

PETROLEUM AMENDMENT BILL (No. 2) 1996

EXPLANATORY NOTES

GENERAL

Short Title

The Bill's short title is Petroleum Amendment Bill (No. 2) 1996.

Objective of the Legislation

The objective of this Bill is to amend the *Petroleum Act 1923* to provide for the use by the Government of competitive selection processes to facilitate major gas pipeline developments.

Reasons for the Bill

The Government wishes to have the option of using competitive selection processes for the facilitation of major gas pipeline developments in the future. The Bill makes provision for the future use of a competitive selection process as an alternative to the processes presently prescribed under the Petroleum Act 1923 for the approval of access principles, the granting of pipeline licences and associated matters.

Recent legal opinion has raised concerns about the integration of the processes prescribed under the Petroleum Act 1923 into competitive selection processes used by the Government for the facilitation of major gas pipeline developments.

The Bill will put beyond doubt the integrity of agreements, access principles and pipeline licences that are a consequence of competitive selection processes that have been undertaken by the Government for the facilitation of major developments.

Also, the opportunity has been taken to make some minor amendments to clarify the intent of existing sections of the Act.

Estimated Cost for Government Implementation

There will be no cost for Government in implementing this legislation other than the administrative costs associated with the making of the legislation.

Consultation

Consultation has taken place with:-

- the Department of the Premier and Cabinet
- the Department of Economic Development and Trade
- the Treasury Department
- the Department of Mines and Energy
- the Crown Solicitor
- the Solicitor-General and
- private sector parties with commercial interests in the arrangements.

No public consultation was undertaken.

NOTES ON PROVISIONS

Clause 1 sets out the short title of the Bill.

Clause 2 states that the Bill amends the *Petroleum Act 1923*.

Clause 3 amends the definition of facility in section 2 of the Act to properly reflect the intended meaning.

Clause 4 amends section 69 of the Act to make it clear that a pipeline licence may be granted to construct and operate or, in the case of an existing facility, to operate a pipeline as well as to clarify the meaning of subsection (2) including making provision for the new section 70A dealing with competitive selection processes.

Clause 5 inserts a new section 70A which provides that, for a pipeline prescribed by regulation, an alternative process to that presently prescribed under the Act for the approval of access principles, the granting of pipeline licences and associated matters may be used if the Minister is satisfied that an appropriate competitive selection process has been completed for the grant of a pipeline licence. That alternative process recognises that matters such as access principles and pipeline licence conditions may be contained within the terms of agreements made between the Minister and the applicant for the licence as a consequence of the competitive selection process. However, the section does not allow the agreements to authorise an act or omission that would otherwise be an offence against the Act, unless the matter relates to the Minister's responsibilities under the Act.

Clause 6 inserts—

- a new section 151 to validate the decisions of the Minister and the Governor in Council which have already been made in relation to the outcomes of the competitive selection processes that have been successfully completed to date for the grant of pipeline licences, to provide that those decisions are not subject to review or legal challenge and to provide that any future decisions in terms of the agreements are ones to which the new section 70A applies; and
- a new section 152 to declare that the pipeline proposed to be constructed between Ballera and Mount Isa, which was the subject of a competitive selection process, is one to which the new section 70A applies so that the future decisions for approval of access principles, granting of a pipeline licence and associated matters may be made in terms of the agreements flowing from the competitive selection process.