



Queensland

# **Mineral Resources (Peak Downs Mine) Amendment Act 2008**

**Act No. 28 of 2008**





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## Contents

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		Page
1	Short title .....	4
2	Act amended .....	4
3	Insertion of new pt 18A .....	4
	Part 18A            Provisions about particular mining tenements	
	722A    Definitions for pt 18A .....	4
	722B    Renewal of EPC545 .....	4
	722C    Rejection of particular applications for mining tenements .....	6
	722D    Persons who may apply for, or be granted, a mining tenement for land covered by MDLA364 .....	6
	722E    Persons who may apply for, or be granted, a mining tenement for particular land covered by SL12/42239 .....	7
	722F    No compensation payable by the State .....	8
	722G    Compensation payment by prescribed persons .....	9





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# **Mineral Resources (Peak Downs Mine) Amendment Act 2008**

## **Act No. 28 of 2008**

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**An Act to amend the *Mineral Resources Act 1989* to make provision about particular mining tenements**

**[Assented to 9 May 2008]**

**The Parliament of Queensland enacts—**

**1 Short title**

This Act may be cited as the *Mineral Resources (Peak Downs Mine) Amendment Act 2008*.

**2 Act amended**

This Act amends the *Mineral Resources Act 1989*.

**3 Insertion of new pt 18A**

After part 18—

*insert—*

**‘Part 18A Provisions about particular mining tenements**

**‘722A Definitions for pt 18A**

‘In this part—

*Cherwell Creek* means Cherwell Creek Coal Pty Ltd ACN 063 763 002.

*commencement day* means the day this part commences.

*prescribed persons* means the holders of mining lease 1775 from time to time.

**‘722B Renewal of EPC545**

- ‘(1) This section applies to exploration permit for coal 545.
- ‘(2) The permit is renewed for a term of 2 years starting on the commencement day.
- ‘(3) However, the renewed permit applies only to the following land—

- 
- Clermont Block 1777, sub-block w
  - Clermont Block 1777, sub-block x, but excluding land subject to MDLA 364 or ML 1775
  - Clermont Block 1849, sub-blocks b, g, m and x
  - Clermont Block 1849, sub-blocks c, h and n, but excluding land subject to MDLA 364 or ML 1775
  - Clermont Block 1849, sub-block s, but excluding land subject to MDLA 364
  - Clermont Block 1849, sub-blocks u and z, but excluding land subject to MDLA 366 or ML 1775
  - Clermont Block 1849, sub-block y, but excluding land subject to MDLA 366
  - Clermont Block 1921, sub-blocks d and e, but excluding land subject to MDLA 366
  - Clermont Block 1921, sub-block k
  - Clermont Block 1922, sub-blocks a, g, h, o and u, but excluding land subject to MDLA 366 or ML 1775
  - Clermont Block 1922, sub-blocks f, m, n, t and z, but excluding land subject to MDLA 366
  - Clermont Block 1923, sub-block v, but excluding land subject to MDLA 366 or ML 1775.
- ‘(4) Subsection (2) applies despite section 147D(2).
- ‘(5) The renewed permit is subject to the following conditions—
- (a) the holder must expend at least \$50000 in each year of the term of the permit on activities authorised by the permit;
  - (b) the holder must carry out the program of work stated in the application for renewal of the permit dated 28 May 2007;
  - (c) the holder must comply with the document titled ‘Schedule of General Exclusions and Conditions, version 13 (February 2003)’ mentioned in the renewal of the permit granted on 26 August 2003;

- (d) the conditions applying under section 141.
- ‘(6) The renewal has effect as if it were granted by the Minister under this Act.
- ‘(7) The land mentioned in subsection (3) as being excluded from the sub-blocks mentioned in the subsection is excluded land for section 176A.
- ‘(8) However, to remove any doubt, it is declared that section 176A applies subject to sections 722D and 722E.
- ‘(9) Except as otherwise stated, this section does not limit the application of other provisions of this Act to the renewed permit including, for example, provisions about cancelling an exploration permit or reducing its area.
- ‘(10) In this section—
- MDLA 364* means application for mineral development licence 364.
- MDLA 366* means application for mineral development licence 366.
- ML 1775* means mining lease 1775.

**‘722C Rejection of particular applications for mining tenements**

- ‘(1) This section applies to each application for a mining tenement that—
- (a) was made by Cherwell Creek; and
- (b) relates to all or any of the prescribed land under section 722D or 722E; and
- (c) was current immediately before the commencement day.
- ‘(2) The application is rejected.

**‘722D Persons who may apply for, or be granted, a mining tenement for land covered by MDLA364**

- ‘(1) For the prescribed period—



- 
- (a) a mining lease in respect of all or any of the prescribed land can only be applied for by, or granted to, the prescribed persons; and
  - (b) no other mining tenement in respect of all or any of the prescribed land can be applied for by, or granted to, anyone.
- ‘(2) Subsection (1)(a) applies despite section 232(1).
- ‘(3) For subsection (1), the prescribed period is the period of 2 years starting on the commencement day or, if an extension is granted under subsection (4), the extended period.
- ‘(4) Before the prescribed period ends, the Minister may grant an extension of the period if the prescribed persons wish to make an application mentioned in subsection (1)(a) and the Minister is satisfied that, in all the circumstances, there are good reasons why the application has not been made by that time.
- ‘(5) As soon as practicable after granting an extension under subsection (4), the Minister must publish a gazette notice stating the extended period.
- ‘(6) The prescribed persons are eligible persons for section 233.
- ‘(7) In this section—

*prescribed land* means the land in Clermont Block 1849, sub-block t and the land that, as at the beginning of 14 April 2008, was the subject of application for mineral development licence 364 made by Cherwell Creek.

**‘722E Persons who may apply for, or be granted, a mining tenement for particular land covered by SL12/42239**

- ‘(1) For the prescribed period—
- (a) a mining lease in respect of all or any of the prescribed land can only be applied for by, or granted to, the prescribed persons; and
  - (b) no other mining tenement in respect of all or any of the prescribed land can be applied for by, or granted to, anyone.

- ‘(2) Subsection (1)(a) applies despite section 232(1).
- ‘(3) For subsection (1), the prescribed period is the period of 1 year starting on the commencement day or, if an extension is granted under subsection (4), the extended period.
- ‘(4) Before the prescribed period ends, the Minister may grant an extension of the period if the prescribed persons wish to make an application mentioned in subsection (1)(a) and the Minister is satisfied that, in all the circumstances, there are good reasons why the application has not been made by that time.
- ‘(5) As soon as practicable after granting an extension under subsection (4), the Minister must publish a gazette notice stating the extended period.
- ‘(6) The prescribed persons are eligible persons for section 233.
- ‘(7) In this section—
  - prescribed land* means land that, as at the beginning of 14 April 2008—
    - (a) was comprised in special lease 12/42239 (title reference 17560077); and
    - (b) was—
      - (i) the subject of exploration permit for coal 545; or
      - (ii) neither comprised in a mining tenement nor the subject of a current application for a mining tenement.

#### **‘722F No compensation payable by the State**

- ‘(1) No compensation is payable by the State to Cherwell Creek or any other person for or in connection with the enactment or operation of this part or anything done to carry out or give effect to this part.
- ‘(2) Without limiting subsection (1), the State is not liable to Cherwell Creek or any other person for any claim arising out of or in any way connected to the rejection of applications under section 722C.
- ‘(3) This section applies despite any other Act or law.

‘(4) In this part—

*State* includes any person acting, or purportedly acting, for or on behalf of the State at any time.

### **‘722G Compensation payment by prescribed persons**

- ‘(1) Cherwell Creek may apply to the Land Court for an order for the payment of compensation for the loss of its opportunity, because of the enactment of this part, to commercialise the MDLA364 coal resource.
- ‘(2) An application may only be made within 3 months after the commencement day.
- ‘(3) The prescribed persons are parties to the proceeding on the application.
- ‘(4) On an application under this section, the Land Court must—
- (a) decide whether any compensation should be payable; and
  - (b) if it decides compensation should be payable—
    - (i) decide the amount of compensation; and
    - (ii) make an order for payment of the amount by the prescribed persons to Cherwell Creek.
- ‘(5) In making a decision under subsection (4), the Land Court must have regard to the likelihood that, had this part not been enacted, Cherwell Creek, alone or in conjunction with another person, would have been able to commercialise the MDLA364 coal resource, having regard to the following matters—
- (a) the likely extent and quality of the MDLA364 coal resource;
  - (b) the likely mineability of the MDLA364 coal resource;
  - (c) the likely market for any coal mined from the MDLA364 coal resource;
  - (d) the likely life of a mine for the MDLA364 coal resource;

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- (e) the likely coal revenue generated from the MDLA364 coal resource;
- (f) the likely coal revenue generation costs;
- (g) the likelihood of a mining lease, appropriate for Cherwell Creek to commercialise the MDLA364 coal resource, being granted under this Act;

*Note—*

See sections 269(4) and 271(1) for matters that the Land Court and Minister take into account in dealing with an application for the grant of a mining lease.

- (h) any other relevant matter.
- ‘(6) Cherwell Creek may appeal to the Land Appeal Court against a decision of the Land Court under this section only on the ground of error of law.
- ‘(7) Subsection (6) applies despite the *Land Court Act 2000*, section 64.
- ‘(8) In this section—

***coal revenue generation costs*** means the costs of generating revenue from the MDLA364 coal resource, including the costs of, or relating to, the following—

- (a) the proving up of the MDLA364 coal resource;
- (b) mine planning and environmental planning;
- (c) development and construction of a coal mine and associated infrastructure;
- (d) compliance with this Act, the *Environmental Protection Act 1994* and the *Coal Mining Safety and Health Act 1999*;
- (e) extraction of coal;
- (f) preparation of coal;
- (g) transportation, including access to railways, ports or other relevant infrastructure;
- (h) employed or contracted labour;
- (i) equipment;

- (j) marketing;
- (k) financing;
- (l) rent and royalties payable to the State.

***MDLA364 coal resource*** means the coal resource in the land that, as at the beginning of 14 April 2008, was the subject of application for mineral development licence 364.

***prescribed persons*** means the persons who are the holders of mining lease 1775 on the commencement day.’.

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