AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE

Members present:

Mr IP Rickuss MP (Chair)
Mr SV Cox MP
Ms J Trad MP

Staff present:

Mr R Hansen (Research Director)
Mrs M Johns (Principal Research Officer)

PUBLIC BRIEFING—INQUIRY INTO THE MINERAL AND ENERGY RESOURCES (COMMON PROVISIONS) BILL 2014

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 25 JUNE 2014

Brisbane

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Subcommittee met at 2.28 pm

BARR, Mr Dean, Manager, Mining and Petroleum Operations, Department of Natural Resources and Mines.

BEARE, Mr Geoff, Director, Business Strategy and Performance, Department of Natural Resources and Mines

DITCHFIELD, Ms Bernadette, Executive Director, Lands and Mines Policy, Department of Natural Resources and Mines

HOUEN, Mr George, Rural Consultant, Landholder Services Pty Ltd

MAKRAS, Ms Myria, Manager, Resources Policy and Projects, Department of Natural Resources and Mines

MATHESON, Mr Stephen, Chief Inspectorate, Petroleum and Gas, Department of Natural Resources and Mines.

NICHOLS, Ms Elisa, Executive Director, Reform and Innovation, Department of Environment and Heritage Protection

RALPH, Mr David, Registrar, Petroleum Assessment Hub, Department of Natural Resources and Mines

REES, Mr Marcus, Director, Resources Policy and Projects, Department of Natural Resources and Mines

CHAIR: Welcome, ladies and gentlemen. I declare this meeting of the Agriculture, Resources and Environment Committee open. I would like to acknowledge the traditional owners of the land on which this meeting is taking place today. I am Ian Rickuss, the member for Lockyer and chair of the committee. Also with me is Jackie Trad, member for South Brisbane, and Sam Cox, member for Thuringowa, who is just coming in from the airport.

Today's briefings and hearing will be conducted by a subcommittee of the committee. Please note that these proceedings are being broadcast live via the Parliament of Queensland website. The purpose of this meeting is to receive a briefing from officers of the Department of Natural Resources and Mines on the Mineral and Energy Resources (Common Provisions) Bill 2014. The bill was introduced by the Minister for Natural Resources and Mines, the Hon. Andrew Cripps, and subsequently referred to the committee for consideration on 5 June 2014 with a reporting deadline of 30 August 2014. We hope that the briefing today will give everyone here a better understanding of the bill.

Joining us today for the briefing are officers from the Department of Natural Resources and Mines and the Department of Environment and Heritage Protection. The department will cover today the policy objects of the bill; the department's consultation with stakeholders on the proposed reform and the outcomes of that consultation; an overview of the provisions of the bill; and likely impacts of the bill on the resources industry and the community generally. These officers have given their time to be here today to provide factual information. They are not here to give opinions about the merits or otherwise of the policy behind the bill or alternative approaches. Any questions about the policy of the government that the bill seeks to give effect to will be directed to the responsible minister, namely, the Hon. Andrew Cripps, the Minister for Natural Resources and Mines, not these officers. Before we start can all phones be switched off or on 'silent'.

Ms Ditchfield: Good afternoon, committee chair and members. My name is Bernadette Ditchfield, the Executive Director of Lands and Mines Policy in the Department of Natural Resources and Mines. I will provide an opening statement to the committee on the key components of the bill, including a brief outline of the department's consultation with stakeholders and the department's response to some of the issues that were raised during consultation.

I seek leave from the committee to table a document containing information on some miscellaneous and minor amendments in the bill to limit the time of my opening statement.

CHAIR: Leave is granted.

Ms Ditchfield: Subject to how the committee wishes to proceed, I can then hand over to my colleagues to provide more detail about those components of the bill and also answer any questions from the committee.

First I will focus on the part of the bill that delivers the first stage of the Modernising Queensland's Resources Act (MQRA) Program towards the phased development of a single common resources act for the state's resources sector. This part gives effect to the government's commitment to support a strong resources sector by cutting red tape and streamlining regulatory processes. This bill is a significant step towards much needed modernisation of Queensland's resources legislation.

In late 2012, the Department of Natural Resources and Mines commenced targeted industry consultation on a discussion paper titled *Modernising Queensland's resources tenure legislation*. Key stakeholders supported the government's proposal to undertake a multi-year legislative reform process to develop and implement a single common resources act conditional upon satisfying three fundamental program principles: phased and engaged reform; the retention of existing legislative principles; and no disadvantage unless agreed to. The benefits of the MQRA program are primarily through commonality of process. Simplification of the regulatory environment and a centralised reference point for resources administration will be of benefit to all stakeholders—that is, industry, landholders, the community and government alike—both now and in the future.

The bill implements the first stage of the MQRA program by creating the new Mineral and Energy Resources (Common Provisions) Act, into which harmonised processes from parts of the Mineral Resources Act 1989, the Petroleum and Gas (Production and Safety) Act 2004, the Petroleum Act 1923, the Geothermal Energy Act 2010 and the Greenhouse Gas Storage Act 2009 are transferred. The common provisions act will operate together with these existing resource acts, and future bills are intended to progressively continue this migration process.

In this bill the new act consolidates and harmonises provisions relating to dealings, caveats and associated agreements; private and public land access and other minor provisions. These provisions are largely settled policy issues. For instance, the Mines Legislation (Streamlining) Amendment Act 2012 has already harmonised the dealings, caveats and associated agreements provisions across the existing resource acts. The consolidation process has been undertaken in consultation with industry in adherence to the program principles outlined before through a broad consultation process which has included: government-industry working groups; circulation of discussion papers on policy matters; and distribution of exposure draft provisions of the bill.

Discussion papers on policy matters were made available to all members of the community through the department's website, whole of government Get Involved website, and distributed by email to stakeholders that have registered their interest in the MQRA program. Exposure drafts were distributed for comment through the working groups, peak bodies and stakeholders. Generally, stakeholders support the amendments and have provided largely positive responses at each stage of the consultation process.

A general concern raised was about the greater use of regulations under the new act in contrast to the existing resources legislation. While industry supported the flexibility it provides, it was highlighted that certainty is important. In considering these views, the department maintains that the flexibility provided by prescribing detailed technical and procedural matters in the regulations allows government to be more responsive to industry that aligns with the dynamic environment within which it operates.

Some stakeholders submitted that the MQRA program should include consideration of environment and sustainability matters. The scope of the MQRA program is within the context of the tenure administration currently provided under the existing resource acts. Environmental matters administered by the Department of Environment and Heritage Protection are not within the scope of this program.

The bill implements three actions from the government's six point action plan of reforms to the land access framework relating to private land in the common provisions act. These reforms aim to strike a better balance between the interests of landholders and the resources sector in negotiating land access and compensation arrangements. The reforms were the result of an extensive review of the efficacy of the land access framework undertaken by the independent land access review panel comprising of agricultural and resource sector representatives.

In February 2013, the government established the Land Access Implementation Committee to advise and oversee policy development to support implementation of the government's six point action plan. This committee was comprised of peak body representatives and chaired by Dr David Watson.

Legislative amendments were recommended by the Land Access Implementation Committee to give effect to three of the six actions. These amendments propose: (1) expanding the jurisdiction of the Land Court to hear matters and make determinations relating to conduct which is intended to encourage parties to negotiate in good faith; (2) requiring a resource authority holder to, at their cost, note the existence of an executed conduct and compensation agreement on the relevant property title to ensure prospective purchasers can determine their existence through standard due diligence investigations; and (3) allowing two willing parties to opt out of entering into a formal conduct and compensation agreement where longstanding positive relationships exist.

Due to the long involvement of key stakeholders in shaping these reforms, industry and community responses to the consultation draft provisions were largely supportive. Some concerns were raised regarding the sufficiency of protection afforded to the interests of landholders that sign an opt-out agreement. Firstly, I would like to emphasise that the decision to opt out can only be made at the election of the landholder so as to protect their interests. It is not intended that this be used as a vehicle to circumvent the conduct and compensation agreement obligations contained in the land access framework. Secondly, they are intended to apply where longstanding positive relationships have been developed between the landholder and the resource authority holder. Even in these cases, the opt-out agreement option may only be entered into at the behest of the landholder. Finally, landholders will continue to be protected through the ongoing application of the land access code and compensation requirements. Parties will also be able to utilise standard contractual law principles to protect their interests such as breach of contract, misrepresentation and fraud.

A consistent restricted land framework is proposed by the bill under the common provisions act that will apply to all resource authorities. Under the new framework, resource authority holders must have the consent of the landholder to undertake resource activities near certain buildings such as residences and schools. The proposed changes deliver consistent rights to landholders across all resource sectors and address concerns of landholders about resource activities occurring on their doorstep. It also affords a consistent level of protection for neighbours. This right does not currently exist for landholders engaging with the coal seam gas sector.

Despite the changes there is expected to be minimal impact to industry, as generally resource operators already provide for buffer distances from buildings in their planning and operations. A consultation regulatory impact statement entitled *Towards a standardised consent framework for restricted land across all resource types* was made available in late February 2014 to all members of the community through the department's website, the whole of government Get Involved website and distributed by email to stakeholders that registered their interest in the MQRA program. In addition, departmental officers facilitated by the GasFields Commission discussed the proposals with landholders in Dalby and Chinchilla.

Generally, industry, landholders and the community were largely supportive of the intent to implement a consistent restricted land framework across all resource types. A number of submissions from landholders and community groups expressed concerns about the changes to the structures that restricted land will apply to. Restricted land will no longer apply to stockyards, bores, dams and other water infrastructure for the mineral and coal sector, which means that the landholder's consent will not be required to undertake activities in close proximity to these structures. However, the land access framework requirements will now apply to this land, as it currently does for the petroleum and gas industry. This requires a resource authority holder to notify the owner and occupier before conducting any activities on the land and also requires them to enter a conduct and compensation agreement with landholders before entering the land to undertake advanced activities.

The department considers the changes to be an improvement on the current system, as it provides a more balanced approach for both landholders and industry. The 600-metre rule was also considered to be overly onerous on landholders and resource operators by requiring a conduct and compensation agreement for all activities, irrespective of the activity to be undertaken and its potential impact. For example, a landholder and resource authority holder are currently required to enter a full conduct and compensation agreement process to enable the use of an existing track that passes within 600 metres of a residence. These situations have been addressed by the new framework.

Concerns were also expressed that for mineral and coalmines there should be larger restricted land buffers from schools and residences. Regardless of the restricted land framework, environmental authority conditions currently restrict activities to achieve minimum standards to manage impacts from noise, vibration, air quality, dust, et cetera. Depending on the activity, these conditions may restrict the conduct of activities to a distance greater than the restricted land.

Restricted land is about providing certainty to landowners about where they get to have a direct say about what occurs within close proximity to buildings. The environmental authority regulatory framework will continue to provide for adequate buffers to deal with environmental impacts from specific activities. Industry has also sought clarification on the resource activities that restricted land will apply to and on the definitions of residences and buildings for business purposes. The bill provides clear examples of the buildings and infrastructure that the new restricted land framework will apply to and also establishes criteria to assist in determining whether a building used for business or other purposes will be restricted land.

Where a building cannot be easily relocated and cannot coexist with the authorised resource activity, the restricted land provisions will apply. Where a landholder or resource authority holder disagree on whether a particular area is restricted land, the Land Court may make a declaration on whether particular land is or is not restricted land.

After considering the submissions to the consultation regulatory impact statement, the department considers that the application of the restricted land and land access frameworks under the proposed common provisions act will provide the appropriate regulatory balance for all stakeholders.

The bill introduces a new framework to manage overlapping coal and coal seam gas tenures in Queensland under the common provisions act. This framework seeks to facilitate coexistence of the two industries to ensure they work together to achieve the best commercial outcomes for both industries and for Queensland.

Essentially, the overlapping tenure legislation seeks to provide a mechanism for companies to cooperate where a coal tenure and a coal seam gas tenure are granted over the same area. The relationship between the two parties in an overlapping tenure situation is complex and can occur when projects hold either exploration or production tenures.

In the period since the existing framework was first introduced in 2004, there have been substantial developments in the nature and scope of both the coal seam gas and conventional coalmining industries in Queensland. Coal and petroleum tenure overlaps now occur across most of the Bowen, Surat and Galilee coal basins. These developments have placed pressure on the existing overlapping tenure legislation, with companies facing open-ended time frames, lengthy negotiations and ultimately significant delays in commencing projects. The new framework is based on a joint coal and coal seam gas industry proposal set out in the paper titled *Maximising utilisation of Queensland's coal and coal seam gas resources—a new approach to overlapping tenure in Queensland.*

From the outset the department has worked very closely with industry to implement the reforms in the industry paper. In this process we consider we have built good relationships with industry, and the department is keen to build on these relationships as we move to develop the regulations and guidelines that will underpin these amendments. The new framework will provide increased certainty for the grant of production tenures in circumstances where overlapping tenure occurs. It also provides certainty regarding the location and timing of mining activities, facilitates improved information exchange to enhance planning and decision-making, and provides flexibility in the negotiation and tailoring of alternative arrangements. It 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 agreements, obtain an environmental authority prior to grant of the tenure and negotiate land access and compensation arrangements with landholders.

The main components of the amendments are: (1) a direct path to grant for both coal and coal seam gas production tenure; (2) the coal tenure holder to have a right of way to develop coal deposits; (3) an ongoing obligation for overlapping coal and coal seam gas tenure holders to exchange relevant information; and (4) proponents will be free to negotiate other arrangements as an alternative to the default.

The ability for coal and coal seam gas tenure holders to negotiate alternative arrangements—we call them bespoke agreements—that depart from some of the legislative defaults is a key to facilitating an approach which encourages cooperation between the two industries. Through this cooperation, the benefits from the state's resources will be maximised as projects can commence production earlier, leading to the creation of new jobs, economic and regional development and, of course, royalties which are used to provide services to the people of Queensland.

Inevitably, not all relationships will be cooperative and where there are issues in reaching agreement between the parties, an independent arbitration system has been provided that is intended to be fast, fair and final. Both the coal and coal seam gas industries have agreed to this process to resolve disputes. The department has worked closely with external industry stakeholders in the development of the new framework and they have provided their general support. Whilst industry feedback generally sought more of the detail of the framework to be placed in primary legislation, this is neither always appropriate nor necessary. The overlapping tenure provisions seek to provide the heads of power for the new framework. The remaining detail to support these heads of power will be provided in regulation or guidelines.

Regulation-making powers are set through the bill to, for instance, draw out principles for compensation, outline the minimum content of incidental coal seam gas offers and delivery contracts, and provide guidance should a matter require arbitration. The department will continue to work with industry in an open and transparent manner to ensure that the complete framework is implemented and will consult closely on the content of these regulations and guidelines as they are developed. Safety of operations in an overlapping area is to be addressed through legislative amendments which will likely be included in a separate bill later in the year. Industry is being consulted with regards to these proposed amendments.

As part of the government's commitment to reduce red tape for small scale alluvial mining, a package of amendments was considered by the government in June 2013. This bill implements the government's commitment by targeting the issues raised by the small scale alluvial mining sector in North Queensland. The benefits of the reforms will extend to the broader mining industry also, thereby avoiding a complex sector-by-sector legislative regime.

Firstly, the bill provides flexibility in identifying the boundaries of a mining lease or mining claim by allowing miners to use mapping and satellite imagery to mark out the area of their proposed operations rather than physically pegging out their claims. Secondly, miners will also be able to increase the size of leases that can be applied for on land previously subject to an exploration permit, that is, during the two-month moratorium on new exploration permits, as the new bill removes the 50-hectare restriction per mining lease application. The existing 300-hectare cumulative limit on this land per mining lease applicant will remain. Over $3,000 in application fees could potentially be saved for applicants through applicants no longer having to apply for up to six leases. Submissions on these proposals from all sectors were generally supportive of the amendments.

Finally, the bill amends the notification and objection process for a mining lease application or claim to create a more streamlined and efficient process that takes into account the risk, size and impact of the mining operation in determining the notification and objection process. More specifically, the bill limits public notification of an environmental authority for a mining lease to site-specific applications and limits notifications of a mining lease to directly affected landowners, local government, occupiers and infrastructure providers. These stakeholders will be notified at the same time of a standard or variation application for an environmental authority. This bill also changes the matters the Land Court can have regard to when hearing an objection to focus on the direct impacts on landowners and local government such as the extent, type, purpose, intensity, timing and location of the operations of the proposed mining lease and changes how restricted land is dealt with when applying for a mining lease. Restricted land will either operate as a constraint where the existing use and mine can coexist, or restricted land to be extinguished if they cannot co-exist.

Consultation on these reforms extended across two discussion papers: firstly, the *Reducing red tape for small scale alluvial mining—stakeholder discussion paper* released in July 2013; and subsequently the *Mining lease notification and objection initiative discussion paper—including regulatory assessment* released in February 2014.

I thought it may be useful to the committee if I provide an outline of the feedback and issues raised from the consultation undertaken on these amendments and the government response.

Occupiers and infrastructure providers lodged submissions in regard to their no longer being notified of mining lease applications due to the potential impact of a proposal on their access rights and infrastructure. The requirements for notification of a mining lease have been extended to these entities due to the direct nature of the impacts the proposed mine will have on them. The submitters were also concerned that they will no longer have a right to object to a mining lease application. As there are alternatives to having a right to object for these stakeholders, objection rights are not proposed to be extended to them.

Submitters also expressed concern that 90 per cent of mining applications will no longer be publicly notified. The threshold for requiring notification is based on the size and risk of impact that the proposed mine poses. Ninety per cent of applications for a mining lease are small in size, low impact and can comply with the eligibility criteria prescribed under the Environmental Protection Act 1994. Standard conditions have been effectively managing the impacts of this level of activities for many years.

Submitters that were concerned about the percentage of applications that will no longer be notified were also generally concerned that adjoining landholders, the community and community and environmental groups will not be able to input into mining applications. Under the proposed framework they will be able to object to site-specific applications. The evidence shows that these applications are of most concern to them and to which they have typically objected in the past. All site-specific applications will still be notified through the Environmental Protection Act 1994 or the State Development and Public Works Organisation Act 1971. Those stakeholders that lodge submissions through the notification process may choose to lodge an objection to the Land Court in regard to the draft environmental authority.

Amendments in the bill also allow gas produced on a mining lease incidental to coalmining that would ordinarily be vented or flared to be commercialised or used beneficially, such as for electricity across resource authorities. As is currently the case, any commercialisation of the incidental coal seam gas will trigger a royalty liability. The amendments are highly supported by industry; however, it was stressed that they must align with the new coal and coal seam gas overlapping tenure framework, and this is reflected in the bill.

There was also concern from native title representative bodies about the potential impact on native title. The department is of the view that there is no greater impact on native title which would require any renegotiation of agreements under the Commonwealth native title legislation.

Lastly, the bill provides for the remediation of legacy boreholes. While existing legislation supports fixing legacy boreholes in some circumstances, many scenarios are not covered. The amendments ensure boreholes can be fixed wherever they are located and regardless of whether the borehole type and owner is known. This is achieved using two approaches: firstly, the state will be able to authorise a person to fix a legacy borehole; secondly, tenure holders under any of the resource acts will be able to fix legacy boreholes as an authorised activity. The amendments do not oblige a tenure holder to fix a legacy borehole. Existing safety obligations, however, remain unchanged and require a tenure holder to resolve situations where operations are put at risk by safety concerns, including those caused by legacy boreholes. The amendments support action by industry and government to fix legacy boreholes that present safety concerns such as a fire or gas emissions that could result in ignition. This aligns with the protocol developed by industry and government that was published last year.

Industry supports the amendments; however, there is ongoing discussion between industry and the department about who should pay for remediation costs. Like the existing framework to rehabilitate abandoned mines, the legacy borehole amendments do not provide for costs. As well as costs, industry also sought provision for indemnity from liability and emergency access to land. The amendments provide indemnity for persons authorised by the state and allow emergency access for remediation of a borehole presenting a safety concern.

That broad description of the bill brings my introduction to the bill to an end. I am happy to now take questions from the committee about the bill.

CHAIR: I note the Modernising Queensland Resource Act Program and I think there were some consultation documents. Did you have much response to the program of public consultation? Were there many submissions made to the draft report that you put out?

Mr Barr: I can answer that question for you. The MQRA program was divided into several policy themed areas, particularly: dealings, caveats and associated agreements, land access and some others. For each of those we published policy documents and distributed exposure drafts of the bill. Depending on the theme there was moderate feedback, particularly from industry, some community groups and native title bodies. I think we had about 96 individuals registered on our list of people who had registered an interest, so there was some moderate feedback on—

Ms TRAD: What does 'moderate' mean?

Mr Barr: It was not inconsequential. There was at least several to a dozen or more responses for each of those themes.

CHAIR: Was it spread out across Queensland too, right up to the gulf and the cape and those sorts of places? Did you get responses from a full range of people?

Mr Barr: Yes, we had responses from the North Queensland Land Council and the Cape York Land Council, so there were responses from entities in those areas.

Ms TRAD: In relation to those particular policy areas, Mr Barr, did you convene stakeholder sessions to step through the policy and also perhaps talk about the cumulative effect of the policies? Was there any targeted strategic consultation in that way?

Mr Barr: We convened industry working groups, as these proposals primarily impact the resources industry. Further consultation was undertaken through publishing on our website and through the government Get Involved website.

Ms TRAD: So a similar stakeholder session was not conducted for AgForce or Farmers Federation or landholders?

Mr Barr: We undertook meetings with those representative bodies in person for their representatives.

Ms TRAD: Around the specific policies?

Mr Barr: That is correct.

Ms TRAD: What was the feedback?

Mr Barr: In those particular conversations it was more that we were explaining the policy of those particular proposals. Those representatives were not always able to give us feedback at that point in time, as they were digesting what we were proposing; however, we did receive feedback through their written submissions that were, in the broadest context, generally supportive of most of the proposals under the MQRA program.

Ms TRAD: Is it possible to provide those submissions to the committee?

Mr Barr: I can look into that for you.

CHAIR: You can take that question on notice.

Mr COX: I just have one question to start with. I have had contact from a law firm that deals with private landholders in regards to some of the matters they have, so I guess pastoralists and farming people. They had an issue with restricted land and that part of it, which I won't go into because I think some of that has been addressed. One of the other issues they had was mining applications; they believe that there is no longer going to be any need or authority to be publicly notified. Is that true; and if so, why? Those are the questions that they have asked.

Mr Beare: It depends if they are the directly affected landholder. If they are a directly affected landholder, they will be notified under the Mineral Resources Act. For an application that is a site-specific application for an environmental authority there will be broad public notification, either through an environmental impact statement or through broad public notification under the Environmental Protection Act, which they would be notified under.

CHAIR: Just as a supplementary question to that, Geoff, who do you class as a directly affected landholder? Is that someone who has a 100-tonne ute that's running down beside his property, or someone who actually has mining on his property?

Mr Beare: The directory affected landholder is the owner of the land over which the mine is proposed or over which access to the mine is proposed.

CHAIR: So even if he just has the truck running through or beside his property—

Mr Beare: If it is access to the mine across their property, then they would be included in the notification. Also included in the notification would be occupiers of the land or those infrastructure companies that have infrastructure on the land that the mine and access is proposed.

CHAIR: What about the neighbour who is 100 metres from the coal route, from the haulage route?

Mr Beare: Unless the haul route is for an application that is not a site-specific application, then unless the haul route is part of the access to the mine, then they would not be notified. But if it is a site-specific application for an environmental authority, there would be broad public notification. You would anticipate that, for a coalmine, there would be a site-specific application. Elisa could answer that question. Broad public notification, either through an environmental impact statement under the State Development and Public Works Organisation Act or the Environmental Protection Act where there are multiple opportunities for input and notification, or under the Environmental Protection Act notification process, they would be notified.

CHAIR: Elisa, do you want to add a bit there?

Ms Nichols: Something like coal would always be site specific. It is only certain types of low-impact mining that have been specifically identified in the Environmental Protection Act that would not be subject to notification.

Mr COX: Just to follow that up, they have suggested here that this is for the streamlining of applications and grant processes. I am not sure if that is the reason. They said that there are other ways of doing that. If it is in regard to people lodging claims, I guess, with no real claim, they have suggested that there could be some sort of security cost to a person lodging an issue with anything. They have also said to implement a fee for a lodgement of any public objection. Is this to try to stop people lodging objections that are not really warranted? Is that the purpose of that part of it? That is where they are thinking that it is coming from.

Ms Nichols: Certainly, from the Environmental Protection Act perspective, no. There is no evidence of vexatious litigation in relation to those low level, what we call standard applications. In fact, we undertook an analysis of all the submissions that we had received on those types of applications back to 2009 and we did not receive one objection from anyone who was not a landholder directly affected by the mine. So it is not an area of broad community concern, those low-impact mines. Of course, we have received a lot of objections for the larger-impact mines and we are not affecting the notification and objection rights in relation to those.

Mr COX: Okay. That is all for now. They will probably make a submission to the whole committee anyway, which you will get in due course, I guess.

Ms TRAD: I want to expand on who is directly affected—direct landowners—because I think we have seen, particularly in recent days, evidence where landowners who are not direct landowners of the site are affected by mining activities upstream, downstream, within the vicinity. From what I understand in terms of your explanation, these people through these new notification processes will not be included in any of the lease application notifications?

Mr Beare: That is correct . They will not be notified under the Mineral Resources Act, but if it is a site-specific application then you would anticipate that, if there were significant downstream impacts, as you were referring to, that—

CHAIR: No, this was upstream.

Mr Beare: Upstream.

CHAIR: The impacts are upstream. The quarrying was downstream. The impact was upstream.

Mr Beare: Sorry, quarrying is not covered under the Mineral Resources Act.

CHAIR: No, I realise that.

Ms TRAD: Anyway, regardless.

Mr Beare: So if it is a site-specific application, there would be broad public notification and, therefore, the adjoining landholders, the general community—any person—can make a submission under the Environmental Protection Act.

Ms TRAD: Around the environmental conditions as opposed to the actual lease application?

Mr Beare: That is right.

Ms TRAD: So the project will still go ahead; it is just that people can have a discussion about what is included in the environmental authority as opposed to whether or not this is activity that should occur, or expand?

Mr Beare: Except that a mining lease cannot be undertaken without an environmental authority. So if they do not get the environmental authority, then the mining lease will not proceed.

Ms TRAD: Yes, I understand. Ms Nichols, just in relation to the amendments to the Environmental Protection Act, can you please give us a rundown on what amendments are being proposed through this bill?

Ms Nichols: We have two main sets of amendments. The first relate to the duplication of notification where an EIS has been undertaken under the State Development and Public Works Organisation Act. When the Green Tape Reduction Act went through, which you will no doubt recall, we removed a duplication of notification where an EIS had been notified and submissions had been carried out under the Environmental Protection Act. That same recognition of process is now being done for the State Development and Public Works Act. So if there has been public notification and then it goes to an environmental authority, there does not need to be further public notification unless the environmental impacts are substantially changed. However, anyone who has put a submission in as part of the EIS process will then be entitled to lodge an objection to the Land Court should it come to that, if and when a draft environmental authority is issued. So it is identical to the green-tape reduction process; it is just expanding it to a different EIS.

The second relates to the notification processes that we have been talking about in that we are limiting full public notification to site-specific applications only. As I have already mentioned, that is the area where the community has traditionally been concerned, because they are the larger higher-impact mines. So you will never have a coalmine that does not go through public notification. For example, you will never have a large mineral processing mine that does not go through public notification under the proposals. So the kind of mines that we are talking about are things like opal and gemstone, dimension stone—so marble, sandstone-block mines, small clay pits—those sort of mines. They tend to be small. There is also a lot of environmental criteria that they have to meet to be classed as a standard mine. They cannot be within certain distances or within certain environmentally sensitive areas. All of that criteria is prescribed in the legislation. So those ones will not go to public notification.

However, the eligibility criteria—that is all the criteria to determine whether or not something is standard—plus the conditions will be subject to public consultation. We have done something similar recently for petroleum and gas. With mining, these have been in place for a long time, but when the Green Tape Reduction Act went through they must be reviewed before March 2016. So in the next 12 months we will be seeing a full review of those and they will be fully publicly notified and will again allow the community to determine and have input into whether or not that level of low impact still meets community expectations of what low impact, in fact, is.

Ms TRAD: So the low-impact criteria is the one that is understood through the Environmental Protection Act as amended by the Green Tape Reduction Act?

Ms Nichols: That is right.

Ms TRAD: Okay.

Ms Nichols: And that will be further reviewed. That is the section that is specifically required to be reviewed before March 2016. So that is 18 months, I guess.

Ms TRAD: Can you just illustrate for me where that actually says that in the bill?

Ms Nichols: The review?

Ms TRAD: No, the definition of 'low impact' that is the one as it is understood.

Ms Nichols: We are using the term 'standard activity'. 'Standard activity' then comes back to the provisions that already exist in the Environmental Protection Act. I cannot remember the section off the top of my head.

Ms TRAD: It is okay. I am happy to take that on notice.

Ms Nichols: Sure. We will take it on notice, but they are already prescribed. I remember it. It is schedule 3A of the Environmental Protection Regulation.

Ms TRAD: Right. Ms Nichols, thank you for that explanation. I did find that very informative, but I did find it lacking in the explanatory notes. I am just wondering why that information is not specific or clear in the explanatory notes—about the changes to the Environmental Protection Act.

Ms Nichols: I can only apologise that it was not clear enough for you.

Ms TRAD: Right.

CHAIR: I have a question about some of the distances from residences and the low impacts. How was the size of the consent land determined? What is the rationale for selecting 200 metres as the buffer zone? Can someone answer that? It was 600 metres.

Mr Barr: I can answer that. The consultation on the proposal for a consistent restricted land framework proposed a 200-metre restricted land distance. With the bill itself, those distances have to be prescribed by regulation. That is still subject to government decision on what they will eventually be. However, the focus of the restricted land package was to give landowners certainty about a distance from their residences and other business buildings and a right to withhold their consent for resource activities subject to some exemptions. It was the view that 200 metres was a distance that would be acceptable to all stakeholders. Certainly, through the feedback consultation, whilst there were some outliers that argued for greater or lesser distances, the general consensus was that that would be something that would be acceptable. Generally, with a distance of 200 metres, companies are already providing buffer distances from those types of structures regardless, either through their own stakeholder management strategies or through compliance with environmental authorities. So the impact on industry was considered to be low.

CHAIR: Could the department please explain what you would constitute as landholders consent for the proposed restricted access?

Mr Barr: It is written consent.

CHAIR: Right.

Ms TRAD: From the outset?

Mr Barr: Before any activity can occur within that distance it would require written consent.

Mr COX: This is probably supplementary to where the chairman was going. So you are saying that, within the industry, there is more of a self-assessment now. While there has been a limit of 600 and we are saying 200 now, in many cases it could be further? It is rare that you have an instance where a preferred distance is not agreed to by both parties. Is that what you are saying?

Mr Barr: It is not necessarily a preferred distance. The framework around the 600 metres requires only the resource authority holder to enter into a conduct and compensation agreement with the landowner regardless of the impact of activities. So where it is a preliminary activity, they have to go into a CCA. So the rationale was that, for preliminary activities such as walking or driving, it is a bit of unnecessary red tape to implement a CCA for that.

Mr COX: Okay.

CHAIR: So they will be considered low impact or no impact—walking or driving?

Mr Barr: That is correct.

Mr COX: So it is about the impact that it is having. That is what you are saying?

Mr Barr: That is correct.

CHAIR: Okay. Also in that stockyards, bores, dams and other water infrastructure was taken out of some of that. What was the rationale behind that?

Mr Barr: There are some differences between the existing framework between the resources legislation in terms of managing activities within close proximity to residences. Under the Mineral Resources Act for coal and mineral activities, 50-metre restricted land applies for those types of structures you mentioned. Under the land access framework for the remainder of the resources sector, that does not exist and the arrangements under the conduct and compensation agreement and entry notice provisions apply to those sorts of structures if they are on the landowner's property. So in terms of coming to a consistent framework, it was determined that it would be appropriate that those types of structures would follow the framework that is applied for the remainder of the resources sector. So they would be subject to CCAs and entry notices for activities in close proximity to those structures.

CHAIR: And what? Compensation?

Mr Barr: Compensation if there was an effect that would require—

CHAIR: That is right. So if the dam started to leak because of some earth movement 30 metres away from it, that would be compensated in some way, or repaired or something. All right.

Mr COX: Just as a supplementary again, this was brought to my attention along this restricted land regime—and I guess this is more to do with if there was compensation—while I am sort of understanding where you are going with it, they said that the bill may have missed a chance

to look at the compensation regime. They are saying that it is still erring on the side of the miner. They are saying is that, while they are not a willing vendor—that is the term they use—they are getting compensated when the market may be low. So if it is about taking back some of that land—it is an old problem and it always happens—they are getting compensated when the value may be lower whereas if they were in a normal market and were choosing to sell, they would be waiting for a lift in the market. It has been a problem for a while. They are asking that there was a chance, while accepting where you are going, that the compensation side of it could have been looked at to change that regime. Was that something—

Mr Barr: No, the matters for compensation in that respect was not part of the objective of this.

Ms Ditchfield: That is part of the land access review process that we had instigated from 2012 onwards, where we went around the state through the land access review panel having conversations with the community about how the land access framework was working. Compensation was an issue that was raised just as part of their deliberations. It was not one of the key actions that came out of their reform.

Mr COX: Out of that reform. Okay. That is just a question that they will probably put forward anyway, but thank you. It was only a small part.

Ms TRAD: Ms Ditchfield, in relation to the Land Court there are matters now in relation to applications that the Land Court will not have jurisdiction over. Can you please detail what these are?

Ms Ditchfield: I think that is going again to the notification\objections component.

Mr Beare: The proposal in the bill is to amend the considerations of the Land Court. It seeks to maintain the integrity of the role of the court as an arbiter of points of law and questions of fact. The matters that have been considered in the review are whether a matter is confidential, whether it is a financial issue relating to the mining company, or technical matters, such as whether there is sufficient level of mineralisation, post-extraction method, the life of the proposed mine et cetera—they are thought to be more appropriately within the consideration of the mining minister—and matters that create an overlap between the Environmental Protection Act and the Mineral Resources Act to ensure that environmental considerations that are more appropriately considered within the context of the EP Act are considered in that context. Additional amendments include the removal of vague and unnecessarily broad considerations such as 269(4)(l), which was any good reason has been shown for refusal to grant the mining lease.

The remaining considerations that have been left after those matters have been taken into consideration have been redrafted to adopt a more modern drafting style and to clarify that the grounds for objection relate to the direct impact of the proposal on the entity making the objection. It is considered that the proposals in the bill will minimise unnecessary delays by clarifying the role of the court to include considerations that directly relate to the grant of the mining lease under the Mineral Resources Act. There has been no diminution of the matters that will be considered as a result of these proposals. Considerations that have been removed from the court's jurisdiction that are not considered under another act will continue to be considered by the minister when deciding the application.

Ms TRAD: So as I understand it, Mr Beare, there are some matters currently within the jurisdiction of the Land Court that will now be determined by the mines minister; is that right?

Mr Beare: They always have been considered by the mines minister. The Land Court only makes a recommendation to the mining minister. The consideration of the issue and the decision whether to grant has always been the minister's.

Ms TRAD: But the Land Court can make recommendations?

Mr Beare: Yes.

Ms TRAD: But on some matters now, the Land Court cannot make those recommendations; is that right?

Mr Beare: Sorry, they can make recommendations now?

Ms TRAD: They cannot on some matters.

Mr Beare: They can now. The proposal is to remove the capacity to make recommendations in regard to some of those issues.

Ms TRAD: Yes, I understand. Is there the capacity for the department to provide a comprehensive list of all of those matters?

Mr Beare: Absolutely.

Ms TRAD: Yes.

CHAIR: Okay.

Ms Ditchfield: Obviously, we will take that on notice.

CHAIR: On that eligibility criteria and the standard conditions—the period that will be allowed for people to comment on some of these mines and that sort of thing—what is the criteria for a mining application?

Ms Nichols: It depends on whether or not an EIS is required. For EISs they tend to go out for 28, 30 days—sometimes a lot longer. Companies often decide to advertise for longer if they are particularly wanting to build good community rapport. I will just ask my colleague to check, but 28 days for site-specific. That is 20 business days.

CHAIR: And that will not be over Christmas or new year and that sort of thing.

Ms Nichols: Yes, it is excluded from Christmas and new year.

Mr COX: I am not sure who will answer this, but in regard to the uncontrolled gas emissions or legacy of the boreholes that are left over, in an industry that is emerging and one that we know is going to be around for a while—in my opinion, hopefully, around for a while—there is going to be the effect of these boreholes that are left over and the gas. It says here that there are three ways that they will be dealt with. One, obviously, is on ongoing operation if there is a safety concern through normal mining operations. They will have to plug the hole or do whatever they need to do. Secondly, it is deemed that it is unsafe, they could be ordered or told to do something or they could basically do it voluntarily. It was asked: why would industry want to plug these holes if it was just a cost? Terms like a social licence are used or that it may not be in their best interests because it is making losses. Who is going to oversee these legacy boreholes in the long term? If a company goes broke, which is always the issue that people worry about, and they are not there to continue looking after these legacy boreholes, who would be there to pick up that slack? Who is going to oversee these? We are talking over a long period of time here. These legacy boreholes may very well have safety issues. Who will pick them up if there was a falling over of a company and they could not maintain them? Does that make sense?

Mr Matheson: Certainly. The amendments deal essentially with what we are calling legacy boreholes, which are boreholes that were drilled in the past and no longer have a tenure holder. The amendments are essentially about allowing access for either companies to fix up any safety concern with one of those boreholes or the department can authorise either a company or some contractor to fix up a borehole that is a problem. In that sense, where industry does not step up, for instance, to remediate the problem on their own behalf, the department can authorise relevant contractors to address the issue.

Mr COX: Okay.

Ms Nichols: Can I add something to that?

Mr COX: Who is going to pay for it?

Ms Nichols: You were also talking about, I think, the current sites. The current sites are regulated under the environmental authority and their tenure and are required to rehabilitate all of their existing boreholes. So everything under modern legislation has rehabilitation requirements and all of those entities have financial assurance, which is the backstop should they all go bust. That is where the money comes from.

Mr COX: So there is that assurance there.

Ms Nichols: But the legacy boreholes is a different issue, because no-one is the owner.

Mr Matheson: That is correct.

Mr COX: So you were talking about the older ones.

Mr Matheson: Correct.

Mr COX: But the new law now states—and this is what I want to clear up—there will be this worry that there is going to be all of these dangerous boreholes all over the state but, going forward, they will have to be remediated.

Ms Nichols: That is right.

Mr COX: This is about looking after the ones that have already been there.

Ms Nichols: Yes.

CHAIR: So in theory there is a budget set aside somewhere in the department that would allow for these legacy boreholes to be recapped, or whatever. I notice there was one mentioned in 2012 that had to be recapped. Did the department pay for that?

Mr Matheson: Yes. The one in 2012, the industry parties came together and remediated that at their own cost. It is anticipated that, if an event occurs in the future, we will certainly look to industry to cooperate. If for some reason they did not, then, yes, the department could step in and make the necessary arrangements. We are currently still working with industry about a funding model in the longer term.

Mr COX: Just as a supplementary, prior to 2012 there was not a requirement or there was nothing in place to look after these holes? So this is something that is a change to make sure that we are—

Mr Matheson: Since 2005 when the petroleum and gas legislation was introduced there were quite detailed requirements about how to abandon boreholes. As my colleague said, there were also mirror arrangements under the Environmental Protection Act. So those arrangements have been in place. What these new amendments provide is the access to be able to go and do that work to remediate. As it currently stands, the acts do not provide the access for all situations to go and do that work.

Mr COX: Okay.

Mr Houen: The legacy gas holes are all very well. One of them has been notably in the news because it caught fire. Since we have Environment and Heritage Protection here as well as the NRM, why all this emphasis on legacy holes that may have gas in them when there are, believe me, tens of thousands of open exploration drill holes, many of them drilled since the requirement for an environmental authority when the Environment and Heritage Protection Act came in, which intersect multiple aquifers and are every minute of every day and every year allowing those open boreholes to intermix the aquifers—the bad with the good, the higher with the lower and all the rest of it? This is known to all the departmental people. In my personal experience there have been huge efforts put in by landholders to get DEH to address the noncompliance, knowing full well that their incredibly valuable groundwater was being damaged by being intermixed with bad water or whatever heaven knows what happens when the bores are left open. After a very long time and finally a meeting with the minister, one operator—as far as I know the only one—was issued with a notice to do something about it. I think that probably has been bogged down in some court action. But my point is: why all the fuss about legacy boreholes for gas? What about the tens of thousands of open boreholes that are damaging the state's groundwater resources every minute of every day?

CHAIR: All right. We will take that on notice, if you like. If you would like to put it in email form to the committee, I will make sure that we get an appropriate answer for you.

Mr Houen: Okay.

CHAIR: It is probably just outside the framework of this bill. Going a bit further through the bill, I did see that there was the repeal of the coal super act. That seems to be quite accepted by the people involved in that?

Ms Ditchfield: We have had consultation through that process. I will just check with Myria.

Ms Makras: We did undertake consultation with the CFMEU, with Auscoal itself and New South Wales mining and there was support for the repeal of the legislation in that the act is actually invalid due to overriding Commonwealth legislation.

CHAIR: Okay.

Ms Makras: So they were very supportive.

CHAIR: Are there funds floating somewhere that should not be floating around?

Ms Makras: No. What it does is it allows for a general person to be able to nominate where their superannuation funds go into. So they can continue to contribute their superannuation fund into the Auscoal organisation or they can choose to go elsewhere.

CHAIR: But there are no workers who have left the industry who still have money in this Coal and Oil Shale Mine Workers' Superannuation Act tied up in some process there at all?

Ms Makras: No. The act just sets up the framework of where they can pay their funds.

CHAIR: Right.

Ms Makras: So they can continue to stay with Auscoal or they can choose to go elsewhere.

CHAIR: So that act has really been redundant since the federal act?

Ms Makras: Correct.

Ms TRAD: Just supplementary to that, the explanatory notes at page 47 say that no response was received from the CFMEU.

Ms Makras: That is correct.

Ms TRAD: So how can they be happy with it?

Ms Makras: We did actually send out a paper for consultation. We did speak to them. There were no issues at the time, but at the meeting that we actually had there were no participants. Even though they accepted the meeting request, they had not turned up.

CHAIR: Does most of the industry go now in Auscoal?

Ms Makras: I cannot answer that one for you. I am happy to take it on notice if you like.

Ms TRAD: Ms Ditchfield, I do have to express some concern about the extinguishment of basic statute rights in relation to the public's right to object. I am just trying to understand the rationale for removing this public right which is currently there.

Page 36 of the explanatory notes says that the current situation which allows the public to have a say in terms of applications is 'inequitable to miners'. How is it inequitable to miners? I thought that these were public resources that miners were actually extracting for their own profitable means, so how is it inequitable to miners for the public to have a say on mining lease applications?

Mr Beare: This is referring to the broader public right to object to a mining lease for a low-risk environmental authority. The current situation is inequitable to miners because other low-risk developments do not have similar requirements to be notified. For something like a development assessment under the Sustainable Planning Act, low-risk development under that legislation is not required to be notified, so the requirement for low-risk development to mining to be notified is considered to be inequitable.

Ms TRAD: I guess the defining difference, Mr Beare, is that there is the extraction of a public resource in terms of this bill as opposed to the Sustainable Planning Act and developments that occur in that context. Companies are extracting a public resource for a profitable enterprise, so I just do not understand why citizens' rights need to be curtailed because it is perceived to be unfair to miners. I also wonder whether or not there has been sufficient public consultation around this bill—we are extinguishing a public right to know here—and whether or not the public has been fully informed that this is actually occurring. I would like to know whether or not that has occurred.

Mr Beare: The situations are the same for petroleum and gas; there is no requirement to notify low-risk development for petroleum and gas, so those standard application and variation application environmental authorities are not required to be publicly notified. So again the situation is inequitable to mining in that they are, and that is what this dot point is referring to.

In terms of public notification, two discussion papers have been released on this particular proposal, the first one in June 2013. On the basis of submissions to that particular discussion paper, a second discussion paper was released in February this year. It was released for 30 business days and it was advertised on the Get Involved website, the Department of Environment and Heritage Protection website and the Department of Natural Resources and Mines website. The minister has done numerous interviews on radio and I believe TV—

CHAIR: I think this might be a part of the minister's policy objective, actually, this process, and maybe it should not just—

Ms TRAD: To deny the public a say in the matter?

CHAIR: To ask the minister why this is happening in this way or what his thoughts are on that matter.

Mr COX: I just have another small question on behalf of the little guy. Do you have any idea how many small scale alluvial miners there are? You do not even have to take that question on notice, but are we talking about quite substantial numbers?

Ms Nichols: We would have to take that on notice, I think.

Mr COX: In that part about flexibility it talks about a saving of up to $3,000 for them, not to mention the hassle. Again the reason we put that in there is because there must be a substantial number of small scale alluvial miners that this has caused problems for in the past and that they have come to us in relation to.

Mr Beare: There are two different proposals that we are talking about. The $3,000 figure relates to a particular proposal where we are making changes that during the moratorium period when an expiration permit is surrendered or expires, that small scale miners have an opportunity to lodge an application for a mining lease. The current requirement limits each of those applications to 50 hectares, so we are removing the limit. So they used to have to put six applications in to get the maximum 300 hectares.

Mr COX: Because it says a maximum of 300.

Mr Beare: Yes. So the maximum holding of 300 hectares is retained to ensure that it is limited to small scale miners, but they can put one application in, yes.

Mr COX: So in the scheme of things, a small scale miner would save a lot in terms of cost and effort of him having to make six applications rather than one over 300 hectares.

Mr Beare: Yes.

CHAIR: Are most of the rare earth miners classified as small scale miners?

Ms Nichols: They would not be under the current eligibility criteria unless they are doing shallow pit mining. If it is a shallow pit type of rare earth mining, yes; but if they are doing something deeper, they may not be. But I guess that is a more modern industry. These criteria are 10 years old now, and that is one other reason they need to be updated to see whether those really small scale mines—and rare earth mines tend to be small scale—could also fall into that kind of category.

CHAIR: So that is being reviewed through this process as well?

Ms Nichols: That is right.

CHAIR: I notice there was a little paragraph here on page 15 about practice manuals containing information about resource authority administration and providing guidance on relevant requirements, et cetera. I may be out of order here, but I had some mine surveyors who came in to see me earlier in the year as well, and they were concerned about not having surveying records of where old mines are when the mines are finished, particularly underground mines. How long do practice manuals have to be kept?

Mr Barr: The practice manuals that you are referring to are unrelated to the issues you are talking about. These are purely to provide guidance to those interacting with the department through legislation on how they can comply with the legislation and informing that, so it not necessarily in regards to what you are saying.

CHAIR: So they are virtually to give some idea of bringing these five resource acts into one section.

Mr Barr: Yes. Those practice manual provisions are currently replicated across the five acts, so this is one of the minor provisions that have been migrated to the common act under this bill.

CHAIR: Also I did see that 10 days to 30 days' notice had to be given on something, and you were going to go with the longer period and make it 30 days; is that right?

Mr Barr: I believe that is in regard to the entry notice period to public land. Again this is one of the challenges with moving to a common act, that we have disparate processes. Under the Mineral Resources Act there is a 10-business-day initial entry notice period for mineral and coal companies, and in the petroleum and gas acts and other resource acts it is a 30-business-day initial entry notice to public land authorities. So in coming to a common process in the common act, it is proposed that a common notice period would apply. That period will be prescribed in regulation; however, it was proposed 30 days, as is currently required in all the other resource industries, would be applied.

It is important to consider that change in the context of the entire framework that is being proposed in the bill. Some other changes in that space have been made in regards to access to public land. For example, for the first time in any resource sector applicants will be able to give notice to public land authorities so they can start that consultation process—subject to the authority being granted, of course. For the minerals and coal sector, they will no longer be required to notify occupiers. They will notify owners, and that aligns with the petroleum and gas sector. So the public land authority will take into account the concerns of the occupiers they have on their land. The mineral and coal sectors also are currently required to notify the minister in some cases, so we are aligning that with the other industries so they notify the chief executive, so that makes the process quicker. So it is an initial entry period of 30 business days for a given indicated period. The entities can agree to either have no further entry notice during that period, or the public land authority can impose a minimum of two business days' notice for subsequent entries, but ultimately that is between the two parties to resolve.

Ms TRAD: Just in relation to the current mandatory requirement for pegging out the tenure area which is being removed because of improvements to GPS, can you just explain to me how landowners would ascertain what the tenured area is if it is not pegged out?

Mr Beare: The requirements of the legislation are that before the department can accept an application for alternative means of pegging, or indeed pegging, the boundary definition methodology is clear and the lease boundary is able to be recognised and accurately located on the ground. So unless we are clear that that's the case and that a landholder or any other person could use the information that is provided with the application to actually go out on the land and locate it, then we cannot accept that application.

Ms TRAD: How do you substantiate that there is the ability to identify the land in the application? Does the landowner have to provide confirmation that—

Mr Beare: The delegate who is assessing the application would be responsible for confirming whether it is clear and accurate and unambiguous and can be located on the ground, and it would be the delegate's job to either accept or refuse the application.

Ms TRAD: Is the delegate a departmental officer?

Mr Beare: At the moment, yes.

Ms TRAD: Does the act change that?

Mr Beare: No.

Ms TRAD: It remains a departmental officer?

Mr Beare: Yes.

Ms TRAD: Just in relation to be access to restricted area or restricted land, I just want to be absolutely clear. If a proponent wants to access a restricted area or restricted land—watering holes or whatever—they have to obtain written consent prior to that occurring; is that correct?

Mr Barr: Where the land has been recognised as restricted land, either through the examples, or specific buildings stated in the act, or through agreement between the parties, any entry to that restricted land will require written consent from the landowner and the normal entry notice and CCA provisions for the land access framework will apply inside that area. The ability for the landowner to withhold consent is an additional aspect of the overall land access framework, which includes your notice periods and your compensation agreements. So if you are able to get the consent to enter that period, you would incorporate that written consent in your conduct compensation agreement if you chose to—that might be the best option—and that is up to the parties. But yes, you are correct.

Ms TRAD: So do variations to that consent—because I assume that it might change over the course of the project or the activity—need to be re-issued? Does the consent need to be re-issued when there are altercations or variations to the activity?

Mr Barr: I will have to take that question on notice. I believe we have some provisions around that, and I will have to take that on notice.

Ms TRAD: My apologies, I have to go. Thank you.

Mr COX: Bernadette, this is probably a yes or no, and you may or may not have been listening and I arrived a bit late at the beginning, but I would be right in saying that this bill is obviously part of the Modernising Queensland Resource Acts Program, MQRA, which is a new initiative of this government. The bill introduces some frameworks now with the overlapping of the gas and petroleum industries, which I know was a commitment in a six-month plan we had that this government wanted to have ticked off I think by June. I hope I am correct in saying that. I should know what my government is doing. While we have come in with the red tape reduction policy—I am not asking you to comment on that—we are talking about streamlining a lot of the services and the processes for mining companies, so I guess that is the public side and the 'big end' that yes, we are trying to help those sort of developments happen. I mentioned before the small scale alluvial miners, so we are also reviewing the whole situation for them in regards to red tape reduction; it is not just about the big guy. I believe some of this is about removing some old or redundant administration, which acts and bills tend to do, which again I am new at learning how that happens. I mentioned things before like the legacy boreholes.

I guess what I am asking is this bill is part of a new direction the department has taken in some areas to go and yes, get rid of red tape, but also look at how the industry as a whole, be it big or small, can work in a more streamlined manner, and I guess that is what we have achieved here.

Some of that stuff would be new. I used the legacy boreholes as an example and we know they have been there for a while, but as you said, Steve, that is what they are about. We are actually trying to solve how we can manage those going forward for the first time with this bill. Would I be right in saying that? It is probably a yes or no.

Ms Ditchfield: That is correct, it is a yes. But from a departmental point of view, even before the current government came in our focus was about streamlining and red tape reduction. We already had a program in place prior to 2012, and it would be fair to say that that has accelerated. So we have an accelerated program of reform, and certainly the MQRA is part of this government's reform program.

Mr COX: I was not trying to determine the department was not looking at that before, but I guess you have used the words it has sped it up.

Ms Ditchfield: Accelerated, is what we call it.

CHAIR: Would you like to summarise anything at all, Bernadette? We do not have any more questions. Submissions are still open until Wednesday, 9 July. Anyone who is sitting in the audience, who has a question they want to ask, please put it in your submissions. That will still be available to the ARC committee so that we can look at them on a submission basis and get answers back again. We will undoubtedly talk to the department again about this, Bernadette, and have another briefing. If you could get those questions on notice back to us by next week sometime, that could be good.

That brings the briefing to a close. Thank you, officers. A transcript of the briefing will be available on our website as soon as we are able. Please provide written answers to the questions taken on notice and any additional clarifying information by Wednesday, 2 July. I remind everyone that the closing date for written submissions is Wednesday, 9 July. I declare this meeting closed.

Subcommittee adjourned at 3.50 pm