Parliamentary Committees

Mines Legislation (Streamlining) Amendment Bill 2012

Report No. 7
Agriculture, Resources and Environment Committee
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Acknowledgements

The committee thanks those who briefed the committee and contributed their views at the briefings and hearing held on Friday 10 August 2012, or otherwise contributed to the inquiry.

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Abbreviations

AREC	Agriculture, Resources and Environment Committee
CSG	Coal seam gas
DNRM	Department of Natural Resources and Mines
DSD	Department of State Development
LNG	Liquefied natural gas

Chair's foreword

This report presents a summary of the committee's examination of the Mines Legislation (Streamlining) Amendment Bill 2012.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles – that is, whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

Public examination of a Bill allows the Parliament to hear views from the public and stakeholders they may not have otherwise heard from, which should result in better policy and legislation in Queensland.

On behalf of the committee I thank those organisations that made written submissions on this Bill, and others who have informed the committee's deliberations.

I commend the report to the House.

Mr Ian Rickuss MP
Chair

August, 2012

Executive summary

This Report presents the findings of the Agriculture, Resources and Environment Committee's examination of the Mines Legislation (Streamlining) Amendment Bill 2012. The Legislative Assembly referred the Bill to the committee on 2 August for examination and report by 16 August 2012.

The Bill seeks to:

- clarify the legislative framework relating to compulsory acquisition of land as it relates to resources interests (Compulsory acquisition)
- implement part of the Streamlining Approvals Project (Streamlining)
- confirm and clarify current jurisdictional arrangements in relation to the regulation of hazardous chemicals, major hazard facilities and operating plants (Safety and health), and
- provide increased regulatory certainty for all parties involved in the State's emerging Coal Seam Gas (CSG) to Liquid Natural Gas (LNG) industry (CSG/LNG industry).

The Department of Natural Resources and Mines and the Department of State Development assisted the committee in its work.

After considering the views of participants in the examination of the Bill, and the advice provided, the committee recommends the Bill be passed.

The committee also recommends that the Bill be amended:

- to more clearly provide that contractual arrangements between parties that grant interests in parts of mining tenements are not covered by the prohibited dealings provisions, and
- to provide that safety requirements of the *Petroleum and Gas (Production and Safety) Act 2004* shall be the safety regime that applies to pipelines for the transport of produced water.

The committee invites the Minister to clarify a number of other points noted in the report during his debate of the Second Reading of the Bill. These relate to:

- work by his department to inform landholders and other groups about the provisions of the Bill that are passed by the Legislative Assembly
- approaches his department will take in relation to its consultation with landholders, environmentalists, community groups and others in relation to resource industry-related Bills in future
- when the *MyMinesOnline* online management system would be operational and accessible to members of the public, and
- the meaning of 'extinguish all interests in the land, including native title rights and interests'.

Recommendations

1 Introduction

Role of the committee

The Agriculture, Resources and Environment Committee is a portfolio committee established by a resolution of the Legislative Assembly on 18 May 2012. The committee's primary areas of responsibility are agriculture, fisheries and forestry, environment and heritage protection, and natural resources and mines.[1]

In its work on Bills referred to it by the Legislative Assembly, the committee is responsible for considering the policy to be given effect and the application of the fundamental legislative principles.[2]

In relation to the policy aspects of Bills, the committee considers the approaches of departments to consultation with stakeholders and the effectiveness of this consultation. The committee may also examine how departments propose to implement provisions in Bills that are enacted.

Fundamental legislative principles are defined in Section 4 of the *Legislative Standards Act 1992* as the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to the rights and liberties of individuals, and the institution of parliament.

The referral

On 2 August 2012, the Legislative Assembly referred the Mines Legislation (Streamlining) Amendment Bill 2012 to the committee for examination and report. The Committee of the Legislative Assembly subsequently amended the reporting date to 16 August 2012 in accordance with Standing Order 136(1).

The committee's processes

The referral from the Legislative Assembly and the amendment to the reporting date by the Committee of the Legislative Assembly provided the committee with a compressed timeframe (only nine full working days excluding weekends and a public holiday in Brisbane) in which to conduct its work. This has limited the committee's ability to examine the Bill in depth. In the time available, the committee:

- identified and consulted with likely stakeholders on the Bill
- sought advice from the department of Natural Resources and Mines on its consultation with stakeholders during the Bill's development, comparative provisions in equivalent legislation in other states and territories, the views raised by submitters on the Bill and potential fundamental legislative principle issues and other technical aspects of the Bill
- examined key clauses of the Bill, identified by submitters, and the Explanatory Notes
- arranged and convened briefings by departmental officers
- arranged and convened a public hearing to allow submitters to clarify the points raised in their submissions and to answer the committee's questions on their submissions
- considered all the evidence gathered, and
- formulated conclusions and compiled these into a report for the Legislative Assembly.

[1] Schedule 6 of the Standing Rules and Orders of the Legislative Assembly of Queensland as at 18 May 2012.
[2] Section 93 of the *Parliament of Queensland Act 2001*.

The committee's timetable for its work on the Bill is at Appendix A.

On the day the Bill was referred to it for examination, the committee sought advice from the Department of Natural Resources and Mines (DNRM) on the stakeholders consulted by the department during the Bill's development, and the outcomes of those consultations. At this stage it became clear that the department's consultation during the Bill's development had been limited to mining companies, peak bodies and government agencies. The department did not consult with landholders, landholder groups, environmental groups, law groups, local governments or community groups who may be impacted by the Bill.

Also on 2 August 2012, the committee notified stakeholders nominated by DNRM and other interested parties of the referral, and invited written submissions by 8 August 2012. The committee received 25 written submissions on the Bill.

Given the short submission period, the committee continued to accept submissions after the closing date and until Tuesday 14 August 2012. Two submitters used this opportunity to provide further material in support of their submissions. The submitters are listed at Appendix B.

A sub-committee of the Agriculture, Resources and Environment Committee received briefings and held a public hearing on the Bill on Friday 10 August 2012. The briefings were provided by officers of the Department of Natural Resources and Mines (DNRM) and the Department of State Development (DSD) before and after the public hearing. The briefings and hearing were open to the public and broadcast live via the Parliament's website. The officers who provided the briefings and the hearing witnesses are listed at Appendix C.

The committee's shortened timeframe to examine the Bill was further impacted by delays in the provision of advice by DNRM.

A summary of the submissions received by the committee incorporating advice on each submission provided by the Department of Natural Resources and Mines is at Appendix D at the back of this report.

2 Mines Legislation (Streamlining) Amendment Bill 2012

Primary policy objectives

The purpose of the Bill is to provide the legislative changes necessary to:

- clarify the legislative framework relating to compulsory acquisition of land as it relates to resources interests (**Compulsory Acquisition**);
- implement part of the Streamlining Approvals Project (**Streamlining**);
- confirm and clarify current jurisdictional arrangements in relation to the regulation of hazardous chemicals, major hazard facilities and operating plants (**Safety and Health**); and
- provide increased regulatory certainty for all parties involved in the State's emerging Coal Seam Gas (CSG) to Liquid Natural Gas (LNG) industry (**CSG/LNG Industry**).

Consultation on the Bill

A number of submissions noted that there had been only limited consultation by the department on the Bill, and no consultation with landholders and community groups. This has contributed to concerns amongst affected parties. The committee notes that in the absence of effective consultation, there is the potential to isolate these groups.

In her submission to the committee (submission 6), Rebecca Smith from James Cook University stated:

> *It appears community groups, scientific bodies and conservation advocates have been omitted in pre-Bill consultations, and these are the stakeholders given four working days for submissions…..it appears one sector of stakeholders – industry – has had a fair amount of pre-Bill consultation while non-industry stakeholders have been left with minimum time……. This factor needs to be addressed for accountable and transparent government for all Queenslanders.*[3]

In his submission (submission 9), Drew Hutton on behalf of Lock the Gate Alliance expressed the following concern:

> *…no community groups, environmental groups or catchment groups are mentioned in the Explanatory Memorandum, (p12) as being consulted over the Streamlining reforms. The issues relevant to this Bill are of intense interest to LTGA members and to many members of the broader community.*
>
> *Further, the timeline for submissions on this Bill is so short as to be almost impossible for landholders who spend most of their day outside; and for an organisation such as this to adequately consult with its members.*[4]

Friends of Earth Brisbane (submission 13) stated:

> *…we are disappointed that these substantive changes to the mining laws in Queensland have been created exclusively with industry engagement, overlooking the social, environmental and local concerns that other stakeholders might have with the proposed changes. Providing a one week comment period for all other stakeholders at the end of a three year process is inadequate.*[5]

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3 R. Smith, 2012, *Submission No. 6*, p.1.
4 Lock the Gate Alliance, 2012, *Submission No. 9*, p.1.
5 Friends of Earth Brisbane, 2012, *Submission No. 13*, p.1.

Advice received from the department confirms that scant consultation took place during the Bill's development, other than with other departments and peak industry bodies.

In relation to concerns raised by stakeholders, the department advised as follows:

> *….significant industry consultation has been undertaken in relation to a number of components of the Bill. It is important to note, that the amendments also address significant community concerns raised about the environmental and landholders impacts of, in particular CSG development.*
>
> *Streamlining Project amendments have no impact on the assessment rigour of environmental approvals. Therefore only targeted consultation was conducted for these related amendments, as the proposals relate primarily to stakeholders involved in tenure administration.*
>
> *It should be noted that the CSG to LNG related amendments address concerns raised by community and environmental groups regarding the aggregation and removal of salt resulting from the CSG to LNG process and moving treated CSG water to locations so it can be beneficially used.*
>
> *The proposed CSG/LNG industry amendments have been in the public record since November 2011 under the former Resource Legislation Amendment Bill 2011.*
>
> *It should be noted that these amendments have been drafted in careful consideration for industry, environment and landholder issues. These amendments do not take away landholders rights and will facilitate better environmental, commercial and community outcomes in the regions.*

In addition to the above, the truncated timeframe set for the committee to examine the Bill has compounded the concerns for some affected stakeholders.

Committee comment

The committee notes the absence of community consultation by the department on the Bill, as well as the Resources Legislation (Balance, Certainty and Efficiency) Amendment Bill 2011 introduced in the previous Parliament and on which the 2012 Bill is largely based. The failure to consult stakeholders during the development of the Bill has created widespread concern. The development of this Bill would have benefited from wide public consultation during its development and discussions with all stakeholders prior to its introduction in the Parliament.

The committee seeks the Minister's assurances that landholders and community groups, in particular, will be included in work by the department to inform stakeholders about the provisions of the Bill that are passed by the Legislative Assembly.

Point for clarification

The committee invites the Minister to clarify what work his department will undertake to inform landholders and other groups who may be affected by provisions in the Bill that are passed by the Legislative Assembly.

The committee also invites the Minister to provide assurances that his department will in future include landholders, environmentalists and peak bodies representing them, as well as community groups, in its consultation processes for the development of resource industry-related Bills that may affect their interests.

3 Examination of the Bill

Should the Bill be passed?

Standing Order 132(1) requires the committee to recommend whether the Bill should be passed. The committee considered the form and policy intent of the Bill.

The committee notes that the Bill will provide a modern and efficient regulatory framework for the state's mining industry, without compromising environmental protections, and will help to ensure the industry remains attractive to investors.

After examining the Bill, the committee determined that the Bill should be passed.

Recommendation 1

The committee recommends that the Mines Legislation (Streamlining) Amendment Bill 2012 be passed.

From its examination of the Bill, the committee draws the House's attention to the following issues.

Compulsory acquisition of land

Clauses 3-75, 79, 82-85

The Bill proposes a number of amendments to Queensland's *Acquisition of Land Act 1967* and other acts in relation to the policies and practices for the compulsory acquisition of land.

These amendments would provide constructing authorities with greater flexibility in relation to the compulsory acquisition of resource interests connected with land, in line with practices in other Australian jurisdictions. Appendix E provides information on provisions relating to compulsory acquisition in NSW, WA and NT that are equivalent to the provisions contained in Clauses 21, 42, 48, 73 and 79 of the Bill.

The department assured the committee that these amendments will not extinguish resource interests, except in instances where a potential or real conflict exists. For these situations, the amendments would provide constructing authorities with a discretionary power to acquire resource interests where there is a conflict with the purpose of the proposed take—for example, a rail corridor that needs to be acquired that would impact on a proposal for an open-cut coal mine.

The Bill also includes transitional provisions to ensure that, for past compulsory acquisitions of land, resource interests were not extinguished unless actions were specifically taken to do so.

Comments from the submissions

A number of submissions commented on the requirements in the Bill for holders of exploration permits to periodically relinquish land throughout the life of the exploration tenure.

As submitted by QRC:

> *Another aspect QRC highlights is the requirement for proponents to periodically relinquish land throughout the life of the exploration tenure. It seems reasonable that any land compulsorily acquired should be counted towards a proponent's periodic relinquishment. Further, in the circumstance where a large amount or the land acquired is in the principal area of the tenement, that a relinquishment credit be available towards the proponent's remaining tenements. This is similar to the concession offered to explorers under the*

previous government's urban restricted area policy. QRC is happy to work with government on developing this further.[6]

DNRM's advice

Relinquishment for exploration permit occurs by sub-blocks. So, if part of exploration tenure is extinguished then it would count toward relinquishment if the whole sub-block is extinguished or any part of the sub-block not affected by the extinguishment is also relinquished. However, if the part of a sub-block not affected by the extinguished is not relinquished then it would not count toward the relinquishment. To do otherwise, would unnecessarily complicate the administration of relinquishment to accommodate a rare scenario. Further, it needs to be noted that any extinguishment of area in exploration tenure would be rare.

Committee comment

The committee is satisfied by the advice provided by DNRM.

Periodic reduction in land covered by exploration permit

Clause 55 Amendment of s 139 (Periodic reduction in land covered by exploration)

Clause 173 Amendment of s 139 (Periodic reduction in land covered by exploration permit)

Clause 173 amends section 139 of the *Mineral Resources Act 1989* by replacing the existing land relinquishment requirements. The existing provision provides for relinquishment of up to 20 per cent of the grant area per annum. The new requirements proposed in the Bill are more stringent and would apply to both coal and mineral exploration permits requiring that 40 per cent of the original area is relinquished at the end of the first three years after the permit is granted. A further 50 percent of the remaining area would be relinquished by the end of the first five years after the permit is granted. If the exploration permit is renewed, during each renewal period a further 40 per cent of the remaining area would be relinquished by the end of the first three years after the day the renewed permit started. A further 50 per cent of the remaining area would be relinquished by the end of the first five years after the day the renewed permit started.

Comments from submissions

A number of submitters questioned whether the Minister would retain discretion to relax the land relinquishment requirement for permit holders in exceptional circumstances under the proposed new relinquishment system.

Peabody Energy submitted that under an automatic approach to relinquishment policy, mine developers could lose 70 per cent of their tenement before the grant of a Mining Development Lease (MDL) is possible. They also raised concern about a possible shift of departmental policy towards applying less discretion to the enforcement of the new relinquishment requirements than is currently applied. Peabody Energy is concerned to ensure that any shift in policy towards more 'automatic' enforcement of the new relinquishment arrangements is subject to proper industry consultation.

DNRM advice

According to DNRM, the amendment in the Bill does not change the discretion provided in the *Mineral Resources Act 1989* for the Minister to decide an alternate relinquishment requirement. The department also stated that it would not be appropriate for it to make commitments about how the Minister may or may not exercise the Minister's discretion.

[6] Queensland Resources Council, 2012, *Submission No. 20*, p.3.

Committee comment

The committee is satisfied by the advice provided by DNRM and notes that the Minister's discretion in relation to varying relinquishment requirements in exceptional circumstances will be retained.

Streamlining

A key policy objective of the Bill is to streamline and clarify information requirements by formalising third party certification, and clarifying the application of standard criteria in decision making in relation to mining and petroleum tenure applications. In January 2009, the Streamlining Approvals Project (SAP) began with the aim of reducing the time taken to process resource permit applications while still conducting a thorough assessment process.[7] The Project's first report entitled, Streamlining approvals project mining and petroleum tenure approval process, identified that paper based systems were restricting the flow of information to stakeholders.

In implementing part of the Streamlining Approvals Project the Department has advised that it has consulted with internal stakeholders in the mining and petroleum industries throughout Queensland in developing the amendments proposed in the Bill.[8]

The Bill's proposed amendments are designed to provide consistency in the terminology and processes used in five Acts, namely the *Mineral Resources Act 1989*, *Petroleum and Gas (Production and Safety) Act 2004*, *Petroleum Act 1923*, *Greenhouse Gas Storage Act 2009* and *Geothermal Energy Act 2010*, in order to provide greater flexibility in responding to resource applications.

Transfer of decision making role from the Governor in Council to the Minister

Clause 20 Amendment of s 294 (deciding application)

Clause 197 Replacement of s 271 (Minister to consider application for granting of mining lease)

The Bill proposes to transfer the power to grant and renew mining leases and petroleum leases under the *Mineral Resources Act 1989* and the *Petroleum Act 1923* from the Governor-in-Council to the Minister.

At present, the *Mineral Resources Act 1989* allows the Minister to reject a mining lease application only and is not the subject of an appeals process. The proposed amendments allow the Minister to grant and renew both mining leases and petroleum leases. These decisions are still subject to judicial review should applicants be aggrieved by a decision.

Concerns were raised by submitters and at the public hearing that this power should be left with the Governor-in Council.[9]

DNRM advice

The Department advises that this proposed amendment is designed to reduce assessment times and is consistent with the legislation operating in all other states.

Committee comment

The committee is satisfied with the advice provided by DNRM.

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7 Explanatory Notes, Mineral Legislation (Streaming) Amendment Bill 2012, p.1.

8 Explanatory Notes, p.12.

9 Bragg, J. 2012*, Draft Hearing Transcript*, 10 August, p 6.

Online management system - *MyMinesOnline*

Clauses 134, 140, 148, 151, 228, 235, 258, 260, 275 & 277

In order to address the issues identified by the SAP report, the Bill proposes the introduction of an integrated online electronic management system, *MyMinesOnline*. The Minister noted in his introductory speech that:

> *The amendments in the bill will help transform tenure management from an outdated manual, paper based system to a faster, modern and more transparent online environment through MyMinesOnline. MyMinesOnline is a web based service delivery system which will provide seamless interaction between the relevant department and the resources industry.*[10]

Concerns raised in Submissions

It has been submitted that under the current proposal MyMinesOnline will only been accessible to the mining industry, but should also be available to the public and particularly landowners, farmers, and any other member of the community likely to be impacted by mining development.[11]

DNRM Advice

DNRM advised the committee that MyMinesOnline is a tool for industry to lodge and view applications and granted tenure. Existing tools such as public inquiry reports, interactive resource and tenure maps will remain available to the public. However, as the rollout of MyMinesOnline system progresses it is expected that aspects of the data contained in the system will be made more accessible to the public.

Committee Comment

The committee supports the streamlining process in order to improve the efficiency and timeliness of processes for stakeholders.

The Committee notes that the Government has made a budget allocation for the upfront costs of introducing the MyMinesOnline system. The committee invites the Minister to clarify the likely timeframe for implementing the online system should the Bill be passed.

Point for clarification

The Committee invites the Minister to clarify when the *MyMinesOnline* system will be operational if the Bill is passed, and when it will be possible for members of the public to be able to access permits and lease documents online.

Streamlining – prohibited dealings

Clause 216 Insertion of new pts 7AAAB – 7AAAE

Clause 256 Replacement of pt 6N (Dealings)

Clause 273 Replacement of ch 5, pt 10 (Dealings)

Comment from submissions:

Freehills Lawyers submitted that section 318AAQ should be amended so it is clear that the types of commercial agreements as set out at section 318AAP(2) – are the types of commercial agreements which will not be prohibited. Freehills further submitted that section 318AAQ could be amended to exclude the 'has the effect of' and read: 'a dealing with a mining tenement that transfers a divided

[10] Queensland Parliament 2012, *Record of Proceedings*, 2 August, p.1436.
[11] Environmental Defenders Office of Northern Queensland, 2012, *Submission No. 14*, p.4.

part of the area of the tenement is prohibited'. The Queensland Resources Council in their submission supported the points raised by Freehills.

Mr Jay Leary, of Freehills provided the following further advice on the points raised in the Freehills submission:

> *We are concerned that section 318AAQ would cover contractual arrangements between parties that grant interests in parts of mining tenements. These types of contractual arrangements are common place in the industry.*
>
> *In the case of D'Aguilar Gold Limited v Gympie Eldorado Mining Pty Ltd [2006] QSC 326, the commercial agreement between the parties used the exact words as they now appear in section 318AAQ. The agreement had the effect of giving D'Aguilar Gold the same rights of enjoyment and liabilities as if there had been a transfer by Gympie Eldorado Mining Pty Ltd of beneficial ownership of the portion of the relevant mining tenement (see paragraph 25 of the case). Given the use of the exact wording, there is an argument that these types of agreements will be covered by section 318AAQ and therefore prohibited.*
>
> *In response to the issues raised, the department proposed to add subsection (2) to section 318AAP of the Streamlining Bill. The subsection reads: "(2) To remove any doubt, it is declared that any other transaction or commercial agreement not mentioned in subsection (1) is not a dealing with a mining tenement".*
>
> *While it may be the case (given the recent addition of section 318AAP(2)) that the types of commercial agreements in question will not fall under the definition of "dealing", section 318AAQ should be amended so it is clear in the section that these types of commercial agreements will not be prohibited.*[12]

DNRM's advice:

> *The department shares the view of Parliamentary Counsel that the only dealings that can be prohibited are dealings specifically mentioned in the definition of a 'dealing'. This position has been strengthened by the inclusion of the 'remove any doubt' provision stating that other transactions or commercial agreements not mentioned in the definition, are not dealings. Parliamentary Counsel have expressed that they have no objection to removing the concept of 'has the effect of' from the provisions about prohibited dealings as suggested by the Freehills submission. However, it is not clear whether the removal of this concept will change the meaning of the provisions. Therefore the department, if so advised, does not object to undertaking this amendment of the Bill.*

Committee comment

The Committee notes the intent of the prohibited dealings provisions and the concerns raised by Freehills and the Queensland Resources Council. The committee also notes the department's advice on the concerns raised that section 318AAP(2) already explicitly clarifies that a transaction or commercial agreement is not a 'dealing' and is not, therefore, a prohibited dealing.

The committee however concludes that greater certainty is warranted in the Bill to ensure that contractual arrangements between parties that grant interests in parts of mining tenements are not 'prohibited dealings'.

[12] Leary, J., Freehills Lawyers, 14 August 2012, *Correspondence with the committee.*

Recommendation 2

The committee recommends that the Bill be amended to more clearly provide that contractual arrangements between parties that grant interests in parts of mining tenements are not covered by the 'prohibited dealings' provisions.

Safety and Health

Part 8 Amendment of Work Health and Safety Act 2011

Clause 123 Act amended

Clause 124 Amendment of sch 1 (Application of Act)

The bill proposes amendments to the *Work Health and Safety Act 2011* which was passed in May 2011 as part of the former Queensland Government's commitment to the Council of Australian Governments' national harmonisation of general work safety laws. This act included provisions for the transfer of the regulation of hazardous chemicals and major hazard facilities from Queensland's specialised mining legislation which was not, apparently, part of the agreed national harmonisation changes. The Mines Legislation (Streamlining) Amendment Bill 2012 includes provisions to clarify that the regulation of hazardous chemicals and major hazard facilities on mine sites is required by the *Mining and Quarrying Safety and Health Act 1999*, the *Coal Mining Safety and Health Act 1999* and associated subordinate legislation.

Comments from the submissions

Hopgood Ganim Lawyers noted in their submission:

> *The exclusion of pipelines for transporting produced water from the safety regime under the Petroleum and Gas (Production and Safety Act) 2004 is inconsistent with one of the purposes of the Bill, namely to streamline the approvals process for resource tenements. This will result in two separate safety regimes, the Petroleum and Gas (Production and Safety Act) 2004 and the Work Health and Safety Act 2011 applying to practically the same geographical locations.*[13]

DNRM advice:

> *The submission makes a valid point as the intention of the changes was to provide for a clearer, simpler and more appropriate application of the safety regimes commensurate with the risk of the activities and the expertise of the regulators. It is acknowledged that there may have been an unintended consequence because of the wording of the changes and definitions.*
>
> *The Department will need to fully consider how best to rectify this issue without producing further unintended consequences. It is proposed that any necessary legislation changes will be considered in the next most appropriate legislative instrument.*
>
> *In the interim as drafted in the Bill, the safety management plan provisions of the Petroleum and Gas (Production and Safety) Act 2004 will apply to water pipelines by virtue of the petroleum authority holders obligations that arise from s670(6) of that Act. In addition the APIA Code "Upstream PE gathering networks – CSG Industry" is a preferred standard called up in Petroleum and Gas (Production and Safety) Regulation 2004 which specifically covers safety of water and gas PE pipelines.*

[13] Hopgood Ganim Lawyers, 2012, *Submission No.10*, p.2.

Committee comment:

In the committee's view, this problem should be resolved by an amendment to the Bill to nominate that the safety regime stipulated in the *Petroleum and Gas (Production and Safety Act) 2004* shall apply to pipelines for transporting produced water. This would ensure the Bill achieves the stated policy objective in relation to safety of pipelines without compromising safety.

Recommendation 3

The committee recommends that the Bill be amended to provide that safety requirements of the *Petroleum and Gas (Production and Safety Act) 2004* shall be the safety regime that applies to pipelines for the transport of produced water.

CSG/LNG - movement of produced water and brine

Part 7 Amendment of Petroleum and Gas (Production and Safety) Act 2004

Clause 76 insertion of new s15A

The Bill contains amendments to the *Petroleum and Gas (Production and Safety) Act 2004* that would reduce red tape for investors while providing greater security for landholders and industry. These amendments are designed to improve environmental outcomes and increase regulatory certainty for the state's emerging CSG-LNG.

Clause 76 of the Bill inserts a new section 15A of the *Petroleum and Gas (Production and Safety) Act 2004* which would make it possible for CSG water and brine to be moved off-site to a central location for treatment and salt recovery.

The amendments will allow proponents to construct pipelines for CSG water and brine across tenure and off tenure which will facilitate the aggregation of CSG water and brine and the centralisation of treatment plants. It will also allow for greater flexibility and efficiency in the transportation and treatment of CSG water and brine and make it easier to comply with the Government's CSG Water Management Policy.

The Government recognises that the current legislative framework does not allow for the efficient transportation and treatment of coal seam gas (CSG) water and brine between permit areas and off permit areas, nor the development of common user water-treatment and brine processing facilities on permit areas. CSG companies currently store untreated water and brine in containment ponds and treat water and brine through infrastructure built on site at each individual petroleum lease. This can be inefficient and costly. The Government has identified the removal of CSG water and brine as a key policy objective.[14]

In addressing this issue, Hon Andrew Cripps MP, Minister for Natural Resources and Mines, noted in his introductory speech that the proposed amendments in the Bill will support improved environmental outcomes and increase regulatory certainty for the State's emerging CSG-LNG industry. The amendments will achieve the following outcomes in relation to the transportation of CSG water and brine.[15] The proposed amendments also provide for:

- the registration of pipeline easements negotiated between CSG-LNG proponents and landholders, bringing security for pipeline infrastructure investments made by proponents and for landholders;
- incidental activities such as the building of roads and construction of power lines to occur across adjacent petroleum tenures areas, and

[14] Explanatory Notes, Mineral Legislation (Streaming) Amendment Bill 2012, p.6.
[15] Queensland Parliament 2012, Record of Proceedings, 2 August, p.1436-37.

- petroleum leaseholders to seek ministerial consent to change a delayed production commencement date.

Comments in submissions:

Submissions to the committee expressed concern that the transportation of CSG water will impact on landholders current landholder rights and increase environmental risks.

Rebecca Smith (Submission No.6) in comments on these provisions noted that, while this may be beneficial to landholders, additional provisions for registering easements to facilitate this water movement (through roads or pipelines) may further degrade rural properties and values due to reduction in total farm area available to be transferred to third parties. Ms Smith further commented:

> *On the face of it, the Bill appears to again privilege the resources sector over rural communities and landholders. The Bill is silent as to where the produced water would be located or to how it would be stored.*[16]

Ms Smith also noted that there has been no consultation on these provisions with community groups, scientific bodies or non-politicised expert opinion, and the submission period allowed by the committee provided inadequate time to seek information on the proposals or to conduct scientific modelling.

DNRM's advice

In addressing the concerns raised in the submissions, DNRM advised the committee that it has consulted extensively with the Department of Environment and Heritage Protection about the amendments relating to to the transportation and treatment of CSG water and brine. CSG companies would still require an Environmental Authority and a licence to transport CSG water and brine off their lease. The Department advised the following in relation to the environmental concerns raised:

> *The CSG water could be piped to areas where it can be used for agricultural use. Also, the Bill provides the amendments that are necessary to allow for brine to be moved off the landscape to centralised processing facilities, resulting in environmental benefits. This could be commercialized to saleable products, which could generate employment in regions. These amendments in no way remove the rights of landholders. The pipeline licence holders will still require a conduct and compensation agreement before entering any affected landholders' property.*[17]

The Committee sought further advice from DNRM as to whether the trucking of CSG water and brine from properties was a more feasible option than its removal by pipeline.

The department advised that trucking materials from properties would require approvals under the Environmental Protection Act (i.e. ERA – regulated waste permit) and road related approvals through the Department of Transport and Main Roads and Councils and, therefore, potentially delay the removal of the materials. The department further advised that the volumes concerned are too large to make the movement of CSG water and brine by truck feasible.

In other advice to the committee, DNRM stated:

> *The proposed amendments are likely to reduce the amount of infrastructure required by CSG/LNG proponents. The amendments will allow proponents to construct pipelines for CSG water and brine across tenure and off tenure which will facilitate the aggregation of CSG water and brine and centralisation of treatment plants.*

[16] R. Smith, 2012, *Submission No. 6*, p.2.
[17] Skinner, J. 2012, *Draft Hearing Transcript*, 10 August, p.4.

Hence, there is likely to be less properties impacted upon (e.g. QCLNG claimed that there will be 68 less landholders impacted). Farming area should not be impacted as the pipelines are likely to be underground.

These provisions in no way take away landholder rights and all provisions for the construction of pipelines are subject to licence holders gaining the written permission of the landholder to construct and operate a pipeline and having a Conduct and Compensation Agreement with that landholder.

Committee comment:

The committee notes that the rationale for allowing manufactured waters and brine to be piped through and off tenure and at least the potential for this to allow greater efficiencies for the treatment of these waters from CSG operations. The committee also notes that these pipelines will only be constructed with the written permission of the affected landholders.

The omission of urban restricted area provisions

A number of submissions raised concerns about the absence of urban restricted area provisions in the Bill which protect residential areas from mining projects. These provisions were contained in the 2011 Bill on which the 2012 Bill was based.

In her submission (submission 6), Rebecca Smith stated:

The now lapsed Resource Legislation (Balance, Certainty and Efficiency) Bill 2011 contained provisions to stop grant and applications for mining and gas tenures within 2 km of urban areas and communities with over 1000 people if the applications did not have the consent of the local government. Open cut mines were also to have been prohibited under this Urban Restricted Areas plan. This provision has been omitted from the present Bill. The provision sought to empower rural people in small towns to choose to maintain their way of life, while not preventing mining and gas activities in nearby areas.[18]

In his submission (submission 9), Drew Hutton on behalf of Lock the Gate Alliance said:

LTGA notes that the now lapsed Resource Legislation (Balance, Certainty and Efficiency)Bill 2011, on which this new Bill is largely based, included Urban Restricted Areas where some types of mining could not occur. LTGA is concerned that the new Bill has omitted these restrictions. LTGA understands that a gazette notice issued on 16/8/12 dealt with this issue and that changes to legislation were to provide a more permanent solution by stopping grants and applications for mining tenures in the SE Qld regional area and within 2km of those areas. Outside SE Qld, it was to stop applications for some mining tenures in town areas with populations over 1000 people and within 2km of those areas.

However, the gazette notice and the proposed urban restricted areas was only to apply to mining for some minerals, not to other mining and resource extraction such as coal seam gas. It did not apply to renewals or upgrades of tenures; nor did it protect towns with populations less than 1000 people outside SEQ region. Irrespective of where they live, people are seriously affected by lights, dust and noise often for 24 hours a day and 7 days a week. We understand that 4km is a realistic, minimum buffer area for impacts of these types. Certainty is required in this Bill that there will be no resources exploration or production tenures in an urban centre or locality or within a minimum of 4km of the boundary of any urban centre or locality.

[18] R. Smith, 2012, *Submission No. 6*, p.1.

> *LTGA therefore recommends that the Urban Restricted Area provisions be reinstated.*[19]

At the public briefing on Friday 10 August 2012, Mr John Skinner, Deputy Director-General, Mining and Petroleum in the Department of Natural Resources and Mines explained to the committee:

> *…as the committee may have seen from the comparison provided of the RLA bill and this bill, a major change is the removal of the amendments relating to urban restricted areas. An alternative approach is being adopted on this issue and the interface between resource exploration around population centres is now being managed through a comprehensive and consultative statutory regional planning framework.* [20]

In advice on the submissions, DNRM further advised:

> *The position of the current Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.*

In evidence at the hearing, Deputy Director-General John Skinner explained to the Chair the protections afforded by the existing Gazette Notice and the benefits to smaller communities that would be provided as part of the regional planning framework.

> ***Mr Skinner:*** *There is an arrangement in place under what is called restricted area 384, which was gazetted in the context that, for any town in Queensland with a population over 1,000 people or more, there be a two-kilometre buffer. That is still in place. The government has indicated, though, that it sees the statutory regional planning process as a further refinement and development in this space with an emphasis being placed on developing statutory regional plans for the Darling Downs and Central Queensland in terms of the priorities. Work has started on that in terms of using the statutory regional planning process to deal with the issue of interface between the various sectors. That has been a major government priority, as outlined by the Deputy Premier.*
>
> ***CHAIR:*** *Thanks for that, John. I would imagine that would take in towns of fewer than 1,000 people, too, when they do that planning.*
>
> ***Mr Skinner:*** *That planning takes into account towns of all sizes.*
>
> ***CHAIR:*** *Yes. That could be of benefit to the community, I feel.*
>
> ***Mr Skinner:*** *It is not prescriptive in terms of the planning process.*
>
> ***CHAIR:*** *People in Brisbane do not realise that there are a lot of villages out there that are a couple of houses, a shop and a school.*
>
> ***Mr Skinner:*** *That arrangement was at the time really an interim measure in itself.*[21]

Committee comment

The committee welcomes the explanations provided by the department for the decision to omit the restricted area provisions from the Bill, the advice that RA 384 gazetted to provide a 2 km buffer around towns of populations over 1,000 people remains in force, and assurances that the Government will utilise regional planning processes d to provide more protections to the state's communities in areas covered by mining and exploration permits.

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19 Lock the Gate Alliance, 2012, *Submission No. 9*, p.1-2.
20 Skinner, J. 2012, *Draft Hearing Transcript*, 10 August, p.2.
21 Skinner, J. Rickuss, I. *Draft Hearing Transcript*, 10 August, p.5.

4 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that 'fundamental legislative principles' are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee sought advice from DNRM in relation to possible fundamental legislative principle issues and other issues affecting Clauses 21, 42, 73, 79 & 158 of the Mines Legislation (Streamlining) Amendment Bill 2012, and the explanatory notes to the Bill. The following sections discuss the issues raised by the committee and the subsequent advice provided by the Director-General of DNRM on 14 August 2012.

Compulsory acquisition of property – Section 4(3)(i) *Legislative Standards Act 1992*

Does the Bill provide for the compulsory acquisition of property only with fair compensation?

- Clauses 21, 42, 73, 79

The Government's position as outlined in the Explanatory Notes is that if the resource tenure holders were permitted to claim compensation on the lost opportunity to develop the resource on or below the surface of the land then it would potentially lead to the State, local governments and other infrastructure proponents paying large compensation amounts to acquire land where there is resource tenure and identified resources (particularly production lease). This could affect the feasibility of some linear infrastructure projects, such as a railway across resource regions.

Issue - it is a fundamental legislative principle that legislation should provide for the compulsory acquisition of property only with fair compensation—*Legislative Standards Act 1992* s.4(3)(i).

Request for advice:

The committee sought the department's assurance that it is reasonable to deny resource tenure holders compensation for the lost opportunity to develop resources on or below the surface of the land that is compulsorily acquired. Further the committee requested the department's advice on whether compensation rights would apply to the holder of resource interests in similar circumstances where land is compulsorily acquired in other Australian jurisdictions.

DNRM's advice

> *The rationale for limiting compensation payable (not including the value of resources known or supposed to be on or below the surface of the land) to resource interest holder's for acquisition of resource interests is to minimise the compensation risk to the state.*
>
> *If tenure holders are permitted to claim compensation for the lost opportunity to develop the resource on or below the surface of the land then it would potentially lead to the State, local governments and other infrastructure proponents being required to pay large compensation amounts to compulsorily acquire land where there is resource tenure and identified resources. This could make some linear infrastructure project (such as a railway across resource regions) unfeasible.*
>
> *Regardless of the provision limiting the compensation, resource interest holders whose interest is extinguished are still entitled to claim compensation on the actual cost incurred. For example, if part of a mining lease is extinguished, the mining lease holder can claim compensation to include the marginal cost associated with the acquired land for the*

exploration and tenure administration work undertaken leading up to obtaining the mining lease, any engineering work to plan or develop the mine, any redundancy in the infrastructure caused by the extinguishment of the resource interest and any cost associated with the severance of the mining lease.

In lieu of compensation, either partially or wholly, the constructing authority can negotiate to minimise the adverse impact on the tenure holder by, for example, negotiating to ensure there is an easement across the acquired land to minimise the impact of severing the mining lease. Constructing authorities may also undertake to support re-granting of the extinguished part of the mining lease at later date, under section 10AAC, subsection 1.

Western Australia has a similar provision in section 205 (Compensation as to mines) in the Land Administration Act 1997. It states, "If an interest in land taken under Part 9 is held under any Act relating to the use of land for mining purposes, the holder of the interest is only entitled to claim compensation for actual loss sustained by reason of the taking through damage to a mine on the land, or the works connected with a mine."

In addition to the above points, resource tenure holders (other than production tenures holders) do not have the right to develop resources on or below the surface of the land – the resources are the property of the State. Therefore the amendment does not significantly limit rights to claim compensation for non production tenure.

Committee comment

The committee notes the department's advice provided.

Aboriginal tradition and Island custom – Section 4(3)(j) *Legislative Standards Act 1992*

Does the Bill have sufficient regard to Aboriginal tradition and Island custom?

- Clauses 21, 42, 48, 73, 79 & 158

Issue - a number of provisions (see: proposed new ss.350A(4) *Geothermal Energy Act 2010*; 369(A)(4) *Greenhouse Gas Storage Act 2009*; 10AAA(4) *Mineral Resources Act 1989*; 124A(4) *Petroleum Act 1923*; and 30AA(4) *Petroleum and Gas (Production and Safety) Act 2004* clarify that various interests may be extinguished 'if it is necessary to extinguish all interest in the land, including native title rights and interests'.

Request for advice:

The committee sought clarification from the department as to what is meant by 'extinguish all interests in the land, including native title rights and interests'.

DNRM's advice

This provision does not provide an additional head of power to extinguish native title rights.

Section 350A(4) of the Geothermal Energy Act 2010 and mirroring sections in other resource Acts simply clarify that resource interests needs to be extinguished in order to extinguish native title rights to satisfy section 24MD of the Native Title Act 1993. Section 24MD states that all interest in land with equivalent native title interest must be extinguished.

The purpose of this provision is to clarify that extinguishing resource interests in order to extinguish native title right is a legitimate reason for extinguishing resource interests.

Committee comment

The committee notes the department's advice though remains concerned that the advice provided does little to clarify the intent of the proposed provision and the effect on native title interests. The committee therefore invites the Minister to provide a clearer explanation of native title implications during his Second Reading debate.

Point for clarification

The committee invites the Minister to provide a clearer explanation as to what is meant by 'extinguish all interests in the land, including native title rights and interests' during his debate of the Second Reading of the Bill.

Clause 158 amends section 10A of the *Mineral Resources Act 1989* ("Extension of certain entitlements to registered native title bodies corporate and registered native title claimants"). Clause 158 omits sections 34, 96(11), 125, 198(10), 231(6), 300(13) and 317 and inserts sections 34, 125, 231(6) and 317. The Explanatory Notes state that:

> *…the new dealings provisions do not require the transferee to notify the land owner. The sections omitted by this clause remove the requirement for the transferee to notify any registered native title party. These changes are to align dealings administration across the resources legislation.*

Request for advice:

The committee sought the department's advice on implications for native title holders of removing the requirement for the transferee to notify native title parties. The committee questioned whether, in the absence of these notification requirements, native title parties will be given adequate notice of decisions affecting their interests?

DNRM's advice

> *The requirement for a transferee to notify native title parties of an approval to transfer ownership of tenure is a specific requirement under s. 10A(3) of the Mineral Resources Act 1989 (MRA).*
>
> *As a general rule, arrangements for when a tenure transfers from one owner to another are dealt with in any native title agreement. Generally, native title agreements require that the terms and conditions of an agreement transfer with a change in ownership. These arrangements, including occasions when notification is required, are obligations of the parties to address when the agreement is made.*
>
> *The amendment aligns the MRA to the frameworks under the other resources Acts.*

Appendix A Inquiry timetable

Thursday 2 August 2012	Bill referred to the committee for inquiry and report.
Thursday 2 August 2012	• initial notice to minister and director-general • invitation to stakeholders to provide written submissions • email with general information to update subscribers and inviting them to briefing and hearing
5.00pm Wednesday 8 August 2012	Closing date for written submissions
10.00am – 11.30am Friday 10 August 2012	Public briefing of the committee about the Bill provided by departmental officers. (Parliamentary venue TBA)
12.00pm – 1.30pm Friday 10 August 2012	Brisbane Public hearing. (Parliamentary venue TBA)
2.00pm – 3.00pm Friday 10 August 2012	Further public departmental briefing to respond to points raised at the public hearing (Parliamentary venue TBA)
5.00pm Friday 10 August 2012	Secretariat to provide department with FLP concerns for comment
5.00pm Monday 13 August 2012	Department to provide written advice on any FLP issues, answers to questions taken by officers on notice at the briefings, and any final questions from the committee
10.30am Tuesday 14 August 2012	Draft report circulated to committee members
10.30am Wednesday 15 August 2012	Committee meeting to adopt report
10.30am Thursday 16 August 2012	Deadline for lodging statements of reservations or dissenting reports with research director
Thursday 16 August 2012	Reporting deadline set by the House.

Appendix B Written Submissions

1 - Jane Hughes

2 - Jenny Chester

3 - Anne Dean

4 - Rex Beasley

5 - Association of Mining and Exploration Companies

6 - Rebecca Smith

7 - Rob McCreath

8 - Margaret Airoldi

9 - Lock the Gate Alliance

10 – Hopwood Ganim Lawyers

11 - Powerlink

12 - Ellie Smith

13 - Friends of the Earth Brisbane

14 - Environmental Defenders' Office of Northern Queensland Inc.

15 - QGC

16 - Queensland Greens

17 - QR National

18 - Environmental Defenders Office Queensland

19 - Santos GLNG Project

20 - Queensland Resources Council

21 - Freehills Lawyers

22 - Judith Sheehan

23 - Mackay Conservation Group

24 - Ursula Monsiegneur

25 –Peabody Energy Australia Pty Ltd

26 - Agforce

27 – Ipswich City Council

Appendix C - Participants in the inquiry

Departmental briefing officers
Department of Natural Resources and Mines Mr John Skinner, Deputy Director-General, Mining and Petroleum Ms Bernadette Ditchfield, General Manager, Mining Petroleum Industry Policy Mr Warwick Squire, Director, Land and Resource Policy Ms Rachael Cronin, Executive Director, Service Delivery, Mining and Petroleum Operations Mr Anthony Christensen, Manager, Petroleum Gas and Geothermal, Mining and Petroleum Operations, Department of Natural Resources and Mines Mr Stephen Matheson, Chief Inspector Petroleum and Gas Mr Michael O'Donoghue, Principal Advisor, Safety and Health
Department of State Development and Infrastructure are: Mr Denis Bird, General Manager, Resource Sector Facilitation Group Mr John Blumke, Director, Project Facilitation, Resource Sector Facilitation Group

Hearing witnesses
MONSIEGNEUR, Ms Ursula, Convenor, Ipswich and Lockyer, Queensland Greens
PEARSON, Mr Brendan, Vice-President, Government Relations, Peabody Energy Australia Ltd THORNTON, Mr Julian, Group Executive Operations, Peabody Energy Australia Ltd
BRAGG, Ms Jo-Anne, Principal Solicitor, Environmental Defenders Office Queensland
PEARLMAN, Mr Patrick, Principal Solicitor, Environmental Defenders Office of Northern Queensland
BARGER, Mr Andrew, Director, Resources Policy, Queensland Resources Council MULDER, Ms Katie-Anne, Industry Policy Adviser, Queensland Resources Council
AIROLDI, Ms Margaret, Private citizen
TURNER, Mr Nathan, Commercial Analyst, QGC WAKE, Ms Cecile, Vice-President, Commercial, QGC WOODLAND, Mr Paul, Manager, External Relations, QGC

Appendix D – Summary of submissions and department advice

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
1	Ms Jane Hughes	Consultation timeframe	Concerned at short time frame to consider Bill. Quote – *Industry needs more thorough investigation and regulation*.	Noted.
1	Ms Jane Hughes	Environmental concerns	Raises environmental concerns in relation to contamination of chemicals to humans and animals and the preservation of agricultural lands. Does not specifically address any clause/issue concerning the Bill.	These issues are outside the scope of the Bill. The Bill does not compromise existing environmental or agricultural land regulations.
2	Ms Jenny Chester	Consultation time frame Environmental concerns	Main concern is that the legislation is being hurried through to provide certainty to the CSG and mining industry at the expense of landowners. Quote – *The general public have been given too little time to comment in an informed way on this Bill.* Does not specifically address any clause/issue concerning the Bill.	Noted.
3	Ms Anne Dean	Consultation time frame General environmental concerns	Concerned that the government is 'fast tracking' the Bill. Raises environmental concerns in relation to contamination of chemicals to humans and animals and the preservation of agricultural lands. Does not specifically address any clause/issue in the Bill.	Noted.
4	Mr Rex Beasley	Consultation time frame Environmental concerns	Raises environmental concerns in relation to contamination of chemicals to humans and animals and the preservation of agricultural lands. Time frame to comment on the Bill too short.. Does not specifically address any clause/issue concerning the Bill.	Noted.
5	Association of Mining and Exploration Companies (AMEC)	General comment	AMEC has been a long-term advocate for the streamlining of approvals for minerals resources projects, and is therefore a strong supporter of the Bill.	AMEC has been part of targeted industry consultation during the Streamlining Approvals Project. Queensland representatives have been provided personalised briefings on the proposed amendments.
5	AMEC	Consultation timeframe	The short consultation timeframe has not given AMEC the "..appropriate amount of time to critically assess the Bill in detail."	Noted.
6	Rebecca Smith	Consultation timeframe	The submission period has allowed only four working days to read and analyse the Bill, Notes and proposed amended legislation. While the Bill provides certainty for an industry with a life span of approximately 30 years, it provides less protection for communities and landholders, and the provisions for enabling registered easements to run pipelines to pipe away water from	Noted.

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
			mining across neighboring properties may adversely property values and make it difficult to transfer properties to non-resource sector third parties.	
6	Rebecca Smith	Consultation pre-Bill	It appears that community groups, scientific bodies and conservation advocates have been omitted in pre-Bill consultations, and these are the stakeholders given four days for submissions….It appears that one sector of stakeholders – industry- had had a fair amount of pre-Bill consultation while non-industry stakeholders have been left with minimum time, part of which was interrupted by the weekend. This factor needs to be addressed for accountable and transparent government for all Queenslanders.	Noted – significant industry consultation has been undertaken in relation to a number of components of the Bill. It is important to note, that the amendments also address significant community concerns raised about the environmental and landholders impacts of, in particular CSG development.
6	Rebecca Smith	Omission of urban restricted areas	The now lapsed Resource Legislation (Balance, Certainty and Efficiency) Bill 2011 contained provisions to stop grant and applications for mining and gas tenures within 2 km of urban areas and communities with over 1000 people if the applications did not have the consent of the local government. Open cut mines were also to have been prohibited under this Urban Restricted Areas plan. This provision has been omitted from the present Bill. The provision sought to empower rural people in small towns to choose to maintain their way of life, while not preventing mining and gas activities in nearby areas that had consent of the local government. Local government in rural areas is very attune to local community values, given councilors share common social bonds with their constituents in small towns.	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the current Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.
6	Rebecca Smith	Movement of produced water	Amendments to the Petroleum Act provide for produced water to be moved off-site. While this may be beneficial to landholders, additional provisions for registering easements to facilitate this water movement (through roads or pipelines) may further degrade rural properties and values due to reduction in total farm area available to be transferred to third parties. On the face of it, the Bill appears to again privilege the resources sector over rural communities and landholders. The Bill is silent as to where the produced water would be located or to how it would be stored. There has been no consultation on these provisions with community groups, scientific bodies or non-politicised expert opinion – suggests process is flawed and that the four day submission process has been inadequate to seek information on	The proposed amendments are likely to reduce the amount of infrastructure required by CSG/LNG proponents. The amendments will allow proponents to construct pipelines for CSG water and brine across tenure and off tenure which will facilitate the aggregation of CSG water and brine and centralisation of treatment plants. Hence, there is likely to be less properties impacted upon (e.g. QCLNG claimed that there will be 68 less landholders impacted). Farming area should not be impacted as the pipelines are likely to be underground. These provisions in no way take away landholder rights and all provisions for the construction of pipelines are subject to licence holders gaining the written permission of the landholder to

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
			the proposals and for conducting scientific modeling on such proposals.	construct and operate a pipeline and having a Conduct and Compensation Agreement with that landholder.
6	Rebecca Smith	Streamlining	The Bill refers to 'red tape' without defining what it means – unclear if different from green tape. 'Red tape' should be defined.	'Red-tape' generally refers to excessive government process derived from when official documents were tied together with red coloured tape. Greentape is a play on the 'red-tape' expression in that it refers specifically to environmental regulation.
7	Mr Rob McCreath	Consultation timeframe	Time frame to comment on the Bill is too short.	Noted.
7	Mr Rob McCreath	Omission of Urban Restricted Area	The Bill does not include an Urban Restricted Areas provision which means that residential areas could be subjected to mining near their property's. The Bill should include this provision to protect residential areas from the impacts of mining.	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.
8	Ms Margaret Airoldi	Consultation timeframe	Time frame to comment on the Bill is too short.	Noted.
8	Ms Margaret Airoldi	Omission of Urban Restricted Area provisions	The Bill needs an Urban Restricted Areas provision to protect residential areas from mining projects.	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the current Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.
9	Lock the Gate Alliance	Consultation pre-Bill	LTGA is concerned that no community groups, environmental groups or catchment groups are mentioned in the Explanatory Notes as having been consulted over the streamlining reforms. The issues in this Bill are of intense interest to LTGA members and the broader community.	Streamlining Project amendments have no impact on the assessment rigour of environmental approvals. Therefore only targeted consultation was conducted for these related amendments, as the proposals relate primarily to stakeholders involved in tenure administration. It should be noted that the CSG to LNG related amendments address concerns raised by community and environmental groups regarding the aggregation and removal of salt resulting from the CSG to LNG process and moving treated CSG water to locations so it can be beneficially used.
9	Lock the Gate Alliance	Consultation timeframe	The timeframe for submissions is so short as to be almost impossible for landholders who spend most of their day outside, and for an organisation such as this to adequately consult with its members.	Noted.

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
9	Lock the Gate Alliance	Possible conflict with AREC regulation inquiry	It is a very poor process for this Bill to streamline assessment processes to be considered before submissions to the former (AREC inquiry into regulation of the agricultural and resources sector) have closed.	Noted – the progression of this Bill is separate to the AREC inquiry into regulation of the agricultural and resource sectors.
9	Lock the Gate Alliance	Omission of Urban Restricted Area provisions	Certainty is required in this Bill that there will be no resources exploration or production tenures in an urban centre or locality or within a minimum of 4km of the boundary of any urban centre or locality. LTGA therefore recommends that the Urban Restricted Area provisions (dropped from the 2011 version of the Bill) be reinstated. Changes to legislation were meant to provide a more permanent solution to stopping grants and applications for mining tenures in the SEQ region and within 2 kms of those areas as provided by a gazette notice issued on 16.8.12. Outside SE Qld, it was to stop applications for some mining tenures in town areas with populations over 1000 people and within 2km of those areas. the gazette notice and the proposed urban restricted areas was only to apply to mining for some minerals, not to other mining and resource extraction such as coal seam gas. It did not apply to renewals or upgrades of tenures; nor did it protect towns with populations less than 1000 people outside SEQ region. Irrespective of where they live, people are seriously affected by lights, dust and noise often for 24 hours a day and 7 days a week.	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the current Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.
9	Lock the Gate Alliance	Vol. 1, p.170 Clause 196 Amendment of s 269 (Land Court's recommendations on hearing). Vol. 1, p.171 Clause 197 Replacement of 2 271 (Minister to consider application for grant of mining lease). Vol. 1, p.173 Clause 198 Amendment of s 276 (General conditions of mining lease).	LTGA does not support the intent of S290 which proposes to give new powers to the Minister to grant and renew mining and petroleum leases. For purposes of transparency, accountability, and community confidence, we strongly support this power remaining with the Governor in Council. LTGA recommends clause 290 be deleted.	Petroleum leases under the newer *Petroleum and Gas (Production and Safety) Act 2004* are granted by the Minister, as are production leases under the greenhouse gas and geothermal legislation. Queensland is at a competitive disadvantage from the rest of Australia, where the responsible Mining Minister grants mining leases. There will be no impact on assessment rigour as a result of this change and it brings Queensland into line with other states.
10	Hopgood Ganim Lawyers	Vol. 1, p.56 Clause 48 Section 10AAA Extinguishing mining tenement interests on the taking of land in a mining tenement's area (other	"There are concerns that the general resumption laws do not allow for the resumption of resource interests. The legislation will work to clarify this however it is noted that in certain circumstances the resource interest will still be resumed (s.10AAA(3) where the relevant Minister is satisfied that the	The resumption of resource interests would occur under the resumption law, which is defined under Clause 66 of the Bill as a law that provides for the compulsory acquisition of land, including, for example, the *Acquisition of Land Act 1967* as applied to another for taking land (e.g Electricity Act), the Land Act 1994,

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
		than by easement).	resource interest is incompatible with the purpose for which the land is being taken). They ask what is the authority on which the legislation is based to allow for the resumption of the resources interest on this basis?; and (b) criteria should be considered to for determine what is "is incompatible with the purpose for which the land is being taken". We note extinguishment of all interest in the land, including native title, are grounds for resumption of the resource interest s.10AAA(4)). What exactly does this mean and is it intended that the relevant Minister will have total discretion in this regard?"	chapter 5, part 3, division 3; the *Petroleum and Gas (Production and Safety) Act 2004*, the *Queensland Reconstruction Act 2011*, the *State Development and Public Works Organisation Act 1971* and the *Transport Planning and Coordination Act 1994*. For example, in the case of geothermal interest, section 350A(7)(ii) in clause 21 states that the resumption law applies for the taking of land for which geothermal interests are extinguished. Assessing whether the resource activity is compatible with the purpose for which the land is to be taken will depend on the individual circumstances. It is very difficult to anticipate all possible scenarios where a conflict may occur that would warrant acquisition of the resource interest. Hence, it is not appropriate for the legislation to prescribe the criteria to assess the compatibility. The legislation allows for constructing authorities to establish criteria based on which they will assess the compatibility of resource activity with the purpose of the take. It should also be noted that resource interest holders whose interest is to be extinguished will have the right to be notified and to the opportunity to object to the extinguishing of their interests as per standard process for acquisition of land. This allows the resource interests holder to scrutinize the compatibility assessment undertaken by the constructing authority. Ultimately, the Minister responsible for the taking needs to be satisfied the resource interest is incompatible with the purpose for which the land is taken and this needs to be approved by the Governor in Council.
10	Hopgood Ganim Lawyers	Vol. 1, p.61 Clause 48 Section 10AAD Compensation for effect of taking of land in a mining tenement's area on mining tenement interests.	"The compensation provisions relating to the resumption of a mining tenement (resource interest) are not clear. Further clarification needs to be provided to industry on how the compensation payments will be calculated and what factors will be taken into consideration, given the proposed legislation will act retrospectively. Specifically: (a) will capital contributions made in relation to the mining tenement be taken into consideration (specifically capital work program expenses)/ (b) in excluding the value of the resource interest known or supposed to be known on or below the surface of the land (s.10AAD(2)) substantially reduces the value of the compensation payment and makes the compensation provisions of little or no	There is already a well established process for determining compensation for interests extinguished as part of a compulsory acquisition. It is not appropriate to prescribe in the amendments how compensation should be assessed, because all the possible scenarios cannot be anticipated in the legislation. The legislation simply excludes compensation for the value of the resource on or under the ground in relation to compensation. All other compensatable effects contemplated under the resumption law apply. The reason for ensuring that assessment of any compensation to resource interest holders don't allow for the value of resources known or supposed to be on or below the surface of the land is to minimise the compensation risk to the state associated with

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
			value to existing resource interest holders. does this apply to all tenements holders including mining lease holders? or only mining tenement prior to production? Consideration should be given to how to accommodate for compensation for lost opportunity, even if it is capped or limited. (c) Are the granting of mining tenements under s.10AAC(1) considered part of the compensation payments under s.10AAD? Consideration could be given to providing a priority application as compensation for acquired land."	acquisition of resource interests. If tenure holders are permitted to claim compensation on the lost opportunity to develop the resource on or below the surface of the land then it would potentially lead to the State, local governments and other infrastructure proponents paying large compensation to compulsorily acquire land where there is resource tenure and identified resources. This could make some linear infrastructure project (such as a railway across resource regions) unfeasible. Regardless of the provision limiting the compensation, resource interest holders whose interest is extinguished are still entitled to claim compensation on the actual cost incurred. For example, if part of a mining lease is extinguished, the mining lease holder can claim compensation to include the marginal cost associated with the acquired land for the exploration and tenure administration work undertaken leading up to obtaining the mining lease, any engineering work to plan or develop the mine, any redundancy in the infrastructure caused by the extinguishment of the resource interest and any cost associated with the severance of the mining lease. In lieu of compensation, either partially or wholly, the constructing authority can negotiate to minimise the adverse impact on the tenure holder by, for example, negotiating to ensure there is an easement across the acquired land to minimise the impact of severing the mining lease. Constructing authority may also undertake to support re-granting of the extinguished part of the mining lease at later date, under section 10AAC, subsection 1.
10	Hopgood Ganim Lawyers	Vol. 1, p.28 Clause 7 Amendment of s 20 (Assessment of compensation).	"Depending on how the law is used there is a risk assessment that a resource company must undertake in assessing the viability of a project. Beyond the obvious resumption of the resource, if there has been a resumption of land that bisects the resource, isolates the resource or prevents the resource from being developed then this will have a considerable impact on the project and could make it completely unviable. This should be further considered in the context of compensation payments."	The submission is correct in the proposition that the potential impact on a resource interests can be heighten due to potential severance of a tenure and the impact that may have. Certainly, under the *Acquisition of Land Act 1967* severance and injurious affection are two key criteria to be considered in compensation claims resulting from compulsory acquisitions of land interests. The concerns raised by submitter are addressed through application of existing resumption law in relation to resource interests.
10	Hopgood Ganim Lawyers	Vol. 1, p.181 Clause 216 Section 318AAN Application of pt 7AAAB.	"The new provisions relating to the transfer and registering of interests in mining and petroleum tenements state that the Minister may as a condition of the transfer require the transferee to provide security for the transfer. It is unclear how this	The requirements for security in the new dealings provisions merely reflect what is already required in the resources Acts as if the proposed transferee were an applicant for the authority. For example, see section 573(6) of the *Petroleum and Gas*

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		Vol. 2, p.228 Clause 256 Replacement of pt 6N (Dealings) Vol. 2, p. 254 Clause 273 Replacement of ch 5, pt 10 (Dealings)	provisions will work and how it relates to security provided by the transferor. There needs to be greater certainty around the financial security that is required and how this is calculated (see: Part 7AAAB, Part 6N and Chapter 5 Part 10). The new provisions do not apply to the transfer of an interest in an application for an exploration permit or authority to prospect (however applications for mining leases do fall within the new regime). We recommend that the scope of the new provisions are broadened to regulate and allow for the transfer of an interest in an application. This would provide efficiency where proponents are seeking to transfer its interest in an application. The matters that fall within the definition of a 'non-assessable' transfer need to be clarified. For example can one registered holder transfer its total interest in a tenement to another registered holder as a 'non assessable transfer' or is it only a partial transfer that falls within that definition?" "The new provisions do not apply to the transfer of an interest in an application for an exploration permit or authority to prospect (however applications for mining leases do fall within the new regime). We recommend that the scope of the new provisions are broadened to regulate and allow for the transfer of an interest in an application. This would provide efficiency where proponents are seeking to transfer its interest in an application. " "The matters that fall within the definition of a 'non-assessable' transfer need to be clarified. For example can one registered holder transfer its total interest in a tenement to another registered holder as a 'non assessable transfer' or is it only a partial transfer that falls within that definition?"	*(Production and Safety) Act 2004* (P&G Act). New section 318AAY for the *Mineral Resources Act 1989* (MRA) adopts the P&G Act approach and refers back to the security requirements for grant of the applicable tenure. Application transfers are currently only available under the MRA for mining lease applications. Under the P&G Act, petroleum lease applicants can apply to amend the application and change the applicant under separate provisions to dealings. The Streamlining Bill maintains these current arrangements. The provisions that define non-assessable transfers specifically state that a transfer of a tenure or an interest in a tenure is non-assessable if it relates to only PART of one holder's share. The generally principle is that holders can transfer parts of shares among themselves without requiring assessment, however if a new holder is coming in, or an existing holder is transferring out, then it is an assessable transfer.
10	Hopgood Ganim		"The exclusion of pipelines for transporting produced water from the safety regime under the *Petroleum and Gas (Production and Safety Act) 2004* is inconsistent with one of the purposes of the Bill, namely to streamline the approvals process for resource tenements. This will result in two separate safety regimes, the *Petroleum and Gas (Production and Safety Act) 2004* and the *Work Health and Safety Act 2011* applying to practically the same geographical locations."	The submission makes a valid point as the intention of the changes was to provide for a clearer, simpler and more appropriate application of the safety regimes commensurate with the risk of the activities and the expertise of the regulators. It is acknowledged that there may have been an unintended consequence because of the wording of the changes and definitions. The Department will need to fully consider how best to rectify this issue without producing further unintended consequences. It is proposed that any necessary legislation changes will be considered in the next most appropriate legislative instrument.

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				In the interim as drafted in the Bill, the safety management plan provisions of the *Petroleum and Gas (Production and Safety) Act 2004* will apply to water pipelines by virtue of the petroleum authority holders obligations that arise from s670(6) of that Act. In addition the APIA Code "Upstream PE gathering networks – CSG Industry" is a preferred standard called up in Petroleum and Gas (Production and Safety) Regulation 2004 which specifically covers safety of water and gas PE pipelines.
10	Hopgood Ganim	Vol. 1, p. 98 Clause 114 Amendment of s 670 (What is an *operating plant*)	"The definition of "specified P&G Act authorized activity" in clause 124 is incorrect and uncertain. It applies to an authorised activity mentioned in s 670(6) of the *Petroleum and Gas (Production and Safety Act) 2004* "that is not operating plant under the P&G Act, because of section 670(7) (b) of that Act". However, s 670(7)(b) does not limit the definition of "operating plant", as it provides whether certain activities are either jointly or severally considered "operating plant" rather than limiting the definition of "operating plant".	It is considered that the amendments as drafted provide for the intended outcome of allowing the WH&S Act to apply to non operating plant authorised activities on petroleum tenure and no change is needed.
11	Powerlink	Compulsory acquisition	While Powerlink considers that the Bill does a significant amount to address the level of uncertainty, at the same time it introduces additional uncertainty which will be costly to resolve.- mainly around the necessity for an evaluation about whether mining interests can "co-exist" or not. Powerlink submit that it would be better to distinguish between operational tenements and exploratory tenements for the purposes of compulsory acquisition. They further submit that only production resource interests should be compensable, not other resource interests such as prospecting, exploration and mining leases.	The department acknowledges that the compulsory acquisition amendments requiring constructing authorities to assess whether resource interest is compatible with the purpose of the take will require them to establish a robust framework making this assessment and operate accordingly. This will potentially result in incurring additional expense. However, without these amendments, constructing authorities will be obliged to undertake the process to extinguish all resource interests and accordingly compensate them. This would be significantly more expensive. The Department does not support distinguishing between exploration and production tenures as a basis for acquisition and compensation as this arbitrary distinction does not recognize the policy position of Government that co-existence is preferred. In many instances production authorities (such as Petroleum and Geothermal Energy Leases) will be able to co-exist and no acquisition will be required. In addition, there may also be very rare cases where exploration interest is required to be acquired and arbitrary criteria would not allow this to occur. The department's position is that if a resource interest is extinguished then its holders should have the right to claim compensation. As such, the department does not support the Powerlink position.

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11	Powerlink	Vol. 1, p.32 Clause 21 Insertion of new ss 350A -350D Section 350A Extinguishing geothermal interests on the taking of land in a geothermal tenure's area (other than by an easement)	Amend to remove reference to "other than taking or otherwise creating an easement" so that the distinction between freehold acquisition and imposition of easement rights by compulsory acquisition is removed.	Under current legislation, taking of easement does not extinguish any interests. As such, adopting Powerlink position would imply that taking of easement under current legislation extinguishes resource interests. This is not the intent of the amendment.
11	Powerlink	Vol. 1, p. 46 Clause 42 Insertion of new ss 369A -369D Section 369A Extinguishing GHG interests on the taking of land in a GHG authority's area (other than by an easement)	Amend to remove reference to "other than taking or otherwise creating an easement" so that the distinction between freehold acquisition and imposition of easement rights by compulsory acquisition is removed.	Under current legislation, taking of easement does not extinguish any interests. As such, adopting Powerlink position would imply that taking of easement under current legislation extinguishes resource interests. This is not the intent of the amendment.
11	Powerlink	Vol. 1, p.56 Clause 48 Insertion of new ss 10AAA -10AAd Section 10AAA Extinguishing mining tenement interests on the taking of land in a mining tenement's area (other than by an easement)	Amend to remove reference to "other than taking or otherwise creating an easement" so that the distinction between freehold acquisition and imposition of easement rights by compulsory acquisition is removed.	Under current legislation, taking of easement does not extinguish any interests. As such, adopting Powerlink position would imply that taking of easement under current legislation extinguishes resource interests. This is not the intent of the amendment.
11	Powerlink	Vol. 1, p.74 Clause 73Insertion of new ss 124A -124C Section 124A Extinguishing 1923 Act petroleum interests on the taking of land in a 1923 Act petroleum tenure's area (other than by an easement)	Amend to remove reference to "other than taking or otherwise creating an easement" so that the distinction between freehold acquisition and imposition of easement rights by compulsory acquisition is removed.	Under current legislation, taking of easement does not extinguish any interests. As such, adopting Powerlink position would imply that taking of easement under current legislation extinguishes resource interests. This is not the intent of the amendment.
11	Powerlink	Vol. 1, p.82 Clause 79 Insertion of new ss 30AA – 30AD Section 30AA Extinguishing petroleum interests on the taking of land in a petroleum authority's area (other than by an easement)	Amend to remove reference to "other than taking or otherwise creating an easement" so that the distinction between freehold acquisition and imposition of easement rights by compulsory acquisition is removed.	Under current legislation, taking of easement does not extinguish any interests. As such, adopting Powerlink position would imply that taking of easement under current legislation extinguishes resource interests. This is not the intent of the amendment.
12	Ms Ellie Smith	Consultation timeframe	Time frame very short for public comment and scrutiny of the Bill.	Noted
12	Ms Ellie Smith	Omission of Urban Restricted Areas provision	The proposed legislation should place a restriction of 5km on mining companies operating around urban areas and small towns.	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes

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				currently being progressed as a priority by Government.
13	Friends of the Earth Brisbane	Omission of Urban Restricted Area provisions	Recommends that provisions in the 2011 Bill be reinstated with a 5km exclusion zone around towns with populations over 100 people. "It is a significant step backwards to exclude this provision from the current bill and communities such as Wandoan, Taroom and Gowrie Junction will have an uncertain future as a result."	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.
13	Friends of the Earth Brisbane	Streamlining	All costs associated with 'streamlining' of the application process should be borne by the mining industry not the Government.	Although there is a capital expenditure for MyMinesOnline, the ongoing costs for maintaining the system will eventually be reabsorbed by the department as systems that are being replaced are gradually retired with the associated costs.
13	Friends of the Earth Brisbane	Consultation pre-Bill	FOTH are disappointed that these substantial changes to the mining laws in Queensland have been created exclusively with industry engagement, overlooking the social, environmental and local concerns that other stakeholders might have with the proposed changes.	Streamlining Project amendments have no impact on the assessment rigour of environmental approvals. Therefore only targeted consultation was conducted for these related amendments, as the proposals relate primarily to stakeholders involved in tenure administration. The proposed CSG/LNG industry amendments have been in the public record since November 2011 under the former *Resource Legislation Amendment Bill 2011*. It should be noted that these amendments have been drafted in careful consideration for industry, environment and landholder issues. These amendments do not take away landholders rights and will facilitate better environmental, commercial and community outcomes in the regions.
13	Friends of the Earth Brisbane	Consultation timeframe	Providing a one week comment period for all other stakeholders at the end of a three year process is inadequate.	Noted.
14	Environmental Defenders Office of Northern Queensland Inc.	Consultation timeframe	"First and foremost, the time frame established for public review and comment upon the provisions of the Bill has been unreasonably short and has deprived EDO-NQ and members of the public of a meaningful opportunity to consider and comment upon the Bill's provisions. EDO-NQ notes that the Bill was only introduced in Parliament on 2 August 2012, and referred to the Committee the same day. The closing date for submissions is 5:00 pm on 8 August 2012. This means the public has had, at most, a little over three (3) working days to review, digest and prepare comments regarding the 439-page Bill (and the 153-page Explanatory Note that accompanies it). Likewise, the Bill amends provisions of 17 pieces of legislation, introducing a level of	Noted.

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			complexity that is exacerbated by the lack of time allotted the public to review the Bill and prepare submissions." "Given the size of the Bill and the volume of relevant material requiring review and analysis, it is respectfully submitted that the provision of four (4) days' notice for submissions on the Bill violates the spirit, if not the specific wording, of the Fundamental Legislative Principles ("FLP") defined in section 4 of the Legislative Standards Act 1992 (Qld)."	
14	Environmental Defenders Office of Northern Queensland Inc.	Consultation pre-Bill	"Compounding the lack of meaningful opportunity for the public to review and comment upon the Bill is the fact that the Bill is admittedly the product of years of close consultation between the Government and the mineral industry – not only with respect to streamlining proposals but also with respect to provisions related to the CSG/LNG sector and compulsory acquisition. This is made clear in the Explanatory Note, discussing industry groups consulted with by the Government in the lead-up to the Bill's introduction.5 Government consultation with other stakeholders – landholders, farmers, graziers, local government and communities – is noticeably absent. EDO-NQ urges the Committee to take action to enable at least some consultation with such stakeholders to take place before the Bill is acted upon by Parliament."	Streamlining Project amendments have no impact on the assessment rigour of environmental approvals. Therefore only targeted consultation was conducted for these related amendments, as the proposals relate primarily to stakeholders involved in tenure administration.
14	Environmental Defenders Office of Northern Queensland Inc.	Omission of Urban Restricted Area provisions	"The Resource Legislation (Balance, Certainty and Efficiency) Bill 2011, which has now lapsed, contained provisions essentially prohibiting some forms of mineral development (e.g., mining and gas development) within 2 km of urban areas and communities with over 1000 people if the applications did not have the consent of the local government. Open cut mines were also to have been prohibited under this Urban Restricted Areas plan." "The Committee should review the provisions in last year's Resource Legislation bill and incorporate – and strengthen – such provisions in order to empower rural communities to choose to maintain their way of life, while not preventing mining and gas activities in nearby areas that had consent of the local government. Local government in rural areas is quite capable of deciding – based on shared local values – whether to consent to mineral development in close proximity to population centres. The Committee should endorse such powers and incorporate restricted areas provisions in the current Bill".	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the current Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.

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14	Environmental Defenders Office of Northern Queensland Inc	Vol. 1, p.155 Clause 159 Replacement of s 63 (Priority of applications for grant of mining claims) Section 63 Priority of mining claim applications	"EDO-NQ supports measures that increase efficiency, reduce costs to both the regulated community and government, and provide greater transparency and certainty in the regulatory process. However, there is an element missing from the online delivery platform that EDO-NQ urges the Committee to address in further amendments to the Bill, namely providing the general public with access to all or part of the online platform. At present, the system appears to be accessible only by industry. The public – including landowners, farmers, graziers and other members of the community likely to be impacted by mineral developments – desperately need timely and accurate information regarding such developments. That information and access should be readily deliverable by the online platform contemplated in the Bill and the Streamlining Approvals Project's recommendations. EDO-NQ notes that local governments are required to provide online access to development applications and other planning matters; …"	*MyMinesOnline* is a tool for industry to lodge and view applications and granted tenure. Existing tools such as public inquiry reports, interactive resource and tenure maps will remain available to the public. As the rollout of *MyMinesOnline* progresses it is expected that aspects of the data contained in the system will be made more accessible to the public.
14	Environmental Defenders Office of Northern Queensland Inc	Vol. 1, p.61 Clause 48 Insertion of new ss 10AAA – 10AAD Section 10AAD Compensation for effect of taking of land in a mining tenement's area on mining tenement interests Vol. 1, p.28 Clause 7 Amendment of Section 20 (Assessment of compensation)	"…the Bill contains numerous provisions that limit the government's liability to compensate resource holders for the value of mineral or energy resources extinguished through resumption of land. The Bill provides that "allowance cannot be made for the value of the mineral or energy resource known to be on or below the surface of the land". This, the Explanatory Note blandly observes, "is a potential FLP issue". The proposed amendments are far more than that, in EDO-NQ's opinion. The proposal to deny compensation to mineral resource holders constitutes a fundamental violation of the principle that the government is obligated to provide just compensation for property interests that it takes for a public purpose, via resumption or any other means." "Any taking by the government will cost the government money – potentially a great deal of money depending on the value of the property taken. Nonetheless, it is a fundamental and long-established tenet of Anglo-Saxon law that the government cannot take private property for a public purpose without providing just compensation to the property's owner. This tenet is enshrined in s 51(xxxi) of the Constitution of Australia and recognized by the courts of this nation.11 To the extent provisions of the Bill	The reason for ensuring that assessment of any compensation to resource interest holders don't allow for the value of resources known or supposed to be on or below the surface of the land is to minimise the compensation risk to the state associated with acquisition of resource interests. If tenure holders are permitted to claim compensation on the lost opportunity to develop the resource on or below the surface of the land then it would potentially lead to the State, local governments and other infrastructure proponents paying large compensation to compulsorily acquire land where there is resource tenure and identified resources. This could make some linear infrastructure project (such as a railway across resource regions) unfeasible. Regardless of the provision limiting the compensation, resource interest holders whose interest is extinguished are still entitled to claim compensation on the actual cost incurred. For example, if part of a mining lease is extinguished, the mining lease holder can claim compensation to include the marginal cost associated with the acquired land for the exploration and tenure administration work undertaken leading up to obtaining the mining lease, any engineering work to plan or develop the mine, any redundancy in the infrastructure caused by the extinguishment of the resource

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			propose to allow the resumption of land without compensating the holders of resource interests under the land, it violates these fundamental tenets of the law. Moreover, the Government's suggestion that resource holders do not have compensable property rights is untenable on its face."	interest and any cost associated with the severance of the mining lease. In lieu of compensation, either partially or wholly, the constructing authority can negotiate to minimise the adverse impact on the tenure holder by, for example, negotiating to ensure there is an easement across the acquired land to minimise the impact of severing the mining lease. Constructing authority may also undertake to support re-granting of the extinguished part of the mining lease at later date, under section 10AAC, subsection 1.
14	Environmental Defenders Office of Northern Queensland Inc	Vol. 1, pp.56 – 61 Clause 48 Insertion of new ss 10AAA – 10AAD Sections 10AAA-10AAD Vol. 1, pp.74-8 Clause 73 Insertion of new ss 124A – 124C Sections 124A-124C Vol. 1, pp. 82-7 Clause 79 Insertion of new ss 30AA – 30AD Sections 30AA-30AD Compensation for effect of taking of land in a mining tenement's area on mining tenement interests	"… EDO-NQ urges the Committee to remove or substantially modify those provisions of the Bill that purport to allow mineral resource holders' property interests to be extinguished via resumption without triggering an obligation to properly compensate those resource holders. These provisions include ss 10AAA to 10AAD of the Mineral Resources Act 1989 (Qld), ss 124A to 124C of the Petroleum Act 1923 (Qld) and ss 30AA to 30D of the Petroleum and Gas (Production and Safety) Act 2004 (Qld). In particular, EDO-NQ is concerned with those provisions of the Bill that amend legislation to provide that in assessing any compensation to be paid to the holder of a [mineral] interest in relation to the taking of the land, allowance can not be made for the value of [minerals] known or supposed to be on or below the surface of, or mined from, the land."	As above.
14	Environmental Defenders Office of Northern Queensland Inc	Vol. 1, p.96 Clause 108 Insertion of new s 422A Section 422A Obligation to hold relevant environmental authority and water licence	"This section obliges licence holders to obtain and hold a relevant environmental authority for the duration of the licence. The Committee should amend this particular provision to include language to the effect that licence holders must also "comply with the terms and conditions of any relevant environmental authority for the duration of the licence", and comply with any enforcement order issued in relation to the environmental authority."	This is already a provision in the granting of any tenure arrangement. Before the Department of Natural Resources and Mines grants any tenure it must have the appropriate Environmental Authority associated with that tenure. The Department of Environment and Heritage Protection (DEHP) and the LNG Enforcement unit are responsible for ensuring compliance with the relevant environmental authority.
14	Environmental Defenders Office of Northern Queensland Inc	Vol. 1, p.98 Clause 114 Amendment of s 670 (What is an *operating plant*)	"EDO-NQ is concerned that it appears that the Bill has removed ….[water pipelines that transports produced water] from the scope of operating plant subject to the health and safety requirements of the Petroleum and Gas (Production and Safety) Act 2004 defined in s 670 of that legislation, but has also excluded such plant from the safety and health requirements of the Work Health and Safety Act 2011 by excluding plant specified ins 670 from its application. EDO-NQ assumes that the intent of Parliament is not to leave activities associated with the operation of produced water pipelines entirely from health and safety	This submission makes a similar point to that made by Hopgood Ganim (no. 10) although they incorrectly state that no safety legislation would apply. In the Bill as drafted, the Work Health and Safety Act 2011 will apply and also the safety management plan provisions of the *Petroleum and Gas (Production and Safety) Act 2004* will apply to water pipelines by virtue of the petroleum authority holders obligations that arise from s670(6). In addition the APIA Code "Upstream PE gathering networks – CSG Industry" is a preferred standard called up in Petroleum and Gas (Production and Safety) Regulation 2004 which specifically

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			regulation and urges the Committee to clarify this issue."	covers safety of water and gas PE pipelines. Nevertheless it is acknowledged that there may have been an unintended consequence because of the wording of the changes and definitions. The Department will need to fully consider how best to rectify this issue without producing further unintended consequences. It is proposed that any necessary legislation changes will be considered in the next most appropriate legislative instrument.
14	Environmental Defenders Office of Northern Queensland Inc	Vol. 1, p.155 Clause 159 Replacement of s 63 (Priority of applications for grant of mining claims) Vol. 1, p.159 Clause 167 Amendment of s 105 (Mining other minerals) Vol. 1, p.169 Clause 193 Replacement of s 251 (Priority of applications for grant of mining lease) Section 251 Priority of mining lease applications	"Section 63 of the *Mineral Resources Act 1989 (Qld*) is proposed to be amended to accommodate the establishment of the MyMines Online or similar online service delivery platform and the need to resolve conflicting priorities of mining applications received on the same day. The proposed amendment would leave priority determinations for such applications to the mining registrar after "considering the relative merits of each application". According to the Explanatory Note, this amendment is necessary to allow "fairness between applications lodged online (at anytime of the day) and paper applications that can only be lodged during office hours".18 However, this particular provision is noted as raising FLP concerns. EDONQ agrees that such concerns are indeed raised – and FLP issues violated – by giving the registrar ill-defined powers to determine the "relative merit" of applications received."	Merit based assessment is already an established framework across the resources Acts. For example, applications received on the same day for exploration permits and tenders for other authorities. To support online lodgement, it is proposed to amend the regulations to provide that applications received online after business hours will be taken to be received at 8:30am on the next business day. An applicant who lodges in an office that opens at 8:30am will not likely have the application deemed to be lodged until shortly after this time and would then lose priority to the online application.
15	QGC	General Comment about the Bill	QGC strongly supports the introduction of the Bill as it will: *Facilitate the efficient development of upstream infrastructure to mitigate impacts on the community and the environment, in addition to providing proponents with much needed security of tenure for pipelines built under petroleum licences.*	Noted
15	QGC	Vol. 1, p. 102 Clause 121 Insertion of new ch 15, pt 13 Section 961 Existing written permission to enter land to construct and operate pipeline	Section s961 of the Bill says that any written permission obtained by a pipeline licence holder prior to the enactment of the Bill will not bind future landholders. QGC is concerned that pipeline proponents have no security of tenure prior to the registration of an easement. QGC submits that: *The proposed new section 961 be replaced with a transitional provision which provides that section 399A(2)(b) does not apply to existing written permissions until the later of 9 months following:* *(a) Completion of the pipeline; or* *(b) The commencement of the pipeline*	This section only applies to the survivorship of any written permission provided by a landholder to a licence holder to construct and operate a pipeline. However, prior to carrying out construction of the pipeline, the licence holder will also require a Conduct and Compensation Agreement under Part 5, Chapter 5 of the P&G Act. Under s537E of the P&G Act, a Conduct and Compensation Agreement does survive a land transaction. Landholders who have executed written permissions only will be disadvantaged if they have not completed their formal Conduct and Compensation Agreements with the license holder. Removal of this clause would be considered a breach of Fundamental

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				Legislative Principal with regards to landholders rights and retrospectively (due to the fact that this is a new provision).
15	QGC	Vol. 1, p.85 Clause 79 Insertion of new ss 30AA – 30AD Section 30AC Applications relating to land taken under a resumption law for which petroleum interests were extinguished	The proposed new section 30AC of the Petroleum & Gas Act provides for two criteria whereby the Minister may grant a new petroleum authority. QGC submits that section 30AC should also include circumstances whereby: *The grant of a new petroleum authority should occur automatically where requested by the previous authority holder.*	It is expected that extinguishment of resource interests (particularly petroleum interests) would be a rare occurrence. Where resource interests are extinguished, a large percentage of the extinguishment is likely to be due to the need to extinguish native title rights. Under section 24MD of the Commonwealth's Native Title Act 1993, all interest in land with equivalent native title interest must be extinguished. It is this requirement that is likely to impact on resource interests more so than engineering incompatibility. As such the compulsory acquisition amendments needed to give significant consideration to the requirements under the Native Title Act. The department has examined giving the previous tenure holder (from whom the part of the tenure was extinguished) the exclusive right to re-apply for the acquired land. However, it was decided that giving exclusive right to re-apply may be interpreted as not fully extinguishing the resource rights and therefore may invalidate resumption of the native title, if challenged in the Courts.
15	QGC	Vol. 1, p.87 Clause 79 Insertion of new ss 30AA – 30AD Section 30AD Compensation for effect of taking of land in a petroleum authority's area on petroleum interests	Clause 79 of the Bill introduces a new section 30AD which provides that the holder of an extinguished petroleum interest will not be entitled to compensation for the value of petroleum known or supposed to be in, or produced from, the land. QGC submits that: *The tenure holder's periodical obligation to relinquish sub-blocks under section 65 of the Petroleum & Gas Act should be reduced by the area of land affected by the resource extinguishment. This would provide some mitigation to the tenure holder for the partial tenure sterilization resulting from the taking of the land.*	Relinquishment for exploration permit occurs by sub-blocks. So, if part of exploration tenure is extinguished then it would count toward relinquishment if the whole sub-block is extinguished or any part of the sub-block not affected by the extinguishment is also relinquished. However, if the part of a sub-block not affected by the extinguished is not relinquished then it would not count toward the relinquishment. To do otherwise, would unnecessarily complicate the administration of relinquishment to accommodate a rare scenario. Further, it needs to be noted that any extinguishment of area in exploration tenure would be rare.
16	Queensland Greens	Consultation pre-Bill	Qld Greens are concerned that no community groups, environmental groups or catchment groups are mentioned in the Explanatory Notes as being consulted over the Streamlining reforms. The issues relevant to this Bill are of intense interest to Greens members and to many members of the broader community.	Noted – significant industry consultation has been undertaken in relation to a number of components of the Bill. It is important to note, that the amendments also address significant community concerns raised about the environmental and landholders impacts of, in particular CSG development. Streamlining Project amendments have no impact on the assessment rigour of environmental approvals. Therefore only targeted consultation was conducted for these related

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
				amendments, as the proposals relate primarily to stakeholders involved in tenure administration
16	Queensland Greens	Consultation timetable	The timeline for submissions is so short as to be almost impossible for landholders working through daylight hours, and for organisations such as the Greens to adequately consult with members.	Noted.
16	Queensland Greens	Omission of Urban Restricted Area provisions	Queensland Greens recommend that the Urban Restricted Area provisions (dropped from the 2011 version of the Bill) be reinstated to stop grants and applications for mining tenures within 2 km of urban restricted areas. – looking for a 4km minimum buffer area from the boundary of any urban centre or locality for protection from impacts (light, dust, noise) associated with mining and exploration.	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.
16	Queensland Greens	Vol. 1, p.171 Clause 197 Replacement of s 271 (Minister to consider application for granting of mining lease)	Qld Greens do not support the intent of this provision. For purposes of transparency, accountability and community confidence they support the powers to consider and grant mining licences remaining with the Governor in Council. They recommend that the clause be deleted.	Petroleum leases under the newer *Petroleum and Gas (Production and Safety) Act 2004* are granted by the Minister, as are production leases under the greenhouse gas and geothermal legislation. Queensland is at a competitive disadvantage from the rest of Australia, where the responsible Mining Minister grants mining leases. There will be no impact on assessment rigour as a result of this change and it brings Queensland into line with other states.
17	QR National	General comments	Largely supportive of the Bill	Noted
17	QR National	Vol. 1, p.66 Clause 63 Insertion of new Part 19, div 16 Section 789 Particular land in mining tenement's area taken before the commencement	QR National does not support inclusion of proposed section 789(2) whereby mining leases are excluded from the operation of transitional provisions of section 789. QR National requests that proposed section 789 and in particular section 789(20 be referred to the Office of Best Practice regulation to determine the impact of that section on the industry.	The Department of Transport and Main Roads holds that past compulsory acquisitions were intended to limit mining activity in the acquired land even if no actions were taken indicating the extinguishment of resource interests in order to protect its infrastructure from potential impacts of the mining activity. Inclusion of the exception (subsection 2) to the transition provision (section 789 in the *Mineral Resources Act 1989*) will minimise any risk to transport infrastructure from mining activity by maintaining the status quo in relation to the relevant part of the mining lease. In addition, the transition provision significantly limits the scope of potential past compensation claim as it retrospectively manages the risk by ensuring that with the exception provided for (transport infrastructure purpose takes effecting mining leases) by providing that the resource interests were not extinguished. If the transitional provisions were not made, the past risk would be significantly higher.

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
				It is important to note that subsection 2 in section 789 in the *Mineral Resources Act 1989* maintains the status quo.
18	Environmental Defenders Office Qld	Consultation pre-Bill	"Note that no community groups, or local governments or environmental groups or catchment groups are mentioned in the Explanatory Memorandum to the Bill, (p12) as being consulted over the Streamlining reforms. EDO Qld was not consulted over those reforms but did make a submission that addressed Urban Restricted Areas. Please note that just because we do not address an issue does not mean we agree with it, as we have not had time to examine the Bill in any detail."	Significant industry consultation has been undertaken in relation to a number of components of the Bill. It is important to note, that the amendments also address significant community concerns raised about the environmental and landholders impacts of, in particular CSG development. Streamlining Project amendments have no impact on the assessment rigour of environmental approvals. Therefore only targeted consultation was conducted for these related amendments, as the proposals relate primarily to stakeholders involved in tenure administration. It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.
18	Environmental Defenders Office Qld	Omission of Urban Restricted Area provisions	"The Bill has many provisions that are the same as the Resources (Balance, Certainty and Efficiency) Bill 2011 ("Lapsed Bill"), but the new Bill leaves out provisions to establish Urban Restricted Areas. This omission is of the gravest concern to the community. After a gazette notice dealt with the issue last year, the changes to legislation in the Lapsed Bill were to provide a more permanent solution. The gazette notice issued on 16 August 2011 stops grant and application for mining tenures in the SE Qld regional area and within 2km of those areas. Outside SE Qld, it stops applications for some mining tenures in town areas with populations over 1000 people and within 2km of those areas."	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.
18	Environmental Defenders Office Qld	Vol. 1, p.171 Clause 197 Replacement of s 271 (Minister to consider application for granting of mining lease)	"Mining and petroleum leases are very valuable entitlements with impacts on communities the natural environment and on other parts of the economy such as agriculture and tourism. So it makes sense to continue that the Governor in Council, i.e. Cabinet acting on the advice of Ministers decides whether or not to grant those tenures as this allows scrutiny of the proposal by Ministers concerned about those areas. It is also a safeguard against corruption."	Petroleum leases under the newer *Petroleum and Gas (Production and Safety) Act 2004* are granted by the Minister, as are production leases under the greenhouse gas and geothermal legislation. Queensland is at a competitive disadvantage from the rest of Australia, where the responsible Mining Minister grants mining leases. There will be no impact on assessment rigour as a result of this change and it brings Queensland into line with other states

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
19	Santos GLNG	Vol 2 p.253 Clause 271 Insertion of new ss 552A and 552B Section 552A Obligation to lodge infrastructure report for petroleum lease and 552B Content requirements for infrastructure report for petroleum lease	New sections 552A and 552B introduce a requirement for petroleum lease holders to lodge annual infrastructure reports. Santos submits that petroleum lease holders already provide the Government with extensive information about activities on tenure. Santos believes: *It will be important for the Government to seek opportunities for streamlining rather than duplication of reporting requirements.*	Currently, there is no register on the record of issued tenure that identifies the location of proponent infrastructure on tenure. The intended purpose of these reports is to maintain a record of this infrastructure which will be resolved through a regulation on proclamation of this bill. The Department of Natural Resources and Mines will work with industry and the Department of Environment and Heritage Protection to create a standard infrastructure reporting framework that will avoid duplication. This infrastructure reporting will also be required to tie activities conducted off and across tenure to the relevant Environmental Authority.
19	Santos GLNG	Vol 2 p.251 Clause 269 Insertion of new ch 2, pt 2, div 7, sdiv 3 Subdivision 3 Changing production commencement day Section 175AA When holder may apply to change production commencement day and Section 175AB Requirements for making application	New sections 175AA and 175AB involve applications to amend the production commencement date of a petroleum lease in certain limited circumstances. Santos submits that section 175AA should be amended to: (1) Proponents should not be precluded from applying to change the production commencement date of a lease if they do not already have a relevant arrangement in place; and (2) Section 175AA(c) should be amended to allow applications to be made up to 3 months before the existing production commencement date.	The amendment proposed in 175AA was plainly drafted to apply only to petroleum leases granted with delayed production commencement. This was done to limit the number of applications to change the production commencement day and thereby to support the key object of the P&G Act to ensure petroleum leases commence production within 2 years of grant. The requirement to apply 1 year before the date by which petroleum production under the lease is to start is intended to provide the Department and Minister with sufficient time to fully assess all the implications of any decision made. Given the long life span of LNG projects and need for advanced production planning, the proposed 12 month timeframe is considered adequately flexible to meet business needs. It is noteworthy that, given practical timeframes required for petroleum production to commence, any refusal of an application made only 3 month before a production commencement date would give a holder little opportunity to remain in compliance with lease conditions.
19	Santos GLNG	Vol. 1, p.85 Clause 79 Insertion of new ss 30AA – 30AD Section 30AC Applications relating to land taken under a resumption law for which petroleum interests were extinguished	Santos submits there are no provisions providing priority to the holder of the original authority with regard to applications over an area of acquired land as contemplated by section 30AC. Santos submits that the existing authority holder: *(1) have the sole right to apply for tenure over the excluded area;* (2) *the first right to apply to this excluded area for a specified period of time*	It is expected that extinguishment of resource interests (particularly petroleum interests) would be rare occurrence. Where resource interests are extinguished, a large percentage of the extinguishment is likely to be due to the need to extinguish native title rights. Under section 24MD of the Commonwealth's *Native Title Act 1993*, all interest in land with equivalent native title interest must be extinguished. It is this requirement that is likely to impact on resource interests more so than engineering incompatibility. As such the compulsory acquisition amendments needed to give significant consideration to the requirements

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
				under the *Native Title Act*. The department has examined giving the previous tenure holder (from whom the part of the tenure was extinguished) the exclusive right to re-apply for the acquired land. However, it was decided that giving exclusive right to re-apply may be interpreted as not fully extinguishing the resource rights and therefore may invalidate resumption of the native title, if challenged in the Courts.
19	Santos GLNG	Vol. 1, p.87 Clause 79 Insertion of new ss 30AA – 30AD Section 30AD Compensation for effects of taking of land in a petroleum authority's area on petroleum interests	Compensation for resumption. No compensation is payable to the holder of a permit the subject of a resumption. Santos submits that: *That consideration to the tenure holder for the lost opportunity to develop the resource, the requirement to compulsory relinquish sub-blocks pursuant to section 65 of the 2004 Act should be reduced by the same area of the land the subject of the resource extinguishment.*	Relinquishment for exploration permit occurs by sub-blocks. So, if part of exploration tenure is extinguished then it would count toward relinquishment if the whole sub-block is extinguished or any part of the sub-block not affected by the extinguishment is also relinquished. However, if the part of a sub-block not affected by the extinguished is not relinquished then it would not count toward the relinquishment. To do otherwise, would unnecessarily complicate the administration of relinquishment to accommodate a rare scenario. Further, it needs to be noted that any extinguishment of area in exploration tenure would be rare.
19	Santos GLNG	Vol. 1, p.94 Clause 103 Insertion of new s 399A Section 399A Written permission binds owner's successors and assigns	Section requires the registration of an easement within 9 months of the notice of completion of the construction of the pipeline. Santos submits that 12 months is a more realistic time frame for easement areas to be surveyed and to obtain executed documents from what may be a considerable number of land owners which the pipeline crosses.	The purpose of the 9 month deadline is to place urgency of the license holder to register the easement, once the construction of the pipeline is completed. This new provision is for the sole purpose of the written agreement and to bind it to successors of the land. Timeframes for this provision were considered the optimal for a licence holder to report the completion of the pipeline and register the easement.
19	Santos GLNG	Vol. 1, p.96 Clause 109 Insertion of new s 437A Section 437A Creation of easement by registration	Santos supports in general this section in relation to the creation of an easement by registration. However, Santos submits that there may be inconsistencies with sections 366(2) and (3) of the *Land Act 1994* in relation to the payment by the public utility provider to the landowner of the costs in keeping the part of the land affected by the easement in an appropriate condition. The Act should be amended to reflect these provisions.	The new Section 437A of the P&G Act will allow an easement to be created for a pipeline licence holder by registering easements under the Land Act 1994 and Land Title Act 1994 (Land Acts). Under Section 437A (s) of the P& G Act, these Land Acts (specific provisions) will apply to the easement as if it were a public utility easement and the pipeline licence holder was a public utility provider. Further, under s366 (2) of the Land Act, the lessee of the land burdened by the easement may recover from the public utility provider a reasonable contribution towards the cost of keeping the land. Further, s366 (3) of the Land Act states that this liability may be amended or excluded by Agreement. Hence, the proponent is concerned that the landholder may charge the proponent for the cost of maintaining the easement

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
				land. However, prior to registering an easement, the pipeline licence holder requires the owner's written permission to construct and operate the pipeline. In order to gain access to the property to construct the pipeline, the licence holder will also requires a Conduct and Compensation Agreement. It is anticipated that the costs to maintain the easement would be covered in the Conduct and Compensation Agreement; hence clause 366 of the Land Act should not be a major concern. This is a matter between the pipeline licence holders and landholders.
20	Qld Resources Council	General comment	QRC has long been involved in the development of the Bill dating back to 2009 when the Streamlining Mining and petroleum Tenure Approvals Project Report outlined a new tenure approvals platform for Queensland. The Bill goes hand in glove with the Greentape Act to deliver greater certainty, predictability and transparency to the mining and petroleum tenure approvals process	
20	Qld Resources Council	Compulsory acquisitions (all resource acts)	There has been limited consultation on the compulsory acquisition amendments proposed in the Bill. QRC raised questions to DNRM on the broader policy issues surrounding compulsory acquisition, including the intentions of Government to enable the re-grant of tenure, the full exploration of options with the tenure holder prior to extinguishment and limitations of compensation. Specifically, QRC finds it appropriate that where the two criteria, (1) tenure was extinguished upon acquisition and (2) the grant of a new tenure is compatible with the purpose for which the land was taken (outlined in new section new section 30AC for the P&G Act and new section 10AAC in the MRA), have been met, it should prompt an automatic grant of a new tenure when requested by the previous tenure holder. QRC also submits that priority should be provided to the previous tenure holder prior to extinguishment. QRC would be happy to work with DNRM in the future to work through these matters, including how these proposed amendments interact with the current overlapping tenure regime (eg. pre-existing priority of tenure).	It is expected that extinguishment of resource interests would be rare occurrence. Where resource interests are extinguished, a large percentage of the extinguishment is likely to be due to the need to extinguish native title rights. Under section 24MD of the Commonwealth's *Native Title Act 1993*, all interest in land with equivalent native title interest must be extinguished. It is this requirement that is likely to impact on resource interests more so than engineering incompatibility. As such the compulsory acquisition amendments needed to give significant consideration to the requirements under the *Native Title Act*. The department has examined giving the previous tenure holder (from whom the part of the tenure was extinguished) the exclusive right to re-apply for the acquired land. However, it was decided that giving exclusive right to re-apply may be interpreted as not fully extinguishing the resource rights and therefore may invalidate resumption of the native title, if challenged in the Courts.
20	Qld Resources Council	Compulsory acquisitions	Another aspect QRC highlights is the requirement for proponents to periodically relinquish land throughout the life of the exploration	Relinquishment for exploration permit occurs by sub-blocks. So, if part of exploration tenure is extinguished then it would count

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
			tenure. It seems reasonable that any land compulsorily acquired should be counted towards a proponent's periodic relinquishment. Further, in the circumstance where a large amount or the land acquired is in the principal area of the tenement, that a relinquishment credit be available towards the proponent's remaining tenements. This is similar to the concession offered to explorers under the previous government's urban restricted area policy. QRC is happy to work with government on developing this further.	toward relinquishment if the whole sub-block is extinguished or any part of the sub-block not affected by the extinguishment is also relinquished. However, if the part of a sub-block not affected by the extinguished is not relinquished then it would not count toward the relinquishment. To do otherwise, would unnecessarily complicate the administration of relinquishment to accommodate a rare scenario. Further, it needs to be noted that any extinguishment of area in exploration tenure would be rare.
20	Qld Resources Council	Vol. 1, p.112 Clause 132 Replacement of ch 6, pt 11 (Dealings) Vol. 1, p. 133 Clause 146 Replacement of ch 5, pt 14 (Dealings) Vol. 1, p. 181 Clause 216 Insertion of new pts 7AAAB – 7AAAE Vol 2 p.228 Clause 256 Replacement of pt 6N (Dealings) Vol 2 p.254 Clause 273 Replacement of ch 5, pt 10 (Dealings)	QRC feel that the intent to not prohibit or void such commercial arrangements, outlined in the explanatory notes, is not adequately reflected in the current Bill. Industry's concern, including recommendations for resolving that concern, is detailed further in the Freehills submission made to the Committee on 8 August 2012.	The department shares the view of Parliamentary Counsel that the only dealings that can be prohibited are dealings specifically mentioned in the definition of a 'dealing'. This position has been strengthened by the inclusion of the 'remove any doubt' provision stating that other transactions or commercial agreements not mentioned in the definition, are not dealings. Parliamentary Counsel have expressed that they have no objection to removing the concept of 'has the effect of' from the provisions about prohibited dealings as suggested by the Freehills submission. However, it is not clear whether the removal of this concept will change the meaning of the provisions. Therefore the department, if so advised, does not object to undertaking this amendment of the Bill.
20	Qld Resources Council	Vol. 1, p.63 Clause 55 Amendment of s 139 (Periodic reduction in land covered by exploration)	QRC states it understands the Government's desire for exploration tenures to move quickly to production tenure, and with that comes more frequent turnover of land. In DNRM's policy paper to industry back in early 2011, it relayed its intentions that exploration permit holders who met their obligations, would be permitted to continue to explore that land. Industry is seeking certainty of tenure. The amendment for periodic reduction of exploration permits for coal and minerals in the MRA alone does not raise critical concern for industry, however compounded by other future possible amendments affecting investment attractiveness in Queensland is cause for concern. One such amendment would be a total timeframe limit over the life of an exploration permit. In this circumstance, QRC urgently seeks greater clarity for criteria describing exceptional circumstances.	This concern is likely to have been from an amendment in the lapsed Bill that previously carried the streamlining amendments that placed a 15 year restriction on exploration tenure under the MRA (unless there were special circumstances). This amendment has not been progressed in the Streamlining Bill due to industry concerns about certainty of tenure. The department will consult with industry further on this issue if any future amendment is again considered.
20	Qld Resources	Vol. 1, p.102 Clause 121	QRC has raised issues previously with DSDIP regarding the	This concern is likely to have been from an amendment in the

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
	Council	Insertion of new ch 15, pt 13 Section 961 Existing written permission to enter land to construct and operate pipeline	proposed new section 961 of the P&G Act and the need instead for a transitional arrangement to s 399A in the Bill. As outlined earlier in this submission, certainty of tenure is paramount to industry; however the new proposed section 961 provides that existing landholder permissions are non-binding on future landholders once the amendment comes into effect. As this could have significant consequences for proponents who are already going through or have even completed land access arrangements for the development of pipelines for export through Gladstone, QRC requests the exclusion in s 961 be removed and the inclusion of a new transitional arrangement to s 399A that allows existing written permissions to apply after a reasonable period of time. QRC refers to Submissions made by QGC and Santos GLNG on further comments regarding this proposed amendment.	lapsed Bill that previously carried the streamlining amendments that placed a 15 year restriction on exploration tenure under the MRA (unless there were special circumstances). This amendment has not been progressed in the Streamlining Bill due to industry concerns about certainty of tenure. The department will consult with industry further on this issue if any future amendment is again considered.
21	Freehills Lawyers	Vol. 1, p. 182 Clause 216 Insertion of new pts 7AAAB – 7AAAE Section 318AAQ Prohibited dealings	Freehills Lawyers submit that section 318AAQ should be amended so it is clear that the types of commercial agreements as set out at section 318AAP(2) – are the types of commercial agreements which will not be prohibited. Freehills submit that section 318AAQ could be amended to exclude the 'has the effect of'' and read*: a dealing with a mining tenement that transfers a divided part of the area of the tenement is prohibited*.	The department shares the view of Parliamentary Counsel that the only dealings that can be prohibited are dealings specifically mentioned in the definition of a 'dealing'. This position has been strengthened by the inclusion of the 'remove any doubt' provision stating that other transactions or commercial agreements not mentioned in the definition, are not dealings. Parliamentary Counsel have expressed that they have no objection to removing the concept of 'has the effect of' from the provisions about prohibited dealings as suggested by the Freehills submission. However, it is not clear whether the removal of this concept will change the meaning of the provisions. Therefore the department, if so advised, does not object to undertaking this amendment of the Bill.
21	Freehills Lawyers	Vol. 1, p. 187 Clause 216 Insertion of new pts 7AAAB – 7AAAE Section 318AAX Deciding application	Freehills submit that as transfers of mining tenements require indicative approval to be obtained in advance of a proposed transfer. The indicative approval remains 'open' for a set period of time. Freehills have questioned whether the time period specified by the legislation is reasonable with regard to commercial transactions. Freehills have submitted that the most straightforward approach is to change the reference in the proposed section 318AAX(6)(c) from '3 months' to '6 months'.	The framework for an indicative approval to be given for an assessable transfer was reintroduced to the new dealings provisions after industry opposed its removal in the lapsed Bill. The feedback that led to this reinstatement was that industry relies on the indication to provide certainty in the transfer process. Three months has been provided in the Streamlining Bill for the period that the indication remains valid, so that an application for assessable transfer lodged within this time is taken to be granted. This in consistent with the current period set in the *Mineral Resources Act 1989*. During consultation on this provision, industry stated that the

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
				requirement to gain approval from the Australian Government was one of the main reasons why a longer period for the indication is required. The department considered this feedback and amended the Bill to provide a mechanism for an indication to be extended for a further 3 months if the transferee requires such approval. As once the indication is given, an application for assessable transfer lodged within 3 months is taken to be approved. Therefore the department does not consider it is in the state's interest to have an indication endure for a longer period, due to the risk of the circumstances upon which the indication was given changing. Providing an application process to extend the indication would be the much the same as applying for the indication again.
22	J Sheehan	Timing of Bill	"Delay this Bill – the undemocratic, autocratic haste with which this Bill has been assembled could be interpreted as 'purposeful rushing' of dodgy legislation which encourages further Queensland taxpayer obfuscation and confusion on relevant issues and their future impacts…. The LNP is abusing their mandate in fast-tracking Bills through Parliament and denying the Queensland taxpayers sufficient scrutinising time."	Noted
22	J Sheehan	Omission of Urban Restricted Area provisions	"Add in provisions on Urban restricted areas. No new resources exploration or upgrades to production tenures or renewal of tenure within 10 km of the boundary of a locality, land holding or urban centre"	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.
22	J Sheehan	Vol. 1, p.32 Clause 20 Amendment of s 294 (deciding application) Vol. 1, p.171 Clause 197 Section 2 Replacement of s 271 (Minister to consider application for grant of mining lease) Section 271 Criteria for deciding mining lease application	"Scrutinising by the Governor in Council; i.e. Cabinet acting on the advice of Ministers, must be reinstated. In Queensland modern technology has enabled the voting public to be in touch with Coal and CSG operations and their negligent 'regulatory' methods. The 'technologically enabled' transparency translates to voting public scrutiny in light of escalating social media evidence of corrupt practices in attempts by Coal and CSG corporate to bury particulate generated diseases and corrupt 'regulatory' practices. "	Petroleum leases under the newer *Petroleum and Gas (Production and Safety) Act 2004* are granted by the Minister, as are production leases under the greenhouse gas and geothermal legislation. Queensland is at a competitive disadvantage from the rest of Australia, where the responsible Mining Minister grants mining leases. There will be no impact on assessment rigour as a result of this change and it brings Queensland into line with other states.
22	J Sheehan	Consultation timetable	"The Public are still gathering information from media sites. As	Noted

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
			such, they have been given no scrutinising time to interpret data and form well-balanced opinions."	
23	Mackay Conservation Group	Omission of Urban Restricted Area provisions	The Bill does not include an Urban Restricted Areas provision which were part of the now lapsed Bill of 2011. Submits that the Bill should include an Urban Restricted Areas provision in order to stop: *Applications for mining and gas tenures within 4km of small communities and urban areas. This would give better protection than what was proposed under the lapsed Bill.* Submits that the Mining Registrar is best placed to make decisions and not a CEO. Asks several questions in relation to the Explanatory Notes, including: *(1) Does 'streamline involve short cuts and which may prove more costly in the long run because things were missed?;* *(2) Exactly what does facilitating the efficient transportation and treatment of CSG water and brine mean?* *(3) What does greater flexibility in the transport and treatment mean?* *(4) Registers and records only go so far to ensure compliance. Are these to be used instead of robust monitoring, compliance and enforcement system by the state government?; and* *(5) State staff cannot deal now with the current workload nor enforce regulations (lack of staff and funds) so how can the state deal with additional regulations?*	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the current Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government. The chief executive is an officer of the department with responsibilities under the Act. The amendment gives the department with a greater level of flexibility so that decisions can be made in the absence of a mining registrar or when the chief executive is best placed to deal with a particular situation.
24	Ursula Monsiegneur	Consultation timeframe	Insufficient time was given to read, digest and reply to the extent of the legislation.	Noted
24	Ursula Monsiegneur	Omission of Urban Restricted Area provision	Ms Monsiegneur submits the following: (1) Provisions should be included in relation to Urban Restricted Areas to stop grant and applications for mining and gas tenures within 4km's of small communities and urban areas (2) Mining and Coal Seam Gas drilling should be banned in areas zoned for urban development (3) That were land is compulsory acquired the acquisition must be done in good faith reimbursing the land owner to an amount which would give him/her a valid expectation of	It is noted that the Bill does not include provision relating to the implementation of the previous Government's Urban Restricted Areas policy. The position of the Government is that the issue of managing the interaction between resource activities and urban areas will be dealt with through the Statutory Regional Planning processes currently being progressed as a priority by Government.

Sub No.	Submitter	Vol & page of Bill, Clause, Section /issue	Key Points	Departmental Response
			buying a replacement for what they currently own Mining or drilling should not be based allowed to proceed until the miner can prove they have a management plan that adequately deals with waste.	
25	Peabody Energy	Vol. 1, p.163 Clause 173 Amendment of s 139 (Periodic reduction in land covered by exploration permit)	Clause 173 amends section 139 whereby coal producers are required to relinquish 40% of an exploration lease within 3 years of grant, and 50% of the remaining tenure over the following 2 years. These provisions will replace the existing provision whereby up to 20% per annum is available for relinquishment. Peabody does not oppose the change however, their concern is: A shift of Departmental policy towards applying less discretion to the enforcement of the new relinquishment requirements than is currently applied. Peabody is concerned to ensure that any shift in policy towards more 'automatic' enforcement of the new relinquishment arrangements is subject to proper industry consultation. Peabody submits that under an automatic approach to relinquishment policy, mine developers could lose 70% of their tenement before the grant of a Mining Development Lease (MDL) is possible. Peabody seeks a guarantee that the existing discretionary approach will continue in relation to the periodic reduction in land covered by exploration permits under the new legislative regime.	The amendment as tabled in the Bill does not change the discretion provided in the MRA for the Minister to decide an alternate relinquishment requirement. It would not be appropriate for the department to make commitments about how the Minister may exercise the Minister's discretion.

Appendix E Jurisdictional comparison – compulsory acquisition laws

Jurisdiction	Title of Act	Provision/Comment
New South Wales	*Land Acquisition (Just Terms Compensation) Act 1991*; and *Public Works Act 1912*	Within New South Wales, an Authority is authorised to acquire land by compulsory process either under the *Land Acquisition (Just Terms Compensation) Act 1991* or land can be compulsorily acquired under the *Public Works Act 1912* if the authority is declared by law as a Construction Authority. The *Land Acquisition (Just Terms Compensation) Act 1991* deals with circumstances where land is compulsorily acquired by the authority of the State. The Act sets out the process that must be followed when it is necessary to acquire land through a compulsory process. The statutory process also provides means for dispute resolution as well as compensation that is payable to the landowner. If land is compulsorily acquired under s141 of the *Public Works Act 1912,* the Constructing Authority shall be entitled to all minerals other than, minerals that are expressly excepted in the notification of taking. Any minerals that were vested in the Crown immediately before taking are also excepted. Subject to sub-section 3 of s141 of the *Public Works Act 1912,* the Governor may, by notification published in the Gazette, declare that the minerals taken and within the land be vested in a specified person for a specified estate, subject to all charges, trusts and interests. Under s142 of the Act, if the owner or lessee of the mines or minerals lying under any authorised work desires to continue working the same, that owner or lessee shall give notice to the Construction Authority thirty days before the work commences. The Construction Authority can declare that the working of the mine or minerals is likely to damage the authorised work and shall give compensation as provided under the *Land Acquisition (Just Terms Compensation) Act 1991.* In summary, the default position in relation to compulsory acquisition is that all resource interests are taken unless stated otherwise.
Western Australia	*Land Administration Act 1997*	In Western Australia, any interest in land may be taken for public work under s161 of the *Land Administration Act 1997* (the Act). If a taking order provides that land is to be taken, the interest taken includes any minerals under the land, petroleum rights and resources as well as geothermal rights and resources. However pursuant to s164, a taking order can provide that interests in resources are to be preserved when interests in land are taken. Secondly, if a claim is made for compensation in respect of the taking of any right referred to above, the acquiring authority may elect either to make compensation or to re-grant the whole of those rights or such part of those rights as the acquiring authority thinks fit. Further, under s205, any compensation to mines are limited to only the actual loss sustained by reason of the taking through damage to a mine on the land or the works connected with a mine. In summary, the compulsory acquisition default position is

Jurisdiction	Title of Act	Provision/Comment
		that all resource interests are taken when the land is acquired by the Authority.
Northern Territory	*Lands Acquisition Act 1978*	The compulsory acquisition of land by the Northern Territory Government is carried out under the provisions of the *Lands Acquisition Act 1978.* Pursuant to s46 of the Act, once a notice of acquisition is published in the Gazette, the notice vests in the Territory the land freed and discharged from all interests, trusts, restrictions, dedications, reservations, obligations, encumbrances, contracts, licences, charges and rates of any kind. Furthermore, any interest that a person had in the acquired land is divested, modified or affected to the extent necessary to give effect to the notice of acquisition. However, a mining interest is not acquired under s46 unless the notice of acquisition indicates, whether by specific or general reference, that the mining interest has been acquired. According to the Act, a mining interest means any lease or other interest in land granted under a law of the Territory relating to minerals and includes a mineral exploration licence. In summary, the default position of compulsory land acquisitions is that all mining interests remain unless a specific or general reference in a notification stipulates that the mining interest has been acquired. This is the same default position as in Queensland proposed compulsory acquisition amendments.

Statements of Reservations

An honour to serve

SHANE KNUTH MP
MEMBER FOR DALRYMPLE

16 August 2012

Mines Legislation (Streamlining) Amendment Bill 2012

Statement of Reservation

This Bill was introduced into Parliament on Thursday 2 August 2012. The Bill itself is 439 pages long, with an additional 153 pages of Explanatory Notes. Submissions are accepted until 5 pm 8 August 2012, giving only four working days to read and analyse the Bill, Notes and proposed amended legislation. (Rebecca Smith, James Cook University)

The most common objection raised in submissions has been the short timeframe allowed for public scrutiny.

The result of this short timeframe is evident in the lack of submissions that came from those who are most affected by mining development - landowners and the agricultural industry. This sector of the community has the most to lose from the fast-tracking of development applications.

Individual landowners living in isolation and working vast tracts of land would find it nearly impossible to go through the material and make a submission before the deadline. However these are the people most likely to have mining developments on their land in the near future.

The fast-tracked approval this year of the Hancock Rail Corridor with no contribution from affected landowners is a case in point. Landowners who were not consulted on their preferred rail corridor location now face a future of declining land values, decreased productivity and uncertainty.

The focus of consulting with developers while neglecting those impacted by development is not consistent with the view that agriculture and mining are to co-exist as 'pillars' of our economy.

The implications of water-table or river system contamination from CSG, the potential impact of mining operations on agricultural industries and property values and the impact of land acquisition

and development approvals for mining operations on landowners deserve far greater public scrutiny than the period allowed.

The only sector comfortable with the short timeframe is the big end of town - mining companies who stand to benefit from a streamlined approval process so that projects are fast-tracked by the Minister without the scrutiny of the Governor in Council.

The lack of scrutiny allowed for this bill and the removal of accountability is not consistent with the promises of transparency and community engagement by this Government. In fact it demonstrates the exact opposite.

For the sake of credibility and to allow contributions from affected stakeholders there should be an extended time provided for public comment on the bill.

Sincerely,

Shane Knuth

Member for Dalrymple

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16 August 2012

Mines Legislation (Streamlining) Amendment Bill 2012 – Statement of Reservation

The *Mines Legislation (Streamlining) Amendment Bill 2012* (the bill) is a significant piece of legislation, proposing major changes to laws, approval processes, health and safety regimes and regulations that oversee the ever expanding mining, CSG and LNG industries in Queensland.

Unlike the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Bill 2012* and the *Heavy Vehicle National Law Bill 2012*, the Bill differs greatly from the version introduced to the House in 2011.

Despite the substantial and complex changes outlined in the bill, the government has rushed the bill through the committee process, avoiding in-depth analysis and scrutiny.

Introduced to Parliament on 2 August 2012, the bill was referred to the Agriculture, Resources and Environment Committee (the committee) the same day. The closing date for submissions was 5:00pm, 8 August 2012, allowing the public a little over three working days to assess, comprehend and prepare a written statement.

The timeframe dictated by the government has not only been insufficient to consider the changes, but is offensive to landholders and regional communities, who were not given the opportunity to comprehend and communicate the impact the bill would have on their lives.

Over half the public submissions (13 out of 24) received on the bill raised 'lack of consultation' or 'lack of time' as a serious issue.

The consultation period on the bill is a very clear example of the government once again abusing the parliamentary committee process and refusing to engage in genuine consultation with the Queensland community over significant changes affecting their lives and livelihoods. This is the third report by the committee where the length of consultation has been raised as a significant concern.

Nine working days for the committee to consult, consider, deliberate and report on 500 pages of detailed legislation is not only an attack on the democratic process, but an insult to the people and regional communities affected by the bill.

Yours sincerely

Jackie Trad MP
Member for South Brisbane

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