holders of existing exploration permits or mineral development licences; or
 - (B) existing applicants for exploration permits or mineral development licences;
- (vi) whether any disadvantage may result to an owner or occupier of restricted land with whom the applicant is required to enter into a compensation agreement under section 279(1);
- (vii) whether the public right and interest will be prejudiced;
- (viii) whether the term sought for the mining lease is appropriate; and

444 Amendment of s 271A (Deciding mining lease application)

Section 271A(1)(a), ‘land in the application’—

omit, insert—

land in the proposed lease area

445 Omission of s 274 (Holder of a mining lease to mark boundary posts)

Section 274—

omit.

446 Amendment of s 275 (Application for inclusion of surface of area of mining lease)

Section 275(2)—

omit, insert—

- (2) An application made under this section must be made and dealt with in the same way as if it were an application for a mining lease made under this part and, for that purpose, the mining lease notice must state, as the number of the proposed mining lease, the number of the existing lease together with the words ‘addition of surface area’.

447 Amendment of s 276 (General conditions of mining lease)

Section 276(1)(h)—

omit, insert—

- (h) if the area of the mining lease has not been surveyed and a physical monument is used to define the area’s boundary—a condition that the holder must maintain the monument; and

[s 448]

448 Amendment of s 279 (Compensation to be settled before grant or renewal of mining lease)

Section 279—

insert—

- (1A) However, if the land mentioned in subsection (1)(a) is restricted land, the subsection applies—
- (a) to each person who is an owner or occupier of the restricted land; and
 - (b) if the Minister considers that the activities carried out on the restricted land cannot co-exist with the authorised activities under the proposed mining lease.

449 Amendment of s 299 (Consolidation of mining leases)

- (1) Section 299(8), ‘240, 241, 243,’—

omit.

- (2) Section 299(8), ‘, 274’—

omit.

450 Amendment of s 316 (Mining lease for transportation through land)

- (1) Section 316(1)(b), ‘a prospecting permit,’—

omit, insert—

an

- (2) Section 316(5)—

omit.

451 Amendment of s 317 (Variation of access to mining lease area)

Section 317(2)(a), ‘sections 245 and 246’—

omit, insert—

section 245

452 Omission of s 318AAC (Alternative way of marking out land proposed to be subject of mining lease (241))

Section 318AAC—

omit.

453 Amendment of s 318AAD (Application for grant of mining lease (245))

Section 318AAD(b) to (d)—

omit, insert—

- (b) define the boundary of the area of the proposed mining lease; and
- (c) define the boundary of any area of land outside the area of the proposed mining lease intended to be used to access the area of the proposed lease; and
- (d) be accompanied by a visual representation of the boundaries and land mentioned in paragraphs (b) and (c); and

454 Amendment of s 318AAE (Additional matters for application (252))

Section 318AAE(2)—

omit.

455 Omission of s 318AAG (Holder of a mining lease to mark boundary posts (274))

Section 318AAG—

omit.

[s 456]

456 Amendment of s 318AAH (General conditions of mining lease (276))

Section 318AAH(1)(i)—

omit, insert—

- (i) if the area of the lease has not been surveyed and a physical monument is used to define the area's boundary—a condition that the holder must maintain the monument;

457 Amendment of s 318AT (Applicant's obligations)

Section 318AT(1)(a), 'section 245(1)(o)(iv)'—

omit, insert—

section 245(1)(q)(i)

458 Amendment of s 318CB (Restriction on issuing certificate of public notice and additional requirements for grant)

Section 318CB(2A) and (3), 'certificate of public notice'—

omit, insert—

mining lease notice

459 Amendment of s 386J (Request to applicant about application)

(1) Section 386J(1)—

insert—

- (d) define or further define, in a stated way, the boundary of the area of the proposed mining tenement the subject of the application.

(2) Section 386J—

insert—

- (4A) Without limiting subsection (1)(d), the chief executive may require the applicant to install, move or remove a physical monument.

460 Insertion of new ss 386R–386V

After section 386Q—

insert—

386R Required way for defining boundary of proposed mining tenement

- (1) This section applies if a provision about an application for the grant of a mining tenement requires the application to define the boundary of the area of the proposed tenement or another area of land.
- (2) The boundary must be defined in a way that, in the chief executive’s opinion—
- (a) is unambiguous; and
 - (b) accurately shows where the boundary is located on the ground or allows the boundary’s location on the ground to be accurately worked out.

Examples of ways the boundary of a proposed mining tenement may be defined—

- a way stated in a guideline under the practice manual
 - using GPS coordinates
 - visually, by marking the boundary on a map or aerial photograph
 - by reference to identifiable points of reference such as known survey marks, infrastructure or the boundaries of lots or other mining tenements, watercourses or roads
- (3) Without limiting subsection (2), the boundary may, but need not, be defined by reference to 1 or more physical monuments.

[s 460]

- (4) Also, if the chief executive has given the applicant a notice under section 386J or a notice applying to the application has been published under section 386S, the boundary must be defined in the way stated in the notice.

386S Boundary definition notice

- (1) This section applies if a provision about an application for the grant of a mining tenement requires the application to define the boundary of the area of the proposed tenement.
- (2) The chief executive may, by notice, make directions about the way in which the boundary of the proposed mining tenement must be defined.
- (3) The notice may apply to—
 - (a) applications of the type stated in the notice; or
 - (b) applications relating to a stated area.
- (4) Without limiting subsection (2), the notice may, but need not, direct that the boundary be defined by reference to 1 or more physical monuments.
- (5) The chief executive must publish the notice in at least 1 of the following ways—
 - (a) in the gazette;
 - (b) on the department's website;
 - (c) another way the chief executive considers appropriate.
- (6) An applicant for the grant of a mining tenement must bear any costs incurred in complying with the notice.

**386T Requirement to define or further define
mining tenement boundary**

- (1) The chief executive may, by written notice, require a person who holds a mining tenement to define or further define the boundary of the area of the mining tenement in a stated way and within a reasonable stated period.
- (2) Without limiting subsection (1), the chief executive may require the person to install, move or remove a physical monument.
- (3) The chief executive may, by written notice to the person, extend the stated period.
- (4) The person must—
 - (a) comply with the notice; and
 - (b) bear any costs incurred in complying with the notice.

386U Requirement to remove physical monuments

- (1) Subsection (2) applies if—
 - (a) for the purpose of applying for the grant of a mining tenement (the *intended application*), a person installed 1 or more physical monuments to define the boundary of the area of the proposed tenement; and
 - (b) either—
 - (i) the intended application is not made within 5 business days after the last of the physical monuments is installed; or
 - (ii) the intended application is refused, rejected, withdrawn or abandoned.
- (2) The person must remove all of the physical monuments.

[s 460]

- (3) Subsection (4) applies if—
 - (a) a physical monument defines part of the boundary of the area of a mining tenement; and
 - (b) the boundary changes; and
 - (c) after the change, the physical monument no longer defines any of the boundary.
- (4) The holder of the mining tenement must remove the physical monument.
- (5) Subsections (2) and (4) do not apply to a physical monument if there is a survey mark on the monument.

386V Entry of land for boundary definition purposes

- (1) This section applies if it is necessary for a person to enter land for the purpose of complying with—
 - (a) section 386R or 386U; or
 - (b) a notice under section 386J, 386S or 386T.

Example—

It becomes necessary for a person to enter land to define a boundary by installing physical monuments or taking GPS coordinates.

- (2) Subject to subsections (3) to (8), the person may enter the land for that purpose.
- (3) Before the person first enters the land, the person must give the owner of the land written notice (an **entry notice**) of the proposed entry.
- (4) If the owner of the land can not be easily contacted, the person may give the entry notice to the occupier of the land.

Examples of the owner not being easily contacted—

- 1 The owner does not live in Australia and there is no known current address for the owner.
 - 2 The owner is travelling within Australia and there is no known current address for the owner.
- (5) The entry notice must be given at least 5 business days before the intended entry, or a shorter time acceptable to the owner or the occupier and endorsed on the notice.
- (6) If the person satisfies the chief executive it is impracticable to give an entry notice to the owner or occupier of the land, the chief executive may, by written notice, dispense with the need to give the notice.
- (7) However, before dispensing with the need to give an entry notice, the chief executive may, by written notice, require the person to take the action the chief executive considers appropriate to publicise the proposed entry, including, for example, publishing an advertisement in a newspaper.
- (8) If the chief executive requires the person to take action under subsection (7), the person must take the required action.
- (9) A notice under section 386J, 386S or 386T may impose other conditions on the entry including, for example, that the entry must happen within a stated period.

461 Amendment of s 404B (Interference with particular things)

- (1) Section 404B(1)(b)—
omit.

[s 462]

- (2) Section 404B(1)(c) and (d)—
renumber as section 404B(1)(b) and (c).

462 Amendment of s 816 (Conversion of mining lease to mining claim)

- (1) Section 816(3)(d)—
omit, insert—

- (d) define the boundaries of the land to be included in the mining claim or mining claims; and

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

- (2) Section 816(3)(f)—
omit, insert—

- (f) for each proposed mining claim, define the boundary of any land outside the area of the proposed mining claim intended to be used to access the proposed claim area; and

463 Insertion of new ss 827 to 832

Chapter 15, part 10, as inserted by this Act—
insert—

827 Applications for mineral development licences accepted before commencement

- (1) This section applies if, before the commencement, the chief executive accepted under the pre-amended Act, as in force from time to time before the commencement, an application for the grant of a mineral development licence.

- (2) The pre-amended Act, as in force immediately before the commencement, continues to apply to the application as if the Common Provisions Act, chapter 9, part 7, division 9 had not been enacted.
- (3) In this section—
commencement means the commencement of this section.

828 Mining claim application certificates given before commencement

- (1) This section applies if, before the commencement, an applicant for the grant of a mining claim was given a mining claim application certificate under the pre-amended Act, section 64, as in force from time to time before the commencement.
- (2) The pre-amended Act, as in force immediately before the commencement, continues to apply to the application as if the Common Provisions Act, chapter 9, part 7, division 9 had not been enacted.
- (3) In this section—
commencement means the commencement of this section.

829 Certificates of applications for a mining lease given before commencement

- (1) This section applies if, before the commencement, an applicant for the grant of a mining lease is given a certificate of application for a mining lease under the pre-amended Act, section 252, as in force from time to time before the commencement.
- (2) The pre-amended Act, as in force immediately before the commencement, continues to apply to

[s 463]

the certificate of application as if the Common Provisions Act, chapter 9, part 7, division 9 had not been enacted.

- (3) In this section—

commencement means the commencement of this section.

pre-amended Act means this Act as in force before the commencement.

830 Certificates of public notice given before commencement

- (1) This section applies if, before the commencement, an applicant for the grant of a mining lease is given a certificate of public notice under the pre-amended Act, section 252A, as in force from time to time before the commencement.

- (2) The pre-amended Act, as in force immediately before the commencement, continues to apply to the application as if the Common Provisions Act, chapter 9, part 7, division 9 had not been enacted.

- (3) In this section—

commencement means the commencement of this section.

pre-amended Act means this Act as in force before the commencement.

831 Objections to applications for grant of mining lease lodged before commencement

- (1) This section applies if, before the commencement, an entity lodged with the chief executive an objection to an application for the

grant of a mining lease under the pre-amended Act, section 260.

- (2) The pre-amended Act continues to apply to the objection as if the Common Provisions Act, chapter 9, part 7, division 9 had not been enacted.

- (3) In this section—

commencement means the commencement of this section.

pre-amended Act means this Act as in force before the commencement.

832 Application for inclusion of restricted land in mining lease

- (1) This section applies if, before the commencement—

(a) an application for a mining lease had been granted over a part of the area for which the mining lease was sought; and

(b) the application was not granted, under the pre-amended Act, section 238(1), as in force from time to time before the commencement, over an area or areas of land for which the mining lease was sought because—

(i) the land was restricted land within the meaning of the pre-amended Act; and

(ii) the owner of the land had not consented in writing to the application under the pre-amended Act, section 238(1)(a), as in force from time to time before the commencement.

- (2) The holder of the mining lease may apply, under section 275, for the area or areas of land to be included in the mining lease.

[s 464]

(3) If the application under section 275 is granted, the Common Provisions Act, chapter 3, part 4, applies to the relevant owner or occupier for the restricted land.

(4) In this section—

commencement means the commencement of this section.

pre-amended Act means this Act as in force before the commencement.

464 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *certificate of public notice*, *mining claim application certificate* and *last objection day*—

omit.

(2) Schedule 2—

insert—

last objection day for—

(a) an application for a mining claim—see section 64(3)(d); or

(b) an application for a mining lease—see section 252(3)(d).

mining claim notice, for an application for the grant of a mining claim, means the mining claim notice for the application given under section 64.

mining lease notice, for an application for the grant of a mining lease, means—

(a) the mining lease notice for the application given under section 252; or

(b) if the mining lease notice has been reissued under section 253—the reissued notice.

physical monument means a thing placed in or on land for the purpose of locating the boundary of an area of land, including, for example—

- (a) a peg or post inserted in the ground; or
- (b) a cairn.

proposed lease area see section 232(1).

relevant owner or occupier, for restricted land, see the Common Provisions Act, section 69.

restricted land see the Common Provisions Act, section 68.

survey mark see the *Survey and Mapping Infrastructure Act 2003*, schedule.

Division 10 Amendments relating to native title

465 Amendment of s 25 (Conditions of prospecting permit)

Section 25(8)—

omit.

466 Omission of s 81A (Consultation and negotiated agreement conditions)

Section 81A—

omit.

467 Amendment of s 82 (Variation of conditions of mining claim)

Section 82(2)—

omit, insert—

- (2) However, the Minister must not vary a condition of a mining claim if the condition as varied is the

[s 468]

same or substantially the same as, or inconsistent with, a relevant environmental condition for the mining claim.

468 Amendment of s 93 (Renewal of mining claim)

Section 93(4), from ‘must’ to ‘grant’—

omit, insert—

must grant

469 Amendment of s 132 (Exclusion of land from area of exploration permit if subject to other authority under Act)

Section 132(3)—

omit.

470 Omission of s 141A (Consultation and negotiated agreement conditions)

Section 141A—

omit.

471 Amendment of s 182 (Land is excluded from area of mineral development licence if covered by other authority under Act)

Section 182(5)—

omit.

472 Omission of s 194AA (Consultation and negotiated agreement conditions)

Section 194AA—

omit.

473 Amendment of s 271 (Criteria for deciding mining lease application)

Section 271(d), as renumbered by this Act—

omit.

474 Omission of s 276A (Consultation and negotiated agreement conditions)

Section 276A—

omit.

475 Amendment of s 286A (Decision on application)

Section 286A(1), from ‘Subject’ to ‘Minister’—

omit, insert—

The Minister

476 Amendment of s 412 (Offences and recovery of penalties etc.)

Section 412(1), from ‘Act, other’ to ‘commits’—

omit, insert—

Act commits

477 Insertion of new ss 833 and 834

Chapter 15, part 10, as inserted by this Act—

insert—

833 Act as in force on relevant day continues to apply for particular mining leases

(1) This section applies if—

(a) an application for a mining lease over non-exclusive land—

[s 477]

- (i) was lodged during the period from 18 September 2000 to 31 March 2003, both days inclusive; or
 - (ii) is a relevant previous application; and
- (b) immediately before the commencement of this section, the application had not been decided.
- (2) This Act, as in force on the relevant day for the mining lease, continues to apply—
 - (a) to the granting of the mining lease; and
 - (b) if the mining lease is granted—to a variation or renewal of the mining lease.
- (3) In this section—

native title provisions start day, for an application for a mining lease, means the native title provisions start day notified in relation to the application under section 725(3) and (4).

non-exclusive land means land over which native title has not been extinguished, but only to the extent that the land is a place mentioned in the Commonwealth Native Title Act, section 26(3).

relevant day, for a mining lease, means—

- (a) if the application for the mining lease is a relevant previous application—the native title provisions start day for the application; or
- (b) otherwise—the day the application for the mining lease was lodged.

relevant previous application means an application—

- (a) lodged before 18 September 2000; and

- (b) in relation to which the Minister has notified a native title provisions start day.

834 Relevant provisions continue to apply for particular mining tenements

- (1) This section applies for a mining tenement if the mining tenement was granted before the commencement of this section.
- (2) This Act, as in force immediately before the commencement of this section, continues to apply to the mining tenement.

478 Omission of sch 1A (Native title provisions)

Schedule 1A—

omit.

479 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *access agreement, applicant, application notice, approval, approved opal or gem mining area, closing day (native title issues), combined hearing, compensation decision, compensation trust decision, consultation and negotiation parties, consultation period, consultation period advice day, contract conditions, decision, high impact exploration permit, high impact mineral development licence, low impact activity, low impact exploration permit, low impact mineral development licence, low impact prospecting permit, Minister's decision, native title issues decision, native title notification party, native title provisions, negotiated agreement, non-exclusive land, notification day (native title issues), registered native title party, registered native title rights and interests, relevant act, relevant special interest publication, right to negotiate provisions* and *urgency notice*—
- omit.*

[s 480]

(2) Schedule 2—

insert—

applicant, for chapter 9, see section 318ELAP(a).

Division 11 Miscellaneous amendments

480 Amendment of s 133 (Application for exploration permit)

Section 133(g)(i), ‘paragraph (g)’—

omit, insert—

paragraph (f)

481 Amendment of s 136E (Requirements for making tender)

(1) Section 136E(d)(i)—

omit.

(2) Section 136E(d)(ii) to (iv)—

renumber as section 136E(d)(i) to (iii).

482 Omission of s 140A (Obligation to consult with particular owners and occupiers)

Section 140A—

omit.

483 Amendment of s 141 (Conditions of exploration permit)

Section 141(1)(f)(i), ‘paragraph (f)’—

omit, insert—

paragraph (e)

484 Omission of s 193A (Obligation to consult with particular owners and occupiers)

Section 193A—

omit.

485 Amendment of s 194 (Conditions of mineral development licence)

Section 194(1)(f)(i), ‘paragraph (f)’—

omit, insert—

paragraph (e)

486 Amendment of ch 13, pt 3, hdg (Authorised officers)

Chapter 13, part 3, heading, after ‘Authorised Officers’—

insert—

and other appointments

487 Amendment of s 336 (Appointment)

Section 336, heading—

omit, insert—

336 Appointment—authorised officers

488 Insertion of new s 336A

After section 336—

insert—

336A Appointment—authorised persons

- (1) The chief executive may, by instrument in writing, appoint an appropriately qualified person as an authorised person to carry out a function mentioned in section 342(1)(a)(i).

[s 489]

- (2) An authorised person has the powers of an authorised officer mentioned in 342(1)(a)(i), (f) and (g).
- (3) Sections 337, 338 and 339 apply to an authorised person as if a reference to an authorised officer in those sections included a reference to an authorised person.

489 Amendment of s 816 (Conversion of mining lease to mining claim)

- (1) Section 816(1)(a), ‘20ha’—

omit, insert—

40ha

- (2) Section 816(2), from ‘mining claim’—

omit, insert—

a mining claim, of not more than 20ha, or 2 mining claims, of not more than 20ha each, applying to corundum, gemstones or other precious stones.

490 Insertion of new s 837

Chapter 15, part 10, as inserted by this Act—

insert—

837 Validation of conversion of mining lease to mining claim

- (1) This section applies to the conversion of a mining lease or mining leases for corundum, gemstones or other precious stones under section 816 before the commencement of this section.
- (2) If the conversion was to a mining claim, of not more than 20 ha, or 2 mining claims, of not more than 20ha each, the conversion is taken to be, and

always to have been, validly made under section 816.

Part 8 Amendment of Mount Isa Mines Limited Agreement Act 1985

491 Act amended

This part amends the *Mount Isa Mines Limited Agreement Act 1985*.

492 Replacement of s 3 (Variation of formal agreement by agreement)

Section 3—

omit, insert—

3 Variation of formal agreement

- (1) The formal agreement may be varied only by further agreement between the State and Mount Isa Mines Limited under the authority of an Act.
- (2) A variation of the formal agreement purported to be made other than under subsection (1) is of no effect.
- (3) The Minister must notify the date of the making of a further agreement by gazette notice.

493 Amendment of s 3A (Effect of formal agreement)

- (1) Section 3A(3), from ‘is varied’ to ‘subsection’—

omit, insert—

was varied by a further agreement approved by regulation under previous section 3(2), subsection

[s 494]

(2) Section 3A—

insert—

(4) In this section—

previous section 3(2) means section 3(2) as in force immediately before the commencement of section 5A.

494 Insertion of new s 5A

After section 5—

insert—

5A Making of 2014 amendment agreement authorised

The formal agreement may be further varied by a further agreement corresponding to the proposed further agreement set out in schedule 3.

495 Insertion of new sch 3

After schedule 2—

insert—

Schedule 3 Proposed 2014 amendment agreement

section 5A

THIS AGREEMENT is made

BETWEEN: STATE OF QUEENSLAND ('the State')

AND: MOUNT ISA MINES LIMITED ACN 009 661 447 ('MIM LIMITED')

BACKGROUND

- A. The State and MIM Limited entered into an agreement dated 14 February 1985 relating to Mining Lease No. 8058, as set out in Schedule 1 to the MIM Act, which agreement was ratified and approved under section 2 of the MIM Act.
- B. The agreement was varied by:
 - (i) an agreement between the State and MIM Limited dated 4 December 1992, as set out in the Schedule to the *Mount Isa Mines Limited Agreement Variation Order 1992*, which agreement was approved by section 2 of that Order;
 - (ii) a further agreement entered into between the State and MIM Limited dated 9 May 1997, as set out in Schedule 2 to the MIM Act, which agreement was ratified and approved under section 2A of the MIM Act; and
 - (iii) section 2B of the MIM Act.
- C. The agreement, as varied under an Act, is defined as the 'formal agreement' in the MIM Act. The formal agreement has the force of law under s 3A of the MIM Act.
- D. The parties wish to enter into this Agreement to further vary the formal agreement.

AGREED TERMS

1. DEFINITIONS & INTERPRETATION

1.1 In this Agreement the following definitions apply:

Formal Agreement means the ‘formal agreement’ as defined in the Act.

MIM Act means the *Mount Isa Mines Limited Agreement Act 1985*, as amended from time to time; and

2. AMENDMENT OF FORMAL AGREEMENT

2.1 The following definitions are deleted from clause 2 of Part I of the Formal Agreement:

- (a) ‘Administering Authority’;
- (b) ‘Environment’;
- (c) ‘Environmental Duty’;
- (d) ‘Environmental Legislation’;
- (e) ‘Panel Assessment Study’;
- (f) ‘Permit’;
- (g) ‘Prescribed Requirements’ and
- (h) ‘Standard Criteria’.

2.2 The following clauses in Part II of the Formal Agreement are deleted:

- (a) clauses 9(1) to 9(6);
- (b) clauses 19 and 20; and
- (c) clause 22.

2.3 The following clauses in Schedule F of the Formal Agreement are deleted:

- (a) clauses 2 to 6;
- (b) clauses 8 to 10;
- (c) clause 13; and

(d) clause 17.

2.4 Schedule H to the Formal Agreement is deleted.

2.5 Schedule I to the Formal Agreement is deleted.

2.6 Clause 3(a) of Part II of the Formal Agreement is amended by replacing the words 'Any much mineral' with the words 'Any such mineral'.

2.7 Clauses 10(1) to 10(3) of Part II of the Formal Agreement are deleted and replaced with the following new clauses 10(1) to 10(13):

“10(1)The Company must deposit security for the Mining Lease (**'Security'**), if an amount of Security is fixed under this clause 10, to ensure the Company:

- (a) complies with the conditions of the Mining Lease;
- (b) complies with this Agreement;
- (c) rectifies actual damage that may be caused by activities under the Mining Lease to pre-existing improvements for the Mining Lease; and
- (d) pays amounts payable under this Agreement to the State.

(2) The Minister may fix the amount of Security to be deposited by the Company;

(3) Despite clause 10(2) of this Part, the Minister may, at any time and in the Minister's absolute discretion, decide that the Company must deposit extra Security.

(4) The Company must deposit the Security fixed under clause 10(2) of this Part or, with the Minister's approval, security of a kind mentioned in clause 10(9) of this Part for the amount, within 60 days of being notified of the amount of that Security;

(5) The Minister, if satisfied that:

- (a) any condition of the Mining Lease or any provision of this Agreement has not been complied with; or

[s 495]

- (b) damage referred to in clause 10(1)(c) of this Part has been caused by any person purporting to act under the authority of the Mining Lease or who enters land upon the instruction of the Company,

the Minister may require that person to take all action necessary to rectify that non-compliance or damage and, except where the person was not upon the land with the Company's approval at the time the damage was caused, may utilise, for that purpose, the whole or part of the Security.
- (6) If the amount of the Security is not earlier reviewed under clause 10(7) of this Part, the Minister will review that amount at the expiration of 5 years from the initial deposit of the Security under clause 10(4) of this Part or the previous review.
- (7) Upon use of any part of the Security under this clause 10, the Minister may review the amount of the Security.
- (8) If, following a review under clauses 10(6) or 10(7) of this Part, the Minister considers that a further amount of Security should be deposited in respect of the Mining Lease, the Minister may require the Company, within the time specified by the Minister, to deposit a further specified Security.
- (9) The Minister may accept a bond or a guarantee or indemnity by, or other financial arrangement with, a financial institution, insurance company or another credit provider approved by the Minister or other form of security acceptable to the Minister as the whole or part of the Security required to be deposited under this clause 10.
- (10) It is deemed to be a condition of the Mining Lease that the Company must deposit the Security required from time to time under this clause 10.
- (11) Where the Mining Lease has expired or been terminated, the Minister will, subject to clause 10(13) of this Part, refund to the Company (or as the Company in

writing directs) any Security that has not been utilised under clause 10(5) of this Part, less any amounts determined by the Minister to be retained towards:

- (a) rectification of any matters caused by the non-compliance with any of the conditions of the Mining Lease, any applicable legislation or any order or direction made or given by the Minister under this Agreement or any applicable legislation and directed to the Company;
 - (b) amounts the Company owes to the State under this Agreement (whether before or after the termination); and
 - (c) rates and charges (including interest on unpaid rates and charges) owing to a local government by the Company for the Mining Lease.
- (12) For matters mentioned in clause 10(11) of this Part, Security must be applied to each of the matters in turn.
- (13) If the Minister accepts a bond, guarantee or indemnity by, or another financial arrangement with, a financial institution, insurance company or other credit provider as Security under this clause 10, any amount refundable is payable to the party which originally deposited the security.”

2.8 Clause 13 of Part II of the Formal Agreement is deleted and replaced with the following new clause 13:

“13 Without limiting the provisions of the *Mining Act 1968-1983* or any other Act relating to mining in respect of the submission by the Company of information to the Minister, the Company must furnish to the Minister, within three (3) months after the expiration of each twelve (12) monthly period ending 30 November during the term of the Mining Lease, a written report, to the Minister’s satisfaction, containing the following information for the twelve (12) monthly period:

[s 495]

- (a) summary particulars of the following, as undertaken on, or in relation to, the Mining Lease:
 - (i) exploration activities;
 - (ii) mining and winning or treatment of designated minerals;
 - (iii) mine planning and development activities; and
 - (iv) expenditure incurred in connection with operations described in subclauses (i) to (iii) above; and
- (b) full particulars of the following, as undertaken on, or in relation to, the Mining Lease:
 - (i) ore production by mineral commodity and deposit;
 - (ii) total mineral production by mineral commodity;
 - (iii) mineral resources by mineral commodity and deposit; and
 - (iv) mineral reserves by mineral commodity and deposit.”

2.9 A new Part IIA is inserted into the Formal Agreement, immediately after Part II, as follows:

“PART IIA PROVISIONS RELATING TO DEVELOPMENT PLANS

1 For this Part IIA:

Current Development Plan means the Development Plan in relation to which the Plan Period has started but has not ended;

Development Plan means, for the Mining Lease, the Development Plan described in clause 5 of Part IIA of this Agreement or later Development Plan, as approved under Part IIA of this Agreement;

Plan Period means:

- (a) for the Development Plan described in clause 5 of this Part, the period described in clause 5; and
- (b) for any later Development Plan, the period to which the Development Plan applies, as stated in the Development Plan in accordance with clause 4(1) of this Part; and

Relevant Fee means, for the lodgement of a proposed Development Plan:

- (a) if the proposed plan is lodged within the time required under subclause 6(2)(a) of this Part, an amount equivalent to the fee from time to time prescribed under the *Mineral Resources Regulation 2013* or, if no such fee is prescribed, an amount determined by the Minister; or
 - (b) if the proposed plan is lodged after the time required under subclause 6(2)(a) of this Part and:
 - (i) is lodged under subclause 6(3) of this Part, nil; or
 - (ii) is not lodged under subclause 6(3) of this Part, an amount that is 10 times the amount referred to in subclause (a) above.
- 2 A Development Plan gives detailed information about the nature and extent of activities to be carried out under the Mining Lease, for the purposes of:
- (a) allowing resource management decisions to be made; and
 - (b) ensuring appropriate development of the designated minerals.
- 3 The Company must:
- (a) ensure that, at all times, there is a Development Plan; and
 - (b) comply with the Development Plan.

[s 495]

- 4 A Development Plan, other than the Development Plan described in clause 5 of this Part, must:
 - (a) state its Plan Period, which must not be longer than five years; and
 - (b) comply with the requirements specified in clause 6 of this Part.
- 5 For the purposes of this Agreement, the Mining Plan dated 5 January 2010 is deemed to be the Development Plan from the date this clause 5 commences until the earlier of 4 January 2015 or the date on which a later Development Plan is approved under this Part.
- 6(1) The Company must lodge proposed later Development Plans with the Minister in accordance with the requirements of this clause 6. This requirement will be deemed to be a condition of the Mining Lease.
- (2) A proposed later Development Plan must be:
 - (a) lodged with the Minister:
 - (i) at least 40, but not more than 100, business days before the end of the Plan Period for the Current Development Plan (**'Current Plan Period'**); or
 - (ii) as soon as practicable after the Company proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the Current Development Plan; and
 - (b) accompanied by the Relevant Fee.
- (3) If, before the end of the Current Plan Period, a decision is made not to approve a proposed later Development Plan lodged under clause 6(2) of this Part, the Company may, before the end of the Current Plan Period, lodge another proposed later Development Plan.

- (4) If the Company does not lodge a proposed later Development Plan before the end of the Current Plan Period, the Company will be given a notice requiring it to lodge a proposed later Development Plan within 40 business days after the giving of the notice and the Company must comply with that notice.
- (5) A proposed later Development Plan must:
 - (a) provide for each of the following:
 - (i) an overview of the activities proposed to be carried out on the Mining Lease under this Agreement during the Plan Period;
 - (ii) for each year of the Plan Period:
 - A. the nature and extent of the activities proposed to be carried out under the Mining Lease; and
 - B. where the activities are proposed to be carried out;
 - (iii) for each designated mineral that the Company proposes to mine under the Mining Lease during the Plan Period:
 - A. the location and an estimate of the resources of the designated mineral in all of the area of the Mining Lease;
 - B. the standards and procedures used to make the estimate;
 - C. the rate and amount of the proposed mining;
 - D. approximately when the proposed mining is to start; and
 - E. a schedule for the proposed mining during the Plan Period;

[s 495]

- (iv) maps that show the matters mentioned in subclauses (ii), (iii)A, (iii)C and (iii)D above;
 - (v) any other information relevant to the criteria mentioned in subclauses 6(7)(b) to (g) of this Part; and
 - (vi) reasons why the proposed Development Plan is considered appropriate;
- (b) highlight any significant changes from the Current Development Plan;
- (c) state whether the Current Development Plan has been complied with;
- (d) if the Current Development Plan has not been complied with, state the details of, and the reasons for, each non-compliance; and
- (e) if the effect of the proposed Development Plan is to significantly change an activity provided for under the Current Development Plan, state reasons for the change.
- (6) The Minister may approve or refuse to approve a proposed later Development Plan.
- (7) The matters that must be considered in deciding whether to approve a proposed later Development Plan include each of the following:
 - (a) compliance with the requirements specified in clause 6(5) of this Part;
 - (b) the nature and extent of the activities proposed to be carried out under the Mining Lease during the Plan Period;
 - (c) when and where the activities are proposed to be carried out during the Plan Period;
 - (d) whether the mining of the designated minerals specified in the Mining Lease will be optimised in

- the best interests of the State, having regard to the public interest;
- (e) the extent to which the Current Development Plan has been complied with;
 - (f) the effect of any approval of the proposed Development Plan on any relinquishment condition for the Mining Lease; and
 - (g) if the proposed Development Plan provides for a significant change that is a cessation or reduction of mining or other purposes for which the Mining Lease is granted:
 - (i) whether the cessation or reduction is reasonable; and
 - (ii) whether the Company has taken all reasonable steps to prevent the cessation or reduction.
- (8) If the Minister approves a later Development Plan, the Minister must give the Company written notice of the approval. An approval takes effect when the Company is given the notice or, if the notice states a later day of effect, on that later day.
- (9) If the Minister decides to refuse to approve a later Development Plan, the Minister must give the Company written notice stating the reasons for the decision.
- (10) If a proposed later Development Plan is lodged for approval in accordance with this Part then, until the Company is given notice about whether the proposed Development Plan is approved or refused:
- (a) the Mining Lease is taken to have a Development Plan; and
 - (b) the Company may carry out any authorised activity for the Mining Lease,
- despite the ending of the Current Plan Period.”

[s 495]

2.10 New clause 8 is inserted into Part IV of the Formal Agreement as follows:

“8 The Minister may delegate his or her functions or powers under this Agreement to an appropriately qualified officer or employee of the department or agency from time to time having responsibility for the administration of this Agreement for the State, provided that the function of renewing the Mining Lease under clause 6 of Part II of this Agreement cannot be delegated.”

2.11 Schedule F of the Formal Agreement is amended as follows:

- (a) the words “water supply” are inserted immediately prior to the word “dam” in clause 12; and
- (b) the words “, the Clean Waters Act 1971–1982, the Clean Air Act 1963–1981” are deleted from clause 14.

3. GENERAL

- 3.1 **Costs:** Each party will bear its own legal costs in relation to the preparation, execution and performance of this Agreement.
- 3.2 **No Variation:** This Agreement will only be varied by written agreement signed by both parties.
- 3.3 **Compliance with laws:** In performing their respective obligations and exercising their respective rights, the parties will comply with all applicable laws and regulations.
- 3.4 **Further assistance:** Each party will do all things reasonably required or requested by the other party to give effect to this Agreement and to enable that other party to enjoy the rights and benefits conferred on it by this Agreement.
- 3.5 **Governing law:** This Agreement is governed by the laws of Queensland and the parties submit to the jurisdiction of the courts of Queensland.
- 3.6 **Counterparts:** This Agreement may be executed in one or more counterparts, and any such counterparts taken together

form one instrument. Execution by facsimile counterparts is acceptable.

EXECUTED AS AN AGREEMENT
SIGNED by **THE HONOURABLE**
ANDREW CRIPPS, MINISTER FOR
NATURAL RESOURCES AND MINES

SIGNED for and on behalf of **MOUNT ISA**
MINES LIMITED ACN 009 661 447

in accordance with s 127 of the *Corporations*
Act 2001 (Cth)

[s 496]

Part 9 Amendment of Petroleum Act 1923

Division 1 Preliminary

496 Act amended

This part amends the *Petroleum Act 1923*.

Division 2 Amendments relating to the Common Provisions Act, chapter 1

497 Amendment of s 2 (Definitions)

Section 2—

insert—

Common Provisions Act means the *Mineral and Energy Resources (Common Provisions) Act 2014*.

498 Insertion of new s 4B

After section 4A—

insert—

4B Relationship with Common Provisions Act

The relationship between this Act and the Common Provisions Act is provided for under the Common Provisions Act, section 6.

Division 3 Amendments relating to the Common Provisions Act, chapter 2

499 Amendment of s 2 (Definitions)

(1) Section 2, definitions *assessable transfer, dealing, indicative approval* and *non-assessable transfer*—

omit.

(2) Section 2—

insert—

dealing, in relation to a 1923 Act petroleum tenure, means a dealing with a resource authority, under the Common Provisions Act, that is a 1923 Act petroleum tenure.

500 Amendment of s 25G (Restrictions on amending work program)

Section 25G(2)(d)(ii), ‘section 25J, been approved;’—

omit, insert—

the Common Provisions Act, been approved for registration under that Act;

501 Amendment of s 47 (Reservations, conditions and covenants of lease)

Section 47(1)(h), ‘Act;’—

omit, insert—

Act or the Common Provisions Act;

502 Amendment of s 77Z (Requirement for coordination arrangement to transfer lease in tenure area of mining lease)

(1) Section 77Z(1), ‘part 6N’—

[s 503]

omit, insert—

the Common Provisions Act, chapter 2, part 1

(2) Section 77Z(2), ‘under part 6N’—

omit, insert—

for registration under the Common Provisions Act,
section 19

503 Amendment of s 79X (General provision about ownership while tenure is in force for pipeline)

Section 79X(3)(c), ‘has taken effect under section 80I’—

omit, insert—

requires registration under the Common Provisions
Act

504 Omission of pts 6N–6NB

Parts 6N to 6NB—

omit.

505 Amendment of s 122 (Amending applications)

(1) Section 122(1)(b), ‘person who may or must decide the application’—

omit, insert—

chief executive

(2) Section 122(1)—

insert—

(d) the person has paid any fee prescribed by
regulation for the amendment.

506 Insertion of new pt 16

After part 15—

insert—

**Part 16 Transitional provisions
for Mineral and Energy
Resources (Common
Provisions) Act 2014**

206 Continued appeal right for particular decisions

- (1) A person who, before the commencement of this section, may have appealed against a relevant decision to the Land Court under section 104(1), may still appeal against the decision, in compliance with part 7, despite the amendment of the schedule by the Common Provisions Act.

- (2) In this section—

previous, for a provision of this Act, means the provision as in force immediately before the repeal of the provision under the Common Provisions Act.

relevant decision means any of the following—

- (a) a decision to give a road use direction under previous section 79(1);
- (b) the imposition of condition on entry on public land under previous section 79L(1), other than a condition agreed to or requested by the relevant 1923 Act petroleum tenure holder;
- (c) a refusal to approve an assessable transfer under previous section 80KC;
- (d) a decision to require security as prescribed in previous section 80KD.

[s 507]

507 Amendment of schedule (Decisions subject to appeal)

- (1) Schedule, entries for sections 79(1), 79L(1), 80KC and 80KD—
omit.
- (2) Schedule—
insert—

Decisions under Common Provisions Act

- 19(3) decision to refuse to approve registration of a dealing, or to approve registration of a dealing with conditions
- 21(2) decision to require security
- 23(3) decision to refuse to give indicative approval, or to give indicative approval with conditions
- 59(2) imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant 1923 Act petroleum tenure holder
- 59(7) variation of condition imposed on entry on public land, other than a variation agreed to or requested by the relevant 1923 Act petroleum tenure holder
- 64(1) decision to give road use direction

**Division 4 Amendments relating to the
Common Provisions Act, chapter 3**

508 Amendment of s 2 (Definitions)

- (1) Section 2, definitions *1923 Act petroleum tenure, ADR, compensation application, compensation liability, conduct and compensation agreement, deferral agreement, election notice, eligible claimant, entry notice, first authority, land access code, minimum negotiation period, negotiation notice,*

notifiable road use, parties, road use direction, second authority and waiver of entry notice—

omit.

(2) Section 2—

insert—

1923 Act petroleum tenure—

- (a) generally, means an authority to prospect or lease under this Act; and
- (b) for the following parts, includes a water monitoring authority—
 - (i) part 6B;
 - (ii) part 6L, division 2;
 - (iii) parts 6M, 6O, 6P and 6R.

compensation liability see the Common Provisions Act, section 81(2).

conduct and compensation agreement see the Common Provisions Act, section 83(1).

deferral agreement see the Common Provisions Act, section 44.

election notice see the Common Provisions Act, section 88(2).

eligible claimant see the Common Provisions Act, section 81(1).

land access code see the Common Provisions Act, section 36.

notifiable road use see the Common Provisions Act, section 62.

parties, for part 6R, see section 103B.

(3) Section 2, definition *preliminary activity*, item 2(b) and (c)—
omit, insert—

[s 509]

- (b) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

509 Amendment of s 61 (Obstruction of 1923 Act petroleum tenure holder)

Section 61(1)(a), ‘part 6H or 6I’—

omit, insert—

chapter 3, part 2 or 3 of the Common Provisions Act

510 Omission of pts 6H–6K

Parts 6H to 6K—

omit.

511 Amendment of s 103D (What happens if a party does not attend)

- (1) Section 103D(2), note, after ‘election notice’—

insert—

under the Common Provisions Act, section 88

- (2) Section 103D(2), note, ‘section 79VB’—

omit, insert—

the Common Provisions Act, section 91

512 Amendment of s 103E (Authorised officer’s role)

Section 103E(2), ‘section 79VAB’—

omit, insert—

the Common Provisions Act, section 89

513 Amendment of s 165 (Exclusion of pt 6I, div 1 for continuance of particular existing road uses)

Section 165—

insert—

- (4A) A reference to part 6I, division 1 in this section is taken to include a reference to the Common Provisions Act, chapter 3, part 3, division 2.

Division 5 Amendments relating to the Common Provisions Act, chapter 6

514 Amendment of s 2 (Definitions)

- (1) Section 2, definitions *area*, paragraph 1 and *holder*, ‘*petroleum register*’—

omit, insert—

register

- (2) Section 2, definition *area*, paragraph 3, from ‘*petroleum register*’—

omit, insert—

register.

- (3) Section 2, definition *petroleum register*—

omit.

- (4) Section 2—

insert—

register means the register kept by the chief executive under the Common Provisions Act, section 197.

[s 515]

515 Omission of pt 6M (Petroleum register)

Part 6M—

omit.

516 Amendment of s 80Z (Notice and taking effect of decision)

Section 80Z, ‘petroleum register’—

omit, insert—

register

517 Amendment of s 113 (Other evidentiary aids)

(1) Section 113(a)(iv)—

omit.

(2) Section 113—

insert—

(aa) that a stated document is a register kept
under the Common Provisions Act;

518 Amendment of s 124A (Extinguishing 1923 Act petroleum interests on the taking of land in a 1923 Act petroleum tenure’s area (other than by an easement))

Section 124A, ‘petroleum register’—

omit, insert—

register

519 Omission of s 142 (Practice manual)

Section 142—

omit.

520 Insertion of new s 207

Part 16, as inserted by this Act—

insert—

207 Existing practice manuals

- (1) A practice manual kept under former section 142 continues in effect until the chief executive makes a manual available under the Common Provisions Act, section 202(4)(b).
- (2) In this section—
former section 142 means section 142 as in force immediately before the commencement of this section.

Division 6 Amendments relating to gas emissions

521 Amendment of s 2 (Definitions)

Section 2—

insert—

legacy borehole means a bore or well that—

- (a) was drilled for the purpose (the *original purpose*) of—
 - (i) exploration or production of mineral or petroleum resources; or
 - (ii) informing the exploration or production of mineral or petroleum resources; and
- (b) is no longer used for the original or another purpose.

[s 522]

522 Amendment of s 18 (Authority to prospect)

Section 18(4), from ‘necessary, to undertake’ to ‘authority.’—

omit, insert—

necessary—

- (a) to undertake exploration or prospecting, or geological or geological and geophysical investigation or testing, of favourable geological structures; or
- (b) to plug and abandon, or otherwise remediate, a bore or well the holder reasonably believes is a legacy borehole and rehabilitate the surrounding area in compliance with the requirements prescribed under a regulation; or
- (c) generally to do all things in respect of the search for and discovery of petroleum or for the due development of the industry during the term of such authority.

523 Amendment of s 44 (Form etc. of lease)

Section 44(1)(b)—

omit, insert—

- (b) confer upon the lessee—
 - (i) the exclusive right to prospect for, mine, extract, recover, remove, and dispose of all petroleum in or under the land demised, with the right to construct and maintain thereon all works buildings plant waterways (including any pipelines for conveying water) roads pipelines reservoirs tanks pumping stations and other structures necessary to the full enjoyment thereof; and

- (ii) the right to plug and abandon, or otherwise remediate, a bore or well the lessee reasonably believes is a legacy borehole and rehabilitate the surrounding area in compliance with the requirements prescribed under a regulation; and

Division 7 Miscellaneous amendments

524 Amendment of s 2 (Dictionary)

- (1) Section 2, definition *owner*, paragraph 1(k), ‘section 87(2) or 87(4)(b)’—

omit, insert—

section 202(2) or (4)(b)

- (2) Section 2, definition *owner*, paragraph 1(ka), ‘section 84(2)’—

omit, insert—

section 151(2)

525 Amendment of s 25C (Application of s div 2)

Section 25C, note 1—

omit, insert—

- 1 For the requirement to include a proposed later work program with an application to renew an authority to prospect, see section 25M(1)(d).

526 Insertion of new s 25CA

After section 25C—

insert—

25CA Modified application of pt 9, div 1

Part 9, division 1 applies in relation to the lodgement by an authority to prospect holder of a proposed later work program as if—

- (a) the lodgement of the proposed program were the making of an application by the holder; and
- (b) the later work program requirements for the proposed program were the requirements under part 9, division 1 for making the application.

527 Amendment of s 25E (Deciding whether to approve proposed program)

Section 25E(2)(e), ‘notice under section 75Y,’—
omit.

528 Amendment of s 25M (Requirements for making application)

- (1) Section 25M(1)(e)—
omit.
- (2) Section 25M(1)(f) to (i)—
renumber as section 25M(1)(e) to (h).

529 Amendment of s 45 (Entitlement to renewal of lease)

- (1) Section 45(2A)(c)—
omit.
- (2) Section 45(2A)(d)—
renumber as section 45(2A)(c).

530 Amendment of s 74K (Obligation to lodge proposed later work program)

- (1) Section 74K(4), after ‘within’—

insert—

the eligible balance of

- (2) Section 74K(5), ‘within the current’—

omit, insert—

within the eligible balance of the current

- (3) Section 74K(6)—

insert—

eligible balance, for a current work program period during which a decision mentioned in subsection (4) is made, means the balance of the period, other than the appeal period for the decision.

531 Amendment of s 74Q (Obligation to lodge proposed later development plan)

- (1) Section 74Q(4), after ‘within’—

insert—

the eligible balance of

- (2) Section 74Q(5), ‘within the current’—

omit, insert—

within the eligible balance of the current

- (3) Section 74Q(6)—

insert—

eligible balance, for a current plan period during which a decision mentioned in subsection (4) is made, means the balance of the period, other than the appeal period for the decision.

[s 532]

532 Omission of s 74V (Obligation to consult with particular owners and occupiers)

Section 74V—

omit.

533 Omission of s 75Y (Notice about discovery and commercial viability)

Section 75Y—

omit.

534 Amendment of s 119 (Application of div 1)

Section 119—

insert—

Note—

Under section 25CA, this division also applies in relation to the lodgement by an authority to prospect holder of a proposed later work program for the authority.

Part 10 Amendment of Petroleum and Gas (Production and Safety) Act 2004

Division 1 Preliminary

535 Act amended

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

Division 2 Amendments relating to the Common Provisions Act, chapter 1

536 Insertion of new s 6BA

After section 6B—

insert—

6BA Relationship with Common Provisions Act

The relationship between this Act and the Common Provisions Act is provided for under the Common Provisions Act, section 6.

537 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

Common Provisions Act means the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Division 3 Amendments relating to the Common Provisions Act, chapter 2

538 Amendment of s 30A (Joint holders of a petroleum authority)

- (1) Section 30A(2), ‘, under this Act’—

omit.

- (2) Section 30A(2)(a), ‘of an assessable transfer relating to a petroleum authority’—

omit, insert—

to register a transfer of a petroleum authority under the Common Provisions Act

[s 539]

539 Amendment of s 59 (Restrictions on amending work program)

Section 59(2)(d)(i) and (ii)—

omit, insert—

- (i) an application having been made, under the Common Provisions Act, for approval to register a transfer of a share in the authority; and
- (ii) approval to register the transfer having been given under that Act;

540 Amendment of s 201 (Provision for who is the authority holder)

Section 201(3) and (4), ‘under chapter 5, part 10’—

omit, insert—

as a result of dealings with the tenures

541 Amendment of s 238 (Subleasing of 1923 Act lease provided for under coordination arrangement)

Section 238, from ‘have been approved’—

omit, insert—

be a prescribed dealing with approval from the Minister for registration under the Common Provisions Act.

542 Amendment of s 379 (Requirement for coordination arrangement to transfer petroleum lease in tenure area of mining lease)

(1) Section 379(1), ‘chapter 5, part 10’—

omit, insert—

the Common Provisions Act, chapter 2, part 1

(2) Section 379(2), ‘under chapter 5, part 10’—

omit, insert—

for registration under the Common Provisions Act,
section 19

543 Omission of ch 5, pts 10–10B

Chapter 5, parts 10–10B—

omit.

544 Amendment of s 823 (Who may appeal or apply for external review)

Section 823(4)—

omit, insert—

- (4) A person whose interests are affected by a decision identified in schedule 1, table 3, may appeal against the decision to the court (also *the appeal body*) that the schedule states for the decision.
- (5) For subsections (3) and (4), a person who has been given, or is entitled to be given, an information notice about a decision is taken to be a person whose interests are affected by the decision.

545 Amendment of s 844 (Amending applications)

(1) Section 844(1)(b), ‘official who may or must decide the application’—

omit, insert—

relevant person

(2) Section 844(1)—

insert—

[s 546]

- (d) the person has paid any fee prescribed by regulation for the amendment.

(3) Section 844—

insert—

(5) In this section—

relevant person, for an application under this Act, means—

- (a) the chief inspector, if the application is made under—
 - (i) section 389, 622 or 728; or
 - (ii) chapter 9, part 1; or
- (b) otherwise—the chief executive.

546 Amendment of s 908 (Right to apply for petroleum tenure)

Section 908—

insert—

- (5) The chief executive must record in the register against the replacement tenure all the dealings, caveats and associated agreements recorded in the register against the existing tenure at the time the replacement tenure is registered.

547 Insertion of new ch 15, pt 17

Chapter 15—

insert—

Part 17 Transitional provisions for Mineral and Energy Resources (Common Provisions) Act 2014

983 Continued appeal right for particular decisions

- (1) A person who, before the commencement of this section, may have appealed against a relevant decision to the Land Court under section 823(3), may still appeal against the decision, in compliance with chapter 12, part 2, despite the amendment of schedule 1, table 2 by the Common Provisions Act.

- (2) In this section—

previous, for a provision of this Act, means the provision as in force immediately before the repeal of the provision under the Common Provisions Act.

relevant decision means any of the following—

- (a) a decision to give a road use direction under previous section 517(1);
- (b) the imposition of a condition on entry on public land under previous section 527(1), other than a condition agreed to or requested by the relevant petroleum authority holder;
- (c) a refusal to approve an assessable transfer under previous section 573D(1).

548 Amendment of sch 1 (Reviews and appeals)

- (1) Schedule 1, authorising section, ‘823(3)’—

omit, insert—

823(3) and (4)

[s 549]

- (2) Schedule 1, table 2, entries for sections 517(1), 527(1) and 573D(1)—
omit.
- (3) Schedule 1—
insert—

Table 3 Decisions subject to appeal

Section reference	Description of decision	Appeal body
Decisions under Common Provisions Act		
19(3)	decision to refuse to approve registration of a dealing, or to approve registration of a dealing with conditions	Land Court
23(3)	decision to refuse to give indicative approval, or to give indicative approval with conditions	Land Court
59(2)	imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant petroleum authority holder	Land Court
59(7)	variation of condition imposed on entry on public land, other than a variation agreed to or requested by the relevant petroleum authority holder	Land Court
64(1)	decision to give road use direction	Land Court

549 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *assessable transfer*, *dealing*, *indicative approval* and *non-assessable transfer*—

omit.

(2) Schedule 2—

insert—

dealing, in relation to a petroleum authority, means a dealing with a resource authority, under the Common Provisions Act, that is a petroleum authority.

Division 4 Amendments relating to the Common Provisions Act, chapter 3

550 Omission of ch 1, pt 3, div 3 (Land access code)

Chapter 1, part 3, division 3—

omit.

551 Amendment of s 31 (Operation of div 1)

Section 31(1), note, ‘see part 4, chapter 5, part 2, division 3 and part 8’—

omit, insert—

see chapter 2, part 4, chapter 5, part 8 and the Common Provisions Act, chapter 3, part 2

552 Amendment of s 108 (Operation of sdiv 1)

Section 108(1), note, ‘see part 4, chapter 5, part 2, division 3 and part 8’—

omit, insert—

see chapter 2, part 4, chapter 5, part 8 and the Common Provisions Act, chapter 3, part 2

[s 553]

553 Amendment of s 181 (Additional condition of relevant petroleum tenure)

Section 181, note, ‘see chapter 5, part 2, division 3 and part 8’—
omit, insert—

see chapter 2, part 4, chapter 5, part 8 and the Common Provisions Act, chapter 3, part 2

554 Amendment of s 193 (Operation of div 2)

Section 193(1), note, ‘see chapter 5, part 2, division 3 and part 8’—
omit, insert—

see chapter 2, part 4, chapter 5, part 8 and the Common Provisions Act, chapter 3, part 2

555 Amendment of s 293 (Right of entry to facilitate decommissioning)

Section 293(3), ‘Chapter 5, part 5, division 1 and parts 2 and 3’—
omit, insert—

The Common Provisions Act, chapter 3, part 7, division 1 and chapter 3, parts 2 and 3 of this Act

556 Amendment of s 393 (Purpose of div 1)

Section 393(1), note, from ‘see’—
omit, insert—

see chapter 5, part 8 and the Common Provisions Act, chapter 3, part 2

557 Amendment of s 396 (Deciding application)

Section 396(7), note—
omit.

558 Amendment of s 398 (Operation of div 1)

Section 398(1), note, ‘chapter 5, part 2, division 3 and part 8’—
omit, insert—

chapter 5, part 8 and the Common Provisions Act, chapter 3, part 7.

559 Amendment of s 399A (Written permission binds owner’s successors and assigns)

Section 399A(4)—
omit.

560 Amendment of s 418 (Obligation to consult with particular owners and occupiers)

- (1) Section 418(4)—
omit.
- (2) Section 418(5)—
renumber as section 418(4).

561 Amendment of s 426 (Public road authority’s obligations in aligning pipeline on road)

Section 426, ‘section 527’—
omit, insert—
the Common Provisions Act, section 59

562 Amendment of s 431 (Power to give works directions)

Section 431(1)(b), note—
omit.

[s 563]

563 Amendment of s 438 (Operation of div 1)

- (1) Section 438(1), note, ‘chapter 5, part 2, division 3 and part 8’—

omit, insert—

chapter 5, part 8 and the Common Provisions Act, chapter 3, part 6.

- (2) Section 438(3)—

insert—

(e) the Common Provisions Act.

- (3) Section 438(3), note—

omit.

564 Amendment of s 451 (Obligation to consult with particular owners and occupiers)

- (1) Section 451(4)—

omit.

- (2) Section 451(5)—

renumber as section 451(4).

565 Amendment of s 471 (Effect of part 5 permission)

Section 471(2), note, ‘Chapter 5, parts 2 and 3 provide’—

omit, insert—

The Common provisions Act, chapter 3 provides

566 Omission of ch 5, pts 2–5

Chapter 5, parts 2 to 5—

omit.

567 Amendment of s 734E (What happens if a party does not attend)

(1) Section 734E(2), note, after ‘election notice’—

insert—

under the Common Provisions Act, section 88

(2) Section 734E(2), note, ‘section 573B’—

omit, insert—

the Common Provisions Act, section 91

568 Amendment of s 805 (Obstruction of petroleum authority holder)

Section 805(1)(a)—

omit, insert—

- (a) entering or crossing land to carry out an authorised activity for the petroleum authority if the Common Provisions Act, chapter 3, part 2 or 3, has been complied with in relation to the entry to the extent the part is relevant; or

569 Amendment of s 814A (Executive officer may be taken to have committed offence)

Section 814A(5)—

omit, insert—

(5) In this section—

deemed executive liability provision means—

- (a) sections 175C(1), 175C(3), 175H(2), 175H(3), 198, 207, 228(1), 281(1), 282, 283, 292(2), 559(1), 560(3), 621(2), 626(1), 628(1), 639(1), 640, 642(1), 643(3), 646(4), 648(1), 648(2), 649, 697(1), 697(2), 697(3), 698, 708A(1), 721(1), 721(2), 727(1),

[s 570]

727(4), 729, 733(2), 733A, 734(1), 734(3),
766, 782(1), 785, 802(1), 803, 804, 805(1),
806(1), 807(2), 808, 809, 810, 813(1), or
813(2); or

- (b) the Common Provisions Act, section 39(1)
or 43(1).

**570 Amendment of s 938 (Exclusion of ch 5, pt 3, div 1 for
continuance of particular existing road uses)**

Section 938—

insert—

- (4A) A reference to chapter 5, part 3, division 1 in this
section is taken to include a reference to the
Common Provisions Act, chapter 3, part 3,
division 2.

571 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *ADR*, *compensation liability*, *conduct
and compensation agreement*, *conduct and compensation
agreement requirement*, *deferral agreement*, *election notice*,
eligible claimant, *entry notice*, *first authority*, *land access
code*, *minimum negotiation period*, *negotiation notice*,
notifiable road use, *parties*, *road use direction*, *second
authority* and *waiver of entry notice*—

omit.

- (2) Schedule 2—

insert—

conduct and compensation agreement see the
Common Provisions Act, section 83(1).

deferral agreement see the Common Provisions
Act, section 44.

election notice see the Common Provisions Act, section 88(2).

eligible claimant see the Common Provisions Act, section 81(1).

land access code see the Common Provisions Act, section 36.

negotiation notice, for chapter 2, part 6, division 3, subdivision 4, see section 221(2)(a).

notifiable road use see the Common Provisions Act, section 62.

parties, for chapter 10, part 1AA, see section 734C.

- (3) Schedule 2, definition *preliminary activity*, item 2(b) and (c)—

omit, insert—

- (b) an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.

Division 5 Amendments relating to the Common Provisions Act, chapter 4

572 Omission of ss 295 and 296

Sections 295 and 296—

omit.

573 Amendment of s 297 (Relationship with chs 2 and 5 and ch 15, pt 3)

- (1) Section 297, heading, after ‘ch 15, pt 3’—

insert—

[s 574]

and the Common Provisions Act

(2) Section 297(1) and (4), after ‘chapter 15, part 3’—

insert—

or the Common Provisions Act

574 Amendment of s 301 (What is a *coal exploration tenement* and a *coal mining lease*)

Section 301—

insert—

(4) However, for parts 1 to 5—

- (a) a coal exploration tenement does not include an exploration permit or mineral development licence granted for coal to which the Common Provisions Act, chapter 4, applies; and
- (b) a coal mining lease does not include a mining lease granted for coal to which the Common Provisions Act, chapter 4, applies.

575 Insertion of new s 303A

Chapter 3, part 1, division 2—

insert—

303A What is a *petroleum tenure*

For parts 1 to 5—

- (a) a petroleum lease does not include a petroleum lease to which the Common Provisions Act, chapter 4, applies; and
- (b) an authority to prospect does not include an authority to prospect to which the Common Provisions Act, chapter 4, applies.

Division 6 Amendments relating to the Common Provisions Act, chapter 6

576 Amendment of s 30AA (Extinguishing petroleum interests on the taking of land in a petroleum authority's area (other than by an easement))

Section 30AA, 'petroleum register'—

omit, insert—

register

577 Amendment of s 30A (Joint holders of a petroleum authority)

Section 30A, 'petroleum register'—

omit, insert—

register

578 Omission of ch 5, pt 9 (Petroleum register)

Chapter 5, part 9—

omit.

579 Amendment of s 799 (Notice and taking effect of decision)

Section 799, 'petroleum register'—

omit, insert—

register

580 Amendment of s 834 (Other evidentiary aids)

(1) Section 834(a)(iv)—

omit.

[s 581]

(2) Section 834—

insert—

(aa) that a stated document is a register kept under the Common Provisions Act;

581 Omission of s 858A (Practice manual)

Section 858A—

omit.

582 Insertion of new s 984

Chapter 15, part 17, as inserted by this Act—

insert—

984 Existing practice manuals

(1) A practice manual kept under former section 858A continues in effect until the chief executive makes a manual available under the Common Provisions Act, section 202(4)(b).

(2) In this section—

former section 858A means section 858 as in force immediately before the commencement of this section.

583 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition, '*petroleum register*'—

omit.

(2) Schedule 2—

insert—

register means the register kept by the chief executive under the Common Provisions Act, section 197.

- (3) Schedule 2, definitions, *area*, paragraph 1 and *holder*,
'petroleum register'—

omit, insert—

register

- (4) Schedule 2, definition *area*, paragraph 3, from '*petroleum register*'—

omit, insert—

register.

Division 7 Amendments relating to gas emissions

584 Amendment of s 32 (Exploration and testing)

Section 32(1)—

insert—

- (e) plugging and abandoning, or otherwise remediating, a bore or well the holder reasonably believes is a legacy borehole and rehabilitating the surrounding area in compliance with the requirements prescribed under a regulation.

585 Amendment of s 109 (Exploration, production and storage activities)

Section 109(1)—

insert—

- (e) plugging and abandoning, or otherwise remediating, a bore or well the lease holder reasonably believes is a legacy borehole and rehabilitating the surrounding area in

[s 586]

compliance with the requirements
prescribed under a regulation.

586 Insertion of new ch 2, pt 10, div 5

Chapter 2, part 10—

insert—

Division 5 Remediation activity

294A Definitions for div 5

In this part—

authorised person means a person authorised by the chief executive, under section 294B, to carry out a remediation activity.

lower flammability limit means the smallest amount of gas that supports a self-propagating flame when mixed with air (or oxygen) and ignited.

remediation activity see section 294B.

294B Authorised person to carry out remediation activities

- (1) The chief executive may authorise a person to remediate any of the following bores or wells and to rehabilitate the surrounding area in compliance with the requirements prescribed under a regulation (the ***remediation activity***)—
 - (a) a bore or well posing a risk to life or property;
 - (b) a bore or well the chief executive reasonably believes is a legacy borehole;

- (c) a bore or well on fire or emitting gas causing a gas concentration in the surrounding air greater than the lower flammability limit.
- (2) In this section—
remediate, a bore or well, includes plug and abandon the bore or well.

294C Entering land to carry out remediation activities

- (1) This section applies to the following land—
 - (a) land (*primary land*) on which a legacy borehole exists;
 - (b) land (*adjacent land*) that is adjacent to primary land if an authorised person has no other reasonably practicable way of entering the primary land without entering the adjacent land.
- (2) An authorised person may enter land to carry out a remediation activity—
 - (a) if the remediation activity relates to a bore or well mentioned in section 294B(1)(a) or (c)—at any time; or
 - (b) otherwise—within a period of 10 business days starting on the earlier of the following days—
 - (i) the day the owner of the land is given notice of the entry under section 294D;
 - (ii) the day the occupier of the land is given notice of the entry under section 294D.
- (3) However, subsection (2) does not authorise the entry of a structure, or a part of a structure, used for residential purposes without the consent of the occupier of the structure or part.

294D Notice of entry

- (1) An authorised person entering land under section 294C to carry out a remediation activity must give the owner and the occupier of the land written notice of the entry—
 - (a) if the remediation activity relates to a bore or well mentioned in section 294B(1)(a) or (c)—within 10 business days after the entry is made; or
 - (b) otherwise—before entering the land.
- (2) The written notice must state the following—
 - (a) when the entry was, or is to be, made;
 - (b) the purpose of the entry;
 - (c) that the authorised person is permitted under this Act to enter the land without consent or a warrant;
 - (d) the remediation activity carried out or proposed to be carried out.

294E Obligation of authorised person in carrying out remediation activity

An authorised person who enters land under this part—

- (a) must not cause, or contribute to, unnecessary damage to any structure or works on the land; and
- (b) must take all reasonable steps to ensure the person causes as little inconvenience, and does as little other damage, as is practicable in the circumstances.

294F Application of particular safety Acts to remediation activity

- (1) The place at which a remediation activity is authorised to be carried out is taken to be a coal mine, to which the *Coal Mining Safety and Health Act 1999* applies, if the authorised person ordinarily carries out similar activities under that Act.
- (2) The place at which a remediation activity is authorised to be carried out is taken to be a mine, to which the *Mining and Quarrying Safety and Health Act 1999* applies, if the authorised person ordinarily carries out similar activities under that Act.
- (3) The place at which a remediation activity is authorised to be carried out is taken to be an operating plant under this Act if the authorised person ordinarily carries out similar activities under this Act.

587 Amendment of s 856 (Protection from liability for particular persons)

Section 856(1)—

insert—

- (e) a person authorised to carry out a remediation activity under section 294B.

588 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

authorised person, for chapter 2, part 10, division 5, see section 294A.

legacy borehole means a bore or well that—

[s 589]

- (a) was drilled for the purpose (the *original purpose*) of—
 - (i) exploration or production of mineral or petroleum resources; or
 - (ii) informing the exploration or production of mineral or petroleum resources; and
- (b) is no longer used for the original or another purpose.

remediation activity, for chapter 2, part 10, division 5, see section 294A.

Division 8 Amendments relating to incidental coal seam gas

589 Amendment of s 331 (Application of div 2)

Section 331(2)(d), from ‘mining’—

omit, insert—

a use or activity under the Mineral Resources Act, section 318CN(2)(a) or (b), or 318CNA(2)(a) or (b).

590 Amendment of s 671 (Limitation for facility or pipeline included in coal mining operation)

- (1) Section 671(2)(b), ‘either’—

omit, insert—

one of the following applies

- (2) Section 671(2)(b)—

insert—

- (iii) the activity is carried out under the Mineral Resources Act, section 318CN.

591 Amendment of s 800 (Restriction on petroleum tenure activities)

Section 800(2)(b), note, from ‘section’—

omit, insert—

sections 318CN and 318CNA

592 Amendment of s 802 (Restriction on pipeline construction or operation)

- (1) Section 802(1)(c)(ii)—

renumber as section 802(1)(c)(iii).

- (2) Section 802(1)(c)—

insert—

- (ii) the transportation, within the area of 2 or more coal mining leases that share a common boundary or are contiguous, of coal seam gas mined in the area of 1 or more of the mining leases, under the Mineral Resources Act, section 318CM; or

593 Amendment of s 803 (Restriction on petroleum facility construction or operation)

- (1) Section 803—

insert—

- (ab) carried out under the Mineral Resources Act, section 318CN or 318CNA;

- (2) Section 803(ab) and (b)—

[s 594]

renumber as section 803(b) and (c).

Division 9 Amendments relating to royalties

594 Amendment of s 590 (Imposition of petroleum royalty on petroleum producers)

Section 590(1), from ‘or’ to ‘section 318CN’—
omit.

595 Amendment of s 591 (General exemptions from petroleum royalty)

(1) Section 591(1)(b)(ii), before ‘for mining’—
insert—

by the petroleum producer

(2) Section 591(1)(e)—
renumber as section 591(1)(f).

(3) Section 591(1)—
insert—

(e) the petroleum is coal seam gas on which
royalty under the Mineral Resources Act is
payable; or

Division 10 Miscellaneous amendments

596 Amendment of s 3 (Main purpose of Act)

Section 3(1)(e), ‘transmission’—
omit.

597 Amendment of s 16 (What is a *pipeline*)

- (1) Section 16(2)(a), after ‘pipeline’—

insert—

, including the pipeline’s end points

- (2) Section 16—

insert—

- (3) A pipeline’s *end points* are—

- (a) if the pipeline has not operated for the first time—the points at which a substance mentioned in subsection (1) will enter or exit the pipeline on the day the pipeline first operates; or
- (b) otherwise—the points at which the substance enters or exits the pipeline.

598 Insertion of new s 16A

After section 16—

insert—

16A What is a *distribution pipeline*

- (1) A *distribution pipeline* is—

- (a) a pipeline that transports fuel gas as part of a reticulation system; or
- (b) a pipeline that is—
 - (i) a single point-to-point pipeline that transports fuel gas to a place other than a major user facility; or
 - (ii) a single point-to-point pipeline that transports fuel gas to a pipeline mentioned in subparagraph (i).

[s 599]

(2) However, a pipeline is not a *distribution pipeline* if it transports fuel gas to a pipeline mentioned in subsection (1)(a) or (b)(ii).

(3) In this section—

major user facility means—

- (a) a facility within the area of a resource authority; or
- (b) a facility that produces non-organic fertiliser; or
- (c) a petroleum facility; or
- (d) a power station; or
- (e) a smelter.

point-to-point pipeline means a pipeline from a particular point or points to another particular point or points.

599 Amendment of s 33 (Incidental activities)

Section 33(2)—

omit, insert—

(2) However, neither of the following activities is an incidental activity—

- (a) constructing or using a structure, other than a temporary structure, for office or residential accommodation;

Note—

For development generally, see the *Sustainable Planning Act 2009*, chapter 6.

- (b) the processing of gaseous petroleum, other than gaseous petroleum produced as an unavoidable result of ATP production testing.

(3) In this section—

gaseous petroleum means petroleum in a gaseous state.

processing, of gaseous petroleum, means treating the petroleum to be suitable for transport.

600 Amendment of s 37 (Requirements for making tender)

Section 37(c)—

omit, insert—

- (c) include a proposed work program that complies with the initial work program requirements; and

601 Insertion of new s 55A

After section 55—

insert—

55A Modified application of ch 14, pt 1

Chapter 14, part 1 applies in relation to the lodgement by an authority to prospect holder of a proposed later work program as if—

- (a) the lodgement of the proposed program were the making of an application by the holder; and
- (b) the later work program requirements for the proposed program were the requirements under chapter 14, part 1 for making the application.

602 Amendment of s 57 (Deciding whether to approve proposed program)

Section 57(2)(d), ‘notice under section 544,’—

[s 603]

omit.

603 Insertion of new ch 2, pt 1, div 4, sdiv 2A

After section 71—

insert—

Subdivision 2A Mandatory conditions for particular types of testing

71A ATP production testing

- (1) Subject to section 72, an authority to prospect holder may carry out testing for petroleum production for a petroleum well (*ATP production testing*) within the area of the authority.
- (2) However, it is a condition of the authority to prospect that—
 - (a) the holder gives the chief executive a notice, containing the information prescribed by regulation, in relation to the ATP production testing within 20 business days after the testing starts; and
 - (b) the testing is carried out after the end date for the testing only with the Minister's approval.
- (3) The Minister may, at any time, approve the carrying out after the end date for ATP production testing (the *original ATP production testing*) of further ATP production testing and the approval is subject to the conditions the Minister considers appropriate.
- (4) If the Minister decides not to approve the carrying out of further ATP production testing, the Minister must give the authority to prospect holder an information notice about the decision.

71B ATP storage testing

- (1) Subject to section 72, an authority to prospect holder may carry out testing for the storage of petroleum or a prescribed storage gas in a natural underground reservoir (*ATP storage testing*) within the area of the authority.
- (2) However, it is a condition of the authority to prospect that—
 - (a) the holder gives the chief executive a notice, containing the information prescribed by regulation, in relation to the ATP storage testing within 20 business days after the testing starts; and
 - (b) the testing is carried out after the end date for the testing only with the Minister's approval.
- (3) Subject to subsection (4), the Minister may, at any time, approve the carrying out after the end date for ATP storage testing (the *original ATP storage testing*) of further ATP storage testing and the approval is subject to the conditions the Minister considers appropriate.
- (4) An approval may not be given under subsection (3) more than 1 day before the end date for the original ATP storage testing.
- (5) If the Minister decides not to approve the carrying out of further ATP storage testing, the Minister must give the authority to prospect holder an information notice about the decision.
- (6) Despite subsections (1) to (3), an authority to prospect holder must not carry out GHG stream storage.

[s 604]

71C Authority to prospect holder must notify chief executive if testing stops

If an authority to prospect holder stops carrying out any ATP production testing or ATP storage testing within the area of the authority for a continuous period of 14 days or more, the holder must give the chief executive a notice, containing the information prescribed by regulation, in relation to the testing within 20 business days after the testing stops.

604 Omission of s 73 (Permitted period for production or storage testing)

Section 73—

omit.

605 Omission of s 74 (Obligation to consult with particular owners and occupiers)

Section 74—

omit.

606 Amendment of s 79 (Obligation to lodge proposed later work program)

(1) Section 79(4), after ‘within’—

insert—

the eligible balance of

(2) Section 79(5), ‘within the current’—

omit, insert—

within the eligible balance of the current

(3) Section 79(6)—

insert—

eligible balance, for a current work program period during which a decision mentioned in subsection (4) is made, means the balance of the period, other than the appeal period for the decision.

607 Amendment of s 82 (Requirements for making application)

(1) Section 82(1)(e)—

omit.

(2) Section 82(1)(f) to (i)—

renumber as section 82(1)(e) to (h).

608 Amendment of s 92 (Term of declaration)

Section 92(2)(a)—

omit, insert—

(a) when any petroleum discovery was made;
and

609 Amendment of s 112 (Incidental activities)

Section 112(1), note—

omit, insert—

Note—

See also part 10, section 239, chapter 5 and section 20(2).

610 Amendment of s 118 (Requirements for making ATP-related application)

(1) Section 118(c)(ii)—

omit.

[s 611]

- (2) Section 118(c)(iii) and (iv)—
renumber as section 118(c)(ii) and (iii).

611 Insertion of new s 145A

After section 145—

insert—

145A Modified application of ch 14, pt 1

Chapter 14, part 1 applies in relation to the lodgement by a petroleum lease holder of a proposed later development plan as if—

- (a) the lodgement of the proposed plan were the making of an application by the holder; and
- (b) the later development plan requirements for the proposed plan were the requirements under chapter 14, part 1 for making the application.

612 Insertion of new ch 2, pt 2, div 5, sdiv 1, hdg

After chapter 2, part 2, division 5, heading—

insert—

Subdivision 1 Preliminary

613 Insertion of new ch 2, pt 2, div 5, sdiv 2 and sdiv 3, hdg

After section 150—

insert—

Subdivision 2 Key mandatory conditions for particular types of testing

150A PL production testing

- (1) Subject to section 151, a petroleum lease holder may carry out testing for petroleum production for a petroleum well (*PL production testing*) within the area of the lease.
- (2) However, it is a condition of the petroleum lease that—
 - (a) the holder gives the chief executive a notice, containing the information prescribed by regulation, in relation to the PL production testing within 20 business days after the testing starts; and
 - (b) the testing is carried out after the end date for the testing only with the Minister's approval.
- (3) The Minister may, at any time, approve the carrying out after the end date for PL production testing (the *original PL production testing*) of further PL production testing and the approval is subject to the conditions the Minister considers appropriate.
- (4) If the Minister decides not to approve the carrying out of further PL production testing, the Minister must give the petroleum lease holder an information notice about the decision.

150B Approval of particular ATP production testing taken to be approval for PL production testing

- (1) This section applies if—

[s 613]

- (a) under section 71A(3), the Minister has approved the carrying out of further ATP production testing by an authority to prospect holder for a petroleum well within an area (the *original approval*); and
 - (b) the Minister grants the holder a petroleum lease under section 120 for the area, or a part of the area containing the petroleum well.
- (2) The original approval continues in existence for the further ATP production testing, and is taken to be an approval by the Minister, under section 150A(3) (the *transitional approval*), of further PL production testing for the petroleum well.
- (3) The transitional approval is subject to—
 - (a) the conditions to which the original approval is subject under section 71A(3); and
 - (b) any new conditions the Minister considers appropriate.

150C PL storage testing

- (1) Subject to section 151, a petroleum lease holder may carry out testing for the storage of petroleum or a prescribed storage gas in a natural underground reservoir (*PL storage testing*) within the area of the lease.
- (2) However, it is a condition of the petroleum lease that—
 - (a) the holder gives the chief executive a notice, containing the information prescribed by regulation, in relation to the PL storage testing within 20 business days after the testing starts; and

- (b) the testing is carried out after the end date for the testing only with the Minister's approval.
- (3) Subject to subsection (4), the Minister may, at any time, approve the carrying out after the end date for PL storage testing (the *original PL storage testing*) of further PL storage testing and the approval is subject to the conditions the Minister considers appropriate.
- (4) An approval may not be given under subsection (3) more than 1 day before the end date for the original PL storage testing.
- (5) If the Minister decides not to approve the carrying out of further PL storage testing, the Minister must give the petroleum lease holder an information notice about the decision.
- (6) Despite subsections (1) to (3), a petroleum lease holder can not carry out GHG stream storage.

150D Approval of particular ATP storage testing taken to be approval for PL storage testing

- (1) This section applies if—
 - (a) under section 71B(3), the Minister has approved the carrying out of further ATP storage testing by an authority to prospect holder for a natural underground reservoir within an area (the *original approval*); and
 - (b) the Minister grants the holder a petroleum lease under section 120 for the area, or a part of the area containing the natural underground reservoir.
- (2) The original approval continues in existence for the further ATP storage testing, and is taken to be an approval by the Minister, under section

[s 614]

150C(3) (the *transitional approval*), of further PL storage testing for the reservoir within the area of the petroleum lease.

- (3) The transitional approval is subject to—
- (a) the conditions to which the original approval is subject under section 71B(3); and
 - (b) any new conditions the Minister considers appropriate.

150E Petroleum lease holder must notify chief executive if testing stops

If a petroleum lease holder stops carrying out any PL production testing or PL storage testing within the area of the lease for a continuous period of 14 days or more, the holder must give the chief executive a notice, containing the information prescribed by regulation, in relation to the testing within 20 business days after the testing stops.

Subdivision 3 Other key mandatory conditions

614 Omission of s 153 (Obligation to consult with particular owners and occupiers)

Section 153—

omit.

615 Amendment of s 159 (Obligation to lodge proposed later development plan)

- (1) Section 159(4), after ‘within’—

insert—

the eligible balance of

- (2) Section 159(5), ‘within the current’—
omit, insert—
within the eligible balance of the current

- (3) Section 159(6)—
insert—

eligible balance, for a current plan period during which a decision mentioned in subsection (4) is made, means the balance of the period, other than the appeal period for the decision.

616 Amendment of s 162 (Requirements for making renewal application)

- (1) Section 162(1)(e)—
omit.
- (2) Section 162(1)(f) and (g)—
renumber as section 162(1)(e) and (f).

617 Amendment of s 178 (Deciding application for data acquisition authority)

Section 178(4), ‘1 year’—

omit, insert—
2 years

618 Amendment of s 185 (Underground water rights)

Section 185(5)—

omit, insert—

- (5) The tenure holder may use associated water for any purpose and within or outside the area of the tenure.

[s 619]

619 Amendment of s 234 (Arrangement to coordinate petroleum activities)

(1) Section 234(4), ‘relevant lease’—

omit, insert—

coordinated lease

(2) Section 234(6), definition *relevant lease*, ‘*relevant*’—

omit, insert—

coordinated

620 Amendment of ch 2, pt 10, hdg and ch 2, pt 10, divs 3 and 4, hdgs

Chapter 2, part 10, heading and chapter 2, part 10, divisions 3 and 4, headings, before ‘water observation bores’—

insert—

water injection bores,

621 Amendment of ch 2, pt 10, div 2, hdg and ss 283, 284A, 285 to 287, 294 and sch 2

Chapter 2, part 10, division 2, heading and sections 283, 284A, 285 to 287, 294 and schedule 2, definition *transfer*, before ‘water observation bore’—

insert—

water injection bore,

622 Amendment of s 282 (Restriction on who may drill water observation bore or water supply bore)

(1) Section 282, heading, before ‘water observation bore’—

insert—

water injection bore,

(2) Section 282(1) and (2), before ‘water observation bore’—

insert—

water injection bore,

- (3) Section 282(3), before ‘water observation bore’—

omit, insert—

water injection bore or

623 Amendment of s 288 (Transfer of water observation bore or water supply bore to landowner)

- (1) Section 288, heading, before ‘water observation bore’—

insert—

water injection bore,

- (2) Section 288(1), before ‘water observation bore’—

insert—

water injection bore,

- (3) Section 288(2), before ‘water observation bore’—

insert—

water injection bore or

624 Amendment of s 292 (Obligation to decommission)

Section 292(1)—

omit, insert—

- (1) This section applies to a person (the ***responsible person***) who holds a petroleum tenure on which there is a petroleum well, water injection bore, water observation bore or water supply bore drilled by or for the tenure holder or that has been transferred to the tenure holder, unless the well or bore has, under division 3, been transferred to someone else.

[s 625]

625 Replacement of s 393 (Purpose of div 1)

Section 393—

omit, insert—

393 Operation of div 1

This division provides for the key authorised activities for a survey licence.

Note—

For other authorised activities, see chapter 5, part 2, division 3 and part 8.

626 Amendment of s 394 (Surveying activities)

Section 394(2)—

insert—

- (e) the relevant environmental authority for the licence.

627 Amendment of s 396 (Deciding application)

Section 396(4), ‘1 year’—

omit, insert—

2 years

628 Amendment of s 409 (Requirements for making application)

- (1) Section 409(c)—

omit.

- (2) Section 409(d) to (ea)—

renumber as section 409(c) to (e).

-
- 629 Omission of s 418 (Obligation to consult with particular owners and occupiers)**
Section 418—
omit.
- 630 Amendment of s 437 (Limitation of transmission pipeline licence holder's liability)**
Section 437, 'transmission'—
omit.
- 631 Amendment of s 445 (Requirements for making application)**
(1) Section 445(d)—
omit.
(2) Section 445(e) and (f)—
renumber as section 445(d) and (e).
- 632 Omission of s 451 (Obligation to consult with particular owners and occupiers)**
Section 451—
omit.
- 633 Amendment of ss 541, 542 and 543A**
Sections 541, 542 and 543A, before 'water observation bore'—
insert—
water injection bore,
- 634 Omission of s 544 (Notice by petroleum tenure holder about discovery and commercial viability)**
Section 544—
-

[s 635]

omit.

635 Amendment of s 560 (Obligation to remove equipment and improvements)

Section 560(2)(a)—

omit, insert—

- (a) a petroleum well, pipeline, water injection bore, water observation bore or water supply bore; or

Notes—

- 1 For petroleum wells, water injection bores, water observation bores and water supply bores, see chapter 2, part 10.
- 2 For pipelines, see sections 539 and 559.

636 Amendment of s 621 (Restrictions on supplying gas not of prescribed quality)

Section 621(2), note 1, from ‘(Limitation’—

omit.

637 Amendment of s 670 (What is an *operating plant*)

Section 670(2)—

insert—

- (k) a facility used to drill, complete, maintain, repair, convert or decommission a water injection bore, water observation bore or water supply bore.

638 Amendment of s 802 (Restriction on pipeline construction or operation)

Section 802(1)(a)(i)—

omit, insert—

- (i) carried out—
 - (A) under this Act and under the authority of a petroleum tenure, a pipeline licence or a petroleum facility licence; or
 - (B) under the 1923 Act and under the authority of a 1923 Act petroleum tenure; or
 - (C) under the GHG storage Act and under the authority of a GHG tenure; or

639 Amendment of s 824 (Period to appeal)

Section 824(1), ‘from an internal review decision made under section 823(2) or (3)’—

omit, insert—

under section 823 against a decision

640 Amendment of ch 14, pt 1 (Applications)

Chapter 14, after part 1, heading—

insert—

Notes—

- 1 Under section 55A, this part also applies in relation to the lodgement by an authority to prospect holder of a proposed later work program.
- 2 Under section 145A, this part also applies in relation to the lodgement by a petroleum lease holder of a proposed later development plan.

641 Insertion of new ss 985 and 986

Chapter 15, part 17, as inserted by this Act—

insert—

985 Existing application for data acquisition authority

- (1) This section applies to an application for a data acquisition authority under section 176 if, immediately before the commencement of this section, the application had not been decided.
- (2) If, under section 178, the Minister decides to grant the data acquisition authority, the Minister may decide the term of the authority ends at a time stated in the authority that is no later than 2 years after the authority takes effect.
- (3) This section applies despite section 178(4) of the pre-amended Act.
- (4) In this section—
pre-amended Act means this Act as in force immediately before the commencement of this section.

986 Existing application for survey licence

- (1) This section applies to an application for a survey licence under section 395 if, immediately before the commencement of this section, the application had not been decided.
- (2) If, under section 396, the Minister decides to grant the survey licence, the Minister may decide the term of the licence ends at a time stated in the licence that is no later than 2 years after the licence takes effect.
- (3) This section applies despite section 396(4) of the pre-amended Act.
- (4) In this section—

pre-amended Act means this Act as in force immediately before the commencement of this section.

642 Amendment of sch 1 (Reviews and appeals)

Schedule 1, table 1—

insert—

71A	Decision not to approve further ATP production testing
71B	Decision not to approve further ATP storage testing
150A	Decision not to approve further PL production testing
150C	Decision not to approve further PL storage testing

643 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *distribution pipeline* and *transmission pipeline*—

omit.

- (2) Schedule 2—

insert—

distribution pipeline see section 16A.

end points, for a pipeline, see section 16(3).

power station means a power station under the *Electricity Act 1994*.

644 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *coal seam gas* and *incidental coal seam gas*—

[s 644]

omit.

(2) Schedule 2—

insert—

ATP production testing see section 71A(1).

ATP storage testing see section 71B(1).

brine means saline water with a total concentration of dissolved solids greater than 40000 milligrams per litre.

coal seam gas means petroleum (in any state) occurring naturally—

- (a) in association with coal or oil shale; or
- (b) in strata associated with coal or oil shale mining.

end date—

- (a) for ATP production testing or PL production testing for a petroleum well means—
 - (i) if the petroleum well intersects a natural underground reservoir containing coal seam gas, shale gas, tight gas or basin-centred gas and the testing relates to petroleum produced from the reservoir—the day that is 13 months from when the testing first starts; or
 - (ii) otherwise—the day that is 6 months from when the testing first starts; or
- (b) for ATP storage testing or PL storage testing, means the day that is 6 months from when the testing first starts.

incidental coal seam gas see the Mineral Resources Act, section 318CM(2).

PL production testing see section 150A(1).

PL storage testing see section 150C(1).

water injection bore means—

- (a) a bore to inject water or brine into a part of a geological formation or structure that is suitable to store water or brine; or
- (b) a petroleum well that, under chapter 2, part 10, division 2, has been, or is taken to have been, converted to a water injection bore.

- (3) Schedule 2, definition *petroleum well*, item 4—

insert—

- (aa) a water injection bore;

- (4) Schedule 2, definition *petroleum well*, item 4, paragraphs (aa) to (d)—

renumber as paragraphs (a) to (e).

645 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *owner*, paragraph 1(k), ‘section 87(2) or 87(4)(b)’—

omit, insert—

section 202(2) or (4)(b)

- (2) Schedule 2, definition *owner*, paragraph 1(ka), ‘section 84(2)’—

omit, insert—

section 151(2)

[s 646]

Part 11 Amendment of Property Law Act 1974

646 Act amended

This part amends the *Property Law Act 1974*.

647 Amendment of s 84 (Regulation of exercise of power of sale)

Section 84(5), ‘or Mineral Resources Act’—
omit.

Part 12 Amendment of State Development and Public Works Organisation Act 1971

648 Act amended

This part amends the *State Development and Public Works
Organisation Act 1971*.

649 Amendment of s 45 (Application of Coordinator-General’s report to proposed mining lease)

Section 45(2)(b), from ‘are’ to ‘taken’—
omit, insert—

are taken

650 Amendment of s 46 (Coordinator-General’s conditions override other conditions)

Section 46(2), from ‘Subject’ to ‘Coordinator-General’s’—

omit, insert—

The Coordinator-General's

651 Omission of s 47 (Paramountcy of native title issues decision conditions)

Section 47—

omit.

652 Insertion of new s 47D

Part 4, division 6—

insert—

47D Restriction on giving of objection notice under the Environmental Protection Act, s 182

- (1) This section applies to an application under the Environmental Protection Act for the proposed environmental authority if—
 - (a) the proposed environmental authority is for a mining activity that relates to a mining lease under the Mineral Resources Act; and
 - (b) the Coordinator-General's report for the EIS or IAR for the project states—
 - (i) conditions for the proposed environmental authority; and
 - (ii) that the Coordinator-General is satisfied the conditions adequately address the environmental effects of the mining activity; and
 - (c) the mining activity evaluated in the Coordinator-General's report is the same as the mining activity the subject of the application under the Environmental Protection Act.

[s 653]

- (2) A submitter under the Environmental Protection Act for the application may not, under section 182 of that Act, request that its submission be taken to be an objection to the application.
- (3) This section applies despite the Environmental Protection Act, section 182(2).
- (4) In this section—
mining activity see the Environmental Protection Act, section 110.

653 Insertion of new pt 9, div 8

Part 9—

insert—

**Division 8 Transitional provision for
Mineral and Energy
Resources (Common
Provisions) Act 2014**

**202 Pre-amended Act continues to apply for
particular mining leases**

- (1) This section applies if, on or after the commencement—
 - (a) a native title issues decision is made in relation to a proposed mining lease; and
 - (b) a condition is imposed or made under, or is part of, the native title issues decision under the Mineral Resources Act as in force immediately before the commencement.
- (2) The pre-amended Act, section 47, continues to apply to the proposed mining lease.
- (3) In this section—

commencement means the commencement of this section.

native title issues decision has the meaning given by schedule 1A, section 669(1) of the Mineral Resources Act as in force immediately before the commencement.

pre-amended Act means this Act as in force immediately before the commencement.

Part 13

Amendment of Torres Strait Islander Cultural Heritage Act 2003

654 Act amended

This part amends the *Torres Strait Islander Cultural Heritage Act 2003*.

655 Amendment of schedule (Dictionary)

- (1) Schedule, definition *native title mining provisions*—
omit.
- (2) Schedule, definition *native title agreement*, paragraph (c)—
omit.

Part 14 Amendment of Mineral Resources Regulation 2013

656 Regulation amended

This part amends the *Mineral Resources Regulation 2013*.

657 Insertion of new s 38A

Chapter 3, part 2—

insert—

38A Returns required for coal seam gas

- (1) This section applies if a royalty return required under the Act to be lodged by a person is for royalty payable under the Act for coal seam gas.
- (2) No royalty return is required to be lodged under this part for the coal seam gas.
- (3) However, a royalty return for the royalty payable under the Act for coal seam gas must be lodged under the Petroleum and Gas (Production and Safety) Act as if—
 - (a) the royalty payable under the Act for the coal seam gas were petroleum royalty payable under the Petroleum and Gas (Production and Safety) Act; and
 - (b) the royalty return period under the Petroleum and Gas (Production and Safety) Act were the same as the return period under section 35.
- (4) Also, the royalty payable under the Act for the coal seam gas must be included in the annual royalty return required under the Petroleum and Gas (Production and Safety) Act, section 599 as if the royalty payable under the Act were

petroleum royalty payable under the Petroleum and Gas (Production and Safety) Act.

- (5) A royalty return lodged under subsection (3) is taken to be a royalty return within the meaning of the Petroleum and Gas (Production and Safety) Act.
- (6) An annual royalty return lodged under subsection (4) is taken to be an annual royalty return under the Petroleum and Gas (Production and Safety) Act, section 599.
- (7) To remove any doubt, it is declared that, for all rights, duties, obligations and liabilities arising in relation to royalty payable under the Act for coal seam gas required under this section to be included in a royalty return or an annual royalty return, the Petroleum and Gas (Production and Safety) Act applies as if the royalty payable under the Act were petroleum royalty payable under the Petroleum and Gas (Production and Safety) Act.

Schedule 1 Owners of land

section 12

1 Freehold land

The *owner* of freehold land is the registered owner of the land.

2 Deed of grant

The *owner* of land for which a person is, or will on performing conditions, be entitled to a deed of grant in fee simple, is that person.

3 Fee simple being purchased from State

The *owner* of land that is an estate in fee simple being purchased from the State is the purchaser.

4 Public roads

The *owner* of a public road is the public road authority for the road.

5 Busways, railways and other land used to transport

- (1) The *owner* of land that is busway land, light rail land, rail corridor land or a cane railway or other railway is the public land authority for the land.
- (2) The *owner* of land required under the *Transport Infrastructure Act 1994*, section 436 is the chief executive of the department in which that Act is administered.
- (3) The *owner* of transport land under the *Transport Planning and Coordination Act 1994* is the chief executive of the department in which that Act is administered.

6 Forests and quarry materials

- (1) The **owner** of any of the following land is the chief executive of the department in which the *Forestry Act 1959* is administered—
- (a) land that is a forest entitlement area, State forest or timber reserve under the *Forestry Act 1959*;
 - (b) land within a forest management unit included in the spatial data prescribed by regulation;
 - (c) land that is a quarry material management unit included in the spatial data prescribed by regulation.

Note—

The Queensland Government Open Data Website address is <www.data.qld.gov.au>.

- (2) The **owner** of land, that is a licence area under the *Forestry Act 1959*, is the plantation licensee for the licence area under that Act.

7 Parks and reserves under the *Nature Conservation Act 1992*

- (1) The **owner** of land that is a regional park under the *Nature Conservation Act 1992* (the **NCA**) is—
- (a) if, under the NCA, the park or reserve has trustees whose powers are not restricted—the trustees; or
 - (b) otherwise—the chief executive of the department in which the NCA is administered.
- (2) The **owner** of land that is any of the following land under the *Nature Conservation Act 1992* is the chief executive of the department in which the NCA is administered—
- (a) a national park;
 - (b) a national park (Aboriginal land);
 - (c) a national park (Cape York Aboriginal Land);
 - (d) a national park (Torres Strait Islander land);
 - (e) a forest reserve.

8 Wet tropics

- (1) The **owner** of land, that is in the wet tropics area, is the Wet Tropics Management Authority.
- (2) In this section—

Wet Tropics Management Authority means the Wet Tropics Management Authority established under the *Wet Tropics World Heritage Protection and Management Act 1993*, section 6.

wet tropics area means the wet tropics area within the meaning of the *Wet Tropics World Heritage Protection and Management Act 1993*.

9 Aboriginal and Torres Strait Islander land

- (1) The **owner** of land that is DOGIT land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991* is a trustee for the land.
- (2) The **owner** of land that is held under a lease under the *Aurukun and Mornington Shire Leases Act 1978*, section 3 is the relevant local government.
- (3) The **owner** of Aboriginal land under the *Aboriginal Land Act 1991* that is taken to be a reserve because of section 202(2) or 202(4)(b) of that Act is the trustee of the land.
- (4) The **owner** of Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 151(2) of that Act is the trustee of the land.
- (5) The **owner** of land that is lease land for a 1985 Act granted lease or a new Act granted lease, under the *Aboriginal and Torres Strait Islander Land Holding Act 2013*, is the lessee.

10 Trustee land

The **owner** of land for which there are trustees under the *Land Act 1994* is the trustee.

11 Educational institutions

The *owner* of land vested in the Minister administering the *Education (General Provisions) Act 2006* is the chief executive of the department in which that Act is administered.

12 Public buildings

The *owner* of land vested in the Queensland Housing Commission or another Minister or a chief executive responsible for constructing public buildings is the chief executive administering the relevant Act.

13 Other public lands

The *owner* of land held from the State under another Act under an interest less than fee simple (other than occupation rights under a permit under the *Land Act 1994*) is the person who holds the interest.

Schedule 2 Dictionary

section 8

18 months notice, for chapter 4, see section 122.

1923 Act means the *Petroleum Act 1923*.

abandonment date, for chapter 4, see section 129(2)(b).

acceleration notice, for chapter 4, see section 128(2).

access agreement see section 47(2).

access land, for a resource authority, see section 47(3).

access rights see section 47(3).

ADR see section 88(2)(b).

advanced activity, for a resource authority, has the meaning given by the particular Resource Act under which the resource authority is granted.

Example—

For the meaning of the advanced activity when used in a provision in relation to a geothermal exploration permit, see the Geothermal Act, schedule 2.

advance notice, for chapter 4, see section 121.

affected resource authority, for a caveat, for chapter 2, part 2, see section 24.

agreed joint development plan, for chapter 4, see section 103.

agreed mining commencement date, for chapter 4, see section 116.

application, for chapter 5, part 1, see section 186.

approved payment method, for a fee, see section 203(2).

arbitration, for chapter 4, see section 103.

area, for chapter 4, see section 103.

associated agreement, for a resource authority, for chapter 2, part 3, see section 32.

ATP, for chapter 4, see section 103.

ATP major gas infrastructure, for chapter 4, see section 166.

authorised activity, for a resource authority, has the meaning given by the particular Resource Act under which the resource authority is granted.

Example—

For the meaning of the authorised activity when used in a provision in relation to a GHG authority, see the Greenhouse Gas Act, section 22.

authorised area, for a resource authority, see section 11.

authorised officer, in relation to a resource authority, has the meaning given by the particular Resource Act under which the resource authority is granted.

authorising provision, for an application, for chapter 5, part 1, see section 186.

authority to prospect (csg), for chapter 4, see section 103.

coal mine, for chapter 4, see section 103.

coal mining operations, for chapter 4, see section 103.

coal resource authority, for chapter 4, see section 103.

coal seam gas, for chapter 4, see section 103.

column 1 resource authority, for chapter 4, see section 103.

column 2 resource authority, for chapter 4, see section 103.

compensation liability, to a public road authority, see section 93(2).

compensation liability, for chapter 4—

- (a) of an ML (coal) holder to a PL holder, see section 167(3);
- (b) of an ML (coal) holder to an ATP holder, see section 168(3).

concurrent notice, for chapter 4, see section 149(2).

conduct and compensation agreement see section 83(1).

confirmation notice, for chapter 4, see section 123.

corresponding column 1 resource authority, for chapter 4, see section 103.

corresponding column 2 resource authority, for chapter 4, see section 103.

dealing, in relation to a resource authority, see section 16.

deciding authority, for an application, for chapter 5, part 1, see section 186.

deferral agreement see section 44(1).

diluted incidental coal seam gas, for chapter 4, see section 136.

election notice, for chapter 3, part 7, division 2, subdivision 3, see section 88(2).

eligible claimant, for compensation, see section 81(1).

Environmental Protection Act means the *Environmental Protection Act 1994*.

EP (coal), for chapter 4, part 3, see section 139.

exceptional circumstances notice, for chapter 4, see section 127.

exploration permit (coal), for chapter 4, see section 103.

facilitator, for chapter 3, part 7, division 2, subdivision 3, see section 88(4)(b).

first resource authority, for chapter 3 part 5, see section 73(1).

FMA, for chapter 4, see section 110.

future mining area, for chapter 4, see section 110.

Geothermal Act means the *Geothermal Energy Act 2010*.

Greenhouse Gas Act means the *Greenhouse Gas Storage Act 2009*.

holder, for chapter 4, see section 103.

IMA, for chapter 4, see section 109.

incidental coal seam gas, for chapter 4, see section 103.

information notice, for a decision, means a notice stating the following—

- (a) the decision and the reasons for it;
- (b) the rights of appeal under this Act or another Act;
- (c) the period in which an appeal must be started;
- (d) how the rights of appeal are to be exercised;
- (e) whether a stay of the decision may be applied for under this Act or another Act.

initial mining area, for chapter 4, see section 109.

invalid application, for chapter 5, part 1, see section 189(2).

joint development plan, for chapter 4, see section 103.

joint occupancy, for chapter 4, see section 114.

land access code see section 36.

lodgement, of an application, means—

- (a) the deciding authority for the application has accepted the application; or
- (b) the applicant has complied with any requirements for lodging the application with the deciding authority.

lost production, for chapter 4, see section 162.

MDL (coal), for chapter 4, part 3, see section 139.

mineral development licence (coal), for chapter 4, see section 103.

Mineral Resources Act means the *Mineral Resources Act 1989*.

minimum negotiation period, for chapter 3, part 7, division 1, subdivision 4, see section 85(2)(a).

mining commencement date, for chapter 4, see section 103.

mining lease (coal), for chapter 4, see section 103.

mining safety legislation, for chapter 4, see section 103.

ML (coal)—

- (a) for chapter 4, generally, see section 103; or
- (b) for chapter 4, part 3, see section 139.

ML (coal) holder—

- (a) for chapter 4, generally, see section 105; or
- (b) for chapter 4, part 3, see section 139.

negotiation notice, for chapter 3, part 7, division 2, subdivision 3, see section 84(1).

noncompliance action, in relation to a resource authority, has the meaning given by the particular Resource Act under which the resource authority is granted.

Example—

For the meaning of noncompliance action when used in a provision in relation to a petroleum lease, see the P&G Act, section 790.

notifiable road use, of a public road, see section 62.

occupier, of a place, means—

- (a) a person who, under an Act or a lease registered under the *Land Title Act 1994*, has a right to occupy the place other than under a resource authority; or
- (b) a person who has been given a right to occupy the place by an owner of the place or another person mentioned in paragraph (a).

opt-out agreement see section 45(2).

overlapping area, for chapter 4, see section 104.

owner, of land, see section 12.

P&G Act means the *Petroleum and Gas (Production and Safety) Act 2004*.

periodic entry notice, for chapter 3, part 3, division 1, see section 57(1).

petroleum, for chapter 4, see section 103.

petroleum lease (csg), for chapter 4, see section 103.

petroleum production notice, for chapter 4, see section 141(1).

petroleum resource authority—

- (a) for chapter 4, generally, see section 103; or
- (b) for chapter 4, part 2, see section 118.

petroleum well, for chapter 4, see section 103.

PL—

- (a) for chapter 4, generally, see section 103; or
- (b) for chapter 4, part 3, see section 139.

PL connecting infrastructure, for chapter 4, see section 165.

PL holder—

- (a) for chapter 4, generally, see section 103; or
- (b) for chapter 4, part 3, see section 139.

PL major gas infrastructure, for chapter 4, see section 163.

PL minor gas infrastructure, for chapter 4, see section 164.

preliminary activity, for a resource authority, has the meaning given by the particular Resource Act under which the resource authority is granted.

Example—

For the meaning of the preliminary activity when used in a provision in relation to a petroleum authority, see the P&G Act, schedule 2.

prescribed activity, for chapter 3, part 4, see section 67.

prescribed arbitration institute, for chapter 4, see section 176.

prescribed dealing see section 17(1).

prescribed distance, for chapter 3, part 4, see section 67.

prescribed period, for a matter, means the period prescribed by regulation for the matter.

prescribed requirements, for a matter, means the requirements prescribed, under a regulation, for the matter.

private land see section 13.

proposed joint development plan, for chapter 4, see section 103.

proposed mining commencement date, for chapter 4, see section 115.

public land see section 14.

public land authority means—

- (a) if a local government or other authority is, under an Act, charged with the control of the land—the local government or other authority; or
- (b) otherwise—the chief executive of the department administering the Act under which entry to the land is administered.

public road see section 15.

public road authority, for a public road, means—

- (a) for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered; or
- (b) for another public road—the local government having the control of the road.

reconciliation payment see section 172(2)(b) and (c)(i).

register means the register the chief executive keeps under section 197.

relevant matter, for chapter 4, see section 103.

relevant owner or occupier, for chapter 3, part 4, see section 69.

relevant Resource Act, for a resource authority, means the particular Resource Act under which the resource authority is granted.

replace, for chapter 4, part 6, division 3, see section 161.

replacement gas see section 172(2)(b) and (c)(ii).

Resource Act see section 9.

resource authority—

- (a) generally—see section 10; or
- (b) for chapter 4—see section 103.

restricted land, for chapter 3, part 4, see section 68.

RMA, for chapter 4, see section 111.

RMA notice, for chapter 4, see section 125.

road compensation agreement see section 94(1).

road use direction see section 64(1).

rolling mining area, for chapter 4, see section 111.

second resource authority, for chapter 3, part 5, see section 73(1)(b).

simultaneous operations zone, for chapter 4, see section 112.

site senior executive, for chapter 4, see section 103.

sole occupancy, for chapter 4, see section 113.

SOZ, for chapter 4, see section 112.

surface mine, for chapter 4, see section 103.

underground mine, for chapter 4, see section 103.

undiluted incidental coal seam gas, for chapter 4, see section 136.

valid application means an application that either—

- (a) complies with section 188; or
- (b) is allowed to proceed under section 190.