

MINERAL RESOURCES AND ANOTHER ACT AMENDMENT BILL 2003

EXPLANATORY NOTES

Title of the Bill

Mineral Resources and Another Act Amendment Bill 2003

Policy Objectives of the Bill

The objective of the Bill is to preserve the integrity of the approved Government Policy in relation to the coal seam gas regime, by ensuring that no inappropriate grants of mining or petroleum lease applications are made in areas of particular tenure overlap, pending the introduction of legislation to give effect to the policy by 1 July 2004.

Achieving the Policy Objectives of the Legislation

The Bill has been prepared so that relevant mining and petroleum lease applications that overlap certain petroleum and coal and oil shale tenure are not granted until 1 July 2004 or the earlier enactment of legislation implementing the approved Government policy on the coal seam gas regime.

Administrative Cost

Future administrative costs to the Government will be minimal.

Consistency with Fundamental Legislative Principles

This Bill will postpone, until at the latest 1 July 2004, the granting of a comparatively small class of mining leases and petroleum leases to ensure an ordered transition to the proposed coal seam gas arrangements. The postponement will include the postponement of grants for which applications are currently in progress. Accordingly, the Bill has the potential to defeat rights and expectations to the extent of the

postponement. Also, no compensation is payable for the postponement. The Bill does include application adjustment arrangements, and consent arrangements, that may in practice ameliorate its impact in individual cases. Fundamentally however, the policy on which the Bill is based is squarely directed at the postponement, without compensation, of rights and expectations in the limited number of cases to which it applies.

Consultation

There has been consultation on the Bill with the following:

- Queensland Mining Council
- Australian Petroleum Production and Exploration Association
- Australian Coal Seam Gas Council
- Government Departments and agencies

NOTES ON CLAUSES

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act.

PART 2—AMENDMENT OF MINERAL RESOURCES ACT 1989

Clause 2 provides that this part amends the *Mineral Resources Act 1989*.

Clause 3 inserts a new part 18A into the *Mineral Resources Act 1989*. The new part 18A comprises new sections 722A to 722G. The purpose of this new part is to provide an interim restriction for overlapping mining lease applications.

The new section 722A sets out definitions for part 18A.

The new section 722B defines the term “overlapping mining lease application”, which includes any mining lease for coal or oil shale which overlaps certain petroleum tenure, some of which are only included to the extent where there is a demonstrated petroleum deposit (and an appropriate buffer area).

The new section 722C sets out a definition of a “demonstrated petroleum deposit”. To qualify as a demonstrated petroleum deposit there must be in the Minister’s opinion, an adequate level of definition of the estimated petroleum resource in accordance with the relevant code, favourable geological characteristics and the deposit must have reasonable prospects for eventual economic production.

The new section 722D requires an applicant for a petroleum lease or an authority to prospect to supply information with respect to estimated petroleum resource and reserves. This section is provided to assist the Minister in deciding if the application overlaps a demonstrated petroleum deposit.

The new section 722E provides an interim restriction on the grant of a mining lease application that is an overlapping mining lease application. Under this section, the Minister can not, before 1 July 2004 or an earlier date prescribed by regulation, recommend the grant of a mining lease that falls within the definition of an “overlapping mining lease application”.

The interim restriction is intended to be in force until the new coal seam gas regime is implemented as part of the Petroleum and Gas (Production and Safety) Bill. If this is in place before 1 July 2004 then it is intended that the restriction be removed when that Bill commences.

Administrative steps in relation to the assessment of the application can be continued, despite the Minister being unable to recommend grant of the application. This is intended to allow applications to be progressed toward grant even though they are subject to the restriction.

If the underlying alternative commodity tenure holder gives written consent, the Minister may recommend the grant of the mining lease application to the Governor in Council.

The new section 722F provides that no compensation is payable to any person because of the interim restriction on the grant of leases.

Section 722G provides for a sunset date, which will be 1 July 2004 or an earlier date prescribed by regulation.

PART 3—AMENDMENT OF PETROLEUM ACT 1923

Clause 4 provides that this part amends the *Petroleum Act 1923*.

Clause 5 inserts a new part 10 in the *Petroleum Act 1923*. The new part 10 comprises new sections 151 to 158. The purpose of this new part is to provide an interim restriction for overlapping petroleum lease applications.

The new section 151 sets out definitions for part 10.

The new section 152 defines the term “overlapping petroleum lease application”, which includes any petroleum lease which overlaps certain coal or oil shale tenure, some of which are only included to the extent where there is a demonstrated coal or oil shale deposit (and an appropriate buffer area).

The new section 153 sets out a definition of “demonstrated coal deposit”. To qualify as a demonstrated coal deposit there must be an adequate level of definition of the estimated coal resource in accordance with the relevant code, favourable geological characteristics and the deposit must have reasonable prospects for eventual economic production.

The new section 154 defines the term “demonstrated oil shale deposit”. To qualify as a demonstrated oil shale deposit there must be an adequate level of definition of the estimated oil shale resource in accordance with the relevant code, favourable geological characteristics and the deposit must have reasonable prospects for eventual economic production.

The new section 155 requires an applicant for a mining lease, the applicant for a mineral development licence or the holder of an exploration permit to supply information with respect to estimated coal or oil shale resource and reserves. This section is provided to assist the Minister in deciding if the application overlaps a demonstrated coal or oil shale deposit.

The new section 156 provides an interim restriction on the grant of a petroleum lease application that is an overlapping petroleum lease application. Under this section, the Minister can not, before 1 July 2004 or an earlier date prescribed by regulation, recommend the grant of a petroleum lease that falls within the definition of an “overlapping petroleum lease application”.

The interim restriction is intended to be in force until the new coal seam gas regime is implemented as part of the Petroleum and Gas (Production

and Safety) Bill. If this is in place before 1 July 2004 then it is intended that the restriction be removed when that Bill commences.

This section applies despite any entitlement a person may have to the grant of the petroleum lease under section 40 or 42 of the *Petroleum Act 1923*. The section also applies despite any requirement the Governor in Council may have under section 40 or 42 of the *Petroleum Act 1923* to grant the petroleum lease.

Administrative steps in relation to the assessment of the application can be continued, despite the Minister being unable to recommend grant of the application. This is intended to allow applications to be progressed toward grant even though they are subject to the restriction.

If the underlying alternative commodity tenure holder gives written consent, the Minister may recommend the grant of the mining lease application to the Governor in Council.

The section also provides that an applicant that has an overlapping petroleum lease application may amend the application to exclude any area causing the application to be an overlapping petroleum lease application. This will allow applicants whose lease application has minimal overlap to modify their application so that it can proceed to grant.

The new section 157 provides that no compensation is payable to any person because of the interim restriction on the grant of leases.

Section 158 provides for a sunset date, which will be 1 July 2004 or an earlier date prescribed by regulation.