

**Summary of the Mineral and Energy Resources  
(Common Provisions) Bill 2014**

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# Overview

## Policy Objectives

The Mineral and Energy Resources (Common Provisions) Bill 2014 (the Bill) contributes to the Queensland Government's goal of developing a four pillar economy. It delivers on a number of government commitments and initiatives that are vital to assist economic development in Queensland by supporting the resources industry. The proposed amendments reduce complexity, volume and duplication contained within the existing resources legislation.

Primarily, this Bill delivers the first stage of the Modernising Queensland's Resources Acts Program (MQRA Program) to create a common resources Act by migrating the first suite of provisions from the existing tenure related Resource Acts—the *Mineral Resources Act 1989*; *Petroleum and Gas (Production and Safety) Act 2004*; *Petroleum Act 1923*; *Geothermal Energy Act 2010*; and the *Greenhouse Gas Storage Act 2009*— into a common Act—i.e. the 'Mineral and Energy Resources (Common Provisions) Act' (the Common Provisions Act). In addition to the new overlapping tenure framework for coal and coal seam gas (CSG), the Common Provisions Act incorporates the following provisions migrated from the Resource Acts:

- dealings, caveats and associated agreements;
- private and public land access; and
- other minor provisions (e.g. registers and practice manuals).

Through the new land access chapter in the Common Provisions Act, the private and public land access frameworks have been migrated and new policies have been implemented. A consistent restricted land framework will apply across all resource types and will allow landholders and resource companies to easily understand their rights and obligations in gaining access to private land near residences, and will, for the first time, provide protection for neighbouring landholders. Also, three actions from the government's Six Point Action Plan for the land access framework relating to private land are implemented, which aim to strike a better balance between the interests of landholders and the resources sector.

The Bill also introduces a new framework to manage overlapping coal and CSG tenures in Queensland which implements the government's commitment in the Six Month Action Plan January-June 2014.

In addition to establishing the Common Provisions Act, the Bill also includes a suite of legislative amendments to other legislation to meet the government's commitment to reduce red tape for industry. Red tape reduction is an important step in the process of creating a more competitive and commercially viable resources sector to support a strong economy in Queensland. Specifically, the Bill delivers the following red tape reduction objectives:

- repeal the *Coal and Oil Shale Mine Workers' Superannuation Act 1989* to give coal and oil shale mine workers freedom of choice with regards to their superannuation investment;
- amendments to the mining lease and mining claim application process are proposed to create a more streamlined and efficient system. Changes take into account the risk, size and impact of the mining operation in determining the notification and objection process. In particular, these amendments support the small scale alluvial mining sector;
- remove redundant administrative requirements imposed on a holder of an authority to prospect, petroleum lease and mining tenement;

- reduce usage restrictions on CSG developed as a by-product of coal mining;
- omit superfluous environmental provisions in the *Mount Isa Mines Limited Agreement Act 1985*;
- allow tenure holders and agents to access land to remediate legacy boreholes, and to provide indemnity from civil liability. This ensures the safety of the community is not hampered by unnecessary red tape; and
- amend the definition of 'authorised officer' in the *Mineral Resources Act 1989* to correct an unintended consequence of previous changes.

## Consultation

Consultation with key stakeholders contributed to the development of the Bill. Industry was initially consulted on the government's proposal to harmonise the existing Resource Acts into a common resources Act.

Further consultation with key stakeholders was also undertaken on the majority of amendments in the Bill primarily through the release of consultation papers on policy matters and exposure drafts of provisions. Overall, industry and community responses have largely been positive.

The department also liaised with all government agencies with an interest in the Bill. All government agencies support the Bill.

A number of amendments contained in the Bill are of a minor and technical in nature and are premised on reducing red tape and streamlining processes to benefit stakeholders. For this reason, consultation was not undertaken. However, the majority of amendments were identified during ongoing government – industry consultation.

The department is satisfied that the amendments in the Bill are reflective of extensive discussions undertaken with non-government and government stakeholders.

## ***Modernising Queensland's Resources Acts Program***

The MQRA Program will streamline Queensland's tenure related legislation for the mineral and coal, petroleum and gas, greenhouse gas storage and geothermal energy sectors.

The aim of the MQRA Program is to take the five separate Resource Acts—the *Mineral Resources Act 1989*; *Petroleum and Gas (Production and Safety) Act 2004*; *Petroleum Act 1923*; *Geothermal Energy Act 2010*; and the *Greenhouse Gas Storage Act 2009*—and consolidate them into a single common resources Act. Because of the complexity of this process, the MQRA Program is being implemented in stages, using multiple Bills to complete the process.

This Bill implements the first stage in the consolidation process by creating the Common Provisions Act. Initially, provisions will be migrated from the five Resource Acts to a common provisions Act. At each stage of the migration, provisions will be incrementally repealed from the existing Resource Acts as they are moved to the new common provisions Act. This Act will ultimately be replaced by a common resources Act at the end of the Program. Until the final stage of the MQRA Program, the Common Provisions Act will operate alongside the existing Resource Acts and will be used as a 'transitional' Act until all of the provisions of the Resource Acts can be migrated. A transitional Common Provisions Act is being used to simplify what would otherwise be a complicated migration process.

In migrating these provisions, the aim is to achieve as much legislative consistency as possible, and to redraft provisions in a less prescriptive manner, with more use being made of regulations.

### **What is the purpose of this amendment?**

The Bill creates the *Mineral and Energy Resources (Common Provisions) Act 2014* which implements the first stage of the MQRA Program towards the creation of a common resources Act. The first suite of provisions from the existing Resource Acts is migrated to the Common Provisions Act.

The provisions being migrated in this Bill are concerned with:

- dealings, caveats and associated agreements;
- public and private land access; and
- other minor provisions, including the resource authority register and practice manuals.

### **Why is this amendment necessary?**

Queensland's current resources legislation is lengthy, complex and overly prescriptive, with common administrative processes duplicated across five separate Resource Acts, making the legislation inefficient and costly for government and industry to administer which is constraining economic growth.

### **What are the benefits from this amendment?**

The benefits of the MQRA Program are through commonality of process where there is no reason to maintain a difference for a particular resource type. Common processes provides for:

- the delivery of more cost effective services to industry through online tenure administration;

- staff cross-trained in multiple resource types, so that resources can be focused on areas of high demand to keep assessment times and costs down for industry;
- policy and legislative development resources to tackle emerging issues more quickly by having less legislative complexity to consider;
- a centralised reference point for the regulatory framework that will increase investment attractiveness of the State through regulatory simplification and allowing the community to have a better understanding of the legal environment.

Through this, the MQRA Program seeks to support economic development in the State by increasing long term investment attractiveness. Modelling by the Queensland Competition Authority suggests that every significant coal mine that Queensland attracts is worth \$2 billion towards Australia's GDP over 25 years.

This Bill has commenced the process to start realising these types of benefits. The concept can be demonstrated by a previous Bill that harmonised the dealings provisions across the existing Resource Acts. In combination with a new online lodgement system, reduced assessment times for transfer applications were reduced from an average of 4-5 months to 2 weeks.

The MQRA Program has also provided the opportunity to reduce costs and cut red tape. Through the migration of the private and public land access framework, resource authority holders will save time and costs by no longer needing to provide the department with landholder notices of which about 7,000 are submitted each year. Through the migration of dealings provisions, greater flexibility will be provided where a person with the holder's consent will be able to register dealings, and the accuracy of the resources register will be enhanced by providing a process to remove expired associated agreements.

The community will also benefit from this Program. Being able to consider the framework that applies to resource activities in close proximity to buildings under one Act has enabled a new consistent restricted land framework to be developed that provides a balanced approach to the benefit of both industry and landowners. Landowners with both mineral and coal activity and petroleum and gas activity on their property will now only need to understand one regulatory framework instead of two.

## ***Land Access – Private Land***

The amendments to the private land access framework contribute to the delivery of the government's commitment to strengthen the relationship between two of Queensland's most economically important sectors – resources and agriculture.

Queensland's private land access regulatory framework currently provides for entry notices, the requirement for a conduct and compensation agreement to be negotiated prior to the commencement of advanced activities, a graduated negotiation process, and a Land Access Code stipulating best practice communication guidelines and mandatory conditions.

The aim of the proposed amendments to the framework is to bring equity and certainty to land access and compensation agreements for both landholders and resource companies. These amendments implement three actions from the government's Six Point Action Plan as recommended by the Land Access Implementation Committee Report.

## **Expansion of the Land Court's jurisdiction**

### **What is the purpose of this amendment?**

The purpose of this amendment is to expand the jurisdiction of the Land Court to enable the Court to hear matters relating to conduct issues regarding the negotiation of a conduct and compensation agreement, for example, whether access to private land should be granted, and if so, the terms and conditions of entry. The amendments will also allow the Land Court to assess the behaviour of parties during the negotiation of a conduct and compensation agreement.

### **Why is this amendment necessary?**

Currently, where a conduct and compensation agreement negotiation is referred to the Land Court, the Court can only decide on compensation matters. Landholders have expressed that they are generally more concerned about the conduct of resource companies on their property as it relates to their business, rather than just the issue of compensation.

### **To what end is the Land Court being given the power to examine the behaviour of parties during the negotiation of a conduct and compensation agreement?**

Concerns have been raised that in a small number of cases, some parties have been frustrating the negotiation process for a conduct and compensation agreement to force the matter to the Land Court in an attempt to achieve a more favourable result. To dissuade such behaviour, the Land Court is being given the ability to examine the behaviour of the parties during negotiations, and make appropriate orders as necessary.

### **What are the benefits from this amendment?**

Expanding the jurisdiction of the Land Court to hear matters relating to conduct will enable the Court to determine the conduct terms and conditions on the resource authority holder operating on the land, which should be included in a conduct and compensation agreement when the landholder and resource authority holder cannot negotiate an agreement. For example, the Land Court may require a resource authority holder to modify its construction and drilling practices during calving to ensure no adverse impact to the landholder's business. This will provide enhanced flexibility to landholders and resource companies in their land access dealings. Additionally, enabling the Land Court to assess the behaviour of parties during the negotiation of a conduct and compensation agreement will encourage parties to negotiate in good faith.

## **Conduct and compensation agreements to be noted on title**

### **What is the purpose of this amendment?**

The purpose of this amendment is to require that the existence of an executed conduct and compensation agreement be noted on the relevant property title. This would require a resource authority holder to give written notice of the agreement to the Registrar of Titles and for the existence of the agreement to be noted on the relevant land title.

## **Why is this amendment necessary?**

Stakeholders raised concerns over the lack of discoverability of a conduct and compensation agreement through standard due diligence investigations and the potential for a property to change hands without a purchaser's knowledge that an agreement exists. Despite the binding nature of the agreements upon successors and assigns, there is no obligation on a seller to disclose that a conduct and compensation agreement is in place for a property. This makes it problematic for a prospective purchaser of a property to be aware that an agreement exists and understand the terms and conditions of the agreement that may apply to them as a future owner.

Certainty will be delivered by requiring both future and existing conduct and compensation agreements to be noted on title. This will eliminate the possibility of purchasers obtaining property unaware of a binding agreement and the corresponding conditions and obligations.

## **What information will be noted on the property title?**

The Department of Natural Resources and Mines is currently working out the particulars with the Titles Registry, but it is anticipated that the existence of a conduct and compensation agreement, and a reference enabling cross referencing with the agreement will be noted on title. The agreement itself will not be noted on title or obtainable through the Titles Registry due to the commercial and confidential nature of these agreements. Opt-out agreements are also to be noted on title as per the Land Access Implementation Committee Report, but these agreements will not be binding on purchasers.

## **What are the costs and benefits of this amendment?**

The requirement on a resource authority holder to note a conduct and compensation agreement on the relevant property title will place a small additional administrative cost on business reflecting the cost of noting the agreement. It is anticipated this will occur via an administrative advice (currently \$14.30 per agreement at the time of writing).

Whilst this lodgement fee will add to the cost of entering a conduct and compensation agreement, it is not considered significant when compared to the size of the industry, the current costs associated with entering a conduct and compensation agreement and the added benefit of transparency and information disclosure in future land sales. Industry did not express any concerns during consultation.

This amendment will ensure that if there is a search of the land titles register for a particular parcel of land, the existence of a conduct and compensation agreement will be known to the search applicant, enabling further enquires to be made with the seller as to the terms and conditions that may apply to them as a future owner. This will give greater certainty to all stakeholders and help strike a balance between the interests of landholders and the resources sector.

## **Opting out of a conduct and compensation agreement**

### **What is the purpose of this amendment?**

The purpose of this amendment is to allow two willing parties to 'opt out' of the requirement to negotiate a formal conduct and compensation agreement. This can only occur at the election of the landholder, and requires the landholder and resource authority holder to enter into a private, written agreement (an 'opt-out agreement') that must be noted on the relevant property title.



### **Why is this amendment necessary?**

Under existing land access provisions, there are several exemptions to the requirement for resource authority holders to enter into a conduct and compensation agreement with a landholder. These include where a resource authority holder owns the land, where a deferral agreement has been entered into or where entry is necessary to preserve life. This amendment proposes an additional exemption to allow a landholder to elect to 'opt out' of this requirement where the landholder already has an existing long term and functional relationship with the resource authority holder to build on.

### **Who benefits from this amendment?**

The amendment to allow two willing parties to 'opt out' of the requirement to negotiate a conduct and compensation agreement can only occur at the election of the landholder, ensuring that landholders retain control over the decision to enter or opt out of a conduct and compensation agreement. This amendment will streamline the negotiation process and provide flexibility for landholders and resource authority holders that already have a long term and functional relationship to build on, providing both financial and time savings that would otherwise be directed towards a nonessential conduct and compensation agreement.

The Land Access Code and compensation liability will continue to apply to ensure the opt out option is not used as a regulatory short cut to by-pass the objectives of the land access framework. Resource authority holders will also be required to provide landholders with prescribed information designed to ensure that landholders are completely aware of the implications of entering an opt-out agreement, and a 10 business day cooling off period in which either party may unilaterally terminate the agreement will apply.

## ***Land Access – Public Land***

Land access provisions in relation to public land that are being migrated by the MQRA Program include entry to public land, crossing land to access tenure, and notifiable road use. Currently, notifiable road use requirements are consistent across the Resource Acts. Arrangements to cross land to access an authority following the grant of the resource authority are also largely consistent, but have not been applied to a small number of authorities, in particular exploration permits under the *Mineral Resources Act 1989* and petroleum tenure under the *Petroleum Act 1923*.

However, the Resource Acts provide different frameworks and requirements for resource authority holders to undertake activities on public land. For all Resource Acts except the *Mineral Resources Act 1989*, entry to public land by a resource authority holder can occur after notifying the public land authority (the entity that administers the public land) and the public land authority has imposed any necessary conditions on the entry.

Under the *Mineral Resource Act 1989*, the owner of some public land, known as reserve land, must consent to either the granting of a resource authority or subsequent entry to the public land, depending on the authority type. In addition, exploration permit and mineral development licence holders must notify each owner and occupier of public land prior to entry however the public land authority cannot place any conditions on the entry.

## **What is the purpose of this amendment?**

The purpose of this amendment is to:

- create a harmonised legislative framework for post-grant entry to public land for resource authority holders by harmonising a range of other provisions such as notification requirements for resource authority holders entering public land, aligning post grant access and conditions, utilising a consistent definition of 'owner' and 'public land authority', and streamlining the remaining differing elements of the framework; and
- establish a common set of provisions relating to notifiable road use across all resource authority types. A notifiable road use is the use of a road to haul loads above a stated threshold if the haulage relates to the transport of resources mined or processed in a resource authority area. The holder of a resource authority must give notice to the road authority before using the road for a notifiable use.

## **Why is this amendment necessary?**

Mineral and coal, petroleum, geothermal and greenhouse gas storage legislation each provide different frameworks and requirements for resource authority holders to enter and undertake activities on public land. This creates a confusing and complex framework to deal with, reducing flexibility and adding to regulatory burden. The amendments will provide a single framework for post-grant entry to public land, regardless of the authority type. This will provide clear and consistent responsibilities for all parties and provides greater certainty to holders of exploration permits and mineral development licences on access to public land within the area of their resource authority.

Applicants seeking a mining claim or mining lease will continue to require the consent of reserve land owners prior to the grant of the authority. This is commensurate with the level of impacts to public land that may occur under these authorities.

## **What are the benefits from this amendment?**

Creating a consistent and harmonised legislative framework will make it much easier for resource authority holders to understand and meet their requirements for entry to public land. Harmonising these provisions as part of the MQRA program will reduce regulatory burden, and simplify and streamline these legislative requirements across resource industries.

## ***Land Access – Restricted Land***

The Bill provides a consistent process for managing resource activities near residences across all resource types, and provides a consistent level of protection to landholders on-tenure and off-tenure.

Currently, different land access rules apply for resource activities near residences and certain other infrastructure, depending on the resources being accessed. Depending on the resource, the 600 metre rule or restricted land framework, or both, apply. This has resulted in a complex and confusing system for landholders and the resources sector alike to navigate.

Firstly, the 600 metre rule requires a resource company to enter into and negotiate a conduct and compensation agreement with the landholder before doing any preliminary activities (no/low impact

activities) within 600 metres of a residence on that property. It does not require that landholder's consent to resource activities occurring near their homes.

Secondly, the restricted land framework (which currently only exists under the *Mineral Resources Act 1989* and the *Geothermal Energy Act 2010*) prescribes a distance around homes and other specified infrastructure in which resource companies cannot undertake resource activities without landholder consent.

### **What is the purpose of this amendment?**

The purpose of this amendment is to provide a single, clear and consistent set of rights and obligations for landholders and resource companies for managing resource activities near residences and other infrastructure on private land.

This will be achieved by replacing the current 600 metre rule with a common set of restricted land provisions that applies to all resource sectors. This will provide landholder protections off tenure and on tenure for all resource sectors as landholder consent will be required for resource activities near homes and other infrastructure.

### **Why is this amendment necessary?**

Differences in protection requirements create a lack of certainty for landholders and the community, with concerns often raised about the 600 metre rule not being able to prevent a resource company from drilling on a landholder's doorstep.

Furthermore, stakeholders have raised particular concerns about the 600 metre rule not applying to residences on neighbouring properties, including off-tenure. Stakeholders also expressed concerns about a resource authority holder having to negotiate a conduct and compensation agreement to undertake minor activities such as walking or driving on existing tracks within 600 metres of a residence.

### **What is the proposed restricted land distance?**

While the Bill includes the framework within which restricted land will operate, it is intended that a regulation will prescribe the distances from residences and other infrastructure where restricted land will apply. However, the following is provided to facilitate consideration of the restricted land framework.

Most resource activities undertaken within 200 metres of a residence are likely to have an impact on the residence and are therefore unlikely to meet the environmental outcomes specified in the environmental authority. For this reason, a 200 metre restricted land area is proposed to provide a meaningful buffer to residences and other critical infrastructure for exploration and production authorities and petroleum facilities licences. Other resource authority types generally result in a lower level of impact. For these authorities, a 50 metre restricted land area will apply.

Practically, this new framework should have little impact on the resources sector, however, it provides landholders a clear 'line in the sand' when dealing with resource companies.

Some landholders sought an increase in the restricted land distance to 600 metres, instead of 200 metres. The proposed application of restricted land (with a distance of 200 metres) and conduct and compensation agreements is considered an appropriate balance between providing landholders certainty for activities near their homes and critical infrastructure and providing

certainty to industry for their activities under granted resource authorities. This is because the increased consent rights provided to landholders under restricted land are greater than the conduct and compensation agreement negotiation requirements provided under the 600 metre rule.

### **To what infrastructure will the restricted land framework apply to?**

Restricted land will continue to apply to homes, schools, and other infrastructure that cannot readily co-exist with resource activities. This will also now apply to feedlots and other intensive animal activities that are approved under the *Environmental Protection Act 1994*. Resource companies will continue to require landholder consent for activities near these infrastructure types.

Conduct and compensation agreements and other compensation arrangements will continue to manage potential impacts to other infrastructure where a range of solutions may facilitate co-existence with resource activities or relocation. This includes bores, dams, stockyards, and storage sheds, which restricted land currently applies to for the mineral and coal sector.

Importantly, the landholder has the right to negotiate with companies to keep resource activities away from such infrastructure, compensate for necessary modifications, or relocate the infrastructure at the company's expense.

Several exemptions will apply where requiring consent could lead to unintended or impractical outcomes. The exemptions will only apply to specific scenarios and landholders will retain their consent rights for the vast majority of resource activities. These exemptions are for:

- roads and other locations where the public can ordinarily access without approvals to encourage activities to preferentially occur in these locations rather than on private properties.
- some subsurface activities that will not cause surface impacts – for example, gas can still be extracted under the restricted land, but longwall mining is likely to require consent as it could cause surface impacts.
- the construction and location of underground pipelines and other linear infrastructure as they need to follow existing infrastructure corridors and may encroach within 200 metres at times. The Bill will ensure that this exemption only applies where the construction phase is completed within 30 days.

### **Are there any landholder concerns with the proposed amendments to the 600 metre rule?**

Some landholders have raised concerns that they are losing 'protection metres' compared to the current 600 metre rule. In practice however, under the 600 metre rule a landholder cannot prevent an activity from occurring within 600 metres of their home – they can only negotiate conduct and compensation arrangements. In contrast, the new restricted land framework will, for the first time, provide landholders with a clear 'line in the sand' with the right to choose whether activities can occur within 200 metres of their home regardless of the resource type.

Some landholders are concerned that they will have less opportunity to discuss the conduct of preliminary activities with resource companies. Importantly, preliminary activities include only those activities that will cause no or low impacts, such as driving on existing tracks or walking across the property. The requirement for a conduct and compensation agreement for preliminary activities does not apply beyond 600 metres from a home, so it provides only a limited capacity to manage issues such as potential weed spread. Any landholders with concerns about preliminary activities

on their property are encouraged to contact the company to discuss and seek a mutually agreeable outcome.

### **What has industry's response been to the proposed amendments to the restricted land framework?**

The resources industry is generally supportive of the proposed changes. Some industry members have sought clarity on the resource activities that restricted land will apply to and on the definitions of residences and buildings for business purposes. The exemptions for particular resource activities such as pipelines have been refined based on this feedback, and the Bill provides additional clarity in defining infrastructure to which restricted land applies to assist both the resources industry and landholders in implementation.

The Bill also includes a process to determine, on a case-by-case basis, the infrastructure that restricted land will apply to where both parties cannot reach a resolution on this matter.

### **Who benefits from this amendment?**

The amendments will provide a more consistent approach to managing resource activities near residences and other infrastructure. This will give landholders greater security around their homes with landholder consent now required for any activity within 200 metres of these buildings. Neighbours will also be protected as these requirements apply to homes on and off tenure.

The new approach provides a 'consent' area around a landholder's home, while also keeping the requirement for resource companies and landholders to enter into a conduct and compensation agreement prior to undertaking advanced activities, ensuring the landholder is fully compensated for any impacts to their infrastructure or their ability to use their land.

Resource companies will also benefit from this amendment in that a set of new, clear and consistent requirements will help ensure that all stakeholders understand their rights and obligations for activities on private land. As well as this, resource companies would be able to undertake preliminary activities within 600 metres of a residence without the need to negotiate a conduct and compensation agreement.

## ***Overlapping Tenure – Coal and CSG***

This Bill establishes a new overlapping tenure framework to manage situations where a coal tenure overlaps a CSG tenure.

The new framework is based on the following principles:

- direct path to grant for both coal and petroleum (CSG) production tenure;
- the coal tenure holder to have a 'right of way' to develop coal deposits;
- an ongoing obligation for overlapping coal and petroleum (CSG) tenure holders to exchange relevant information; and
- proponents will be free to negotiate other arrangements as an alternative to a legislative default.

## **What is the purpose of this amendment?**

This amendment will replace the current overlapping coal and CSG tenure framework with a new framework to encourage co-existence between Queensland's coal and CSG industries.

Specifically, the new framework will overcome the difficulties of the current framework by removing the 'first mover' advantage for production tenure holders, reducing the adversarial approach to conflict resolution, and providing binding timeframes (with access to dispute resolution mechanisms) to ensure that approvals can progress to grant without delays.

In short, the new overlapping tenure framework will create a flexible framework that will encourage tenure holders to cooperate and negotiate outcomes that benefit both parties and which can be tailored to individual circumstances and commercial positions. This will drive better cooperation between coal and petroleum (CSG) tenure holders, and maximise the benefits for both parties and the State.

Under the proposed amendments, a direct path to grant of both coal and petroleum (CSG) production tenures will be established, regardless of any overlapping tenure situation. This will be achieved by separating the process for managing and granting overlapping tenure applications from the coal and CSG production tenure decision process. However, despite the direct path to grant for these tenures, no authorised activities will be able to be undertaken in the overlapping area until the parties have agreed to a joint development plans and satisfied any safety and health requirements.

This proposal does not change any existing requirements that resource companies must satisfy in order to gain tenure in Queensland. Companies will still be required, for example, to negotiate Native Title arrangements, obtain an environmental authority prior to grant of the tenure, and negotiate land access and compensation arrangements with landholders.

The framework will operate by granting a 'right of way' for a mining lease holder to develop coal deposits within a defined area of sole occupancy. This 'right of way' will be subject to:

- notice periods and confirmation requirements to moderate the impact of the right of way on underlying CSG projects;
- compensation for lost CSG production where the mining lease holder chooses to cut short a Notice Period;
- compensation for impacts on certain gas infrastructure; and
- a first right of refusal for CSG tenure holders regarding any incidental CSG produced in the mining lease area.

The regular exchange of information from the commencement of any overlapping tenure relationship will help each tenure holder understand the planning and operations of the other resource development, helping the two industries to better work together where tenures overlap.

Where the parties are unable to agree on certain matters, including for example the quantum of compensation, an independent arbitration process will apply to deliver a fast, fair and final decision for the parties.

This amendment will also allow coal and petroleum (CSG) tenure holders to negotiate alternative arrangements (bespoke agreements) that depart from some of the legislative defaults. Industry and government do not want the new framework for overlapping tenure to be unduly restrictive and

prevent the negotiation of mutually beneficial agreements between tenure holders where opportunities for further cooperation may exist.

### **Why is the new overlapping tenure framework not being applied to other tenure types?**

The main issue with overlapping tenure in Queensland relates to the coal and coal seam gas industries which are often targeting the same coal seams on the same land to extract resources. This is not currently a major issue for other resources in Queensland.

The amendments are based on the approach outlined in '*A New Approach to Overlapping Tenure in Queensland*', which relates to overlap between coal and CSG tenures.

Further consideration will be given as to how the overlapping framework will apply to other tenure types, in consultation with affected industries.

### **Why is this amendment necessary?**

The current legislative framework for managing overlapping tenure was introduced in 2004. Since then there have been substantial technical and economic developments in the nature and scope of coal and CSG industries which are creating issues that are not adequately catered for in the current framework.

The current legislative framework for overlapping coal and CSG tenures is complex, has uncertain requirements for grant and open-ended timeframes which are not conducive to the development of resource projects in Queensland. Companies seeking to operate under the current legislation are facing significant delays, lengthy negotiations and prescriptive consultation requirements.

These issues are presenting barriers to future development, prompting a call for reform of the current framework from both industries to better reflect contemporary industry production issues.

The new overlapping tenure framework reflects the key concerns raised by industry in their paper '*A New Approach to Overlapping Tenure in Queensland*', so that there are no longer:

- undue delays, lock out, veto rights, and competition for access for resources inherent in the existing framework;
- a need to resolve disputes through the Land Court, instead allowing disputes to be more quickly resolved through expert arbitration; and
- a requirement for government to pick a winner associated with the Ministerial Preference Decisions.

### **What are the benefits from this amendment?**

The new legislative framework allows better delivery of economic outcomes for the State and to the benefit of industry, by facilitating greater cooperation of the parties and a path to quick resolution of disputes. This will optimise the development and use of the State's resources to maximise the benefit for all Queenslanders.

The new framework streamlines the process for granting overlapping resource authorities for coal and CSG by ensuring that production tenure can be granted whether or not the parties have agreed on how to use the overlap area (noting that work may not commence in an overlapping area until a joint development plan has been agreed and any relevant safety and health requirements have been met). Instead, it establishes a framework for how parties are to use the

overlapping area, with a great deal of flexibility to parties to contract otherwise to increase mutual benefits to both industries and the State. For production tenures (i.e. coal or CSG leases) already granted, the parties will remain in the existing framework. This allows for stability where the leaseholder has made commercial decisions based on the existing scheme. However, parties may opt into the new framework by agreement.

## ***Amendments to Petroleum and Mineral Legislation***

The Bill makes a number of amendments to the *Mineral Resources Act 1989*, *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923* to reduce the statutory requirements that must be complied with by the applicant or holder of certain mining tenements, or the holder of an authority to prospect or petroleum lease.

These requirements are largely administrative and impose unnecessary regulatory burden on the efficient operation of the subject mining tenements, petroleum tenure and authorities.

These include amendments to:

- omit the requirement to lodge a notice about a petroleum discovery and its commercial viability;
- extend the time allowable before Ministerial approval is required for continuing production or storage testing on a petroleum well;
- allow for an extension of the term of a survey licence or a data acquisition authority;
- remove a duplicate requirement of an application for various petroleum authorities (and for an exploration permit for coal under the *Mineral Resources Act 1989*) to contain a statement about consultation with each owner or occupier of public or private land being entered under the authority or permit; and
- as a consequence of removing the duplicate requirement for certain applications to contain a statement about consultation with owners or occupiers of land proposed to be covered by the application, remove the obligation to consult with particular owners or occupiers of land that may be affected by authorised activities for certain mining tenements and petroleum authorities once granted.

A range of other amendments are made to the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923* to clarify definitions and operational provisions, and correct other minor anomalies that have been raised by industry. These include:

- definitions relating to an authority to construct and operate petroleum pipelines including what is an 'end point';
- that the lodgement of a later work plan and a later development plan are to be considered as the lodgement of an 'application for a later work plan' or an 'application for a later development plan' and are subject to any provisions that apply to all applications;
- that the holder of a petroleum tenure under *the Petroleum and Gas (Production and Safety) Act 2004* may use associated water on or off tenure;
- that a person may construct or operate a pipeline under the authority of a pipeline licence or a petroleum facility licence granted under the *Petroleum and Gas (Production and Safety) Act 2004*;
- to provide a stated timeframe for the commencement of an appeal for a decision made under the *Petroleum and Gas (Production and Safety) Act 2004*;



- to stop the ‘endless loop’ of ‘lodgement-refusal-lodgement’ that can occur for applications for a later work program or later development plan by providing that where a program or plan is refused, no further application of the same type may be submitted within a stated timeframe;
- to omit the provision on a survey licence for a proposed pipeline that access to land for authorised activities ‘involves minimal impact on or disturbance of the land’ and allows instead for case-by-case assessment of each survey licence application; and
- to provide that an authorised activity on an authority to prospect include the provision to allow the capture and processing of gaseous petroleum (usually CSG) released as part of production testing.

Further amendments are proposed to address safety issues arising from government-petroleum industry discussions in relation to amendments made to the *Petroleum and Gas (Production and Safety) Act 2004* by the *Land, Water and Other Legislation Act 2013*. These include the following:

- the drilling of a water observation bore by a petroleum tenure holder is either an ‘authorised activity’ for a petroleum tenure or is ‘operating plant’;
- the construction of a water injection bore by a petroleum tenure holder is either an ‘authorised activity’ for a petroleum tenure or is ‘operating plant’; and
- for a water injection bore – its construction and abandonment must be in compliance with the requirements prescribed under a Regulation.

### **What is the purpose of these amendments?**

The purpose of these amendments is to clarify and amend certain provisions from an operational perspective and to address a number of other legislative anomalies that have arisen during the implementation of these Acts.

### **Why are these amendments necessary?**

Holders of petroleum tenure or authorities administered under the *Petroleum and Gas (Production and Safety) Act 2004* and the *Petroleum Act 1923* will often meet with departmental officers to discuss administrative and legislative matters that affect the holders’ petroleum tenure or authorities. Where possible, the department tries to resolve these matters within the confines of the current legislative framework. However, sometimes this is not possible and the only way to resolve the issue to ensure provisions are operationally practical and consistent with the original policy intent is to amend the Acts themselves.

For example, the extension of the term of a survey licence, from 1 year to 2 years, was asked for by industry. The extension will allow the holders of the licence more time to properly liaise with parties (particularly landowners) that may be affected by any future infrastructure for which the survey is being carried out.

### **What are the benefits from this amendment?**

These amendments will improve the administrative, operational and regulatory efficiency of petroleum legislation. In particular, these amendments will reduce the regulatory burden faced by holders of an authority to prospect or a petroleum lease, and assist petroleum authority holders meet project deadlines.

## ***Uncontrolled gas emissions from legacy boreholes***

The Bill amends the resources legislation to enable two approaches for remediating legacy boreholes. This will add to existing safety legislation that requires action by parties responsible for mining and petroleum operations to reduce any unacceptable safety risks if operations are impacted by uncontrolled gas emissions from legacy boreholes.

Under the first approach, amendments are made to the *Petroleum and Gas (Production and Safety) Act 2004* to support government and industry action set out by the 'Protocol for managing uncontrolled gas emissions from legacy boreholes' (Protocol) in the event of a legacy borehole incident (fire or gas emissions that present a safety risk). The amendments provide for the chief executive to authorise a person to remediate a legacy borehole. An authorised person will be supported by provision of indemnity against liability where they are not negligent in undertaking the remediation activity. Associated provisions facilitate urgent land access and provide notification requirements. Notification requirements are based on existing provisions in the *Mineral Resources Act 1989* for rehabilitation of abandoned mines.

For the second approach, the Bill also amends each of the Resource Acts to enable tenure holders to remediate a legacy borehole located on their tenure, regardless of its type. Like some other authorised activities, there is no obligation on tenure holders to remediate legacy boreholes.

The Bill provides that in remediating a legacy borehole, an authorised person or tenure holder will be required to apply standards prescribed by regulation. It is intended that the regulations of the Resource Acts be amended to apply, as far as practicable, the standards for plugging and abandoning a well or borehole in Schedule 3 of the *Petroleum and Gas (Production and Safety) Regulation 2004*.

### **Why is this amendment necessary?**

An incident occurred in August 2012 in which gas released from a legacy borehole was ignited by a nearby bush fire. Despite industry and government working together to successfully extinguish the fire and plug the leaking borehole, the incident prompted industry to raise concerns over land access and indemnity against civil liability when dealing with incidents such as this at legacy boreholes.

Current legislation does not adequately address the issue of remediating legacy boreholes where ownership, holder of land, type of tenure or type of bore affect land access and indemnity rights. While these incidents are currently infrequent, the increase in CSG production (where de-watering processes may encourage the rise of gas to the surface), could see uncontrolled gas emissions from legacy boreholes become more common.

### **How can industry resolve uncontrolled gas emissions from legacy boreholes under these amendments?**

Industry's role in resolving uncontrolled gas emissions from legacy boreholes will include three approaches.

Firstly, if the borehole affects the safety of ongoing resources operations, existing safety obligations under mine safety legislation (*Coal Mining Safety and Health Act 1999*, *Mining and Quarrying Safety and Health Act 1999* and *Petroleum and Gas (Production and Safety) Act 2004*)

would apply. Provisions in these Acts require operators to take any action necessary to reduce an unacceptable safety risk.

Secondly, where a legacy borehole presents a safety concern, industry can be authorised by the State to fix the borehole incident. A safety concern is a threat to life or property, a borehole on fire, or gas emissions presenting a fire risk. The State authorisation can be made regardless of where the borehole is located and normal restrictions on industry for carrying out resources activities do not apply based on the need to provide an emergency response.

Thirdly, industry as holders of tenure under any of the Resource Acts will be able to remediate legacy boreholes located on their tenement as an authorised activity. Remediation undertaken using this approach will be the same as many other existing authorised activities for holders of tenure. This means a consistent process for dealing with affected landholders and other state regulators.

### **Will industry be required to remediate legacy boreholes?**

The amendments do not require or oblige industry to take any action for remediation of legacy boreholes. The new provisions are enabling provisions which will allow industry to remediate legacy boreholes either as an authorised activity because they are the holders of tenure under resources legislation or as an authorised person because the State has authorised remediation in response to a safety concern.

While the amendments do not impose any obligations on industry, if a borehole affects the safety of ongoing resources operations, existing safety obligations apply and affected companies are required to take any action necessary to reduce an unacceptable safety risk.

### **Who will pay to fix legacy boreholes?**

Amendments relating to the costs associated with remediating legacy boreholes are not provided for in legislation but instead will be negotiated on a case by case basis. This approach is consistent with that in place for the rehabilitation of abandoned mine sites.

For the borehole incident at Kogan in 2012, industry co-operated with the government to remediate the borehole. While no cost claims were made by the companies involved and no payments were made by the State, industry has been vocal, as part of the consultation process, that there needs to be provision for cost reimbursement if they are to have an ongoing role.

The Australian Petroleum Production and Exploration Association has indicated some willingness by the gas industry sector to contribute to a fund specifically for remediation of legacy boreholes particularly if the funding is matched by the coal industry sector. The Department of Natural Resources and Mines is continuing discussions with industry about funding options.

The amendments do not rely on a particular funding arrangement being in place. Their focus is to ensure that if there are incidents where boreholes present safety concerns, then immediate action can be taken to address the concern. Reimbursement of costs can be assessed depending on the circumstances of the incident.

### **Why would industry voluntarily fix legacy boreholes?**

Legacy boreholes that have uncontrolled gas emissions, are on fire or threaten life or property are considered a resources industry issue.

The gas sector's willingness to contribute to funding remediation of legacy boreholes indicates some level of expectation to deal with legacy boreholes. This could reflect expected action needed to obtain their 'social licence' from the surrounding community. There may also be some commercial benefit to CSG producers to plug old boreholes in order to prevent unnecessary gas loss as they extract gas from a CSG field.

Some coal miners have expressed a view that they would take action to remediate bores on their tenure if there is a safety concern as a matter of good practice. Other resource producers may not have a high interest in remediating legacy boreholes without some form of cost reimbursement.

### **What changes have been made since consultation?**

There have been three main areas of revision resulting from consultation with industry, landholder groups and government agencies.

Initially the draft amendments proposed that schedule 3 of the *Petroleum and Gas (Production and Safety) Regulation 2004* would apply as the standard for plugging and abandoning when remediating legacy boreholes. Industry advised that some boreholes would require redrilling to meet schedule 3 standards which may not be possible in some circumstances. The application of schedule 3 for remediation of legacy boreholes will be as far as reasonably practicable in the Resource Act regulations.

The definition of legacy borehole together with the authorising provisions for remediation action has been broadened to take account of situations where it will not be possible to identify the type or origin of a particular borehole. For example, the amendments in the Bill will enable the State to authorise a person to take action where a borehole is on fire, even if the borehole is an old water bore, or if the type of borehole is unable to be determined because of the fire.

Landholder groups and industry suggested that an emergency threshold be provided for in the amendments. The Bill provides that where authorisations are issued by the State to remediate legacy boreholes and also meet safety thresholds such as a threat to life or property, a fire or gas emission leading to the lower flammability limit for ignition, then exemptions from environmental requirements and urgent access and notification provisions are triggered.

### **What are the benefits from this amendment?**

The amendment deals directly with industry's concerns about land access and indemnity and their call for statutory protection from civil liability when helping to address uncontrolled gas emissions at legacy boreholes. These amendments represent the simplest option available to deal with the issue and do not place an additional burden on tenure holders – they merely provide a means of authorising a person to plug and abandon legacy boreholes. The amendments do not attempt to prescribe responsibility for remediating legacy boreholes – to do so would be strongly resisted by industry.

The additional amendment allowing the inclusion of remediating legacy boreholes as an authorised activity will provide an even simpler way for tenure holders and operators to access land, particularly in situations where safety obligations require immediate access and remediation.

## ***Incidental coal seam gas***

The Bill allows the beneficial use of incidental CSG off-tenure, and allows for the gas to be captured for commercial benefit, where it would ordinarily be vented or flared. Incidental CSG is gas that is produced as a by-product during coal mining. Under current legislation, this gas can be captured and used within the mining lease area for beneficial purposes such as power generation. The gas cannot be sold unless the mining lease holder obtains a petroleum lease, nor can it be flared or vented unless an overlapping petroleum lease holder has first rejected acceptance of the gas.

### **What is the purpose of this amendment?**

This amendment removes the existing barriers that prevent more efficient use of incidental CSG as a resource rather than as a waste product. It will enable the transfer of incidental CSG between resource authorities for beneficial use such as power generation or commercialisation, if any overlapping petroleum authority holder does not accept the gas.

### **Why is this amendment necessary?**

The current legislation restricts coal projects finding efficient uses of incidental CSG. This is especially true for large coal mining operations which typically have adjoining mining leases and a central generator powering the project. It would be more efficient in these situations if the gas could be moved to the adjoining or nearby leases and used for power generation. Coal mining operators have raised concerns about the inability to use incidental CSG on other leases, noting that it restricts improvements in operational efficiency and investment certainty.

This amendment is being progressed in conjunction with the new overlapping tenure framework for coal and CSG. Rather than incidental CSG being flared or vented during the coal mining process, it is of more value to the State to allow coal miners to use this gas as a resource and to reduce operational costs.

### **What will the gas be used for?**

The coal miner will be able to use the gas beneficially under the mining lease, for example for heating or power generation. The gas may also be used for this purpose under other resource authorities e.g. heating for a work camp on an exploration permit. The gas may also be commercialised by selling it without needing a petroleum lease (as long as it remains 'incidental' to the mining of coal) and used to fuel an electricity generator to power its mining operations or supply power to others. Any transportation of the gas off the mining lease will require a pipeline licence under the *Petroleum and Gas (Production and Safety) Act 2004*.

### **When can the gas be used?**

The incidental CSG can be used by a mining lease holder after the requirements of the new overlapping tenure framework for coal and CSG have been met, or in cases when there is no overlapping petroleum authority.

### **What are the benefits from this amendment?**

This amendment will lift current restrictions on the use of incidental gas and enable greater use of the gas for beneficial purposes such as power generation. This will allow improved operational

efficiency for coal mining operations and the potential for increased commercialisation of this resource across the state.

## **Mining Applications**

The Bill amends the *Mineral Resources Act 1989* to reduce red tape for the small scale alluvial mining industry, and the mining sector generally.

### **Non-mandatory pegging**

#### **What is the purpose of this amendment?**

This amendment will remove the current mandatory requirement for a mining claim and mining lease to be physically marked out on the ground. It will also remove the current prescriptive requirements about how the boundary of a mining claim and mining lease should be physically marked on the ground.

These amendments will not however remove the requirement for the boundary of a resource authority to be identified in some manner – it simply removes the requirement for the boundary to be marked by a physical monument such as pegs or stones.

The amendment provides for the use of current mapping techniques and technology to replace or complement on ground markings in situations where they are applicable and provide an acceptable outcome. This includes technology such as Global Positioning Systems (GPS) and computer software and mapping, such as Geospatial Information Systems (GIS).

#### **Why is this amendment necessary?**

The current requirement to install a physical monument around the boundary of a mining lease and mining claim is highly prescriptive and does not allow the use of alternative, practical and cheaper options that might be appropriate and would achieve the same outcome. This requirement also fails to recognise advances in technology such as GIS and GPS which offer alternative means of identifying the boundary of a mining claim and mining lease.

#### **How will a landholder know where the boundary of a mining lease is if it is not physically marked?**

Applicants are, and will continue to be, required to notify landholders, and information about mining tenure is freely available on the department's website. Also, the chief executive will retain the discretion to require physical markings and can require them to be used in difficult situations or to resolve disputes.

The test that must be applied to any methodology is that the boundary must be clear and unambiguous and capable of being identified in the field without using any information other than what has been provided in the application. Where the particular circumstances of a situation warrant, such as where there are boundary disputes or conflicts or a landholder cannot identify the boundary, the chief executive may require additional work to be done including the potential to require that physical monuments be installed.

### **What are the benefits from this amendment?**

This amendment will provide greater flexibility and reduce the time and cost associated with identifying boundaries of mining claims and mining leases. This will reduce the regulatory burden on industry and introduce a more modern, measured and proportionate legislative approach to this issue.

## **Greater flexibility in size of leases that can be applied for during a moratorium**

### **Why is this amendment necessary?**

Currently, under the *Mineral Resources Act 1989*, small scale alluvial miners have a two month window (moratorium) to peg a mining lease on land that has been subject to an exploration permit and just released. This allows these smaller operators a chance to access land before it becomes available again to exploration tenure, which is typically used by large scale miners and explorers. To ensure this opportunity is restricted to smaller operators, the *Mineral Resources Act 1989* limits these individual applications to 50 hectares (ha) and a cumulative area of 300ha per miner.

The small scale alluvial mining sector has expressed concern that the current 50ha limit on individual applications adds to the cost of small scale alluvial mining and restricts the planning and operation of small scale alluvial mines.

### **What is the purpose of this amendment?**

The purpose of this amendment is to remove the 50ha limit on the size of land that can be applied for under an individual application during the two month moratorium. The amendment will not change the maximum 300ha limit.

### **What are the benefits from this amendment?**

This amendment will reduce application costs and provide greater operational and administrative flexibility for small scale alluvial miners. Over \$3,000 in application fees could potentially be saved for applicants in addition to labour costs and overheads associated with applicants having to apply for up to six leases.

## **Notification and Objection Process**

### **What is the purpose of these amendments?**

The Bill amends the notification and objection process for a mining lease application or mining claim and an application for an environmental authority for a mining lease to: remove duplicative provisions; create a more streamlined and efficient process that takes into account the risk, size and impact of the mining operation in determining notification and objection processes; and clarify the role of the Land Court when hearing objections to a mining lease application or claim.

Specifically, the Bill addresses the following overlaps:

1. Public notification will no longer be required on mining lease applications under the *Mineral Resources Act 1989* as this duplicates requirements under the *Environmental*

*Protection Act 1994* and adds costs and contributes to time delays in gaining approvals, and contributes to miner and public uncertainty.

2. Public notification will only be required under the *Environmental Protection Act 1994* for the high risk (site-specific application) mines, which will remove inconsistencies in requirements for mining lease applications versus applications for other types of environmental authority.
3. The jurisdiction of the Land Court for objections on the mining lease will be reduced to prevent objections where there is no matter of law or fact in dispute or which are vexatious or frivolous in nature.

The jurisdiction of the Land Court for objections on the environmental authority will not be affected. However, amendments also remove the right to object to the conditions of the environmental authority where the Land Court has no jurisdiction to amend those conditions (i.e. the conditions imposed on a coordinated project by the Coordinator-General under the *State Development and Public Works Organisation Act 1971*).

Under the proposed changes the affected landholder, the relevant local government and any linear infrastructure providers would still be informed of the mining lease application through direct notification under the *Mineral Resources Act 1989*. The public would have an opportunity to comment on the conditions for low risk environmental impacts through the making of the eligibility criteria and standard conditions under chapter 5A of the *Environmental Protection Act 1994*. Consequently, it would seem an unreasonable impost for the miner to be required to publically advertise a mine of such a low impact.

The environmental authority for mines with a higher level of impact would be assessed through a site-specific application under the *Environmental Protection Act 1994*. This process includes full public notification – either on the site-specific application itself, or through the environmental impact statement process under either the *State Development and Public Works Organisation Act 1971* or *Environmental Protection Act 1994*.

To limit the potential for vexatious and frivolous objections and unnecessary time delays, the Bill refines those matters that the Land Court must consider when providing advice to the Minister in regard to the mining lease application and limits the entities that can object to those that have a direct impact from the proposed mine.

### **Why are these amendments necessary?**

To provide an example, the current process would require a sole-operator of a small mine with no employees to publically advertise both the application for a mining lease and the application for an environmental authority. Given the size of the mine, it may not have any impacts beyond the footprint of the mining lease and the mining lease could be wholly contained within a single block of land. If the mine meets other eligibility requirements (e.g. minimal clearing of vegetation and not located within an environmentally sensitive area), then it could be considered as a standard application for an environmental authority under the *Environmental Protection Act 1994*, and the administering authority must impose the standard conditions.

In comparison, a large scale coal mine impacting on multiple lots and landowners, with hundreds of employees and off site impacts and a high risk of environmental impact would follow exactly the same process. It is only where the scale of development and/or impact triggers an environmental impact statement, or included in a coordinated project under the *State Development and Public*



*Works Organisation Act 1971*, that an additional requirement for an environmental impact statement would be imposed.

Both the Productivity Commission<sup>1</sup> and industry<sup>2</sup> peak bodies have raised concerns that at least some objections to mining proposals are (in part) premised on a philosophical opposition to mining generally and coal mining in particular and may be lodged simply to delay an application proceeding or frustrate a project. For example, the stated strategy of the Australian anti-coal movement is "... to disrupt and delay key projects and infrastructure while gradually eroding public and political support for the industry and continually building the power of the movement to win more"<sup>3</sup>.

Currently the *Mineral Resources Act 1989* does not identify any grounds on which an objection must be based. However, the matters the Land Court must have regard to and consider are broad and vague in nature. Objections in regard to the technicalities of the mining operation, geology and financial considerations and commercial in confidence matters will generally attract submissions from only one party, the applicant. That is, the appellant lodges an objection but provides no evidence to support the objection in the Court. This can be attributed to the highly technical or confidential nature of the issue or alternatively the objection is speculative, made on the basis that matter raised is one of the Court's considerations rather than there being any identified ground on which the objection has been based. As such, the integrity of the role of the Court, as the arbiter of points of law and questions of fact, in deciding an objection on which there are no clear grounds of objection can be questioned.

### **Will adjoining landholders be able to object to a mining lease?**

Adjoining landholders will be able to make submissions on and object to the site-specific application for an environmental authority. This would enable an adjoining landholder to seek additional separation distances and conditions to manage the impacts of a proposed mine on them.

For very large scale mines (such as very large open cut coal mines), an environmental impact statement would be required under the *State Development and Public Works Organisation Act 1971* or *Environmental Protection Act 1994* through which the entire community will be able to lodge submissions and their submissions can become objections to the draft environmental authority. All submissions would also be available for the Minister to have regard for when deciding whether to grant a mining lease.

### **Will the issues that the Land Court's used to consider still be assessed?**

Yes, the Minister must have regard to the recommendations of the Court and all of the matters that used to be within the Court's jurisdiction when deciding an application. In addition, the Minister can elicit advice from whomever he/she needs to in order to decide whether to grant the mining lease including remitting matters to the Court for further recommendations.

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<sup>1</sup> Productivity Commission (May 2013) Mineral and Energy Resource Exploration - Final Report [http://www.pc.gov.au/\\_data/assets/pdf\\_file/0003/128469/resource-exploration.pdf](http://www.pc.gov.au/_data/assets/pdf_file/0003/128469/resource-exploration.pdf) (p96)

<sup>2</sup> Stopping the Coal Export Boom – Funding Proposal for the Australian Anti-Coal Movement [http://www.abc.net.au/mediawatch/transcripts/1206\\_greenpeace.pdf](http://www.abc.net.au/mediawatch/transcripts/1206_greenpeace.pdf)

<sup>3</sup> Stopping the Coal Export Boom – Funding Proposal for the Australian Anti-Coal Movement [http://www.abc.net.au/mediawatch/transcripts/1206\\_greenpeace.pdf](http://www.abc.net.au/mediawatch/transcripts/1206_greenpeace.pdf) (p3)

### **What are the benefits from these amendments?**

The costs and benefits of these changes will provide a net benefit of \$4.6 million to industry per year, mostly to small and medium scale mining, and, on average, approximately \$50,000 per application.

## ***Amendments to the Mount Isa Mines Limited Agreement Act 1985***

The *Mount Isa Mines Limited Agreement Act 1985* (MIMLAA) is a Special Agreement Act (SAA) which contains an agreement between Mount Isa Mines Limited (now Glencore) and the State about the operations of Mining Lease 8058.

### **What is the purpose of this amendment?**

This amendment will remove a number of environmental provisions from the MIMLAA that are no longer required now that the environmental regulation of the Mining Lease has transitioned to an environmental authority under the *Environmental Protection Act 1994*.

This amendment will also bring Glencore's reporting requirements in line with requirements currently provided for other mining leases under the *Mineral Resources Act 1989*.

### **Why is this amendment necessary?**

A review of the SAAs recommended that the environmental components of the SAAs be transitioned to environmental authorities under the *Environmental Protection Act 1994* to ensure that contemporary approaches to environmental management would be adopted. Xstrata (the operator of the mine at the time) completed the transition of its SAA environmental authority to an environmental authority under the *Environmental Protection Act 1994* in 2011 and now operates its Mining Lease under its environmental authority. It is now time to remove the duplicated environmental provisions from the MIMLAA.

The current environmental agreement requires Glencore to address environmental conditions and reporting and planning requirements that are not required under the new authority. It is therefore necessary to update these reporting requirements to bring them up to date and to bring them in line with current requirements for other mining leases operating under the *Mineral Resources Act 1989*.

### **What are the benefits from this amendment?**

These amendments will remove regulatory duplication and unnecessary administrative burden for both Glencore and the government in the environmental management of the Mining Lease. It aligns environmental provisions with industry best practice, giving confidence to government and the community about the way in which the Mining Lease is being operated and managed.

## ***Repeal of the Coal Super Act***

The *Coal and Oil Shale Mine Workers' Superannuation Act 1989* (Coal Super Act) mandates compulsory employer and employee superannuation contributions for Queensland coal and oil shale mine workers into the AUSCOAL Superannuation Fund.

### **Why is the compulsory requirement for employees to make superannuation contributions being removed?**

Several coal miners have written to the government raising concern about the compulsory contributions, and that employees should be given greater choice with regards to their superannuation fund.

The Department of Natural Resources and Mines undertook a review of the Act which revealed that the Act is inconsistent (by virtue of section 109 of the Commonwealth Constitution) with the Commonwealth *Superannuation Guarantee (Administration) Act 1992* (Commonwealth Act) which allows employees to choose the superannuation fund for their employer contributions.

Although the Commonwealth Act does not apply to employee contributions, the review also revealed that no other industry is subject to similar legislation requiring compulsory employee contributions.

Retention of the requirement for employees to make compulsory contributions into the AUSCOAL Superannuation Fund creates an operational inconsistency between the Commonwealth Act and the Coal Super Act in circumstances where an employee nominates a superannuation fund for employer contributions (as permitted by the Commonwealth Act), but the Coal Super Act prevents an employee from similarly nominating the superannuation fund for compulsory personal contributions.

As such, the Bill repeals the Coal Super Act to provide coal and oil shale mine workers with the freedom to choose their superannuation fund, and the freedom of choice to contribute superannuation on top of the employer contribution.

### **How will the amendments impact coal and oil shale mine workers?**

The amendments will provide coal and oil shale mine workers with the freedom to choose their superannuation fund, and the freedom of choice to contribute superannuation on top of the employer contribution. Employees can still elect the AUSCOAL Superannuation Fund as it exists independently of the Act.