Mineral and Energy Resources and Other Legislation Amendment Bill 2024

Explanatory Notes

Short title

The short title of the Bill is the Mineral and Energy Resources and Other Legislation Amendment Bill 2024.

Policy objectives and the reasons for them

The primary objectives of the Mineral and Energy Resources and Other Legislation Amendment Bill 2024 (the Bill) are to:

- enhance the State's coexistence framework;
- provide a framework for managing the impacts of coal seam gas induced subsidence;
- improve regulatory efficiency; and
- modernise the Financial Provisioning Scheme.

The Queensland Government released the Queensland Resources Industry Development Plan (QRIDP) in June 2022, which committed to 43 actions across six focus areas to ensure Queensland's resources industry remains sustainable, resilient and responsible, and grows as it transforms.

Achieving the Bill objectives will deliver initiatives related to the key focus areas under the QRIDP of promoting sustainable coexistence between the resource and agricultural sectors, and regulatory efficiency. These initiatives include reforms to the State's key coexistence institutions and to promote clearer processes and more transparent and efficient assessments across the State's resources legislation.

In addition to delivering on these QRIDP key focus areas, the Bill will implement a risk-based management framework for coal seam gas induced subsidence (CSG-induced subsidence), modernise and streamline the operation of the financial provisioning scheme and clarify the operation of electricity entities' acquisition powers.

To deliver on these objectives, the Bill amends the *Electricity Act 1994* (Electricity Act), the *Fossicking Act 1994* (Fossicking Act), the *Gasfields Commission Act 2013* (GFC Act), the *Geothermal Energy Act 2010* (GE Act), the *Greenhouse Gas Storage Act 2009* (GGS Act), the *Land Access Ombudsman Act 2017* (LAO Act), the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCP Act), the *Mineral and Energy Resources (Financial Provisioning) Act 2018* (MERFP Act), the *Mineral Resources Act 1989* (MR Act), the *Petroleum Act 1923* (1923 Act), the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act), *Public Sector Act 2022* (PS Act), and the *Water Act 2000* (Water Act).

Coexistence reforms

Key focus area three of the QRIDP, *Foster coexistence and sustainable communities*, recognises that Queensland's resource and agricultural sectors are vital to the State's economy and the success of its regions. Action 24 of the QRIDP committed to a review of Queensland's coexistence institutions to ensure they are delivering successful coexistence outcomes and catering effectively for both existing and emerging industries.

The Queensland Government's coexistence framework seeks to balance the rights and interests of the resource sector with those of landholders to ensure coexistence can occur. This consists primarily of:

- the land access framework, set out in the MERCP Act, which requires the negotiation of conduct and compensation agreements (CCAs) prior to particular activities; and
- the assessment and management of groundwater impacts caused by resource tenure holders exercising their underground water (groundwater) rights, including requirements for tenure holders to enter make good agreements (MGAs) with landholders under Chapter 3 of the Water Act.

Central to the coexistence framework are the institutions which have been established to support coexistence outcomes. These institutions include:

- the Office of Groundwater Impact Assessment (OGIA) which independently assesses and manages the cumulative impacts on ground water from coal seam gas (CSG) development;
- the GasFields Commission Queensland (GFCQ) which seeks to manage and improve the sustainable coexistence of landholders, regional communities, and the onshore gas industry in Queensland; and
- the Land Access Ombudsman (LAO) which seeks to independently resolve disputes between landholders and CSG companies in relation to CCAs and MGAs.

Despite broad support for these institutions, stakeholders have raised concerns about narrow jurisdictions, service gaps, and emerging coexistence issues beyond the resources sector. Consequently, the Bill proposes to strengthen the roles of Queensland's land access and coexistence institutions to ensure they are delivering successful coexistence outcomes and catering effectively for both existing and emerging industries.

CSG-induced subsidence

Landholders have raised concerns about the consequences and management of CSG-induced subsidence on the productivity of high-value agricultural land and intensive cropping activities. In particular, these concerns relate to the potential impact of CSG-induced subsidence on farm operations and productivity where slope and drainage are critically important for irrigation practices and maintaining overland flow.

OGIA reported in the 2021 Underground Water Impact Report for the Surat Cumulative Management Area, that CSG-induced subsidence is a component of ground movement that occurs where groundwater is extracted to depressurise coal seams to allow gas production.

In response to these concerns, the GFCQ undertook a review to identify potential enhancements to manage CSG-induced subsidence. The review made eight recommendations to government, which outlined a proposed management framework to provide landholders and industry with certainty on the process for assessing, remediating and compensating for impacts associated with CSG-induced subsidence on farming operations. The Queensland Government supported six of these recommendations in full, and two in principle, subject to further investigation. Consequently, the Bill seeks to introduce a risk-based framework for the assessment and management of CSG-induced subsidence on a regional and individual farm scale. This is based on the model proposed by the GFCQ.

The subsidence management framework will ensure that CSG-induced subsidence is managed and mitigated in areas where priority agricultural land uses occur and will support coexistence between the resources and agricultural sectors. This will facilitate sustainable prosperity for regional communities, ensuring food security and affordability and export earning potential, and allow the sustainable development of the State's CSG resources. In doing so, it will build upon the resource sector's environmental, social and governance (ESG) credentials by enhancing the sector's social licence.

Improved regulatory efficiency

Key focus area six of the QRIDP *Improve regulatory efficiency*, recognises that Queensland's regulatory framework must remain contemporary and fit for purpose. This focus area includes reforms to reduce regulatory burden and streamline compliance and assessment activities for resource authorities.

Action 36 of QRIDP committed to improving regulatory efficiency and establishing clearer resource project assessment processes leading to business improvement, better quality applications and more transparent and efficient decisions. As a result, a series of amendments have been developed which advance Action 36 by supporting active tenure management and providing clearer and more consistent legislation.

The Bill will amend several resources Acts to assist in delivering QRIDP Action 36. The amendments will improve land release and rent management frameworks, clarify existing provisions, and correct several minor and technical issues. These amendments are an important first step to improving the regulatory framework for the resources industry by promoting industry certainty and community confidence in decision making, while implementing changes to ensure the framework is operating as intended.

Modernising the financial provisioning scheme

The Queensland Government's Financial Provisioning Scheme (the Scheme) operates under the MERFP Act. The purpose of the Scheme is to manage the risk of the State incurring costs where mining companies do not fulfil their rehabilitation obligations.

The Scheme involves an assessment of a company's rehabilitation obligations, their likelihood of default and asset saleability. Based on their estimated rehabilitation costs (ERC) and a risk assessment, mining companies must either make an annual contribution to an insurance style scheme fund or provide surety equal to the ERC. Environmental Authorities (EA) with an ERC of less than $100,000 are not eligible for a risk assessment and must provide surety equal to the ERC.

The Scheme has recently been reviewed, which confirmed it is operating in line with expectations, however, a number of potential refinements were identified. As a result, the Bill seeks to promote efficiencies and reduce risk to the State by allowing companies to choose if they undergo a risk assessment in certain circumstances, modernising company risk categories and reducing administrative burden.

Clarifying amendment to the *Electricity Act 1994*

Clarification to section 116 of the *Electricity Act 1994*, which provides for when land can be acquired by electricity entities for works, is required to ensure electricity entities and communities have a clear understanding of the provision's operation.

Achievement of policy objectives

Coexistence reforms

To achieve its objectives, the Bill proposes to amend the:

- GFC Act to refocus the legislative functions of the GFCQ to provide information, engagement and education services to the community and industry on a broader range of resources activities and emerging coexistence issues in relation to the renewable energy sector;

- LAO Act to broaden the legislative functions of the LAO to resolve disputes relating to CSG-induced subsidence, the negotiation of CCAs and MGAs, and other resources related land access interactions; and

- MERCP Act and the Water Act to:
    - expand the functions of OGIA to provide advice and tools to assist in the assessment and management of CSG-induced subsidence; and
    - impose a levy to cover OGIA's costs in relation to the above.

Expansion of the role of the GasFields Commission Queensland (Gasfields Commission Act 2013)

Currently, the GFC Act provides for the establishment of the GFCQ and prescribes its membership, objectives, functions, powers and obligations.

The proposed amendments to the GFC Act achieve their objective by:

- broadening the GFCQ's existing sectoral coverage from the onshore gas industry to the broader resources industry and the renewable energy industry;

- refocusing its legislative functions on information, engagement and education services to the community and industry;

- allowing the GFCQ to identify systemic coexistence issues across its expanded remit and reduce its regulatory oversight function to provide advice to government and other stakeholders on such systemic issues upon request; and

- rebranding the GFCQ as *Coexistence Queensland*.

Expansion of the role of the Land Access Ombudsman (Land Access Ombudsman Act 2017)

Currently, the LAO Act establishes an independent land access ombudsman with the jurisdiction to investigate disputes about alleged breaches of CCAs or MGAs.

The proposed amendments to the LAO Act achieve their objective by expanding the LAO's jurisdiction to investigate alleged breaches of access agreements and subsidence management plans as well as existing CCAs and MGAs. The amendments also propose to expand the LAO's functions to provide dispute resolution services during negotiation, the making of agreements or where there is a material change in circumstance to an existing agreement, land access matters or compensation.

Expansion of the role of OGIA (Mineral and Energy Resources (Common Provisions) Act 2014 and Water Act 2000)

Currently, the Water Act provides for the establishment of OGIA and its main functions, which includes functions under other Acts.

The proposed amendments achieve their objective by expanding OGIA's remit to include functions under the MERCP Act to:

- provide for cumulative assessment of CSG-induced subsidence, including modelling, monitoring and a regional risk assessment to support the proposed subsidence management framework; and
- provide advice, on request, on broader matters relating to subsidence from petroleum and gas activities across the State.

CSG-induced subsidence

The objective to provide a framework for managing the impacts of CSG-induced subsidence is achieved through amendment to the MERCP Act to implement this framework.

Currently, the MERCP Act sets out the State's land access framework, including requirements for entering private land, negotiating CCAs prior to activities occurring that could result in non-minor impacts on private land and resolving disputes about CCAs.

The framework provides for:

- a head of power for the chief executive to declare a subsidence management area to which the subsidence management framework will apply.
- OGIA to prepare a subsidence impact report for the subsidence management area. The report will include a cumulative assessment of existing and predicted CSG-induced subsidence on land and use of land in the area. It will also assess the risk of impacts of CSG-induced subsidence on land in the area, and based on the outcome of this regional risk assessment categorise land as Category A, B or C land. Finally, the report will include a subsidence impact management strategy for the area that will identify, plan and prioritise the Category A, B or C land that requires the responsible tenure holder to carry out land monitoring, baseline data collection or a farm field assessment for the land in the report period.

- relevant holders within the subsidence management area to undertake land monitoring and baseline data collection in accordance with a prescribed methodology, including a quality assurance and quality control program and provide landholders with a baseline information package.

- relevant holders within the subsidence management area to undertake a farm field assessment for Category A land identified in the subsidence impact report. The farm field assessment will characterise existing and predicted CSG-subsidence and its impacts on the land and the use of the land. Farm field assessments must be undertaken by an appropriately qualified person, and audited by an independent expert, unless agreed to by the landholder.

- relevant holders to enter into a subsidence management plan, where a farm field assessment indicates that CSG-induced subsidence will have more than a minor impact on any agricultural activities on the land. The subsidence management plan is a plan to provide for how and when the relevant resource tenure holder will manage the impacts of CSG-induced subsidence. The subsidence management plan must be agreed to by the landholder and tenure holder. If the parties cannot agree through negotiation or mandatory alternative dispute resolution, the Land Court will determine the measures to be included in the plan.

- relevant holders to compensate landholders for any compensatable effects suffered because of the impacts or predicted impact of CSG-induced subsidence. This will be achieved through a subsidence compensation agreement between the relevant resource tenure holder and the landholder..

- opportunities to access alternative dispute resolution services to resolve disputes in relation to subsidence management plans and subsidence compensation agreements, with an ultimate determination through the Land Court, or alternatively for subsidence compensation agreements, arbitration.

- the chief executive to take compliance and enforcement action on any breaches of the legislative requirements and an ability for the LAO to investigate any alleged breaches of subsidence management plans. This framework will also establish parameters to ensure the blocking of information sharing and the prohibition or removal of individuals from matters where required to avoid conflicts of interest. For instance, where an officer has been involved in a mediation or conference about negotiating a subsidence management plan, they may be prohibited from involvement in a subsequent investigation into a breach of that plan.

- the chief executive to give a subsidence management direction for a resource tenure holder to carry out land monitoring, baseline data collection or a farm field assessment where the chief executive believes agricultural land in the area is being impacted or is likely to be impacted by CSG-induced subsidence in the future. Landholders will also be able to apply to the chief executive for a farm field assessment in limited circumstances.

- a landholder to apply to the Minister for a decision about whether a critical consequence has or will occur on agricultural land as a result of CSG-induced subsidence. If the Minister decides a critical consequence has occurred or is likely to occur, the Minister

can direct a resource tenure holder to take reasonable steps to prevent the critical consequence from occurring, continuing or becoming worse.

Improved regulatory efficiency

To achieve its policy objective to promote a modern, efficient and streamlined regulatory framework for the resources sector in Queensland through improved regulatory efficiency, the Bill proposes to amend the following Acts (Resources Acts):

- Fossicking Act;
- GE Act;
- GGS Act;
- MR Act;
- MERCP Act;
- 1923 Act; and
- P&G Act.

Fossicking Act

The proposed amendments to the Fossicking Act include:

- introducing a new requirement to the Fossicking Act for fossickers to seek permission from mining lease applicants before fossicking on land to which a mining lease application applies; and

- correcting minor and technical errors to address cross-referencing and drafting errors and ensure the regulatory framework is operating as intended.

GE Act & GGS Act

The proposed amendments to these Acts clarify confidentiality periods to provide industry and community certainty about when information and data collected by the chief executive will be released.

MR Act

The proposed amendments to the MR Act include:

- enhancing the land release framework to allow the Minister to decide how and when land that is suitable for exploration is re-released to support critical mineral exploration opportunities around the State;

- introducing a new mandatory condition requiring mining lease holders to keep the surface area of a mining lease tidy to ensure tenure holders are maintaining organised operations, equipment, and stores, to manage hazards that can lead to injuries, fires, and harm;

- clarifying requirements and timeframes for lodging development plans for prescribed mineral mining leases to support industry compliance if the list of prescribed minerals and associated thresholds in Schedule 2A of the Mineral Resources Regulation 2013 change, triggering requirements for development plans;

- clarifying when and how mining leases become prescribed mineral mining leases;

- clarifying confidentiality periods to provide industry and the community certainty about when information and data collected by the chief executive, will be released; and

- correcting minor and technical errors to address cross-referencing and drafting errors and ensure the regulatory framework is operating as intended.

MERCP Act

Amendments proposed to the MERCP Act include:

- enhancing Queensland's rent management and collection powers to allow the Minister to defer or approve alternative rent arrangements to support industry and respond effectively to exceptional circumstances, such as natural disasters or emergencies of adverse economic conditions; and

- introducing a new threshold-based exemption for aerial surveying conducted at or above 1000ft in altitude. The amendments mean that resource authority holders conducting aerial surveys at or above 1000ft will be exempted from entry notices and periodic entry reports, and that aerial surveying at or above 1000ft will no longer be considered an advanced activity.

1923 Act & P&G Act

The proposed amendments to the 1923 Act and P&G Act include:

- clarifying the amalgamated and divided petroleum lease provisions;

- addressing conflicting provisions regarding the timing for transitional relinquishment requirements;

- introducing the ability for a regulation to specify the format and detail required in particular petroleum reports;

- establishing a head of power to allow detailed reporting requirements to be specified in the relevant practice direction;

- clarifying confidentiality periods to provide industry and community certainty about when information and data, collected by the chief executive, will be released; and

- correcting minor and technical errors to address cross-referencing and drafting errors and ensure the regulatory framework is operating as intended.

Modernising the financial provisioning scheme

To action recommendations of the review of the Scheme and deliver on opportunities to refine its operation, the Bill amends the MERFP Act to:

- increase the prescribed ERC for risk assessments from the existing $100,000 to $10 million, reducing compliance and administrative burden.

- better reflect company risk profiles by introducing an additional risk category 'Moderate-High' and setting appropriate prescribed percentage contributions. 'Very Low' and 'Low' risk category rates remain the same, 'Moderate' reduces from 2.75 per cent to 2.25 per cent, and the new 'Moderate-High' is 6.5 per cent.

- increase the fund threshold for BBB+ or better credit rated entities to $600 million, increasing availability of finance. A $450 million threshold is retained for all other entities.
- provide more flexibility for environmental authority holders that are transitioning to higher risk categories.
- reduce administrative burden by aligning risk reassessment dates by entity, rather than individual environmental authorities.
- introduce assessment pathways through the Scheme Manager Guidelines to reflect more nuanced assessments including a 'Streamlined' assessment for those EAs with a mine that is unchanged year-on-year and with an ERC of $50 million or more incurring a fee 50 percent less than what they otherwise currently pay.
- ensure abandoned petroleum and gas sites are eligible for remediation grants.

Clarifying amendment to the Electricity Act 1994

The Bill amends section 116 of the *Electricity Act 1994* to ensure further clarity around the operation of the section's acquisition powers in respect of electricity entities acquiring land for works. This clarification will maintain the status quo, whilst ensuring it is clear upon reading the provision that it permits an electricity entity to acquire land even if another entity benefits from the acquisition (for example an electricity generator).

Further, the Bill includes a validation provision to clarify that even where an acquisition has provided a benefit to a third party, that acquisition is valid.

Alternative ways of achieving policy objectives

As each of the reforms contained in the Bill seek to build upon and improve existing frameworks established in legislation (e.g. the State's coexistence, financial provisioning, Resources Acts regulatory frameworks and electricity entities' acquisition powers), there are no alternative ways of achieving the policy objectives other than by legislative reform.

Estimated cost for government implementation

Implementation of amendments to expand the remit of the GFCQ to include the resources sector as a whole and the renewable energy industry will increase costs to government. The total cost for this expanded remit is anticipated to be approximately $1.5 million over two years to the end of the 2024-25 financial year.

The Department of Energy and Climate will fund this expanded remit from its existing allocated budget. The remainder of GFCQ's budget will continue to be funded by the Department of Resources. Beyond the 2024-25 financial year, both these departments will fund the GFCQ.

Implementation of the subsidence management framework and regulatory efficiency amendments will be funded under the existing budget allocation of the Department of Resources. The expanded functions of OGIA and the LAO will be wholly funded by an industry levy and will not increase costs to government. Similarly, modernisation of the

Financial Provisioning Scheme will be funded from the Scheme Fund. The amendment to the *Electricity Act 1994* is clarifying existing operations and will not increase costs to government.

Consistency with fundamental legislative principles

The Bill has been drafted with regard to fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* (Legislative Standards Act) and is generally consistent with these principles. Clauses of the Bill in which FLP issues may arise or be perceived to arise, together with justification for any departure are outlined below.

Coexistence reforms

Institution of Parliament

Under section 4(2) of the Legislative Standards Act, legislation should have sufficient regard to the institution of Parliament. The institution of Parliament was considered in relation to the coexistence reforms and are broadly considered consistent with fundamental legislative principles, except were discussed and justified below.

Delegation of legislative power only in appropriate cases and to appropriate persons

Prescribing matters in regulation relating to expanded functions of the GFC Act and LAO Act may impinge upon the FLP that legislation should only be delegated in appropriate cases. The expanded remit of these institutions includes:

- sources of renewable energy that will not be captured under the amended *Coexistence Queensland Act 2013*;
- the resource authorities that will pay an annual industry levy to the LAO to cover the costs associated with their expanded dispute resolution and investigation functions;
- other particulars relating to the establishment of the LAO levy; and
- the ability to prescribe a supplementary fee under the LAO Act in particular circumstances.

The *Coexistence Queensland Act* 2013 establishes clear parameters for expanding the current remit of the GFCQ to include coexistence issues relating to the renewable energy industry. However, the prescription of those sources of renewable energy that will not be relevant to the role of the GFCQ will be in the Coexistence Queensland Regulation. Technology is rapidly evolving in the renewable energy industry, which is likely to see coexistence considerations amongst landholders and land users in relation to particular sources of renewable energy no longer relevant or is significantly reduced. Consequently, it is appropriate that sources of renewable energy that will not be captured under the amended *Coexistence Queensland Act 2013* are prescribed by regulation to allow the framework to be responsive to these technology changes. Any impingement on this FLP is justified on this basis.

In relation to the LAO levy and supplementary fee, the expanded remit of the LAO will be fully funded by the resources sector. Any potential impingement on this FLP is justified on the basis that allowing for the particulars of the levy and supplementary fee to be prescribed by regulation recognises the difficulty of predicting with any certainty what the demands might be on the LAO going forward. Additionally, fluctuation costs are likely to occur which makes subordinate legislation the most appropriate vehicle for these matters.

CSG-induced subsidence

Rights and liberties of individuals

Under section 4(2) of the Legislative Standards Act, legislation should have sufficient regard to an individual's rights and liberties. The rights and liberties of individuals were considered in relation to the subsidence management framework and are broadly considered consistent with fundamental legislative principles, except where discussed and justified below.

Right of review

Section 4(3)(a) of the Legislative Standards Act provides that legislation has sufficient regard to the rights and liberties of individuals if the legislation creates administrative powers that are sufficiently defined and subject to appropriate review. The subsidence management framework potentially impinges this FLP as the subsidence impact report will impose obligations on resource tenure holders in certain circumstances that cannot be reviewed or appealed.

However, in developing a subsidence impact report, OGIA must invite submissions on the proposed report and provide the chief executive with a summary of how the submissions were addressed. This ensures that stakeholders have an opportunity to make a case about the content of the report, including to the extent it affects them. Additionally, a technical reference group will undertake a mandatory peer-review of the proposed subsidence impact report before OGIA gives the report to the chief executive for approval. The purpose of the technical reference group is to review the scientific methods used in preparing the report which provides scientific rigor and credibility to the report and framework broadly. Finally, the subsidence impact report is critical to the subsidence management framework in that it provides a scientific basis for the identification, assessment, monitoring and management of the impacts of CSG-induced subsidence on a periodic basis.

Any potential infringement on this FLP is justified as the subsidence impact report is based on scientific data, which underpins the subsidence management framework. This science is informed by submissions and requires mandatory scientific peer-reviews, thereby providing a further layer of review of OGIA's draft subsidence impact report.

This FLP may also be impinged by the provision that gives the chief executive the power to recover costs where the chief executive has taken steps as determined by the Minister to prevent a critical consequence from occurring, continuing or becoming worse where a resource tenure holder has failed to do so. This decision is not subject to review or appeal rights.

Generally, a decision that a critical consequence has occurred or is likely to occur is recognition that CSG activities are severely impacting the use of the land. In these circumstances, it means that CSG activities are impacting the use of the land in such a significant way that the agricultural activities occurring on the land cannot continue in substantially the same way and immediate or urgent steps must be taken to address this. The chief executive will only take the stated reasonable steps to recover costs after expiry of the prescribed timeframe the resource tenure holder has to address the critical consequence. The potential infringement of this FLP is therefore justified on the basis that the chief executive must be empowered to take steps as a priority to address critical consequences and recover the costs associated with doing so to provide certainty to landholders that steps will be taken to manage the impacts from CSG-induced subsidence.

New offences

Where legislation creates a new offence, the offence must be appropriate, proportionate and reasonable in the light of the conduct that constitutes the offence. The subsidence management framework introduces several new offences that relate to failing to comply with obligations to manage the impacts of CSG-induced subsidence. The maximum penalty units attached to each offence range from 100 penalty units for lesser offences to 4,500 penalty units for the most serious offence and are comparable to similar offences under the Water Act and *Environmental Protection Act 1994*.

For example, if a resource tenure holder fails to provide information about land monitoring to a relevant landholder, the maximum penalty that could be imposed for an offence is 100 penalty units. This differs from where a resource tenure holder fails to provide information about the outcome of a farm field assessment to a relevant landholder or OGIA, which attracts a maximum penalty of 500 penalty units. The difference in penalty acknowledges that the information contained in a farm field assessment is of much greater importance to the landholders, and relates to whether they may be entitled to negotiate a subsidence management plan.

For critical components of the framework that relate to obligations on resource tenure holders to do certain things to manage the impacts of CSG-induced subsidence such as enter into a subsidence management plan, the maximum penalty imposed is 1,665 penalty units. Similarly, if a resource tenure holder produces CSG from a new well that is on, partly on, under, or partly under high risk Category A land, a maximum penalty of 1,665 penalty units also applies. A high penalty is necessary in these circumstances because the outcome of non-compliance could have significant impacts on the landholder and their use of the land.

A significant penalty of 4,500 penalty units will apply if a resource tenure holder fails to comply with a Ministerial direction to do certain things if a critical consequence has occurred or is likely to occur. In these circumstances, it means that CSG activities are impacting the use of the land in such a significant way that the agricultural activities occurring on the land cannot continue in substantially the same way and immediate or urgent steps must be taken to address this. It is, therefore, imperative that resource tenure holders take steps to prevent a critical consequence from occurring, continuing or becoming worse or face a significant penalty for not doing so.

This range of maximum penalty units is therefore justified on the basis they are reasonable, proportionate and appropriate having regard to the consequences of failing to comply.

Privacy

Components of the subsidence management framework may impinge on the privacy of individuals, raising concerns whether the legislative framework adequately has safeguards in place where privacy is intruded upon.

Privacy concerns may arise due to landholders being required to make information about their agricultural activities and farming practices available to OGIA and resource tenure holders to enable them both to meet their obligations under the subsidence management framework. Without this information, OGIA would not be able to assess the risk of impact from CSG-induced subsidence to land or complete the subsidence impact report. This would result in resource tenure holders not meeting their obligations to undertake land monitoring, baseline data collection or farm field assessments. Any potential impingement on this FLP is justified on this basis.

OGIA may also make certain information available in a public register. However, there are safeguards in the legislation that prevent OGIA and resource tenure holders from disclosing or making publicly available any private information.

Ability to conduct business

The subsidence management framework may impinge upon the FLP that legislation should not adversely affect a person's ability to conduct a business. This is due to the temporary pause on production of CSG from new wells within or partly within, or under or partly under, Category A land, which is the land most a risk of impacts from CSG-induced subsidence or other land identified by OGIA. However, this limitation only applies until a farm field assessment for the land is carried out, and if required, a subsidence management plan is entered into. Additionally, if resource tenure holders and landholders agree, CSG production from new wells can continue while the farm field assessment is carried out and subsidence management plan negotiated.

The potential infringement of this FLP is justified because the farm field assessment will provide crucial information about the likely impacts of CSG-induced subsidence on the land, including whether the impacts are likely to be more than minor. Any increased CSG production while this assessment is carried out could contribute to or escalate impacts unnecessarily. This does not align with the purpose of the subsidence management framework, which is to manage the impacts of CSG-induced subsidence.

Institution of Parliament

Under section 4(2) of the Legislative Standards Act, legislation should have sufficient regard to the institution of Parliament. The institution of Parliament was considered in relation to the subsidence management framework and are broadly considered consistent with fundamental legislative principles, except were discussed and justified below.

Delegation of legislative power only in appropriate cases and to appropriate persons/ Scrutiny of legislative assembly

The subsidence management framework may impinge upon the FLPs that legislation should only be delegated in appropriate cases and to appropriate persons; and that legislation should be subject to the scrutiny of the legislative assembly. This may occur through the allowance for the subsidence management area to which the subsidence management framework applies to be declared by gazette notice and not through a statutory provision. However, before declaring the area, the Minister must be satisfied that the area is or may be impacted by CSG-induced subsidence and will inform this view based on advice by OGIA. To minimise impacts from CSG-induced subsidence, the Minister requires flexibility to declare an area as soon as there is sufficient information to support the decision and the gazettal process allows for this, which justifies the potential impingements of these FLPs.

The subsidence management framework may also impinge upon these FLPs because in the subsidence impact report, OGIA is able to impose obligations to undertake land monitoring, baseline data collection or a farm field assessment on resource tenure holders. The subsidence impact report is periodic and will be replaced every three to five years based on the latest available scientific data. The iterative nature of the report is critical because the impacts of CSG-induced subsidence will change over time, which means the risks to land, and consequently obligations for resource tenure holders, will change over time.

The potential impingement of these FLPs is justified on the basis that the only realistic way to provide for this flexibility is to allow for certain obligations to be given in the subsidence import report. Furthermore, the legislation requires the subsidence impact report to be tabled in Parliament and therefore subject to Parliamentary scrutiny and the potential for disallowance.

Finally, the subsidence management framework may also impinge upon the FLP that legislation should only be delegated in appropriate cases by allowing for a number of requirements to be prescribed by regulation. These include the requirements of:

- land monitoring, baseline data collection and farm field assessments;
- farm field auditors;
- subsidence management plans;
- subsidence opt-out agreements;
- subsidence compensation agreements;
- conferencing and alternative dispute resolution, for disputes relating to subsidence compensation agreements and subsidence management plans;
- critical consequence applications;
- OGIA's annual subsidence trends report;
- subsidence impact reports; and
- the annual levy imposed under the Water Act for CSG-induced subsidence.

Allowing for the requirements of these elements of subsidence management framework to be prescribed by regulation creates the flexibility to adapt the framework as more information is learned about the impacts of CSG-induced subsidence and how these can be managed overtime. Parliamentary oversight is maintained as any amendments to regulations will need to be tabled in Parliament and therefore subject to disallowance motions.

The framework also allows for the chief executive to make guidelines about how a resource tenure holder may comply with the prescribed requirements for land monitoring, baseline data collection and farm field assessments. The guidelines will be very technical in nature and will not prescribe any additional requirements. Their technical and detailed nature means the contents are not suitable for inclusion in subordinate legislation.

Both the regulation-making and guideline-making powers are justified on the basis that they recognise the need for government to be able to respond to the dynamic conditions within which the resource and agriculture sectors operate. Extensive consultation with key stakeholders and experts will be undertaken in the development of subordinate legislation and guidelines.

Improved regulatory efficiency

Rights and liberties of individuals

Under section 4(2) of the Legislative Standards Act, legislation should have sufficient regard to an individual's rights and liberties. The rights and liberties of individuals were considered in relation to the streamlined compliance, assessment and administration reforms and are broadly considered consistent with fundamental legislative principles, except, where discussed and justified below.

Retrospectivity

The proposed amendments to the MR Act potentially depart from the principle that legislation operates prospectively rather than retrospectively under section 4(3)(g) of the Legislative Standards Act.

The Bill includes amendments that mandate that the surface of the area of a mining lease be kept in a tidy state during the term of the lease as a condition of holding the mining lease (resource authority). Introducing a new mandatory condition for mining leases, mirrors the condition already imposed on mining claims and ensures resource authority holders are maintaining organised operations, equipment, and stores to manage hazards that can lead to injuries, fires, and harm.

The Bill also inserts a transitional provision in the MR Act to enable the amendment to apply to a mining lease granted before or after commencement of the provisions. A fundamental legislative principle follows the presumption at common law that, unless the contrary intention appears expressly or impliedly, Parliament intends legislation to operate prospectively and not retrospectively.

Section 276 of the MR Act provides express provisions that require the resource authority holder to comply with the MR Act and other mining legislation, including any other conditions as prescribed and any other conditions as determined by the Minister. Therefore, the MR Act explicitly states that resource authority holders must comply with any conditions listed in the legislation, which are subject to change.

The retrospectivity is justified as the MR Act already enables consistent mandatory conditions to be introduced after a resource authority has been granted and changed from time to time. These legislative conditions ensure the objectives of the legislation can be met through enforceable standards which apply consistently to the relevant resource authorities. If these conditions only applied to resource authorities granted after the legislation was amended, they would not apply uniformly as is intended by the legislation and would fail to meet the objective of a consistent suite of enforceable conditions applicable to all relevant resource authorities.

Furthermore, the amendments will not impact resource authority holders where they are maintaining tidy operations and taking proactive steps to manage hazards, which is already a general obligation under mine safety legislation. Further, amended section 276 of the MR Act will allow the Department of Resources to take compliance action against resource authority holders that do not comply with the new mandatory condition and encourages the resources industry to keep the surface area of the mining lease tidy to manage hazards and maintain organised operations.

Modernising the financial provisioning scheme

Rights and liberties of individuals

To enable companies with multiple environmental authorities to have their assessments occur at the one time, the Scheme Manager requires the ability to change the annual review dates of individual environmental authorities. To enact this the Bill proposes the Scheme Manager to decide the annual review allocation day for EA's over $10 million within 30 business days. There is a potential breach of the fundamental legislative principles in that there is no contestability of the initial date set by the Scheme Manager.

The purpose of the annual review allocation day is an administrative trigger to complete yearly risk assessments to determine a company's risk category allocation and the resultant contribution to an insurance-styled Scheme Fund. Part of the risk assessment is understanding a company's financial standing using up to date financial statements. This can either be leveraging a company's yearly audited financial statements or fit for purpose specially prepared management accounts, should the yearly audited financial statements be older than nine months.

While it may appear there is a potential breach, it can be justified through the following explanation:

- the annual review allocation day is not an additional impost on industry, it is changing the date of the existing annual review day for EA's;
- the changed date is to align the risk assessment in line with a company's release of financial statements;
- without aligning to financial statements, companies are required to produce management accounts so that the latest financial information can be reviewed by the Scheme;
- the changed date for individual EA's will align companies EA's where they have more than one, meaning companies only have to submit once per year;
- industry was heavily consulted during the review of the Scheme and there was strong support for this initiative; and
- there are provisions within the Bill for companies to request a change to their annual review date should the initial annual review allocation day not be ideal or should they change the release date of their financial reporting.

The Scheme Manager's annual review allocation day decisions will be subject to the *Judicial Review Act 1991*, subject to the limitation that only the holder (or incoming holder) will have rights under the that Act. This is reasonable in the circumstances as only those entities are affected by the Scheme Manager's decision. In these circumstances any merits review would, at best, involve a review of the material considered by the Scheme Manager, which is simply an understanding of a company's financial statement release date rather than a reassessment independent from the Scheme Manager.

Institution of Parliament

The proposed amendments to the Financial Provisioning Scheme which provide for the making of transitional regulation potentially depart from the principle that legislation should have sufficient regard to the institution of Parliament. The inclusion of these clauses is justified because they provide a temporary measure to facilitate a smooth transition to the new framework under the Bill.

The regulation must be declared as a transitional regulation and it may have retrospective operation for the period. The potential contravention of this fundamental legislative provision is mitigated by the inclusion of a two-year sunset clause applying to any transitional regulations, which is similar to provisions in a number of Acts across the Queensland statute book.

Clarifying amendment to the *Electricity Act 1994*

Rights and liberties of individuals

Under section 4(2) of the Legislative Standards Act, whether legislation has sufficient regard to rights and liberties of individuals depends on a number of considerations, including whether the legislation adversely affects rights and liberties, or imposes obligations, retrospectively. The clarifying amendments to the *Electricity Act 1994* include a validation clause that has the effect of clarifying that the taking of land by an authorised electricity entity under section 116 is taken to be, and always to have been, valid provided the taking of the land would have been valid if it had been made after the commencement of the amended section 116.

This validating provision may be viewed as impinging upon the rights and liberties of individuals as it applies retrospectively. However, the amendments made to section 116 of the *Electricity Act 1994* are intended to clarify the current status quo application of that provision. The validation provision is intended to provide further certainty with respect to that clarification, putting beyond doubt that the provision has always enabled acquisition as per the amended section 116, including where a third party may benefit from an acquisition.

Consultation

In September 2023, the Department of Resources released a suite of consultation papers inviting feedback on a range of proposed legislative reforms. The proposals related to two key focus areas contained in the QRIDP, namely fostering coexistence and sustainable communities, and improving regulatory efficiency. Public consultation ran for eight weeks, during which time feedback was invited on the papers through the completion of an online form or by making a written submission. Landholders and other key stakeholders in the agricultural, resources, energy, legal and local government sectors were notified directly of the consultation process. 24 briefing sessions were also provided to a range of key stakeholders from the agriculture and resource industries including peak bodies, landholders, environmental groups, and local government. Key feedback received is summarised below.

Coexistence reforms

Generally, there was broad support for the proposed changes in remit to OGIA, the LAO and the GFCQ. This included support for the expanded remit of the LAO as an alternative dispute resolution pathway. However, some stakeholders indicated this may duplicate existing avenues for negotiation and cause confusion for landholders. Some concerns were also raised about OGIA's role in the subsidence management framework, particularly in regard to their governance and independence.

Submissions from the peak bodies representing the resources sector felt there was not enough detail provided on the proposed funding model for the LAO to be able to provide detailed comment or support. They also requested more information on the expansion of OGIA's levy to support the subsidence management framework, particularly if the levy methodology would be fair, equitable and affordable across tenure holders. These peak bodies also enquired about the timing and implementation of the levy and noted that this would impact business operations.

In regard to the GFCQ, many stakeholders supported the expanded remit to extend to renewable energy projects. Some submitters did not support the proposed removal of GFCQ's oversight function.

CSG-induced subsidence

Stakeholders were generally supportive of the State developing a regulatory framework to manage CSG-induced subsidence.

Agricultural stakeholders and environmental groups raised concerns about the protection of high value agricultural land from CSG-induced subsidence and sought the government to address situations where they believe coexistence between the resource and agricultural industry may not be achievable. In particular, where they believe impacts to agricultural land could result in permanent impact to long-term productive capacity.

These stakeholders were also concerned as to whether critical consequences and other GFCQ recommendations from its regulatory review would form part of the proposed management framework. Supplementary consultation on the proposed critical consequences test indicated broad support from landholders, who also suggested broadening the elements that might be considered a critical consequence.

The agricultural industry and several landholders and community members expressed concerns about the financial and time impost of fulfilling obligations related to the assessment of CSG-induced subsidence and developing subsidence management plans. Particularly in relation to the potential impact on their ability to conduct business and farming activities, particularly during periods of peak agricultural seasonal activity.

The resources sector expressed concerns that landholders might use the critical consequence test as a mechanism to frustrate development. The resource sector also noted that resource stakeholders face increasing compensation costs, which would be exacerbated by potential delays and costs associated with the proposed CSG-induced subsidence management framework. Some resource stakeholders raised concerns about their social licence to operate should there be a need to initiate proceedings in the Land Court to reach agreement on a subsidence management plan. Particularly where landholders do not negotiate in good faith and use the negotiation process as a mechanism to slow CSG production.

Others suggested that a streamlined framework with reasonable timeframes could support resource tenure holders and landholders who have existing positive relationships and enable the efficient negotiation of agreements.

Improved regulatory efficiency

Stakeholders were broadly supportive of many proposed reforms, at least in principle. However, some stakeholders expressed concern about several proposed reforms and/or sought further clarification or detail.

The resources sector requested further consultation in relation to the strategic land release proposals, however, these concerns will generally be addressed as a matter of course when using the proposed discretion to make a decision. Similarly, the resources sector requested further consultation in relation to the proposed development plan amendments. However, as the amendments simply implement transitional arrangements this was not considered necessary.

Finally, both the resources sector and agricultural stakeholders raised issues in relation to the aerial surveying amendments. Despite these issues, the amendments bring Queensland’s legislation in line with existing aerial surveying practices of other industries and activities and

will result in a reduced administrative burden for industry without significantly impacting landholders or their activities.

Modernising the financial provisioning scheme

Consultation with affected stakeholders, including scheme participants, peak bodies and environmental stakeholders was undertaken between July and November 2022 in developing the policy underpinning the proposed amendments. This included two discussion papers and multiple townhall sessions. In response, 48 written submissions were received from 121 stakeholders across 74 organisations.

Stakeholders are broadly supportive of the amendments, and all significant issues raised during consultation have been addressed.

Clarifying amendment to the *Electricity Act 1994*

No stakeholder consultation has been undertaken in relation to this clarifying provision as this amendment is administrative in nature.

Consistency with legislation of other jurisdictions

The amendments are specific to the legislative framework of the State of Queensland and not expected to impact the legislation of the Commonwealth or another State.

Notes on provisions

Part 1– Preliminary

Short title

Clause 1 provides that, when enacted, the Bill will be cited as the *Mineral and Energy Resources and Other Legislation Amendment Act 2024*.

Commencement

Clause 2 outlines the provisions of the *Mineral and Energy Resources and Other Legislation Amendment Act 2024* that will commence on a day to be fixed by proclamation. All other provisions will commence on assent.

Part 2 – Amendment of Electricity Act 1994

Act amended

Clause 3 outlines that this part of the Bill amends the *Electricity Act 1994*.

Amendment of s 116 (Authority to acquire land)

Clause 4 makes a number of clarifying amendments to section 116 of the *Electricity Act 1994* to clarify its application.

The clause clarifies that under section 116(4) the process for the taking of land and the payment of compensation for taking land under the *Acquisition of Land Act 1967,* part 2, divisions 2 and 3, and parts 3 and 4, applies.

The amendment seeks to clarify that the *Acquisition of Land Act 1967*, sections 36 and 37 apply in relation to the taking of land under subsection (4) as if the authorised electricity entity were exercising its power to take land as a constructing authority under that Act.

The clause also inserts a new subsection (5A) into section 116. This provision clarifies that an authorised electricity entity acting under an authority given, or taken to be given, under section 116(1) of the *Electricity Act 1994* may take land under the authority even if another entity may derive a benefit from any action taken on the land after it is taken. This is intended to clarify the current intent of the provision.

To ensure there is no confusion surrounding the section's use of both 'take' and 'acquire', both intended to have the same effect, the provision also updates the language in section 116 for consistency.

Also, to remove any doubt, the clause inserts a new subsection (7A) to provide that it is declared that the taking of land under an authority granted under this section is not a taking of land under the *Acquisition of Land Act 1967*.

Insertion of new ch 14, pt 20

Part 20 Validation provision for Mineral and Energy Resources and Other Legislation Amendment Act 2024

Clause 5 inserts a inserts new part 20 dealing with transitional provisions for the *Mineral and Energy Resources and Other Legislation Amendment Act 2024* as it relates to the *Electricity Act 1994* and includes new sections 362.

362 Validation of acquisitions of land

New section 362 provides that if, before the commencement of this clause:

- land was taken by an authorised electricity entity under former section 116; and
- the taking of land would have been valid if it had been made after the commencement of new section 116,

then the taking of land by the authorised electricity entity is taken to be valid, and always to have been, valid. The clause also clarifies that, to remove any doubt, it is declared that this is the case even if another entity has derived a benefit from any action taken on the land after it was taken.

Further, anything done (or purportedly done) as a result of, or in reliance on, the taking of the land is taken to be (and have always been) as valid and lawful as it would have been if, at the time the new section 116 had been in force.

Part 3 – Amendment of Fossicking Act 1994

Act amended

Clause 6 states that this part amends the *Fossicking Act 1994* (Fossicking Act).

Amendment of s 3 (Definitions)

Clause 7 amends section 3 to insert a new definition of 'licensee' for the part. 'Licensee' is defined to mean both the holder of a fossicking licence and, for part 3, division 2, the definition found in section 24 of the Fossicking Act.

The clause also amends section 3 to change the definition of 'protected area', by replacing paragraph (b), 'an area of regional interest', with 'a strategic environmental area', per the definition under the *Regional Planning Interests Act 2014* (RPI Act). Under the RPI Act, a strategic environmental area, amongst several other types of area, is considered an area of regional interest. The Fossicking Act does not apply to protected areas, so the inclusion of the broad 'area of regional interest' in the definition of 'protected area' has the effect of excluding fossicking from a large portion of Queensland.

This was the result of an erroneous consequential amendment and is not the intention of the Fossicking Act. The amendment seeks to limit the areas of regional interest captured under the definition of 'protected area' to specify 'a strategic environmental area' to correct the error and ensure that the applicability of the Fossicking Act is not unintentionally limited.

Replacement of s 24 (Meaning of *licensee* in division)

Clause 8 replaces section 24 to provide clarity to the definition of 'licensee' applicable to part 3, division 2 of the Fossicking Act. Replaced section 24 clarifies that 'licensee' includes a member of a club, commercial tour group, or an educational organisation, only if that club, commercial tour operator for the commercial tour, or educational organisation holds a fossicking licence.

Amendment of s 25 (Licence needed to fossick)

Clause 9 amends section 25 to reflect the new definition of 'licensee' under section 24. As the replaced section 24 defines 'licensee' as a holder of a licence under section 3 or as a member of a club that holds a licence, a commercial tour group where the commercial tour operator of the tour holds a licence, or an educational group that holds a licence; section 25 does not need to restate this definition. As a result, amended section 25 is simplified to now only state that a person must not fossick unless the person is a licensee under section 24 and that the maximum penalty for contravening this subsection is 50 penalty units.

Amendment of s 27 (Licensee must get permission to fossick on occupied land etc.)

Clause 10 amends section 27 to require that a person with a fossicking license must not fossick on land the subject of an application for a mining lease under the *Mineral Resources Act 1989* (MR Act) without written permission of the applicant. The amendment complements existing requirements for fossickers to obtain written permissions under section 27(1) of the Fossicking Act.

This amendment seeks to recognise that the mining lease application process requires significant investment by resource companies in terms of time, knowledge, and capital. It also acknowledges that this investment creates an interest that could be impacted by fossicking activities in the application area. The purpose of the amendment is to help manage the potential conflict between fossicking and commercial mining activity on land to which a mining lease application applies.

The clause also replaces the heading of section 27, 'Licensee must get permission to fossick on occupied land etc.', with 'Permission required to fossick on particular land'. The replacement of 'occupied land etc.', with 'particular land' clarifies that section 27 refers to several types of land, not just occupied land.

The clause also amends section 27(3) to clarify that the subsection has two distinct parts, that the permitter may withdraw permission, and that the licensee must be given reasonable written notice of the withdrawal. The intention of the subsection has not otherwise changed.

The clause also replaces, 'permitter' with 'person' as permitter is a redundant term.

The clause also inserts a new definition for, 'native title holder' for the section. 'Native title holder' is defined as meaning a native title holder under the *Native Title Act 1993* (Cth). This definition has been inserted as section 27 of the Fossicking Act uses the term but does not currently include a definition.

The clause also amends section 27 to renumber the section.

Part 4 – Amendment of Gasfields Commission Act 2013

Act amended

Clause 11 provides that part 4 amends the *Gasfields Commission Act 2013* (GFC Act).

Amendment of long title

Clause 12 amends the long title of the GFC Act to replace 'the Gasfields Commission' with 'Coexistence Queensland' to provide that the Act establishes Coexistence Queensland.

Amendment of s 1 (Short title)

Clause 13 amends section 1 to change the short title of the GFC Act to Coexistence Queensland Act 2013 to reflect the renaming of the Gasfields Commission to Coexistence Queensland in acknowledgement of its expanded remit beyond the onshore gas industry.

Amendment of s 3 (Purpose)

Clause 14 amends section 3 to replace a reference to 'the Gasfields Commission' with 'Coexistence Queensland' and provide that the purpose of Coexistence Queensland is to manage and improve the sustainable coexistence of landholders, regional communities, the resources industry, and the renewable energy industry.

Amendment of s 6 (Establishment of commission)

Clause 15 amends section 6 to replace a reference to 'the Gasfields Commission' with 'Coexistence Queensland' and provide that Coexistence Queensland is established.

Replacement of s 7 (Commission's functions)

Clause 16 replaces section 7 to establish the functions of Coexistence Queensland that relate to its broader remit across the entire resource sector and renewable energy sector.

These functions include:

- facilitating better relationships between landholders, regional communities, the resources industry and the renewable energy industry;
- providing a central point of contact for enquiries about matters affecting sustainable coexistence between these groups;
- upon request, continuing to provide advice to the chief executive under the *Regional Planning Interests Act 2014* (RPI Act) about the assessment of applications under the RPI Act in relation to the ability of landholders, regional communities and the resources industry to coexist;
- providing advice to Minsters, government entities and other stakeholders about coexistence between landholders, regional communities, the resources industry and the renewable energy industry, including about emerging issues and leading practice sustainable coexistence;

- partnering with appropriate entities to deliver educational resources and information about health and wellbeing matters relating to the sustainable coexistence of landholders, regional communities, the resources industry and the renewable energy industry;
- facilitating appropriate entities to undertake community engagement and participation in community initiatives about assessing health and wellbeing concerns relating to activities carried out in the resources industry or the renewable energy industry;
- publishing educational resources and other information about the sustainable coexistence of landholders, regional communities, the resources industry and the renewable energy industry;
- any other function provided under the *Coexistence Queensland Act 2013* or another Act;
- partnering with appropriate entities to conduct research on coexistence issues related to any of its functions.

Replacement of s 9 (Membership of commission)

Clause 17 replaces section 9 to provide that the membership of Coexistence Queensland consists of a full-time or part-time member, who is the chairperson and up to 6 part-time members. The clause also renames the section, 'Membership of Coexistence Queensland'.

Amendment of s 9A (Appointment as a commissioner)

Clause 18 amends section 9A to replace commissioner with member and provide a process for appointing a member to Coexistence Queensland.

The clause provides that the membership of Coexistence Queensland will include a member who has knowledge of or experience with:

- the interests of landholders;
- the interests of communities in which the resources industry or renewable energy industry operates;
- the resources industry; and
- the renewable energy industry.

The clause also inserts a new requirement that the Minister must be satisfied that a nominee for appointment to Coexistence Queensland reflects the diversity of the Queensland community involved in matters relating to the sustainable coexistence of landholders, regional communities, the resources industry and the renewable energy industry.

The amendments to section 9A ensure that the membership of Coexistence Queensland reflects its expanded functions to include the renewable energy industry and broader resources sector.

The amendments also provide that the performance of Coexistence Queensland's function under section 7(1)(c) for the purposes of the *Regional Planning Interests Act 2014* cannot be invalid because of an irregularity in the appointment of a member or because Coexistence Queensland was not properly constituted.

Replacement of s 10 (Eligibility for appointment as a commissioner)

Clause 19 replaces section 10 to amend the eligibility criteria for a member of Coexistence Queensland to reflect its functions in relation to the broader resources industry and renewable energy industry. The clause also renames the section, 'Eligibility for appointment as a member'.

The clause provides that a person is eligible for appointment as a member if the person has certain qualifications or experience in the fields of:

- the resources industry;
- renewable energy industry;
- a branch of science relating to the activities of the resources or renewable energy industries or the impact of those activities on the environment;
- legal practice relevant to those activities;
- negotiations between landholders and the resources or renewable energy industries;
- land management;
- land valuation;
- community development; and
- the financial and business sector.

Amendment of s 20 (Commission board meetings)

Clause 20 amends section 20 to replace a reference from 'Commission board' to Coexistence Queensland' in the heading of the section and 'commissioners (a *commission board meeting*)' to members (a *Coexistence Queensland meeting*)' in the body of the section.

Amended section 20 provides that Coexistence Queensland must have a meeting at least 6 times a year to ensure Coexistence Queensland is performing its functions and exercising its powers effectively.

Amendment of s 23 (Power to require particular information from government entities)

Clause 21 amends section 23 to align with the revised functions of Coexistence Queensland. This includes replacing references to 'the commission' and 'commissioner' with 'Coexistence Queensland' and 'chairperson' respectively, and replacing 'onshore gas industry' with 'resources industry and renewable energy industry'.

Amended section 23 provides that the chairperson of Coexistence Queensland may require a government entity to provide particular information in relation to the resources industry or renewable energy industry. This information includes documents or material in the entity's possession or control that Coexistence Queensland requires to perform its functions or exercise its powers effectively.

The section also provides for -

- how this information is to be requested;
- when it is to be provided;
- the information that does not need to be provided; and

- the process for seeking an exemption from providing this information.

Omission of s 25 (Compulsory consultation)

Clause 22 omits section 25 as Coexistence Queensland's regulatory oversight role will only be performed at the request of government. This means that a government entity will no longer be required to consult with Coexistence Queensland about policy or legislation that they are developing, even if it relates to sustainable coexistence between landholders, regional communities, the resources industry and the renewable energy industry. This aligns with the functions of Coexistence Queensland as an educational and engagement focused institution rather than a regulatory overseeing entity.

Amendment of pt 3, div 2 hdg (Powers relating to landholders, onshore gas operators and other entities)

Clause 23 amends the heading of Part 3, Division 2 to replace 'landholders, onshore gas operators and other entities' with 'prescribed entities'. This reflects the broadened scope of Coexistence Queensland beyond the onshore gas industry.

Amendment of s 26 (Power to require particular information from prescribed entities)

Clause 24 amends section 26 to provide a list of prescribed entities to which this section applies. Prescribed entities include landholders, resource authority holders, renewable energy entities and companies engaged to carry out activities in the resources and renewable energy industries. Coexistence Queensland will have the ability to request information from these entities to assist in its publication of reports and educational materials. It also inserts definitions for renewable energy entity and resource authority holder.

As amended, section 26 provides that the chairperson of Coexistence Queensland may require a prescribed entity to provide information in its possession that Coexistence Queensland requires to carry out its functions effectively and efficiently.

The section also provides for –

- how this information is to be requested; and
- when it is to be provided; and
- the information that does not need to be provided; and
- the process for seeking an exemption from providing this information.

The section also provides for a penalty to be applied for a failure to provide the information requested where no exemption applies.

Replacement of s 29 (Gasfields community leaders council)

Clause 25 replaces section 29 to provide that the community leaders council established by Coexistence Queensland must include the chief executive officer of Coexistence Queensland and representatives from local governments, regional communities, the resources industry and the renewable energy industries. The community leaders council will assist Coexistence

Queensland to identify issues affecting the co-existence of landholders, regional communities and the resources and renewable energy industries.

Coexistence Queensland must establish at least one community leaders council but may establish several. This provides Coexistence Queensland with the flexibility to establish, for example, a community leaders council that relates to the resources industry and a separate community leaders council that relates to the renewable energy industry.

The clause also renames the section, 'Community leaders council'.

Omission of s 40 (Summary of offences)

Clause 26 omits section 40 which provided that an offence against the GFCQ Act is a summary offence. This section is not needed because of the operation of section 19 of the *Justices Act 1886* and section 44 of the *Acts Interpretation Act 1954* which already provide for this.

Amendment of pt 7, hdg (Transitional provisions for Gasfields Commission and Other Legislation Amendment Act 2017)

Clause 27 removes the heading of part 7 because the transitional provisions for the Gasfields Commission and Other Legislation Amendment Act 2017 are being inserted into a new division 1 in part 7.

Insertion of new pt 7, div 1, hdg

Division 1 Transitional provisions for Gasfields Commission and Other Legislation Amendment Act 2017

Clause 28 inserts a new heading for part 7, division 1 to include the transitional provisions for the Gasfields Commission and Other Legislation Amendment Act 2017. To remove any doubt, the transitional provisions in part 7, division 1 are existing transitional provisions.

Amendment of s 47 (Definitions for part)

Clause 29 replaces the heading of section 47 to be 'Definitions for division' rather than definitions for part because they will only apply to the provisions contained in division 1 of part 7.

Insertion of new pt 7, div 2

Division 2 Transitional provisions for Mineral and Energy Resources and Other Legislation Amendment Bill 2024

Clause 30 inserts new division 2 into part 7 to provide transitional provisions for the Bill which includes new sections 51-55.

51 Change in name of Coexistence Queensland

Section 51 provides that the change in name from Gasfields Commission Queensland to Coexistence Queensland does not establish a new entity, but merely rebrands an existing entity.

Section 51 also ensures that any referencing to the Gasfields Commission can be taken as a reference Coexistence Queensland in any other instruments.

52 Continuation of particular former functions for 1-year period

Section 52 provides that for up to one year after the change from Gasfields Commission to Coexistence Queensland, Coexistence Queensland may continue to perform certain existing functions of the Gasfields Commission that were started but not completed upon commencement of the Bill. This transitional provision is limited to the following functions:

- reviewing the effectiveness of government entities in implementing regulatory frameworks that relate to the onshore gas industry;
- making recommendations to the relevant Minister that regulatory frameworks and legislation relating to the onshore gas industry be reviewed or amended; and
- making recommendations to the relevant Minister and onshore gas industry about leading practice or management relating to the onshore gas industry.

53 Continuation of commissioners as members

Section 53 provides that a person who was commissioner immediately before the amendments commenced will continue in their position as a member until their appointment under the *Coexistence Queensland Act 2013* ends. It also provides that a reference to a commissioner in an instrument is taken to be a reference to a member.

54 Minister may remove existing members

Section 54 provides an ability for the Minister to remove an existing member within one year after commencement of the amendments. The section establishes the decision-making criteria and process for removing a member. It creates an ability for the Minister to change the membership of Coexistence Queensland to ensure it is more reflective of the institution's expanded remit across the broader resources sector and renewable energy sector.

55 Continuation of gasfields community leaders council as community leaders council

Section 55 provides that a Gasfields community leaders council in existence immediately before the commencement of the amendments can continue as a community leaders council.

Amendment of sch 1 (Dictionary)

Clause 31 amends the definitions in Schedule 1 by:

- omitting the definitions for commission, commission board meeting, commissioner, onshore gas industry, onshore gas operator, petroleum, prescribed entity and resources industry;
- inserting a definition of *Coexistence Queensland* that means Coexistence Queensland established under section 6;
- inserting a definition of *Coexistence Queensland meeting* that refers to section 20;

- inserting a definition of *member* that means a person appointed as a member of Coexistence Queensland under section 9A;
- inserting a definition of *renewable energy industry* that means the industry involved in the carrying out in Queensland of the following activities—
  (a) generating electricity from a renewable energy source;
  (b) transmitting or supplying electricity generated from a renewable energy source;
  (c) storing energy generated from a renewable energy source;
- inserting a definition of *renewable energy source* that means a source of renewable energy other than a source prescribed by regulation and includes examples such as solar, wind, biomass, geothermal and hydro power;
- inserting a definition of *resource authority* that refers to section 10 of the MERCP Act; and
- inserting a definition of *resources industry* that means the industry involved in the carrying out in Queensland of an activity for which a resource authority is required to lawfully carry out.

Part 5 – Amendment of Geothermal Energy Act 2010

Act amended

Clause 32 states that this part amends the *Geothermal Energy Act 2010* (GE Act).

Amendment of s 192 (Power to require information or reports about authorised activities to be kept or given)

Clause 33 amends section 192 to insert new paragraph (2)(c) that allows the chief executive to request, in addition to basic exploration data or opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data, any information, or a report prescribed by regulation.

The amendments intend to allow the State increased flexibility and agility in prescribing what information geothermal tenure holders must provide in their reports to suit the Department's changing business needs.

The clause also amends subsection (3) to remove, 'by the chief executive' as the requirement under paragraph (1)(b) is imposed on a geothermal tenure holder not the chief executive and will ensure equivalent provisions in the *Greenhouse Gas Storage Act 2009*, *Petroleum Act 1923*, and the *Petroleum and Gas (Production and Safety) Act 2004* are consistently drafted.

Replacement of s 196 (Public release of required information)

Clause 34 replaces section 196 to clarify that confidentiality periods prescribed by the Geothermal Energy Regulation 2022 are intended to continue to apply to required information about an authorised activity that has transitioned to a higher form of tenure. The amendments also clarify that the required information is only released if the relevant confidentiality period ends, or the total area to which the required information relates ceases being in the area of the geothermal permit.

The clause also ensures the amendments to section 196 only apply prospectively.

Part 6 – Amendment of Greenhouse Gas Storage Act 2009

Act amended

Clause 35 states that this part amends the *Greenhouse Gas Storage Act 2009* (GGS Act).

Amendment of s 257 (Power to require information or reports about authorised activities to be kept or given)

Clause 36 amends section 257 to insert new paragraph (2)(c) that allows the chief executive to request, in addition to basic exploration data or opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data, any information, or a report prescribed by regulation.

The amendments intend to allow the State increased flexibility and agility in prescribing what information GHG authorities must provide in their reports to suit the Department's changing business needs.

The clause also amends subsection (3) to replace, 'notice by the chief executive' with 'requirement' as it relates to the requirement under paragraph (1)(b) that is imposed on a geothermal tenure holder not the chief executive and will ensure equivalent provisions in the GE Act *Petroleum Act 1923, and the Petroleum and Gas (Production and Safety) Act 2004* are consistently drafted.

Replacement of s 261 (Public release of required information)

Clause 37 replaces section 261 to clarify that confidentiality periods prescribed by the Greenhouse Gas Storage Regulation 2021 are intended to continue to apply to required information about an authorised activity that has transitioned to a higher form of tenure. The amendments also clarify that the required information is only released if the relevant confidentiality period ends, or the total area to which the required information relates ceases being in the area of the GHG authority.

The clause also ensures the amendments to section 261 only apply prospectively.

Part 7 – Amendment of Land Access Ombudsman Act 2017

Act amended

Clause 38 states that this part amends the *Land Access Ombudsman Act 2017* (LAO Act).

Amendment of long title

Clause 39 amends the long title of the LAO Act to clarify that the purpose of the amended LAO Act is to establish a Land Access Ombudsman to investigate and facilitate the resolution of land access disputes, and to conduct ADRs for ADR election notice disputes.

Amendment of s 3 (Purpose of Act)

Clause 40 amends section 3 to state the purpose of the Act; which is to provide for a way to facilitate the timely resolution of land access disputes, and to conduct ADRs for ADR election notice disputes.

The Land Access Ombudsman's remit is no longer confined to investigating breaches of conduct and compensation agreements and make good agreements. Its jurisdiction is being expanded to enable it to provide ADR and conduct investigations in relation to a broader range of disputes, including disputes in relation to subsidence management plans, subsidence compensation agreements, access agreements and compensation agreements for mining claims and mining leases.

Amendment of s 4 (How purpose is achieved)

Clause 41 amends section 4, which sets out how the main purpose of the Act will be achieved. This amendment expands the provision to reflect the disputes within the Land Access Ombudsman's expanded remit, and the Land Access Ombudsman's additional ADR functions.

Amendment of s 7 (What is a *land access dispute*)

Clause 42 amends section 7 to provide that in addition to the other types of disputes described, a land access dispute can also be a dispute about an alleged breach of an access agreement or a dispute about an alleged breach of a subsidence management plan or subsidence compensation agreement. This section also provides that parties to a dispute include successors and assigns of these agreements.

Amendment of s 16 (Functions)

Clause 43 amends section 16 to broaden the functions of the Land Access Ombudsman to include conducting ADRs for ADR election notice disputes. This section provides a clear head of power for the Land Access Ombudsman's expanded functions.

The clause also renumbers the section.

Amendment of s 18 (What land access ombudsman can not deal with)

Clause 44 amends section 18 to clarify the matters that the Land Access Ombudsman cannot deal with following the expansion of its remit. The current prohibitions on the Land Access Ombudsman accepting land access dispute referrals in particular circumstances under s 18 will now extend to the new land access disputes within the Land Access Ombudsman's jurisdiction.

In addition, the Land Access Ombudsman will be prohibited from accepting land access dispute referrals in relation to subsidence management plans and subsidence compensation agreements subject to a minimum negotiation period.

The clause also renumbers the section.

Amendment of s 20 (Land access ombudsman not subject to direction)

Clause 45 amends section 20 to clarify the matters that the Land Access Ombudsman is not subject to direction. In other words, the Land Access Ombudsman is not subject to outside direction about the priority given to investigations of land access dispute referrals or the conduct of an ADR.

Independence from direction is essential for an ombudsman to undertake its role as an independent, accessible, and impartial review, investigation, and dispute resolution entity.

Insertion of new pt 2, div 2, sdiv 1 hdg

Subdivision 1 Establishment

Clause 46 inserts a new subdivision heading.

Replacement of s 25 (Finances of office)

25 Application of other Acts

Clause 47 replaces section 25, to establish the Land Access Ombudsman as a statutory body under the *Financial Accountability Act 2009* and *Statutory Bodies Financial Arrangements Acts 1982*. As a statutory body, Land Access Ombudsman office will have control over its own finances and will have the capacity to set and adjust levies and fees as required to fund its day-to-day operations and the cost of providing alternative dispute resolution services and conducting investigations.

Insertion of new pt 2, div 2, and sdiv 3, hdg

Clause 48 inserts a new subdivision heading and subdivision content.

Subdivision 2 Financial matters

25A Annual budgets

Section 25A provides that the Land Access Ombudsman must prepare a budget before March 31 each year for the next financial year. The budget must be prepared in consultation with the advisory council and is effective only after approval by the Minister on the recommendation of the advisory council and the Land Access Ombudsman. The Minister must approve or refuse the budget before April 30 each year, however, this does not limit the Minister’s discretion to approve or refuse the budget at a later time.

Where the advisory council and the Land Access Ombudsman cannot agree on the recommendation, the Minister may approve the recommendation in any event. Amendments may be made to an approved budget but must similarly be approved by the Minister. Spending by the Land Access Ombudsman must only be made under the budget unless the Minister otherwise approves.

25B Budget guidelines

Section 25B provides that the Land Access Ombudsman must prepare budget guidelines in consultation with the advisory council. The section clarifies that the budget guidelines must –

- provide for the cost recovery fees for the holders of prescribed resource authorities; and
- to be adjusted at least twice a year having regard to the holders' forecasted costs and relevant performance.

This section seeks to ensure the cost recovery fees can be adjusted regularly to account for changes in the holder's relevant performance.

This section also includes defined terms for 'forecasted costs' and 'relevant performance costs' and aligns with the requirements for working out cost recovery fees in section 31G.

Subdivision 3 Officers and employees

A new subdivision, 'Officers and employees' is inserted. The subdivision confines the existing provisions which relate to officers and employees to a discrete subdivision. The purpose of this amendment is to make the Part 2 easier to navigate following its expansion.

Amendment of s 30 (Officers not subject to outside direction)

Clause 49 amends section 30 to clarify that officers of the Office of the Land Access Ombudsman are not subject to direction from anyone other than within the office about the way the Land Access Ombudsman's powers in relation to an investigation under this Act, or an ADR under part 3A are to be exercised, or the priority given to investigation or an ADR under part 3A.

Independence from direction is essential for an ombudsman to undertake its role as an independent, accessible, and impartial review, investigation, and dispute resolution entity.

Insertion of new pt 2, div 3 and new pt 2A

Clause 50 inserts a new division under part 2 to provide for new provisions which relate to the funding of the Land Access Ombudsman and new Part 2A to accommodate new provisions establishing the Advisory Council.

Division 3 Funding for performance of functions

Subdivision 1 Preliminary

31A Definition for division

Section 31A defines 'prescribed authority holders' to which division 3 relates. The definition and extends to division 2 for the preparation of budget guidelines.

Subdivision 2 Industry levy

31B Annual levy for performance of functions

The performance of the functions of the Office of the Land Access Ombudsman will be funded by an annual levy payable by each prescribed holder of a resource authority. The annual levy seeks to cover the costs of the functions of the Office of the Land Access Ombudsman throughout the financial year and will be apportioned among prescribed resource authority holders. The levy is intended to cover the day-to-day operating costs of the office, including for instance, office accommodation, amenities and facilities, and staff salaries.

The section provides that the levy must: be worked out in the way prescribed by regulation; be worked out in a way that is transparent and capable of being readily understood by prescribed authority holders, based on the amount needed to cover the cost of performing the office's functions for the financial year, apportioned among holders of prescribed resource authorities or classes of holders according to the costs of performing functions in relation to those specific holders. This section allows the office to apportion, where practicable, the levy among classes of holders, and seeks to ensure the office considers how the resource industry and resource authority industry might change over time.

The section also provides that the office must give notice about the levy, or any changes to the levy to each holder of a prescribed resource authority.

31C Recovery of levy

Section 31B requires that the levy must be paid by each holder of a prescribed resource authority as prescribed by regulation, including the amount, method and timing of payment. The section provides that the State may recover an unpaid levy as a debt, from the holder.

Subdivision 3 Cost recovery fees

Subdivision 3 establishes new cost recovery fees. The cost recovery fees cover the costs of undertaking investigations in relation to land access disputes, and the costs of providing ADR under part 3A. The cost recovery fees are calculated in advance of each quarter and apportioned among prescribed resource authority holders based on the anticipated costs of providing services to those tenure holders.

31D Cost recovery fee

Section 31D imposes the cost recovery fee on prescribed resource authority holders that must be paid to the office.

31E Amount of cost recovery fee

Section 31E clarifies that the cost recovery fee will be worked out in a manner prescribed by section 31G.

31F When cost recovery fee is payable

Section 31F requires the Land Access Ombudsman to determine the cost recovery fee worked out under section 31G that is payable for the next quarter. The Land Access Ombudsman must invoice the holder of the prescribed resource authority for the fee, at least 14 days prior to the end of each quarter and no later than one month after each quarter.

This section also clarifies that if an entity becomes the holder of a prescribed resource authority during that quarter, the Land Access Ombudsman must recalculate the cost recovery fee for that new holder under section 31G. This calculation must determine the cost recovery fee based on the time when the entity become the holder within that quarter. This section seeks to ensure a fair and equitable calculation of the cost recovery fee that is specific to the holder's performance.

This section requires that the cost recovery fee stated in the invoice must be paid within 14 days after the holders of the prescribed resource authority receives the invoice.

31G Working out cost recovery fee generally

Section 31G sets out the methodology for determining the cost recovery fees payable to each holder of a prescribed resource authority for a quarter (the assessed quarter). The Land Access Ombudsman must prepare a forecast of the costs (forecasted costs) that the Land Access Ombudsman reasonably considers will be the holder's likely relevant performance costs of the assessed quarter.

In making the forecast for the assessed quarter, the Land Access Ombudsman may have regard to the holder's relevant performance costs for the previous quarter or likely relevant performance costs for the current quarter.

The section also clarifies that the holders' cost recovery fee is the amount of the forecasted costs for the quarter, subject to any adjustments required under the budget guidelines prepared under section 25B.

The holder is not entitled to a credit for interest on any amount credited to the holder because of an adjustment mentioned in paragraph (4).

This section defines 'current quarter' and 'previous quarter'. This section also defines 'relevant performance costs' which means the costs incurred by the Land Access Ombudsman, as worked out under the budget guidelines prepared under section 25B, to perform the Land Access Ombudsman's functions in relation to referrals under part 3, or applications under part 3, relating to the holder.

Subdivision 4 Supplementary fees

31H Supplementary fees

Section 31H provides that the Land Access Ombudsman may inform the Minister of the need to impose supplementary fees by regulation, if due to unforeseen expenditure, or a revised budget, the Land Access Ombudsman is not adequately funded to undertake its functions. The Minister may then recommend to the Governor in Council that supplementary fees be imposed by regulation.

Supplementary fees may be imposed on all holders, a stated class of holders, or an individual holder of a prescribed resource authority, of an amount that will allow the Land Access Ombudsman's functions to be funded. For instance, where a matter involving an individual holder of a prescribed resource authority is proving disproportionately costly, the Land Access Ombudsman may recommend to the Minister that a supplementary fee be imposed exclusively on that individual holder. A supplementary fee must be paid at the time and in the way provided for under regulation.

Part 2A Advisory Council

31I Establishment

Section 31I establishes an advisory council for the Land Access Ombudsman. The advisory council is being established to promote the Land Access Ombudsman's independence from government, and to promote oversight and accountability following the transition of the Land Access Ombudsman to a wholly industry funded statutory body with complete control over its finances. The advisory council seeks to maintain trust and confidence in stakeholders given the nature and sensitivity of the Land Access Ombudsman's role in assisting landholders and the resources industry to navigate disputes.

31J Functions

Section 31J provides for the functions of the advisory council. The advisory council's functions in relation to the Land Access Ombudsman are to: monitor the Land Access Ombudsman's independence, advise the Land Access Ombudsman on policy and procedural issues relating to this Act, advise on the operation of this Act for holders of resource authorities and owners or occupiers of private land, and advise on the preparation of annual budgets and budget guidelines under sections 25A and 25B.

The advisory council's functions also include advising the Minister in relation to any of the matters in paragraph (b), as well as the funding of the Land Access Ombudsman, and matters in relation to its independence.

31K Members

Section 31K sets out the requirements for the composition of the advisory council. The requirements include that the council must consist of a chairperson and at least 6 other members appointed by the Minister. The chairperson must be independent of the interests of holders of resource authorities and owners or occupiers of private land. The other members must consist

of members who represent the interests of the agricultural sector and other landholder groups, and the resources sector. Members must be appointed on the chairperson's recommendation.

These requirements for member representation provide for the inclusion of stakeholders from both the resources and agricultural sector, reflecting the Land Access Ombudsman's role in supporting coexistence between these two sectors.

31L Term

Section 31L provides that the chairperson of the advisory council will hold the term of office stated in the chairperson's instrument of appointment. The provision provides that the stated term must not be more than 5 years, and a member may be reappointed.

31M Remuneration and conditions

Section 31M provides for the remuneration of each advisory council member. Each member of the advisory council, including the chairperson, is to be paid the remuneration, if any, and other allowances, if any, decided by the Minister. This section also provides that each member holds office on the terms and conditions decided by the Minister.

Amendment of s 34 (Protection from liability for referring land access dispute)

Clause 51 amends section 34 to replace the term 'conduct and compensation agreement or make good agreement' with 'agreement or plan.' This expands the scope of the provision to encompass the additional agreements and plans that the Land Access Ombudsman has the jurisdiction to deal with under the amended section 7.

Section 34 provides that where a party to an agreement or plan refers a land access dispute to the Land Access Ombudsman, and the agreement or plan the subject of the dispute contains a condition about a dispute resolution process other than under this Act, the party does not incur any civil liability of the breach of the dispute resolution condition.

Amendment of s 36 (Acceptance or refusal of referral)

Clause 52 amends section 36(3)(a) and (b) to remove references to conduct and compensation agreements and make good agreements, and instead makes reference to 'agreement or plan'. This expands the scope of the provision to encompass the additional agreements and plans that the Land Access Ombudsman has the jurisdiction to deal with under the amended section 7.

Amendment of s 45 (Power to enter dispute land)

Clause 53 amends section 45 to replace the term 'conduct and compensation agreement' with 'agreement or plan'. This expands the Land Access Ombudsman's powers to enter dispute land subject to agreements and plans within their expanded jurisdiction under the amended section 7.

Insertion of new pt 3A

Part 3A ADR for ADR election notice disputes

Clause 54 inserts new part 3A to provide for ADR that the Land Access Ombudsman may provide in particular circumstances.

50A Definitions for part

Section 50A provides new definitions for, 'ADR', 'initiating party', and 'other party' that apply under this part.

50B Purpose of part

Section 50B, provides that the purpose of this part is to enable a party who has a right to require or request another party to participate in a non-binding alternative dispute resolution process (an ADR), under particular provisions of the *Mineral and Energy Resources (Common Provisions) Act 2014*, the *Mineral Resources Act 1989* and the *Water Act 2000*, to apply to the Land Access Ombudsman to conduct the ADR.

50C When party may apply to Land Access Ombudsman to conduct ADR

Section 50C prescribes certain provisions under the *Mineral and Energy Resources (Common Provisions) Act 2014*, the *Water Act 2000*, and the *Mineral Resources Act 1989*, under which a party may provide another party an ADR election notice for the purpose of enabling the Land Access Ombudsman to provide ADR under this part. This provision provides a clear head of power for the Land Access Ombudsman to conduct ADR for the disputes mentioned in the provision.

This provision also provides that if the initiating party and other party agree to appointing the Land Access Ombudsman as the ADR facilitator, the initiating party may apply to the Land Access Ombudsman to conduct the ADR.

This section applies despite any agreement to the contrary.

50D Requirements for making application

Section 50D states that an ADR application to the Land Access Ombudsman must be in the approved form and provide for the name and contact details of the initiating party and the other party. This provision seeks to establish minimum application requirements to provide the Land Access Ombudsman with sufficient information to decide to conduct or refuse to conduct the ADR.

50E Deciding application

Section 50E provides that the Land Access Ombudsman must decide to conduct or refuse to conduct the ADR within 10 business days after the application is made.

50F Steps after, and taking effect of, decision

Section 50F provides that if the Land Access Ombudsman decides to conduct ADR, it must give notice of the decision to the initiating party and other party. The provision also provides that the Land Access Ombudsman is taken to be appointed as the ADR facilitator under the Act mentioned in section 50C(1), on the day the notice of decision given by the Land Access Ombudsman to the parties is given.

This provision also provides that the Land Access Ombudsman must conduct the ADR under the Act mentioned in section 50C(1) in accordance with the process prescribed by the Act under which the ADR notice was given. This is to ensure that the Land Access Ombudsman follows the prescribed ADR process under the relevant Acts, including the *Mineral and Energy Resources (Common Provisions) Act* 2014, the *Mineral Resources Act 1989*, and the *Water Act 2000.*

This provision also provides that if the Land Access Ombudsman decides not to conduct the ADR, they must give the initiating party and the other party a notice of the decision. This notice ensures the parties are informed and can prepare alternative arrangements for ADR.

Replacement of s 52 (Evidentiary provision)

Clause 55 replaces section 52 to expand the scope of the evidentiary provisions to include the broadened jurisdiction of the Land Access Ombudsman. A notice given by the Land Access Ombudsman under section 51 for a land access dispute referral about an agreement or a plan is admissible in a proceeding about the agreement or plan before the Land Court under section 53A, 99A, 184HP or 184IT of the *Mineral and Energy Resources (Common Provisions) Act 2014*, or section 434 of the *Water Act 2000.*

A notice given by the Land Access Ombudsman under section 51 for a land access dispute referral about the agreement or plan is admissible in an arbitration as evidence of the matters in the notice.

Amendment of s 53 (Recommendation about Resource Act offence or resource authority breach)

Clause 56 amends section 53 to provide that this section applies to both land access dispute referrals or applications to conduct an ADR that the Land Access Ombudsman has accepted. Section 53 enables the Land Access Ombudsman to act where they suspect that a party to the land access dispute referral or the ADR, who holds a resource authority has committed, is committing or is likely to commit an offence against a Resource Act or has breached, is breaching or is likely to breach a condition of a resource authority relating to land access. The action and notification requirements in this section applies in such circumstances.

This section amends the reference to chief executive and includes a new definition for relevant chief executive, which means, for possible offences or possible authority breaches against a Resource Act mentioned in schedule 1, the chief executive of the department in which the *Mineral and Energy Resources (Common Provisions) Act 2014* is administered, or the chief executive of the department in which the *Coal Mining Safety and Health Act 1999* is administered.

Amendment of s 54 (Recommendation about offence against Water Act 2000)

Clause 57 amends section 54 to provide that this section applies to both land access dispute referrals or application to conduct an ADR, that the Land Access Ombudsman has accepted. Section 54 enables the Land Access Ombudsman to act where they suspect a party to the land access dispute referral or the ADR, who holds a resource authority has committed, is committing or is likely to commit an offence against Chapter 3 of the *Water Act 2000*. The action and notice requirements stated in section 54 apply in such circumstances.

Amendment of s 55 (Recommendation offence against Environmental Protection Act 1994)

Clause 58 amends section 55 to provide that this section applies to both land access dispute referrals and application to conduct an ADR, that the Land Access Ombudsman has accepted. Section 55 enables the Land Access Ombudsman to act where they suspect a party to a land access dispute referral or an ADR who holds a resource authority has committed, is committing or is likely to commit an offence against the *Environmental Protection Act 1994*. The action and notice requirements stated in section 55 apply in such circumstances.

Amendment of s 56 (Advice about systemic issues)

Clause 59 amends section 56 to provide that this section applies to both land access dispute referrals and ADRs conducted by the Land Access Ombudsman. Section 56 provides that the Land Access Ombudsman may advise the chief executive of any government department or any government entity about systemic issues arising from land access dispute referrals or ADRs. The section also prescribes the manner in which advice under this section may be given. This amendment ensures that the existing advice function of the Land Access Ombudsman applies to its broadened jurisdiction.

Replacement of s 58 (Protection from liability for giving agreement to land access ombudsman)

Clause 60 replaces section 58. The replacement section, like the previous section, indemnifies parties against breaching conditions in agreements or plans by disclosing information to the Land Access Ombudsman. However, the new section expands the operation of this protection so that parties are indemnified for disclosing information in investigations or in ADRs with respect to any of the agreements or plans within the Land Access Ombudsman's expanded jurisdiction. Previously the section only indemnified parties for disclosing information in relation to investigations about a breach of a make good agreement or a conduct or compensation agreement.

Amendment of s 59 (Confidentiality requests)

Clause 61 amends section 59 to expand the operation of the provision to include a relevant agreement or plan mentioned in the new section 58. Previously the provision applied only to conduct and compensation agreements and make good agreements.

Amendment of s 63 (Annual report)

Clause 62 amends section 63 to insert new matters which must be included in the Land Access Ombudsman's annual report, including applications for an ADR made, applications for an ADR that the Land Access Ombudsman accepted, and applications for an ADR that the Land Access Ombudsman refused to accept. This provision seeks to ensure the annual report reflects the operation of the office as a result of their expanded functions.

This clause also renumbers this section.

Amendment of s 65 (Procedural guidelines)

Clause 63 amends section 65 to provide that the Land Access Ombudsman may make procedural guidelines about the practices and procedures for land access dispute referrals, investigations under this Act and the conduct of ADR.

The procedural guidelines must not be inconsistent with a provision of this Act, or a provision of an Act mentioned in section 7 relating to a land access dispute, or a provision of an Act mentioned in section 50C(1) relating to ADR, and must be consistent with best practice industry standards.

Amendment of pt 7, hdg (Transitional provision)

Clause 64 amends the Part 7 heading to acknowledge that additional transitional provisions have been added to Part 7.

Insertion of new Pt 7, div 1, hdg

Division 1 Transitional provision for Act No. 34 of 2017

Clause 65 inserts a new Division 1, under Part 7 which provides for the transitional provisions inserted under Act No. 34 of 2017.

Insertion of new pt 7, div 2

Clause 66 inserts a new division 2, under Part 7, which provides for the transitional provisions for the *Mineral and Energy Resources and Other Legislation Amendment Act 2024*

Division 2 Transitional provisions for Mineral and Energy Resources and Other Legislation Amendment Act 2024 subproject

68 Definition for Division

Section 68 provides a definition of 'new' for Part 7, Division 2.

69 Land access dispute referral relating to matters arising before commencement

Section 69 provides that a land access dispute mentioned in the new section 7(c) or (d) may be the subject of a land access dispute referral whether the agreement or plan the subject of the dispute was entered into before or after the commencement, and whether or not the land access dispute arose before or after the commencement. This section ensures that the Land Access Ombudsman's broadened functions under section 7 will apply to any agreements, plans and land access disputes existing before or after commencement.

70 Protection from liability for referring land access dispute

Section 70 provides that section 34 providing protection from liability applies in relation to the referral to the Land Access Ombudsman of a land access dispute mentioned in the new section 7(c) or (d), whether the agreement or plan the subject of the dispute was entered into before or after commencement, and whether or not the land access dispute arose before or after the commencement.

71 Power to enter dispute land

Section 71 provides that the new section 45 applies in relation to a land access dispute referral mentioned in the new section 7(c) or (d) whether the agreement or plan the subject of the dispute was entered into before or after commencement, and whether the land access dispute arose before or after commencement. This section ensures that the Land Access Ombudsman's power to enter dispute land can apply to disputes and agreements or plans arising before and after commencement.

72 ADR for ADR election notice disputes relating to matters arising before commencement

New section 72 provides that the new Part 3A applies to an ADR election notice dispute whether the agreement or plan in relation to which the ADR election notice was given was entered into before or after the commencement and whether the ADR election notice dispute arose before or after commencement. This section ensures that the Land Access Ombudsman's broadened ADR functions can apply to disputes arising before and after commencement.

73 Protection from liability for giving agreement or plan to land access ombudsman

New section 59 provides that new section 58 applies in relation to a relevant agreement or plan given to the Land Access Ombudsman after commencement whether the agreement or plan was entered into before or after commencement.

Amendment of sch 1 (Dictionary)

Clause 67 inserts the following definitions into Schedule 1: access agreement; ADR; ADR election notice dispute; advisory council; cost recovery fee; initiating party; other party; prescribed resource authority; Resource Act; subsidence compensation agreement; and subsidence management plan.

Part 8 – Amendment of Mineral and Energy Resources (Common Provisions) Act 2014

Act amended

Clause 68 states that this part amends the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCP Act).

Amendment of long title

Clause 69 amends the long title of the MERCP Act to insert 'and to manage the impacts of CSG-induced subsidence'.

Amendment of s 3 (Main purposes)

Clause 70 amends section 3 to add that a main purpose of the Act is to manage the impacts CSG-induced subsidence.

Amendment of s 4 (How main purposes are achieved)

Clause 71 amends section 4 to add that the main purposes of the Act are achieved by providing the new framework for managing the impacts of CSG-induced subsidence.

Amendment of s 15B (What is a preliminary activity)

Clause 72 amends section 15B to introduce a threshold-based classification for aerial surveying as an authorised activity. The threshold would ensure that aerial surveys conducted at 1000ft, or more above land would no longer automatically be considered an advanced activity.

This clause works in conjunction with the amendments to section 40 and 54 of the MERCP Act to strike a balance between the competing interests of resources authority holders conducting aerial surveys and landholders. By introducing the 1000ft threshold, the amendments recognise the minimal material impact aerial surveys at or above this height will have on the land below, while also recognising the possibility of impact when undertaken below this threshold.

Because of the minimal impact, to reduce the regulatory burden on industry, it is the Department's position that resource authority holders should not be subject to the stringent reporting requirements under section 40 and 54 of the MERCP Act, nor conduct and compensation arrangements as the activity can no longer be classified as advanced. These amendments will also ensure that the regulation is not overly onerous where there is no impact on the underlying land holder.

Requirements for aerial surveying conducted below 1000ft in altitude will remain the same, and the amendments do not impact a landholder's ability to claim compensation for damage or loss.

Replacement of ch 2, pt 2 (Caveats)

Part 2 Caveats

Clause 73 replaces Chapter 2, Part 2 of the MERCP Act to reflect the expanded application of the part to include resource authority and application transfer of a mining lease or interest in the application under the MR Act.

24 Application of part

Replaced section 24 expands the application of Chapter 2, Part 2 to include a resource authority or an application transfer of a mining lease or interest in the application under the MR Act.

The clause also renames section 24 from, 'definition for part' to 'application of part' to reflect the removal of the definition of 'affected resource authority' and better reflect the intent.

25 Lodging of caveat

Replaced section 25 details when a person claiming an interest in a resource authority or the application for a mining lease may lodge a caveat over the resource authority or application. To have effect the caveat must comply with the prescribed requirements for the caveat, must not be a prohibited caveat, and be accompanied by the fee prescribed by regulation.

This clause provides the actions that the chief executive must undertake on receipt of a caveat, including recording the caveat in the register and notifying all affected resource authority holders and persons who have a registered interest in the resource authority. A registered interest is defined to mean an interest in a resource authority which is recorded in the register.

This clause clarifies that a prohibited caveat will be prescribed in a regulation. Caveats which are non-compliant with the prescribed requirements or are prohibited caveats will have no effect.

26 Effect of lodging caveat

Replaced section 26 provides that, subject to limited exceptions, a caveat will prevent registration of a dealing in relation to the resource authority or application for a mining lease until a caveat lapses, is removed or withdrawn. The clause clarifies that lodgement of a caveat will not prevent registration of certain dealings prescribed by a regulation and, where the caveat is registered over a share in a resource authority, it will not prevent registration of a dealing in respect of the other shares in that resource authority. The clause also puts beyond doubt that a caveat does not create an interest in the resource authority or the application.

27 Lapsing of caveat

Replaced section 27 provides for the lapsing of a caveat. The clause distinguishes between a caveat that was consented to and one which was not. A 'consent' caveat lapses at the expiry of its stated term, otherwise it continues until it is withdrawn or removed. A 'non-consent' caveat lapses after three months from lodgement or any shorter term stated in the caveat, or at the expiration of an order of the Land Court if one is in force in relation to the caveat. The clause also clarifies what consent to caveat means for a resource authority compared to an application for a mining lease.

28 Withdrawal or removal of caveat

Replaced section 28 allows for a caveat to be withdrawn by written notice to the chief executive. Additionally, a person with a right or interest in the resource authority of application for a mining lease, or a person with a right deal with the resource authority of application for a mining lease, may also have a caveat withdrawn by applying to the Land Court for orders for a caveat to be removed.

29 Recording of lapsing, withdrawal or removal of caveat

Replaced section 29 to require the chief executive to, as soon as practicable after a caveat lodged under this part lapses, is withdrawn or is ordered to be removed, record the lapse, withdrawal, or removal in the register.

30 Further caveat not available to same person

Replaced section 30 provides that where a caveat is lodged in relation to an interest in a resource authority or application for a mining lease, the same caveator cannot lodge a further caveat over the interest on the same or substantially the same grounds stated in the original caveat unless the caveator has the leave of the Court or the consent of each holder of the resource authority or application.

31 Compensation for lodging caveat without reasonable cause

Replaced section 31 provides that a caveator for a caveat lodged under this part without reasonable cause is liable to compensate anyone else who suffers loss or damage because of the caveat.

Amendment of s 38 (Application of division)

Clause 74 amends section 38 provide that the division applies to an entry to private land for the purpose of undertaking a subsidence activity under new division 4A.

Amendment of s 40 (Exemptions from obligations)

Clause 75 amends section 40 to introduce a new subsection (2A) to exempt resource authorities conducting aerial surveys at 1000ft or above from their obligation to provide entry notices. This clause works in conjunction with amendments to section 15B and 54 of the MERCP Act to strike a balance between resources authority holders conducting aerial surveys and landholders. By introducing the 1000ft threshold, the amendments recognise the minimal material impact aerial surveys at or above this height will have on the land below, while also recognising the possibility of impact when undertaken below this threshold.

Because of the minimal impact, to reduce the regulatory burden on industry, it is the Department’s position that resource authority holders should not be subject to the stringent reporting requirements under this section. These amendments will also ensure that the regulatory framework is not overly onerous where there is no impact on the underlying land holder.

Requirements under section 40 for aerial surveying conducted below 1000ft in altitude will remain the same.

The clause also amends section 40 to renumber the section.

Amendment of s 48 (Owner or occupier must not unreasonably refuse to make access agreement)

Clause 76 amends section 48 to omit the note.

Insertion of new ch 3, pt 2, div 4, s div 2A

Clause 77 inserts new Chapter 3, Part 2, Division 4, Subdivision 2A.

Subdivision 2A ADR

51A Party may seek ADR

Section 51A provides for a non-binding alternative dispute resolution (ADR) process, including, for example, a case appraisal, conciliation, mediation, or negotiation. The intent of this section is to provide parties negotiating an access agreement with an alternative pathway to resolve disputes. Seeking ADR under this is section, however, is intended to be voluntary and the section does not limit the ability of parties to apply directly to the Land Court to resolve the matter.

The ADR process can be used for a dispute arising between a resource authority holder and an owner or occupier of land (the parties) about a matter under section 49(1) including a matter to be considered in deciding: whether it is reasonably necessary for a resource authority holder to cross access land or carry out activities on access land to allow the crossing of land, or whether an owner or occupier of access land has unreasonably refused to make an access agreement. In addition, the provision provides for ADR to be undertaken where a dispute arises about whether an agreement can be varied because of a material change in circumstances.

Either party may give a notice (an ADR election notice) to the other party asking to participate in an ADR process. The election notice must include the contents requirements listed in Chapter 7A, part 1, division 1.

A party given an election notice must, within 10 business days accept or refuse the request for ADR. If the request is accepted, the parties may within 10 business days jointly appoint the ADR facilitator proposed to conduct the ADR.

If a party given an election notice does not accept the request within 10 business days after the notice is given, the party is taken to have refused the request. Following this parties, may seek another voluntary ADR process, or make an application to the Land Court under 53A about an alleged breach.

Chapter 7A, part 1, division 2 applies to the ADR.

Insertion of new s53A and ch 3, pt 2, div 4A

Clause 78 inserts new section 53A. The clause also inserts a new division 4A into chapter 3, part 2, which relates to entry to private land that is outside an authorised area of a resource authority holder's petroleum authority, to undertake a subsidence activity. Private land located outside of the holder's petroleum authority boundary is not captured under the land access framework and notice of entry provisions. This subdivision ensures the relevant holder has a head of power to access land and imposes necessary requirements on the entry, similar to the notice of entry provisions for private land within the resource authority for land access.

53A Power of Land Court to decide alleged breach of access agreement

Section 53A provides that the Land Court may make orders about breaches of an access agreement. A party to the agreement may make an application to the Land Court for an order about the alleged breach, this may be made during the term, or after the end of the agreement.

The Land Court may make any orders it considers appropriate on an application under this section. For this section a party includes the resource authority holder, the owner or occupier of private land or the successors and assigns of a party that are bound by the agreement.

It is intended that a party may apply immediately to the Land Court where there is an alleged breach. It is not intended that the ADR process under section 51A should be undertaken as mandatory step prior to making an application to the Land Court. This flexibility allows for the Land Court to provide a more immediate and binding decision.

The section does not clarify any notification requirements to parties and other relevant persons about the proposed application to the Land Court, as this is done through procedural requirements of the Land Court and the filing process.

The addition of this section provides a clear head of power for the Land Court to resolve disputes about an access agreement, in addition to their powers to decide an access agreement and vary an existing access agreement.

Division 4A Entry to private land outside authorised area to undertake subsidence activity

53B Application of division

Section 53B provides that division 4A applies if a resource authority holder is required to undertake a subsidence activity provided for in new chapter 5A in relation to private land outside of the holder's resource authority. The provision provides that a subsidence activity could include a requirement to undertake land monitoring, baseline data collection, a farm field assessment, a subsidence management measure as part of a subsidence management plan, or to take steps associated with a critical consequence decision.

53C Definitions of division

Section 53C provides definitions for *'relevant holder'* for a subsidence management area, *'subsidence activity'* and *'subsidence management area'* that apply to division 4A in line with

new chapter 5A for the management of CSG-induced subsidence. All the definitions point to other sections within the MERCP Act.

53D Chief executive may authorise entry to private land

Section 53D provides that the chief executive may provide authorisation for the relevant holder to enter private land to undertake a subsidence activity. The written authorisation must state the private land to which the authorisation relates and state the period of the authorisation. This authorises the holder to enter the land or adjacent land in order to access the private land to carry out the subsidence activity.

The section does not authorise the holder to enter a structure used for residential or agricultural purposes (for example a silo or a shed for agricultural machinery) without the consent of the occupier of the structure. This is intended to protect the personal privacy and business equipment of the occupier. This provision does not remove the need for the holder's obligation to give an entry notice to owners and occupiers in accordance with section 39.

53E Requirement on relevant holder who enters private land

Section 53E provides that if a holder enters private land, they must not cause or contribute to any unnecessary damage to any structure or works on the land and must take reasonable steps to not cause inconvenience or damage while undertaking a subsidence activity.

53F Compensation for damage

Section 53F provides that a holder is liable to compensate the owner or occupier for any cost, damage, or loss the holder incurs as a result of carrying out the subsidence activity on the private land.

Amendment of s 54 (Report to owners and occupiers)

Clause 79 amends section 54 to introduce a new subsection (4) to exempt resource authorities conducting aerial surveys at 1000ft or above from their obligation to give periodic entry reports to landowners or occupiers.

This clause works in conjunction with amendments to section 15B and 40 of the MERCP Act to strike a balance between resources authority holders conducting aerial surveys and landholders. By introducing the 1000ft threshold, the amendments recognise the minimal material impact aerial surveys at or above this height will have on the land below, while also recognising the possibility of impact when undertaken below this threshold.

Because of the minimal impact, to reduce the regulatory burden on industry, it is the Department's position that resource authority holders should not be subject to the stringent reporting requirements under this section. These amendments will ensure that the regulatory framework is not overly onerous where there is no impact on the underlying land holder.

Requirements under section 54 for aerial surveying conducted below 1000ft in altitude will remain the same.

The clause also amends section 54(1) to provide that the holder of a resource authority must give each owner and occupier of land a report about entry to land, if the land has been entered to undertake a subsidence activity under this division 4A.

Amendment of s 88 (Party may seek ADR)

Clause 80 amends the heading of section 88 from party may 'seek' ADR to party may 'require' ADR to clarify that the party has a right to an ADR. Section 88 is also rewritten for clarity in relation to the process and requirements for giving an ADR election notice, and states that Chapter 7A, part 1, division 2 applies to the ADR. A dispute is resolved by the parties entering into a conduct and compensation agreement.

Omission of ss 89 and 90

Clause 81 omits sections 89 and 90 as the conduct of the ADR is provided for under new Chapter 7A, part 1, division 2.

Amendment of s 91A (Party may request arbitration)

Clause 82 amends section 91A to clarify that this section applies when a party is given a notice of intent to negotiate under section 84. It also applies where a notice is given under section 88 to another party seeking to negotiate the resolution of a dispute and at the end of the ADR and the parties have not negotiated a conduct and compensation agreement.

The amended section 91A also clarifies that if a party does not accept an arbitration election notice, then the party is taken to have refused the request. This is the point at which the party giving the arbitration election notice must require a prescribed arbitration institute to appoint an arbitrator, who is independent of both parties, conduct arbitration as required under section 91A(6). Section 91A is also rewritten for clarity in relation to the process and requirements for giving an arbitration election notice and states that Chapter 7A, part 2 applies to the arbitration.

Omission of ss 91B-91E

Clause 83 omits sections 91B to 91E as this is provided for under Chapter 7A, part 2.

Insertion of new ch 3, pt 7, div 2, sdiv 5

Clause 84 inserts Chapter 3, Part 7, Division 2, Subdivision 5, 'ADR about particular costs and material changes in circumstances'.

Subdivision 5 ADR about particular costs and material changes in circumstances

92A Party may seek ADR

Section 92A provides for an alternative dispute resolution (ADR) process, including, for example, a case appraisal, conciliation, mediation, or negotiation. The intent of this section is to provide parties with an alternative pathway to resolve disputes, however seeking ADR under this section is intended to be voluntary and does not limit the ability of parties to apply to the Land Court to resolve the matter.

This section describes that the ADR process can be used when a dispute arises between a resource authority holder and an eligible claimant (the parties) about the payment of negotiation and preparation costs under section 91. It also describes where the agreed compensation liability or future compensation liability of a resource authority holder to an eligible claimant, is affected by a material change in circumstances.

Either party may give a notice (ADR election notice) to the other party asking to participate in a non-binding ADR process. The election notice must include the requirements listed in Chapter 7A, part 1, division 1. A party given an election notice must, within 10 business days, accept or refuse the request for ADR. If the request is accepted that parties may within 10 business days jointly appoint the ADR facilitator proposed to conduct the ADR. The *Land Access Ombudsman Act 2017*, part 3 applies for appointing the land access ombudsman as the ADR facilitator.

If a party given an election notice does not accept the request within 10 business days after the notice is given, the party is taken to have refused the request. Following this, parties may seek another voluntary ADR process, or if necessary, make an application to the Land Court under 96B about the negotiation and preparation costs.

Chapter 7A, part 1, division 2 applies to the ADR.

Amendment of s 96 (Party may apply to Land Court)

Clause 85 amends section 96 to include the new references to ADR and arbitration under chapter 7A, part 2, division 2. The intent of the provision remains the same and clarifies that either party may apply to the Land Court to decide the dispute if –

- a party is given an ADR election notice to another party under section 88; and
- have not entered into a conduct and compensation agreement at the end of the period for the ADR; and
- the dispute is not subject to arbitration under chapter 7A, part 2, division 2.

Amendment of s 96B (Negotiation and preparation costs)

Clause 86 omits ‘an agronomist’ in section 96B and inserts the term ‘relevant specialist’. Reference to agronomist has been included in the definition for relevant specialist provided for by the amendment to schedule 2 (Dictionary). This amendment retains the existing operation of the provision by enabling a party to apply to the Land Court for a declaration or order for negotiation and preparation costs involving an appropriately qualified relevant specialist in relation to a conduct and compensation agreement.

Insertion of new ch 5A

Chapter 5A CSG-induced subsidence management

Clause 87 inserts new chapter 5A which provides for the management of CSG-induced subsidence.

Part 1 Preliminary

184AA Purpose of chapter

Section 184AA provides that the purpose of new Chapter 5A is to establish a framework for managing the impacts of CSG-induced subsidence.

The purpose is achieved by providing a regulatory framework to:

- permit the Minister to declare a part of Queensland that is or may be impacted by CSG-induced subsidence to be a subsidence management area to which Chapter 5A applies; and
- provide for the identification, assessment, monitoring and management of the impacts of SCG-induced subsidence in the subsidence management area.

This is achieved by:

- providing for the preparation and approval of a subsidence impact report for a subsidence management area to be prepared by OGIA and approved by the chief executive; and
- requiring particular relevant holders for a subsidence management area to undertake particular activities or take particular action to assess and monitor the impacts of CSG-induced subsidence such as undertaking a subsidence activity; and
- giving the Minister, chief executive and OGIA functions and powers related to the identification, assessment, monitoring and management of the impacts related to CSG-induced subsidence in the area.

This chapter also provides for the payment of compensation by relevant holders in a subsidence management area to owners and occupiers of agricultural land for particular cost, damage or loss arising from the impacts of CSG-induced subsidence.

This chapter has been developed in line with the underground water management framework in Chapter 3 of the *Water Act 2000* (Water Act). OGIA (established under the Water Act, section 455) will have a key role to play for both frameworks. Therefore, this chapter is intended to be read in conjunction with OGIA's functions under Chapter 3A of the Water Act.

184AB Definitions for chapter

Section 184AB provides definitions which apply to the new Chapter 5A. Key defined terms include:

- *'agricultural land'*, which means private land used for agricultural purposes.
- *'CSG-induced subsidence'*, which means ground motion resulting from the production of coal seam gas under a petroleum resource authority (csg).
- *'ground motion'*, which means a change in the elevation of land at the surface, regardless of the reason for the change.
- *'office'*, which means the Office of Groundwater Impact Assessment established under section 455 of the Water Act.
- *'petroleum resource authority (csg)*, which means an authority to prospect (csg) or a petroleum lease (cgs). Both of these terms are also defined terms.

- *'relevant holder'*, which for a subsidence management area, means the holder of a petroleum resource authority (csg) whose authorised area is within or partly within, the subsidence management area.

184AC References in chapter to petroleum resource authorities (csg) and holders of authorities if authority to prospect (csg) ends

Section 184AC provides for how an authority to prospect (csg) is considered under Chapter 5A, where the authority to prospect ends, and under chapter 2, part 2, division 2 of the *Petroleum & Gas (Production and Safety) Act 2004* (P&G Act) the holder of the authority to prospect (csg) becomes the holder of the petroleum lease. If this occurs, a reference to the petroleum lease includes reference to the holder of the authority to prospect (csg).

This section ensures the obligations under chapter 2, part 2, division 2 of the P&G Act continue in the circumstances where a petroleum lease for csg is granted from an authority to prospect (csg), or when the tenure ends.

Part 2 Subsidence management area

184BA Declaration of area

Section 184BA provides that where the Minister is satisfied a part of Queensland is or may be impacted by CSG-induced subsidence, the Minister may by gazette notice, declare a part of Queensland to be a subsidence management area or declare a part of Queensland to no longer be a part of the area.

Within 20 business days of a gazette notice, the Minister must give notice of the declaration to OGIA and each relevant holder for the subsidence management area. Notice of the declaration must also be given to each holder that is no longer within, or partly within the area should a subsidence management area no longer be declared. The Minister must also publish a map on a Queensland government website showing the subsidence management area.

If the Minister fails to give notice of the declaration and publish a map of the subsidence management area within 20 business days, this does not invalidate or otherwise affect the declaration of the subsidence management area.

184BB Information or advice by office before declaration of area

Section 184BB applies when a subsidence management area or part of a subsidence management area has not been declared over a part of the State.

This section provides that the chief executive may ask OGIA for information or advice about whether that part of Queensland should be declared as a subsidence management area or a part of a subsidence management area.

Where OGIA provides such advice, OGIA may also give information or advice about whether the chief executive should, as a priority after the declaration, give any relevant holder in the subsidence management area once declared, a subsidence management direction. The subsidence management direction may be a direction to undertake baseline data collection for, or a farm field assessment of, agricultural land in the subsidence management area.

The term '*relevant holder'* is defined in chapter 5A of the MERCP Act to mean the holder of a petroleum resource authority (csg) whose authorised area is within, or partly within, the subsidence management area.

184BC Information or advice by office if no subsidence impact report

Section 184BC applies if a part of Queensland has been declared to be a subsidence management area or part of an area, and there is:

- no subsidence impact report for the subsidence management area; or
- the subsidence impact report has not yet been amended to apply to part of Queensland declared to be a part of the area.

The chief executive may ask OGIA for information or advice about whether the chief executive should, as a priority, give a particular relevant holder for the subsidence management area a subsidence management direction to undertake baseline data collection for, or a farm field assessment of, agricultural land in the area.

This section ensures that the chief executive is able to issue subsidence management directions as a priority and before the first subsidence impact report is prepared to manage the immediate impacts of CSG-induced subsidence. The purpose of issuing subsidence management directions in these circumstances is to ensure that the impacts of CSG-induced subsidence are being managed while a subsidence management report is being developed, which takes time.

184BD Restriction on advice by office before declaration of area or if no subsidence impact report

This section provides that OGIA must not advise the chief executive that a relevant holder should be directed to undertake baseline data collection for agricultural land under sections 184BB(4) and 184BC(2) unless OGIA considers:

- the land has had impacts from CSG-induced subsidence; or
- will be at high or moderate risk of impacts from, CSG-induced subsidence within 5 years from giving the advice.

This section also provides that OGIA must not advise the chief executive that a relevant holder should be directed to undertake a farm field assessment of agricultural land under sections 184BB(4) and 184BC(2) unless OGIA considers the land:

- has had impacts from CSG-induced subsidence; or
- will be at high risk of impacts from CSG-induced subsidence within 5 years from the giving of the advice.

This section ensures the chief executive's decision to direct a baseline data collection or farm field assessment is informed by relevant technical information and advice from OGIA before the first subsidence impact report. The criteria that OGIA considers before advising the chief executive that baseline data collection or a farm field assessment is required is similar to the criteria that OGIA will consider when categorising agricultural land as category A land or category B land in the regional risk assessment for a subsidence impact report.

184BE Effect of part of Queensland no longer being part of subsidence management area

Section 184BE provides that if a part of Queensland has been declared to no longer be a part of a subsidence management area, the declaration does not affect the operation of, or anything done or suffered under chapter 5A, before the declaration.

If before the declaration, a person was required to undertake something under this chapter, and after the declaration, the person is no longer required to do the thing under this chapter, the requirement to do the thing stops applying when the declaration is made.

For example, if a person was required to undertake land monitoring for land under a subsidence impact report, but since the report was made, the subsidence management area has changed, and the land is no longer within the subsidence management area, the relevant holder is no longer required to do the land monitoring for the land.

Part 3 Subsidence impact report

Division 1 Preparation of subsidence impact report

184CA Office to give proposed report to chief executive

Section 184CA provides that OGIA must give the chief executive a proposed subsidence impact report for a subsidence management area that is prepared in accordance with the division. The subsidence impact report must provide for the identification, assessment, monitoring and management of the impacts and predicted impacts of CSG-induced subsidence in the subsidence management area. The subsidence impact report must be prepared in accordance with this division and be accompanied by the required documents such as a submission summary made under section 184CF and the outcome of peer reviews made by the technical reference group. This peer review includes a review of the scientific method used in preparing the proposed subsidence impact report to ensure it is fit for purpose. These documents are required to be provided within the required timeframes outlined under the relevant sections within this division.

OGIA must give the first proposed subsidence impact report for a subsidence management area to the chief executive within 18 months after the area is declared under section 184BA(1) unless the chief executive gives a notice to OGIA with a different stated day under section 184CB, or if the chief executive agrees to a later day.

OGIA must also give a subsequent subsidence impact report to the chief executive by the third anniversary (three years) from the day that the most recent subsidence impact report was approved by the chief executive, unless the chief executive gives a notice to OGIA with a different stated day. The chief executive may agree to a later date provided it is no later than the fifth anniversary (five years) from the approval of the most recent approved subsidence impact report.

This section is intended to provide clarity regarding the timeframes in which OGIA must produce the initial subsidence impact report, as well as any subsequent report. It also provides flexibility to request the subsidence impact report to be provided earlier, or later if agreed, as long as it does not exceed five years.

184CB Earlier day for giving proposed report

Section 184CB applies if the chief executive considers that a proposed subsidence impact report needs to be given earlier than the day that would otherwise apply under section 184CA (2)(a)(ii) or (3)(a)(ii). The chief executive may also, by giving notice to OGIA, require OGIA to give the proposed report before or on the day states in the notice that allows OGIA a reasonable period of time to prepare and provide the report.

184CC Alignment of report with underground water impact report under Water Act 2000

This section applies if the subsidence management area is within or partly within a cumulative management area under chapter 3 of the *Water Act 2000* (Water Act). The chief executive must have regard to the day an underground water impact report for the cumulative management area under section 370 of the Water Act is made, particularly when the chief executive may consider agreeing to a later or earlier day for giving the proposed subsidence impact report under section 184CB.

This will allow, if necessary, the alignment of the subsidence impact report and any subsequent underground water impact report to take effect on the same day, given OGIA will prepare both reports. This is intended to create efficiencies for OGIA, relevant holders and the community by aligning the timeframes for developing both reports.

184CD Content of report

Section 184CD provides that a subsidence impact report for a subsidence management area must:

- assess the cumulative existing and predicted impacts of CSG-induced subsidence on land in the area or the use of the land as provided under schedule 1A, part 3; and
- categorise the agricultural land in the area as either category A land, category B land or category C land as provided under schedule 1A, part 4; and
- establish a strategy for managing the existing and predicted impacts of CSG-induced subsidence on the land in the area or the use of the land.

For this chapter:

- Category A land is agricultural land that has had impacts from CSG-induced subsidence or is at high risk of impacts from CSG-induced subsidence within 5 years from the categorisation.
- Category B land is agricultural land that is at moderate risk of impacts from CSG-induced subsidence within 5 years from the categorisation.
- Category C land is agricultural land that is at low or no risk of impacts from CSG-induced subsidence within 5 years from the categorisation.

This section also requires that a subsidence impact report for a subsidence management area, and any subsequent subsidence impact report must include each document mentioned in Schedule 1A, part 2. This includes a cumulative subsidence assessment, regional risk assessment and subsidence impact management strategy. For any subsequent subsidence impact report, the report must include a description of the material changes in the report since

the most recent report, along with the reasons for the changes. The details of what each of these documents must contain are provided for in schedule 1A.

184CE Consultation requirement

Section 184CE requires that before giving the chief executive a proposed subsidence impact report under this division, OGIA must undertake consultation on the proposed report as required by this section. OGIA must publish a notice about the proposed subsidence impact report for a subsidence management area in the way required by the chief executive and give a copy of the notice to each relevant holder for the subsidence management area.

The notice must state each of the following:

- a description of the subsidence management area to which the proposed subsidence impact report relates;
- that copies of the proposed report may be obtained from OGIA;
- how the copies may be obtained;
- that submissions on the proposed report may be given to OGIA;
- the requirements for a submission to be a properly made submission about the proposed report;
- that OGIA must give the chief executive a copy of all properly made submissions about the proposed report;
- the day that is at least 20 business days after the notice is published by which the submissions may be made; and
- how the submissions may be made.

The notice will inform the relevant holders where copies of the proposed subsidence impact report can be obtained, the requirements for a properly made submission and how and when submissions can be made to OGIA on the proposed subsidence impact report.

Any relevant owners or occupiers of agricultural land in the subsidence management area will be notified through the public notice process instead of individual notices being provided. This is to reduce the administrative burden of identifying all possible owners and occupiers in the subsidence management area. This consultation provides relevant holders and the community the opportunity to comment on the proposed subsidence impact report before it is approved by the chief executive.

The consultation period must be at least 20 business days from the day of the notification. This timeframe aligns with the consultation period provided for the underground water impact report under chapter 3 of the *Water Act 2000*, however it can be extended by the chief executive.

OGIA must publish the proposed report on a Queensland government website and give a copy of the proposed report to each person who requests a copy.

A '*properly made submission'* is defined in chapter 5A of the MERCP Act.

184CF Submissions summary

Section 184CF provides that before giving the chief executive a proposed subsidence impact report, OGIA must consider each properly made submission and prepare a summary of the

submissions (a '*submissions summary'*). The submissions summary must contain details about the properly made submissions provided for the proposed subsidence impact report, how OGIA addressed the submissions and any changes OGIA made because of the submissions.

A properly made submission must be made by an entity who was invited to make a submission, state the name and address of each entity that made the submission, be in writing, signed by each entity who made the submission, be received on or before the last day for making a submission, and state the grounds of the submission including the facts and circumstances relied on in support of the grounds.

This is intended to provide the chief executive clarity regarding what was provided during the consultation period, and how the submissions were considered in the subsidence impact report.

184CG Peer review by technical reference group

Section 184CG provides that the manager of OGIA must establish a technical reference group. The functions of the technical reference group are to undertake peer reviews of OGIA's scientific methods used to prepare a subsidence impact report and ensure they are fit for purpose and scientifically sound.

The manager may decide the technical reference group's membership, terms of reference for the group and any other matters about the functioning of the group. This may include ensuring the group is made up of members that have the relevant expertise, given the scientific matters considered in the subsidence impact report may be highly specialised.

When deciding the group's membership, the manager of OGIA must have regard to conflicts or potential conflicts of interest of the group's potential members and the technical expertise of the members. This includes expertise in the field of geoscientific modelling and related sciences of the potential members of the group.

The membership and terms of reference of the technical reference group, however, will require approval from the chief executive of the department which administers chapter 3A of the *Water Act 2000*. This independence gives further credibility and certainty to stakeholders about the technical reference group and subsequent content of the subsidence impact report.

To further aide in the transparency about the group's membership, the manager must publish information on a Queensland government website outlining the technical expertise of the group's members and the terms of reference of the group.

Division 2 Approval of subsidence impact report by chief executive

184CH Modifying proposed report before approval

Section 184CH applies if OGIA provides the chief executive with a proposed subsidence impact report and the chief executive considers the report to be inadequate for the following reasons:

- the content of the proposed report does not meet the requirements listed under section 184CD;

- OGIA has not adequately addressed the properly made submissions about the proposed subsidence impact report or the outcome of the peer review by the technical reference group; or
- the proposed report is inadequate in terms of required material. An example of this includes the proposed subsidence impact report does not identify a relevant holder in the subsidence management area as a responsible holder.

If the chief executive is unsatisfied with any of these matters, the chief executive may, within 30 business days after receiving the proposed subsidence impact report, give OGIA a notice. This notice must state:

- the reason why the chief executive considers the proposed report should be modified,
- how the proposed report should be modified, and
- that OGIA must either –
    - consider modifying the proposed report in a way stated in the notice provided by the chief executive and give the amended proposed report within a reasonable period, or
    - make a submission at least 30 business days after the notice was given, about why the proposed report should not be modified.

If after considering the submission the chief executive still considers the report should be modified, the chief executive may give OGIA a notice stating how the report must be modified within a reasonable period. Under this section, the chief executive is not required to consider or verify the scientific methodology underpinning in the subsidence impact report. This is the role of the technical reference group. The chief executive may give more than one notice under this section.

OGIA must comply with a notice given under this section.

184CI Decision on proposed report

Section 184CI provides that if the chief executive receives a subsidence impact report from OGIA, the chief executive has 30 business days to decide to approve the report. This timeline also applies if the chief executive has required OGIA to modify the report under section 184CH(2).

If the chief executive approves the report, they must within 10 business days, give notice of the decision to OGIA and each relevant holder for the subsidence management area. The notice has to state the day the approved report takes effect which will be reflected in the subsidence impact report. This report cannot take effect on a day earlier than the day the notice is given and not later than 30 business days after the day the notice is given.

184CJ Publishing approval and making approved report available

Section 184CJ requires that the chief executive must publish the approved subsidence impact report for a subsidence management area within 10 business days after giving OGIA a notice of approval. The notice of the approval must be published on a Queensland government website, along with the approved subsidence impact report.

The chief executive may also publish the notice and the report in any other way they consider appropriate. The notice needs to indicate that copies of the approved report may be obtained from the chief executive of this Act and how this can be obtained. The chief executive must give a copy of the report to any person who requests a copy.

184CK Effect of subsidence impact report taking effect

Section 184CK provides that on the day a subsidence impact report (the *new report*) takes effect, any existing subsidence impact report (the *former report*) for the subsidence management area ceases to have effect. However if the new report ceases to have effect under section 184CQ(2) or (3), the former report continues to have effect. This prevents a situation where no subsidence impact report may be in effect if the new report is not tabled in the legislative assembly or is disallowed as part of that process.

This section does not prevent proceedings being started or continued for an offence arising from a matter stated in a subsidence impact report that has ceased to have effect if the offence happened while the report was in effect. This ensures the appropriate regulatory pathways are still available to address any matters that may have arisen while the report was in effect.

Division 3 Amending subsidence impact report

184CL Minor or agreed amendments

Section 184CL provides the chief executive may direct OGIA, by notice, to amend an approved subsidence impact report if the following occurs:

- a minor error needs correcting;
- the details of a relevant holder need updating;
- a change that is not a change of substance is needed; or
- OGIA and any relevant holder for the area affected by the amendment agrees to the amendment.

If the chief executive gives OGIA a notice, OGIA must amend the report in the way directed and notifying the chief executive of the amendment being made. The chief executive must give notice of the amendment to each relevant holder, owner and occupier of agricultural land affected by the amendment.

An amendment under this section takes effect on the day OGIA makes the amendment.

184CM Other amendments

Section 184CM applies where the chief executive considers that an amendment, other than a minor amendment to which section 184CL applies, should be made to a subsidence impact report for a subsidence management area. The chief executive may give a notice to OGIA stating:

- why the chief executive considers the report should be amended;
- how the proposed report should be amended; and
- that OGIA must either –

- propose an amendment of the report and give the proposed amendment to the chief executive for approval within a stated reasonable period; or
- make a submission within a stated reasonable period (at least 30 business days after notice is given) about why the report should not be amended.

If the chief executive still considers that the report should be amended following receiving and reviewing a submission from OGIA , the chief executive still considers that the report should be amended, the chief executive is to notify OGIA. The notice is to state:

- how the proposed report should be amended; and
- that OGIA must propose an amendment of the report and give it to the chief executive for approval within a stated reasonable period.

OGIA must comply with this notice.

Sections 184CE, 184CF, 184CH and 184CI also apply in relation to the proposed amendment to the report as if a reference in those sections to a proposed subsidence impact report were a reference to the proposed amendment.

184CN Form of amendment

Section 184CN makes clear that a an amendment of subsidence impact report can be implemented by either incorporating amendments into the existing report, or in a separate document stating the amendment of the subsidence impact report.

184CO Publishing notice of amendment and making amended report available

Section 184CO applies if OGIA amends a subsidence impact report under section 184CL or the chief executive approves the amendment under section 184CM. The chief executive must, within 10 business days, publish a notice about the amendment and the amended subsidence impact report on a Queensland government website or in any other way the chief executive considers appropriate. This ensures transparency in making any amendments to the subsidence impact report and ensures its availability to the public.

This notice must outline where, and how many, copies of the amended report that must be given out by the chief executive may be obtained d.

184CP Effect of amendment taking effect

Section 184CP provides that on the day a subsidence impact report takes effect, the existing subsidence impact report (the former report) for the subsidence management area ceases to have effect.

When the former report ceases to have effect, the subsidence impact report for the area as amended (the new report) will take effect. This would only not occur if the report is not tabled in the Legislative Assembly as required under section 184CQ(2) or (3). This prevents a situation where no subsidence impact report may be in effect, if the new report is not tabled in the legislative assembly or is disallowed as part of that process.

This section, in relation to the former report, does not prevent proceedings being started or continued for an offence arising from a matter stated in a subsidence impact report that has

ceased to have effect if the offence happened while the report was in effect. This ensures the appropriate regulatory pathways are still available to address any matters that may have arisen while the report was in effect.

Division 4 Tabling requirement

184CQ Tabling requirement

Section 184CQ provides that a subsidence impact report document must be tabled in the Legislative Assembly within 14 sitting days after the chief executive approves the document. If a subsidence impact report document is not tabled as required, the subsidence impact report ceases to have effect.

The provision states that the *Statutory Instruments Act 1992*, sections 50 and 51 apply to a subsidence impact report document as if the document were subordinate legislation. This ensures the subsidence impact report that imposes obligations on relevant petroleum resource authority holders with an interest in the land is subject to adequate Parliamentary scrutiny.

For this section, a '*subsidence impact report document'* is defined as a subsidence impact report or an amendment of a subsidence impact report, other than a minor or agreed amendment under section 184CL.

Part 4 Identification, assessment and monitoring of impacts of CSG-induced subsidence

Division 1 Land monitoring

184DA Application of division

Section 184DA provides that division 1 applies to a relevant holder for a subsidence management area if they are:

- identified in a subsidence impact report as a responsible holder for undertaking land monitoring of agricultural land; or
- given a subsidence management direction to undertake land monitoring of agricultural land.

Land monitoring may be undertaken on agricultural land that is category A land, category B land or category C land.

184DB What is *land monitoring* of agricultural land

Section 184DB provides a meaning for the term '*land monitoring'* of agricultural land, which is the ongoing monitoring of the land to obtain information about changes in relation to the land. The changes include the drainage, slope or form of the land that may have happened because of ground motion or CSG-induced subsidence.

184DC Relevant holder to undertake land monitoring

Section 184DC provides that a relevant holder must undertake land monitoring of the agricultural land on or before each due day, unless the relevant holder has a reasonable excuse.

The maximum penalty for non-compliance with this section is 1, 665 penalty units.

The term '*due day*' is defined in chapter 5A of the MERCP Act.

184DD Method of undertaking land monitoring

Section 184DD provides that a relevant holder undertaking the land monitoring of agricultural land must comply with the prescribed requirements for doing so. If there are no prescribed requirements, the relevant holder must comply with best practice industry standards for carrying out work similar in nature to undertaking land monitoring of agricultural land.

The maximum penalty for non-compliance with this section is 300 penalty units.

184DE Giving information from land monitoring to office

Section 184DE provides that a relevant holder must give OGIA a copy of the information obtained by the land monitoring of the agricultural land and a notice in the approved form of the information, on or before each due day.

The maximum penalty for non-compliance is 500 penalty units.

The term '*due day*' is defined in chapter 5A of the MERCP Act.

184DF Giving information from land monitoring to owners and occupiers of agricultural land

Section 184DF applies where a relevant holder has undertaken land monitoring of agricultural land and an owner or occupier of the land asks in writing for a copy of the information obtained by the land monitoring.

The section provides that a relevant holder must give the owner or occupier, a copy of the information obtained by the land monitoring and a document about the information, on or before the due date. The document must be in a form that is reasonably likely to be understood by the owner or occupier.

This section also defines '*relevant day*'.

The maximum penalty for non-compliance is 100 penalty units.

184DG Relevant holder to give notice and information about error or change in circumstances

Section 184DG applies if the relevant holder becomes aware:

- there is an error in a material particular in information about the agricultural land provided in land monitoring (under section 184DE) given to OGIA; or
- there has been a significant change in circumstances since the information was given to OGIA.

The relevant holder must, within 30 business days after becoming aware of the error or change in circumstances, give the OGIA:

- notice stating a brief description of the error or change in circumstances; and
- a copy of any information in the relevant holder's possession or control OGIA may use to correct the error or address the change in circumstances.

The maximum penalty for non-compliance is 300 penalty units.

If a relevant holder gives OGIA a notice under this section, the relevant holder may be directed by the chief executive to undertake land monitoring of the land to correct the error or address the change in circumstances.

Division 2 Baseline data collection

184EA Application of division

Section 184EA provides that division 2 applies to a relevant holder for a subsidence management area if they are:

- identified in a subsidence impact report as a responsible holder for undertaking baseline data collection about agricultural land; or
- given a subsidence management direction to undertake baseline data collection about agricultural land.

Baseline data collection is generally undertaken for agricultural land that is category A land or category B land.

184EB What is *baseline data collection* for agricultural land

Section 184EB provides a meaning for the term '*baseline data collection*' for agricultural land, which is the collection of data at a point in time to obtain information about the land before CSG-induced subsidence happened, including the drainage, slope, form and use of the land. A baseline data collection is intended to serve as a reference point for measuring existing and predicted CSG-induced subsidence.

184EC Relevant holder to undertake baseline data collection

Section 184EC provides that a relevant holder must undertake baseline data collection for the agricultural land, on or before the due day, unless the relevant holder has a reasonable excuse.

The maximum penalty for non-compliance with this section is 1, 665 penalty units.

The term '*due day*' is defined in chapter 5A of the MERCP Act.

184ED Method of undertaking baseline data collection

Section 184ED provides that a relevant holder undertaking baseline data collection for agricultural land must comply with any identified prescribed requirements. If there are no prescribed requirements, the relevant holder must comply with best practice industry standards for work similar in nature to undertaking baseline data collection for agricultural land.

The maximum penalty for non-compliance with this section is 300 penalty units.

184EE Giving baseline data to office

Section 184EE provides that a relevant holder must give OGIA a copy of any baseline data collection for the agricultural land in the format approved by OGIA. This is required on or before the due day.

The maximum penalty for non-compliance with this section is 500 penalty units.

The term '*due day*' is defined in chapter 5A of the MERCP Act.

184EF Giving baseline data to owners and occupiers of agricultural land

Section 184EF requires that a relevant holder must give a copy of the baseline data collected and a document about the data, to each owner and occupier of the agricultural land, on or before the due day. The document must be in a form that is reasonably likely to be understood by the owner or occupier.

The maximum penalty for non-compliance with this section is 500 penalty units.

The term '*due day*' is defined in chapter 5A of the MERCP Act.

184EG Relevant holder to give notice and information about error or change in circumstances

Section 184EG applies if the relevant holder becomes aware:

- there is an error in a material particular in data about the agricultural land provided in baseline data collection (under section 184EE) given to OGIA; or
- there has been a significant change in circumstances since the information was given to OGIA.

The relevant holder must, within 30 business days after becoming aware of the error or change in circumstances, give OGIA:

- notice stating a brief description of the error or change in circumstances; and
- a copy of any information in the relevant holder's possession or control OGIA may use to correct the error or address the change in circumstances.

The maximum penalty for non-compliance is 300 penalty units.

Where a relevant holder gives OGIA a notice under this section, the chief executive may direct the relevant holder to undertake baseline data collection for the land to correct the error or address the change in circumstances.

184EH Relevant holder to seek particular information

Section 184EH provides that when the relevant holder is undertaking baseline data collection for the agricultural land under this division, the relevant holder must make all reasonable endeavours to obtain from an owner or occupier:

- information about what the land is being used for, such as the farming practices or infrastructure; and
- any other information reasonably required to undertake baseline data collection about the land.

Division 3 Farm field assessments

184FA Application of division

Section 184FA provides that division 3 applies to a holder for a subsidence management area if they are:

- identified in a subsidence impact report as a responsible holder for undertaking a farm field assessment of agricultural land; or
- given a subsidence management direction to undertake a farm field assessment of agricultural land.

Generally, a subsidence impact report identifies responsible holders for undertaking farm field assessment of agricultural land that is category A land, and a subsidence management direction may require a farm field assessment to be undertaken of agricultural land that is not category A land.

184FB What is a *farm field assessment* of agricultural land

Section 184FB provides a meaning for the term '*farm field assessment'* for agricultural land which is the assessment of land that identifies the following:

- the CSG-induced subsidence that has happened or is predicted to happen on the land;
- the susceptibility of uses of, or farming practices on, the land to changes because of CSG-induced subsidence; and
- the impacts or predicted impacts of the CSG-induced subsidence or predicted CSG-induced subsidence on the ability to undertake, or the productivity of agricultural activities on the land.

Where a farm field assessment identifies an impact or predicted impact on the ability to undertake, or the productivity of agricultural activities to be more than minor, the relevant holder is required to enter into a subsidence management plan with each owner and occupier of the land.

More than minor in this section has not been defined as it provides a general threshold that needs to be considered when undertaking a farm field assessment, and the considerations of each individual farm field and the agricultural activities occurring on the land. The subsidence management framework will be supported by guidance material that will provide clarity on regulatory requirements, including in relation to farm field assessments.

184FC Restriction on starting to produce coal seam gas using particular petroleum wells

Under chapter 5A, part 4, division 3, a relevant holder is identified as a responsible holder in a subsidence impact report for undertaking a farm field assessment of agricultural land that is category A land. A relevant holder who is given a subsidence management direction may also

be required to undertake a farm field assessment of agricultural land that is not category A land.

Section 184FC applies if:

- a petroleum well of the relevant holder is within or partly within, or under or partly under, the agricultural land; and
- when the holder is identified in the subsidence impact report or given a subsidence management direction under section 184FA to undertake a farm field assessment, the holder has not started to produce coal seam gas using the petroleum well.

Section 184FC provides that the relevant holder must not start to produce coal seam gas using the petroleum well until any of the following happens:

- a farm field assessment of the agricultural land is undertaken and the assessment does not state the holder is required to enter into a subsidence management plan with each owner and occupier of the land;
- a farm field assessment of the agricultural land is undertaken and states that the holder is required to enter into a subsidence management plan with each owner and occupier of the land and for each owner and occupier, and the holder has either—
    - entered into a subsidence management plan or a subsidence opt-out agreement for the land with the owner and occupier, or
    - applied to the Land Court under section 184HM to decide a dispute with the owner or occupier about a subsidence management measure for the land.
- The holder and each owner and occupier of the agricultural land agree in writing that the holder may start to produce coal seam gas using the petroleum well.

The maximum penalty for non-compliance with this section is 1,665 penalty units.

This restriction does not, however, apply to a relevant holder who is given a subsidence management direction to undertake a farm field assessment after the first subsidence impact report is approved.

To remove any doubt, even if the relevant holder and each owner and the occupier of the agricultural land agree that production from new wells can commence prior to a farm field assessment having being undertaken, it does not remove the requirement for the farm field assessment to take place.

Section 184FC does not prevent the drilling of new wells, although these wells could not be turned on. The practice of directional drilling would also be limited where this would see petroleum wells of the relevant holder under or partly under the agricultural land that is category A land identified in a subsidence impact report or land the subject of a subsidence management direction. This section also does not require existing wells that are already producing coal seam gas to stop production until the farm field assessment is complete.

Where petroleum wells are already producing coal seam gas and the relevant holder has been identified in the subsidence impact report as a responsible holder for undertaking a farm field assessment, or has been given a subsidence management direction to undertake a farm field assessment, the requirement remains for a farm field assessment under division 3 to be undertaken.

For agricultural land that is not category A land, production from new wells can commence as long as the petroleum well is not within or partly within, or under or partly under land identified by OGIA as needing a farm field assessment as a priority before the first subsidence impact report, or as category A land in any subsidence impact report.

In this section, a '*petroleum well'* is defined in the P&G Act, schedule 2.

This provision ensures that where production has not commenced on land that is most at risk of impacts from CSG-induced subsidence, new production does not occur ahead of an assessment on the farm scale about what the impacts might be is carried out.

184FD Relevant holder to undertake farm field assessment and commission audit

Section 184FD provides that the relevant holder must undertake a farm field assessment for the agricultural land, on or before the due day, unless the relevant holder has a reasonable excuse.

The maximum penalty for non-compliance with this section is 1, 665 penalty units.

The terms *'due day'* and *'undertake'* are defined in chapter 5A of the MERCP Act.

The definition of *'undertake'* provides that the relevant holder must undertake the farm field assessment, or if the relevant holder is not appropriately qualified to undertake the farm field assessment, ensure it is undertaken by an appropriately qualified person on behalf of the holder. This recognises that a farm field assessment is a critical component of the framework that requires technical expertise to determine what the impacts of CSG-induced subsidence might be on the land and the use of the land.

The relevant holder must also commission an audit of the farm field assessment of the agricultural land by a farm field auditor who is independent from the holder and each owner and occupier of the land, on or before the due day, unless the relevant holder has a reasonable excuse.

The maximum penalty for non-compliance with this section is 1, 665 penalty units.

The audit is intended to provide an additional layer of independent expert verification.

If the owner or occupier of the agricultural land agrees in writing that a farm field assessment audit is not required, the holder is not required to comply with the requirement to commission an audit of the farm field assessment.

184FE Method of undertaking farm field assessment

Section 184FE provides that a relevant holder undertaking a farm field assessment of agricultural land must comply with the prescribed requirements for doing so. If there are no prescribed requirements, the relevant holder must comply with best practice industry standards for work similar in nature to undertaking a farm field assessment for agricultural land.

This provision ensures there are clear parameters for undertaking the farm field assessment.

The maximum penalty for non-compliance with this section is 300 penalty units.

184FF Notice of outcome of farm field assessment

Section 184FF provides that the relevant holder must, on or before the due day, give OGIA and each owner and occupier of the agricultural land a:

- notice of the outcome of a farm field assessment in the approved form,
- a written statement of reasons about the assessment and the extent of impacts of predicted impacts of CSG-induced subsidence outlined in section 184FB(1)(c) and
- each document required under the section to accompany the notice.

The maximum penalty for non-compliance is 500 penalty units.

If the farm field assessment identifies that a relevant holder is required to enter into a subsidence management plan under section 184FB(2) with each owner and occupier of the agricultural land, the notice must be accompanied by a copy of the proposed draft subsidence management plan. The giving of this notice will trigger the start of the negotiation period for the subsidence management plan.

The giving of the notice also provides the owner or occupier of the agricultural land with a complete assessment of the impacts and predicted impacts of CSG-induced subsidence on the ability to undertake, or the productivity of, any agricultural activities on the agricultural land and how the relevant holder plans to manage the impacts.

If an audit of the farm field assessment was commissioned by the relevant holder, the notice must also include the audit report for the farm field assessment and a declaration for the audit report stating that all relevant information has been provided to the auditor and that no false or misleading information was provided.

The term '*audit report'* is defined for the section to mean a report by a farm field auditor that-

- is in the approved form
- includes the farm field auditor's opinion about whether the relevant holder has complied with section 184FE in undertaking the farm field assessment and
- complies with the prescribed requirements for the report.

The farm field auditor process gives credibility to the contents and outcome of the farm field assessment.

184FG Relevant holder to correct error or address change in circumstances

Section 184FG applies if the relevant holder becomes aware:

- there is an error in a material particular in a farm field assessment for the agricultural land (under section 184FE) given to OGIA; or
- there has been a significant change in circumstances since the relevant holder gave the notice of outcome of the farm field assessment to OGIA.

The relevant holder must, within 30 business days after becoming aware of the error or change in circumstances, take all reasonable steps to correct the error or address the change in

circumstances. If there are no reasonable steps that can be taken to correct the error or address the change in circumstances, the relevant holder must undertake a farm field assessment in a way that complies with section 184FE. The relevant holder must also commission an audit of the farm field assessment by a farm field auditor and comply with section 184FF(1).

The maximum penalty for non-compliance is 500 penalty units.

If the relevant holder and each owner and occupier of the land agree in writing that an audit of the farm field assessment is not required,184FG(2)(b)(ii) does not apply.

In this section, examples of significant changes in circumstances include:

- a planned change to the authorised activities to be carried out for a petroleum resource authority (csg) that could be expected to change the extent of the impacts of CSG-induced subsidence on the agricultural land.
- a planned change to the agricultural activities on the agricultural land, including the location and timing of activities.
- a planned change to irrigation infrastructure or drainage flow paths on the agricultural land.

184FH Approval of farm field auditors

Section 184FH provides that the chief executive may approve a person as a farm field auditor if they are satisfied the person is appropriately qualified to carry out an audit of a farm field assessment of agricultural land and meets the prescribed requirements for being a farm field auditor.

The chief executive must publish a list of farm field auditors on a Queensland government website. Given the technical nature of the assessment, it is necessary to prescribe minimum requirements for an appropriately qualified person to become an independent farm field auditor.

184FI Relevant holder to seek information

Section 184FI provides that for the purpose of undertaking a farm field assessment for the agricultural land under this division, the relevant holder must make all reasonable endeavours to obtain from an owner or occupier:

- information about what the land is being used for, such as the farming practices or infrastructure; and
- any other information reasonably required to undertake the farm field assessment about the land.

This section seeks to ensure that the relevant holders make reasonable endeavours to seek the technical information about the land and agricultural activity that is needed to properly assess the impacts and predicted impacts of CSG-induced subsidence on the agricultural land.

Division 4 Guidelines about prescribed requirements

184GA Chief executive may make guidelines

Section 184GA provides that the chief executive may make guidelines about how a relevant holder may comply with any prescribed requirements for land monitoring, baseline data collection or a farm field assessment of agricultural land. The chief executive must publish the guidelines and any document applied, adopted or incorporated by the guidelines on a Queensland government website.

184GB Use of guidelines in proceedings

Section 184GB applies in relation to a proceeding for an offence against new sections 184DD (Method of undertaking land monitoring), 184ED (Method of undertaking baseline data collection) or 184FD (Relevant holder to undertake farm field assessment and commission audit).

It provides that the guideline is admissible in any proceeding as evidence about whether the section has been complied with. The court may have regard to the guideline deciding whether the prescribed requirements under sections 184DD, 184ED and 184FD have been complied with. A relevant holder is not prevented from introducing evidence of compliance with the prescribed requirements in a way that is different from the guideline but otherwise satisfies the prescribed requirements.

Part 5 Management of, and compensation for, impacts of CSG-induced subsidence

Division 1 Subsidence management plan

Subdivision 1 Preliminary

184HA Application of division

Section 184HA provides that this division applies where a relevant holder for a subsidence management area undertook a farm field assessment of agricultural land in the subsidence management area and it identified the relevant holder as being required to enter into a subsidence management plan with each owner and occupier of the land.

A relevant holder is required to enter into a subsidence management plan with each owner and occupier of the land if a farm field assessment determined the impacts or predicted impacts of the CSG-induced subsidence or predicted CSG-induced subsidence on the ability to undertake, or the productivity of, agricultural activities on the land, to be more than minor.

184HB What is a *subsidence management plan* for agricultural land

Section 184HB provides that a subsidence management plan for agricultural land is a plan agreed between the relevant holder and an owner or occupier of the land. It contains subsidence measures to address how and when the relevant holder will manage the impacts of CSG-induced subsidence on the land.

In this section, the term *manage* includes prevent, mitigate or remediate. Also, in this section, the term *impact*, of CSG-induced subsidence on agricultural land, means an impact or predicted impact of CSG-induced subsidence, or predicted CSG-induced subsidence, on the ability to undertake, or the productivity of, agricultural activities on the land. An example of an impact

or a predicted impact includes the effect of drainage issues on agricultural activities on the agricultural land.

A subsidence management plan may be incorporated into a conduct and compensation agreement.

A subsidence management plan cannot be inconsistent with the MERCP Act or the P&G Act or a condition of the relevant holder's petroleum resource authority, and the plan is unenforceable to extent of the inconsistency.

A subsidence management plan is invalid if it does not comply with the prescribed requirements.

Subdivision 2 Requirements of relevant holder

184HC Relevant holder to enter into subsidence management plan

Section 184HC provides that the relevant holder must take reasonable steps to enter into a subsidence management plan with each owner and occupier of the agricultural land as provided for under this division. This may mean that the relevant holder is entering into several subsidence management plans for the same agricultural land. The maximum penalty for non-compliance is 1,665 penalty units.

However, this requirement does not apply to the relevant holder in relation to an owner or occupier of the agricultural land where an owner or occupier has elected to opt out from entering into a subsidence management plan.

184HD Owner or occupier's right to elect to opt out

Section 184HD provides that an owner or occupier of agricultural land may elect to opt out of entering into a subsidence management plan with the relevant holder. The election to opt-out is a subsidence opt-out agreement and is invalid if it does not comply with the prescribed requirements.

Despite any term of the subsidence opt-out agreement, the relevant holder or the owner or occupier of agricultural land may terminate the agreement within 10 business days of a copy of the signed agreement being given to the owner or occupier, despite any term of the agreement.

A subsidence opt-out agreement ends:

- according to its terms; or
- if the relevant holder's petroleum resource authority ends; or
- if it is unilaterally terminated within 10 business days of the owner or occupier being given a copy of the signed agreement; or
- if the parties enter into a subsidence management plan, or another subsidence opt-out agreement, for the land.

Under this section, a relevant holder must give the chief executive and OGIA a notice stating there is a subsidence opt-out agreement between the holder and each party to the agreement. The notice must also state the agricultural land the subject of the agreement and be given within

20 business days after entering the agreement. The maximum penalty for non-compliance is 500 penalty units.

Under chapter 5A, part 5, division 3 of the MERCP Act, a subsidence opt-out agreement binds the parties to the agreement, and each of their successors and assigns.

184HE Giving notice of subsidence management plan to chief executive and office

Section 184HE provides where a subsidence management plan is agreed to or is decided by the Land Court, the relevant holder must give the chief executive and OGIA a notice by the relevant date, stating there is a subsidence management plan between the holder and each other party to the plan, and information about the agricultural land the subject of the plan. This section defines the relevant day for a subsidence management plan that is agreed to, and the relevant day for a subsidence management plan that is decided by the Land Court.

The maximum penalty for non-compliance is 500 penalty units.

Subdivision 3 Conferences with an authorised officer

184HF Party may request conference

Section 184HF applies if a dispute arises about a subsidence management measure for the agricultural land or whether a measure should be a subsidence management measure. The section enables the relevant holder or the owner or occupier of the agricultural land (each a party) to request that the other party participate in a conference conducted by an authorised officer, to negotiate a resolution of the dispute.

The request must be made in the form of a conference election notice which states the details of the matter the subject of the dispute and any other information prescribed by regulation.

Parties can provide a conference election notice at any time during the minimum negotiation period of a subsidence management plan. However, to ensure certainty of process, parties cannot provide a conference election notice if either party has given the other an ADR election notice about the matters subject of the dispute.

184HG Conduct of conference

Section 184HG applies if a conference election notice is given under section 184HF. The conference must be conducted under the prescribed requirements. The authorised officer responsible for conducting the conference must take all reasonable steps to hold the conference within 20 business days of the notice being given. This timeframe may, if requested by the parties, be extended by the authorised officer because of stated reasonable or unforeseen circumstances.

Any conferences underway will cease if an ADR election notice is given about a matter the subject of the conference.

Nothing said by a person at the conference is admissible in evidence in a proceeding without the person’s consent.

Subdivision 4 Negotiation and ADR

184HH Negotiations

Section 184HH requires that the relevant holder and the owner of occupier of agricultural land use all reasonable endeavours to negotiate a subsidence management plan.

The negotiations must be for at least three months but may continue for longer by agreement between the parties. If the parties agree to a longer period, the agreed period is the minimum negotiation period.

Negotiations under this subdivision end if the parties enter into a subsidence opt-out agreement.

184HI Cooling-off during minimum negotiation period

Section 184HI provides that where a relevant holder and an owner or occupier of agricultural land enter into a subsidence management plan, either party may terminate the subsidence management plan during the minimum negotiation period by giving notice to the other party. When the notice is given, the terminated subsidence management plan is taken to have never had any effect.

Terminating the subsidence management plan does not affect the timing of the minimum negotiation period and does not affect the ability of a party to seek a conference or ADR under the applicable sections, at the end of the minimum negotiation period.

184HJ ADR required if no subsidence management plan

Section 184HJ provides that if a responsible holder and an owner or occupier of land (the parties) have not entered into a subsidence management plan because of a dispute about a subsidence management measure or whether a measure should be a subsidence management measure at the end of the minimum negotiation period, the relevant holder must give an ADR election notice within 20 business days after the end of the minimum negotiation period requiring the other party to participate in an alternative dispute resolution (ADR) process.

However, this requirement does not apply if the owner of occupier of agricultural land gives the relevant holder an ADR election notice within 20 business days after the end of the minimum negotiation period.

When a party receives an ADR election notice, they must accept or refuse the type of ADR and the proposed ADR facilitator within 10 business days of receiving the notice.

The dispute is resolved by the parties entering into a subsidence management plan.

If there is no acceptance within 10 business days, the party that issued the ADR election notice may then propose another ADR type and/or facilitator, or apply to the Land Court or a prescribed ADR institute for a decision about the ADR type and/or facilitator. Once a decision has been obtained by the party, they must notify the other party of it.

Chapter 7A, part 1, division 2 of the MERCP Act applies to the ADR.

Despite the process set out in this section, there is still opportunity for parties to negotiate their own arrangements outside of these legislative processes.

184HK Recovery of negotiation and preparation costs

Section 184HK applies if an owner or occupier of agricultural land necessarily and reasonably incurs negotiation and preparation costs in entering or seeking to enter into a subsidence management plan with a relevant holder.

The relevant holder is liable to pay the owner or occupier's necessarily and reasonably incurred negotiation and preparation costs.

Negotiation and preparation costs are defined in Schedule 2 of the MERCP Act.

Subdivision 5 ADR about particular costs and material changes in circumstances

184HL Party may seek ADR

Section 184HL provides that if a dispute arises about the payment of negotiation and preparation costs under section 184HK or whether a subsidence management measure in a subsidence management plan has been affected by a material change in circumstances, a relevant holder or an owner or occupier of land (each a party) may give an ADR election notice asking the other party to participate in an alternative dispute resolution (ADR) process.

When a party receives an ADR election notice, they must accept or refuse the request within 10 business days of receiving the notice.

If a party given an ADR election notice does not accept the request for ADR within 10 business days after the notice is given, the party is taken to refuse the request.

If the request for ADR is accepted the parties may jointly appoint the proposed ADR facilitator or another ADR facilitator within 10 business days of the acceptance.

Despite the process set out in this section, there is still opportunity for parties to negotiate their own arrangements outside of these legislative processes.

Chapter 7A, part 1, division 2 of the MERCP Act applies to the ADR.

Subdivision 6 Land Court jurisdiction

184HM Application to Land Court if ADR period ends without subsidence management plan

Section 184HM provides for when an application must be made to the Land Court to decide a dispute about a subsidence management plan.

The section applies if:

- one of the parties have given an ADR election notice to the other party seeking to negotiate resolution of a dispute; and
- at the end of the ADR period the parties have not entered into a subsidence management plan.

The ADR facilitator must give the parties a notice (end of ADR notice) stating the period for the ADR has ended, and the relevant holder must apply to the Land Court to decide the dispute within 20 business days after receiving the end of ADR notice.

After receiving the end of ADR notice, the relevant holder must within 20 business days apply to the Land Court to decide the dispute and give the chief executive a notice stating the holder has applied to the Land Court to decide the dispute; the agricultural land subject of the dispute; and the names of parties to the dispute.

The Land Court decides the dispute by declaring a subsidence management plan for the parties that provides for the subsidence management measures decided by the Land Court.

184HN Negotiation and preparation costs

Section 184HN provides that a relevant holder or an owner or occupier of agricultural land (each a party) may apply to the Land Court for a declaration that all or part of the costs are payable under Section 184HK. Additionally, if the party is an owner or occupier of agricultural land, they can also apply to the court for an order requiring payment for negotiation and preparation costs, under Section 184HK.

The Land Court may decide on a proceeding under this section or 184HM to make a declaration about, or an order for the payment of negotiation and preparation costs under section 184HK.

A party may apply to the Land Court for a declaration or order even where a subsidence management plan has not been entered into. The Land Court must not make an order or declaration in relation to the costs of a relevant specialist unless the relevant specialist is appropriately qualified to perform the function for which the costs are incurred. Schedule 1 of the *Acts Interpretation Act 1954* defines the term ‘appropriately qualified’.

Negotiation and preparation costs are defined in Schedule 2 of the MERCP Act.

184HO Orders Land Court may make

Section 184HO provides that the Land Court may make any order that it considers appropriate to enable or enforce its decision on an application under this subdivision. For example, the Land Court may order non-monetary and monetary compensation; that a party not engage in particular conduct; or that the parties attend a conference or engage in further ADR. The Land Court may consider the behaviour of the parties in the process leading to the application when making an order that the parties engage in further ADR.

184HP Jurisdiction to decide alleged breach of subsidence management plan

Section 184HP provides the Land Court with the jurisdiction to decide an alleged breach of a subsidence management plan. Under this section, a party to a subsidence management plan

may apply to the Land Court for an order about the alleged breach. The application may be made during the term of the subsidence management plan or after the end of the plan.

The Land Court may make any order it considers appropriate on an application.

For the purposes of this section, party to a subsidence management plan means the relevant holder and the owner or occupier of agricultural land (each a party) and any successors and assigns of a party that are bound by the plan under division 3.

For this section a subsidence management plan means a subsidence management plan for which the minimum period of negotiation has ended.

184HQ Review of subsidence management measure by Land Court

Section 184HQ applies if a relevant holder and an owner or occupier of agricultural land are parties to a subsidence management plan and there has been a material change in circumstances affecting a subsidence management measure in the subsidence management plan.

A relevant holder or an owner or occupier of agricultural land who are each a party to the subsidence management plan, may apply to the Land Court for a review of the original subsidence measures.

The Land Court may review the original subsidence measure only to the extent that it is affected by the change. If the Land Court considers the original subsidence management measure is not affected by the change, it must not carry on or continue the review.

After carrying out the review, the Land Court may decide to confirm or amend the original subsidence management measure in any way it considers appropriate. In making this decision, the Land Court must have regard to all criteria prescribed by regulation, whether the applicant has attempted to negotiate the dispute and any other matter the Court considers relevant to making the decision.

If the decision is to amend the original subsidence management measure, the amended subsidence management measure is taken to be the original subsidence management measure.

Division 2 Subsidence compensation agreement

Subdivision 1 Preliminary

184IA Definitions for division

Section 184IA provides definitions for '*compensation liability'* and '*subsidence claimant'* for division 2 that both refer to section 184IC.

184IB What is a *subsidence compensation agreement* for agricultural land

Section 184IB defines a subsidence compensation agreement. A subsidence compensation agreement for agricultural land is an agreement entered into by a relevant holder for a subsidence management area and a subsidence claimant for the land. The agreement is about the relevant holder's compensation liability to the subsidence claimant.

A subsidence compensation agreement can not conflict with the MERCP Act, the P&G Act, or a condition of the relevant holder's petroleum resource authority and is enforceable only to the extent of any inconsistency. It is permissible for a subsidence compensation agreement to be incorporated into a conduct and compensation agreement.

A subsidence compensation agreement is invalid if it does not comply with the prescribed requirements for the agreement.

A subsidence compensation agreement can be entered into at anytime after the subsidence management area is declared. A farm field assessment or subsidence management plan is not a prerequisite to entering into a subsidence compensation agreement.

Subdivision 2 Liability and information requirement

184IC General liability to compensate

Section 184IC provides that a relevant holder for a subsidence management area is liable to compensate an owner or occupier of agricultural land in the area (each a subsidence claimant), for each compensatable effect suffered by the subsidence claimant because of the relevant holder.

A relevant holder’s liability to compensate a subsidence claimant under this section is the relevant holder’s compensation liability to the subsidence claimant.

The term compensatable effect refers to any cost, damage or loss incurred by a subsidence claimant because of:

- the impacts or predicted impacts of CSG-induced subsidence happening because of the relevant holder or
- the relevant holder entering the private land owned or occupied by the subsidence claimant to undertake a subsidence activity under chapter 3, part 2, division 4A.

Compensatable effect also includes any consequential loss incurred by the eligible claimant arising out of the cost, damage or loss listed above.

However, a subsidence claimant is not entitled to be compensated by the relevant holder under this division for any cost, damage or loss for which the subsidence claimant has been, or is entitled to be, compensated under chapter 3, part 7 of the MERCP Act.

184ID Giving notice of subsidence compensation agreement to chief executive

Section 184ID provides that where a subsidence compensation agreement is agreed to or the compensation liability is decided by an arbitrator or the Land Court, the relevant holder must give the chief executive a notice about the agreement or decision.

The notice must be given on or before a relevant day and the notice must state that the relevant holder has agreed to a subsidence compensation agreement or been given a decision by an arbitrator of the Land Court about the relevant holder’s compensation liability, the agricultural land the subject of the subsidence compensation agreement or decision, and the names of the other parties to the agreement or the dispute the subject of the decision.

This section defines the relevant day for a subsidence compensation agreement that is agreed to, and the relevant day for subsidence compensation liability that is decided by an arbitrator of the Land Court.

The maximum penalty for non-compliance is 500 penalty units.

Subdivision 3 Conferences with an authorised officer

184IE Party may request conference

Section 184IE applies if a dispute arises about a relevant holder's compensation liability to a subsidence claimant. It enables the relevant holder or a subsidence claimant (each a party) to request that the other party participate in a conference conducted by an authorised officer, to negotiate a resolution of the dispute.

The request must be made in the form of a conference election notice which states the details of the matter the subject of the dispute and any other information prescribed by regulation.

Parties can provide a conference election notice at any time during the minimum negotiation period. However, to ensure certainty of process, parties cannot provide a conference election notice if either party has given the other an ADR election notice or arbitration election notice about the matters the subject of the dispute.

184IF Conduct of conference

Section 184IF applies if a conference election notice is given under section 184IE. The conference must be conducted under the prescribed requirements. The authorised officer responsible for conducting the conference must take all reasonable steps to hold the conference within 20 business days of the notice being given. This timeframe may, if requested by the parties, be extended by the authorised officer because of stated reasonable or unforeseen circumstances.

Any conferences underway will cease if an ADR election notice or arbitration notice is given about a matter the subject of the conference.

Nothing said by a person at the conference is admissible in evidence in a proceeding without the person's consent.

Subdivision 4 Negotiation and ADR

184IG Giving negotiation notice for subsidence compensation agreement

Section 184IG provides that if a relevant holder has a compensation liability to a subsidence claimant, the relevant holder or the subsidence claimant (each a party) may give the other party a negotiation notice that party wishes to negotiate a subsidence compensation agreement. The negotiation notice is invalid if it does not comply with the requirements prescribed in a regulation.

184IH Negotiations

Section 184IH provides that if a negotiation notice is given, the relevant holder and the subsidence claimant must use all reasonable endeavours to negotiate a subsidence compensation agreement. The negotiations must be for at least three months, but may continue for longer by agreement between the parties. If the parties agree to a longer period, the agreed period becomes the minimum negotiation period.

184II Cooling-off during minimum negotiation period

Section 184II provides that where a relevant holder and a subsidence claimant (each a party) enter into a subsidence compensation agreement, either party may terminate the subsidence compensation agreement during the minimum negotiation period by giving notice to the other party. When the notice is given, the terminated subsidence compensation agreement is taken to have never had any effect.

Terminating the subsidence compensation agreement does not affect the timing of the minimum negotiation period and does not affect the ability of a party to seek a conference, ADR or arbitration under the applicable sections, at the end of the minimum negotiation period.

184IJ Party may require ADR

Section 184IJ provides that if a relevant holder and a subsidence claimant (each a party) have not entered into a subsidence compensation agreement at the end of the minimum negotiation period because of a dispute about the compensation liability of the relevant holder to the subsidence claimant, either party may give a notice requiring the other party to participate in an alternative dispute resolution (ADR) process.

When a party receives an ADR election notice, they must accept or refuse the type of ADR and the proposed ADR facilitator within 10 business days of receiving the notice.

If there is no acceptance within 10 business days, the party that issued the ADR election notice may then propose another ADR type and/or facilitator or apply to the Land Court or a prescribed ADR institute for a decision about the ADR type and/or facilitator. Once a decision has been obtained by the party, they must notify the other party of it.

The dispute is resolved by parties entering into a subsidence compensation agreement.

Chapter 7A, part 1, division 2 of the MERCP Act applies to the ADR.

Despite the process set out in this section, there is still opportunity for parties to negotiate their own arrangements outside of these legislative processes.

184IK Recovery of negotiation and preparation costs

Section 184IK applies if a subsidence claimant necessarily and reasonably incurs negotiation and preparation costs in entering or seeking to enter into a subsidence compensation agreement with a relevant holder.

The relevant holder is liable to pay the subsidence claimant's necessarily and reasonably incurred negotiation and preparation costs.

Negotiation and preparation costs are defined in Schedule 2 of the MERCP Act.

Subdivision 5 Arbitration

184IL Party may request arbitration

Section 184IL provides that a relevant holder or a subsidence claimant (each a party) may request arbitration if:

- a party has given another party a negotiation notice, and at the end of minimum negotiation period, the parties have not negotiated a subsidence compensation agreement; or
- a party has given an alternative dispute resolution election notice to another party, seeking to negotiate the resolution of a dispute, and at the end of the ADR period, the parties have not entered into a subsidence compensation agreement.

Either party may give to the other party an arbitration election notice, requesting the other party to participate in arbitration to decide the dispute.

A party who is given an arbitration election notice has 15 business days after the notice is given to accept or refuse the requested arbitration.

If a party given an arbitration election notice does not accept the request for arbitration within 15 business days after the notice is given, the party is taken to refuse the request.

If the request for arbitration is accepted, the parties have 10 business days after acceptance to jointly appoint the proposed arbitrator or another arbitrator to conduct the arbitration.

If the parties do not jointly appoint an arbitrator, the party giving the arbitration election notice must require a prescribed arbitration institute to appoint an arbitrator, independent of both parties to conduct the arbitration.

A prescribed arbitration institute does not incur any civil monetary liability for any act or omission while performing, or purportedly performing, an arbitration under this section unless that act or omission is carried out in bad faith or due to negligence.

Chapter 7A, part 2, division 2 of the MERCP Act applies to the arbitration.

184IM Effect of arbitrator's decision

Section 184IM provides that the arbitrator's decision is final and has the same effect as if the parties had entered into a binding and enforceable agreement to the same effect as the decision. The decision cannot be appealed. However, the arbitrator's decision does not limit or otherwise affect a power of the Supreme Court to decide if the arbitrator's decision is affected by jurisdictional error.

Subdivision 6 ADR about particular costs and material changes in circumstances

184IN Party may seek ADR

Section 184IN provides that if a dispute arises about the payment of negotiation and preparation costs under section 184IK or whether a subsidence compensation agreement has been affected by a material change in circumstances, a relevant holder or a subsidence claimant (each a party) may give an ADR election notice asking the other party to participate an alternative dispute resolution (ADR) process to seek to negotiate a resolution of the dispute.

When a party receives an ADR election notice, they must accept or refuse the request within 10 business days of receiving the notice.

If a party given an ADR election notice does not accept the request for ADR within 10 business days after the notice is given, the party is taken to refuse the request.

If the request is accepted, within 10 days after acceptance the parties may jointly appoint the ADR facilitator proposed in the ADR election notice, or another ADR facilitator to conduct the ADR. Chapter 7A, part 1, division 2 of the MERCP Act applies to the ADR.

Despite the process set out in this section, there is still opportunity for parties to negotiate their own arrangements outside of these legislative processes.

Subdivision 7 Land Court jurisdiction

184IO Party may apply to Land Court

Section 184IO provides when a party may apply to the Land Court for a decision about a dispute about a subsidence compensation agreement.

Under this section, a relevant holder or a subsidence claimant (each a party) may apply to the Land Court if:

- one party has issued an ADR election notice to the other party; and
- at the end of the ADR period for the ADR, the parties have not entered into a subsidence compensation agreement; and
- the dispute is not the subject of arbitration under chapter 7A, part 2, division 2 of the MERCP Act.

The Land Court may determine the compensation liability, but only to the extent that it is not already covered by a subsidence compensation agreement between the parties.

184IP Negotiation and preparation costs

Section 184IP provides that a relevant holder or a subsidence claimant who are each a party to a subsidence compensation agreement may apply to the Land Court for a declaration that all or part of the costs are payable under section 184IK (Recovery of negotiation and preparation costs). Additionally, if the party is a subsidence claimant, they can also apply to the court for an order requiring payment for negotiation and preparation costs, under section 184IK.

The Land Court may decide on a proceeding under this section or 184IO (Party may apply to Land Court) to make a declaration about, or an order for the payment of negotiation and preparation costs under section 184IK.

A party may apply to the Land Court for a declaration or order even where a subsidence compensation agreement has not been entered into.

The Land Court must not make an order or declaration in relation to the costs of a relevant specialist unless the relevant specialist is appropriately qualified to perform the function for which the costs are incurred. Schedule 1 of the *Acts Interpretation Act 1954* defines the term '*appropriately qualified*'.

Negotiation and preparation costs are defined in Schedule 2 of the MERCP Act.

184IQ Orders Land Court may make

Section 184IQ provides that the Land Court may make any order that it considers appropriate to enable or enforce a decision on an application under this subdivision. Without limiting the orders the Land Court may order, the Land Court may order non-monetary and monetary compensation, that a party not engage in particular conduct, or that the parties engage in further ADR. The Land Court may consider the behaviour of the parties in the process leading to the application when making an order that the parties engage in further ADR.

184IR Additional jurisdiction for compensation and related matters

Section 184IR applies where the relevant holder and an eligible claimant have entered into a subsidence compensation agreement. It provides that the Land Court may assess all or part of the relevant holder's compensation liability to the subsidence claimant, decide a matter related to the compensation liability, or make any order it considers necessary or desirable for such matters.

184IS Jurisdiction to impose or vary conditions

Section 184IS provides that in deciding a matter under section 184IR (Additional jurisdiction for compensation and related matters) the Land Court may impose any condition it considers appropriate for the exercise of the parties' rights or vary an existing subsidence compensation agreement between the parties. The condition imposed or varied by the Land Court is taken to be a condition of the agreement between the parties.

184IT Jurisdiction to decide alleged breach of subsidence compensation agreement

Section 184IT provides the Land Court with the jurisdiction to decide an alleged breach of a subsidence compensation agreement. Under this section, a party to a subsidence compensation agreement may apply to the Land Court for an order about the alleged breach. The application may be made during term of the subsidence compensation agreement or after the end of the plan.

The Land Court may make any order it considers appropriate on an application.

For the purposes of this section, party to a subsidence compensation agreement means the relevant holder and the subsidence claimant who entered the agreement and any successors and assigns of a party that bound by the agreement under division 3.

For this section a subsidence compensation agreement means a subsidence compensation agreement for which the minimum period of negotiation has ended.

184IU Review of compensation by Land Court

Section 184IU applies if a subsidence compensation agreement has been agreed to or decided by an arbitrator or the Land Court and there has been a material change in circumstances since it was agreed or decided.

A relevant holder or a subsidence claimant who are each a party to a subsidence compensation agreement, may apply to the Land Court for a review of the original compensation.

The Land Court may review the original compensation only to the extent that it is affected by the change. If the Land Court considers the original compensation is not affected by the change, it must not carry on or continue the review.

After carrying out the review, the Land Court may decide to confirm or amend the original compensation in any way it considers appropriate. In making this decision, the Land Court must have regard to all criteria prescribed by regulation, whether the applicant has attempted to negotiate the compensation liability and any other matter the Court considers relevant to making the decision.

If the decision is to amend the original compensation, the amended compensation is taken to be the original compensation.

Division 3 Enduring effect of instruments and decisions

184JA Definition for division

Section 184JA provides a definition of *'subsidence instrument'* for this division that means a subsidence compensation agreement, a subsidence management plan or a subsidence opt-out agreement.

184JB Subsidence instruments to be recorded on titles

Section 184JB provides that a notice of a subsidence instrument must be lodged with the registrar of titles under the *Land Title Act 1994* to record the instrument on the relevant register.

Within 28 days after entering into a subsidence instrument, the relevant holder who is a party to the instrument must give the registrar notice of the instrument in the appropriate form. The registrar must record the notice in the relevant register. The requirement of a relevant holder to give notice is a condition of the holder's resource authority.

If the subsidence instrument ends, or the land subject to the instrument is subdivided and the instrument does not apply to a new lot in the subdivision, the relevant holder must give the

registrar notice of the matter in the appropriate form within 28 days after the instrument ends or the date the relevant holder becomes aware of the subdivision of the land.

The registrar must, if satisfied the instrument is not relevant for a new lot created by the subdivision, remove the particulars of the instrument from the relevant register to the extent that it relates to the new lot.

If requested by a party to the instrument to do so in an appropriate form, the registrar must also remove the particulars of an instrument where the registrar is satisfied that the instrument has ended or is no longer relevant to the land.

A notice is invalid if it does not comply with the prescribed requirements for the notice.

The relevant holder is responsible for the costs of recording or removing the instrument from the relevant register.

184JC Subsidence instrument binding on successors and assigns

Section 184JC provides that a subsidence instrument binds the parties to the instrument, as well as their respective successors and assigns.

184JD Land Court decision binding on successors and assigns

Section 184JD provides that a decision of the Land Court binds the parties in the proceedings that led to the decision and each of their successors and assigns. This section applies to decisions of the Land Court under chapter 5A, part 5, division 1, subdivision 6 or chapter 5A, part 5, division 2 subdivision 7 of the MERCP Act.

184JE Arbitrator's decision binding on successors and assigns

Section 184JE provides that a decision of an arbitrator binds the parties to the arbitration that led to the decision and each of their successors and assigns. This section applies to a decision of an arbitrator under chapter 5A, part 5, division 2, subdivision 5 or the MERCP Act.

Part 6 Directions about identifying, assessing, monitoring or managing impacts of CSG-induced subsidence

Division 1 Subsidence management directions

Subdivision 1 Power to give subsidence management directions

184KA Application of subdivision

Section 184KA provides for when a subsidence management direction can be given to a relevant holder for a subsidence management area under this subdivision.

It provides that a subsidence management direction can only be issued to the relevant holder if the chief executive believes:

- agricultural land in the area is impacted, or is likely to be impacted in the future by CSG-induced subsidence; and

- a subsidence activity should be undertaken in relation to the agricultural land.

However, a subsidence management direction can only be given under this subdivision if:

- OGIA has advised the chief executive under section 184BB(4) *(Information or advice by office before declaration of subsidence management area)* or 184BC(2) *(Information or advice by office if no subsidence impact report)* that the relevant holder should be given a subsidence management direction to undertake the subsidence activity in relation to the agricultural land; or
- there is a subsidence impact report for the area, but no relevant holder for the area is identified in the report as a responsible holder for undertaking the subsidence activity in relation to the agricultural land.

This section further provides that the subdivision also applies in relation to a relevant holder for a subsidence management area if:

- the holder undertook a subsidence activity in relation to agricultural land in the area; and
- after the subsidence activity was undertaken the prescribed requirements or best practice industry standards for undertaking the activity are changed; or
- the holder gives OGIA a notice under section 184DG (*Relevant holder to give notice etc. if error or change in circumstances)* or 184EG *(Relevant holder to give notice etc. if error or change in circumstances)* about an error or change in circumstances in relation to the activity; and
- the chief executive considers the holder should undertake the subsidence activity again.

In this section, subsidence activity, in relation to agricultural land, means land monitoring or a farm field assessment of the land, or baseline data collection for the land.

184KB Subsidence management direction

Section 184KB provides that chief executive may, by notice, direct a relevant holder to undertake a subsidence activity on or before a stated day or days. If section 184DE *(Giving information from land monitoring to office),* 184EE *(Giving baseline data to office),* 184EF *(Giving baseline data etc. to owners and occupiers of agricultural land)* or 184FE *(Method of undertaking farm field assessment)* applies in relation to undertaking the subsidence activity, the direction must also state the day or days on or before the relevant holder must comply with the section.

Prior to giving the direction to a relevant holder, the chief executive must give the holder a reasonable period, of at least 20 business days, to make submissions about the proposed direction. The chief executive must have regard to:

- any submissions by the relevant holder
- the farming activities on the agricultural land
- the location and area of a place at which the relevant holder is producing, or proposed to produce, coal seam gas under a petroleum resource authority.

The chief executive must give the relevant holder an information notice about the decision to give the direction. Under the P&G Act, a person who is affected by a decision to give subsidence management direction may appeal against the decision to the Land Court.

Subdivision 2 Application for direction about farm field assessment

184KC Definitions for subdivision

Section 184KB provides definitions of the terms *'affected person'* and *'farm field assessment direction'* for the purpose of chapter 5A, part 6, division 1, subdivision 2 of the MERCP Act.

'Affected person', for a farm field assessment for agricultural land, means an owner or occupier of the land and the relevant holder to whom the farm field assessment direction is given or could be given if the chief executive decides to give the direction.

'Farm field assessment direction' for agricultural land means a subsidence management direction directing a relevant holder for a subsidence management area to undertake a farm field assessment of the land.

184KD Application for farm field assessment direction

Section 184KD provides that an owner or occupier of agricultural land in a subsidence management area may apply to the chief executive for a farm field assessment direction for the land. An application can be made where:

- there is a subsidence impact report for the area; and
- the land is not described in the subsidence impact report as land for which a farm field assessment must be undertaken; and
- the owner or occupier reasonably believes the land is impacted, or is likely in the future to be impacted, by CSG-induced subsidence; and
- the owner or occupier's belief is based on evidence that was not available to the chief executive when the subsidence impact report was approved.

An application must be in writing and include a copy of the evidence that the applicant has in their possession or control to support the application.

184KE Notifying other affected persons of application

Section 184KE provides that the chief executive must give a notice about the application for a farm field assessment direction to an affected person within 10 business days of receiving the application.

The notice must:

- state applicant's name
- describe the land to which the application relates
- include a brief description of the applicant's belief that the land is impacted, or is likely in the future to be impacted, by CSG-induced subsidence.

Affected person is defined under chapter 5A, part 6, division 1, subdivision 2 of the MERCP Act.

184KF Requiring information from affected persons and office

Section 184KF provides that the chief executive may give an affected person or OGIA a notice asking them to give information the chief executive requires to make a decision on an application for a farm field assessment direction. The notice must state a period of at least 20 business days within which the information must be given. If the information is not provided by the affected person or office, the chief executive may make a decision on the application without the information.

184KG Decision on application

Section 184KG provides that within 20 days of the last day for providing information under section 184KF *(Requiring information from affected persons and office)*, the chief executive must consider the application and the information given and decide whether to give the farm field assessment direction.

If the chief executive decides to give the farm field assessment direction, the chief executive must give the direction to the relevant holder and a notice of the decision to each other affected person and OGIA.

If the chief executive decides not to give the farm field assessment direction, the chief executive must give an information notice for the decision to each affected person. Under the P&G Act, a person who is affected by a decision to give farm field assessment direction may appeal against the decision to the Land Court.

Division 2 Critical consequences

184KH Definitions for division

Section s184KH inserts the following definitions for the purposes of the critical consequence decision process under division 2:

- *'affected person'*, which means an owner or occupier of the land and the relevant holder in relation to whom the critical consequence decision relates.
- *'critical consequence action plan'*, which refers to section 184KL(1)(c).
- *'critical consequence decision'*, which for agricultural land means a decision under section 184KL about the land.

This section also inserts a definition of '*critical consequence'*, which for agricultural land means any of the following resulting from CSG-induced subsidence that is so unreasonable or intolerable that it affects the viability of the farming practices or business activities undertaken on the land:

- damage to the land that has caused, or is likely to cause, changes to the intensive use of the land for agricultural purposes;
- an impact on the farming practices or business activities undertaken on the land or the infrastructure on the land that is essential to support the farming practices or business activities;
- another economic loss.

This definition captures only the most significant impacts resulting from CSG-induced subsidence.

184KI Application for critical consequence decision

Section 184KJ provides who may apply for a critical consequence decision. An owner or occupier of agricultural land who is a party to a subsidence management plan with a relevant holder and who reasonably believes the subsidence measures contained in the subsidence management plan have failed or are ineffective and there has been, or is likely to be, a critical consequence for the land may apply for a critical consequence decision under this division.

An owner or occupier who is a party to an opt-out agreement with a relevant holder for the subsidence management area may also apply if they believe there has been a material change in circumstances since the relevant holder undertook a farm field assessment for the land and there has been, or is likely to be, a critical consequence for the land.

Applications for critical consequence decisions must be in writing, include a copy of evidence to support the application, the notice of the outcome of the farm field assessment of the land and if there is one, the subsidence management plan, and any other prescribed requirements. The applicant does not have to provide this information if it is not in their possession or control.

184KJ Notifying other affected persons of application

Section 184KJ provides that within 10 business days after receiving a critical consequence application, the Minister must give a notice about the application to each other owner and occupier and the relevant holder to which the application relates. The notice must state the name of the applicant, describe the agricultural land to which the application relates and include a brief description of the following:

- the critical consequence for the land the applicant believes there has been or is likely to be;
- if there is a subsidence management plan for the land, the subsidence management measure the applicant believes has failed or is ineffective;
- if there is a subsidence opt-out agreement for the land, the material change in circumstances the applicant believes there has been since the relevant holder undertook a farm field assessment of the land.

This ensures that all parties that could be affected by the Minister's decision on critical consequences are provided with information about the application.

184KK Requiring information from affected persons and other entities

Section 184KK provides that after receiving an application for a critical consequence decision about agricultural land the Minister may give a relevant entity a notice asking for the provision of information the Minister requires to make a critical consequence decision. The notice must state that the information must be given within a period of at least 20 business days after the notice is given. If the relevant entity does not comply with the notice the Minister may make the critical consequence decision without the information. The relevant entities that the Minister may request information from are an affected person, OGIA, the chief executive of a

relevant Queensland Government Department or other agency or another entity prescribed by regulation.

This section enables the Minister to obtain any other further relevant information to inform the Minister's decision on whether a critical consequence has or is likely to occur. This information could include information about, for example, farming practices, economic loss or hydrology.

184KL Critical consequence decision

Section 184KL provides that the Minister must make a decision about critical consequences within 20 business days after the latter of the last day a submission may be made, or the last day by which a document or information may be given.

The Minister must decide:

- that a critical consequence for the agricultural land has not happened and is not likely to happen, or
- that a critical consequence for the agricultural land has happened and, if the Minister considers it appropriate, direct the relevant holder to take stated reasonable steps to prevent the critical consequence from continuing or becoming worse within a stated reasonable period, or
- that a critical consequence for the agricultural land is likely to happen and direct the relevant holder to give the Minister a critical consequence action plan by at least 30 business days after the direction is given.

This critical consequence action plan required where a critical consequence for agricultural land is likely to happen, must state the steps the relevant holder will take to prevent the critical consequence from happening. This action plan must also include the timeframes for these steps. If the relevant holder does not comply with a direction the Minister may give the relevant holder a direction under section 184KM(3).

Requiring the relevant holder to give a critical consequence action plan where a critical consequence is likely to occur, but has not occurred yet, ensures that the relevant holder develops farm specific and timely actions to prevent the critical consequence from occurring as a priority.

The Minister must give each affected person an information notice for the decision, and if the notice relates to a decision that a critical consequence has occurred, the notice must state that it is an offence for a relevant holder to not comply with the notice, unless they have a reasonable excuse.

The section further provides that in making the decision on an application the Minister must consider:

- the application
- information provided by an applicant, owner or occupier of the land, a relevant holder, a relevant Queensland Government Department or relevant government entity and
- any other matter prescribed by regulation.

The Minister's decision on an application for critical consequence decision about agricultural land can be appealed to the Land Court.

184KM Further direction if critical consequence is likely to happen

Section 184KM provides that this section applies if the Minister decides that a critical consequence for the agricultural land is likely to happen and directs the relevant holder to give the Minister a critical consequence action plan under section 184KL(1)(c). If the holder gives a critical consequence action plan to the Minister within the required period, the Minister may direct the holder to do one or more of the following:

- comply with the critical consequence action plan;
- make stated amendments to the critical consequence action plan and comply with the amended plan;
- take stated reasonable steps within a stated reasonable period to prevent the critical consequence from happening - this could include, for example, stopping production of coal seam gas at a particular location for a specific period or plugging or relocating petroleum well within a stated reasonable period.

Allowing the Minister to direct the relevant holder to take reasonable steps within a reasonable period in addition to complying with a critical consequence action plan gives the Minister the flexibility to consider several ways to prevent the critical consequence from occurring.

If the relevant holder does not give the Minister a critical consequences action plan within the required period, the Minister may, by notice, direct the holder to take stated reasonable steps within a stated reasonable period to prevent the critical consequences from happening.

The Minister must give each affected person an information notice for the decision to give the direction. The information notice must state that it is an offence for the holder not to comply with the direction unless the relevant holder has a reasonable excuse.

The Minister's decision can be appealed to the Land Court.

184KN Direction if critical consequence happens after critical consequence decision

Section 184KN applies if after making a critical consequence decision for agricultural land in a subsidence management area, the Minister believes that a critical consequence for the land has happened. This may be relevant, for example, if the Minister previously decided that a critical consequence for the land did not occur or was only likely to occur, and since then the Minister has formed the belief that a critical consequence for the land has happened.

The Minister may, by notice, direct the relevant holder to take stated reasonable steps to prevent the critical consequence from continuing or becoming worse within a stated reasonable period.

An example of stated reasonable steps includes stopping production of coal seam gas at a particular location.

The Minister must give each affected person an information notice for the decision to give the direction. The information notice must state that it is an offence for the holder not to comply with the direction unless the relevant holder has a reasonable excuse.

The Minister's decision can be appealed to the Land Court.

184KO Offence to fail to comply with direction

Section 185KO requires that where a relevant holder for a subsidence management area has been given a direction to do a stated reasonable thing in a stated reasonable time under section 184KL(1)(b), 184KM(2) or (3) or 184KN, they must comply with the direction unless they have a reasonable excuse.

The maximum penalty for non-compliance is 4,500 penalty units. This significant penalty is proportionate, having regard to the impacts the critical consequence framework is addressing.

184KP Chief executive may take action and recover costs

Section 184KP provides that if a relevant holder for a subsidence management area fails to comply with a direction to take stated reasonable steps within a stated reasonable time under section 184KL(1)(b), 184KM(2) or (3) or 184KN, the chief executive may take the action that the holder failed to take to comply with the direction.

This section further provides that if the chief executive takes the action they may give the holder a cost recovery notice requiring the holder to pay the stated costs and expenses reasonably incurred by the chief executive in taking the action. However, the chief executive cannot give the holder a cost recovery notice if the holder has a reasonable excuse for not complying with the direction.

A cost recovery notice must state:

- the name of the holder;
- the land to which the action related;
- a description of the action taken;
- a description of, and the amount of, the costs and expenses incurred;
- that if the holder does not pay the amount to the chief executive within 30 days after the day the notice is given, the chief executive may recover the amount and any interest payable on the amount from the holder as a debt;
- the contact details of the chief executive.

If the holder does not pay the amount stated in the cost recovery notice to the chief executive within 30 days after the day the notice is given, the chief executive may recover the amount and any interest payable on the amount from the holder as a debt. A debt under this section bears interest at the rate prescribed by regulation.

The chief executive will only take the stated reasonable steps to recover costs after expiry of the prescribed timeframe the resource tenure holder has to address the critical consequence.

Part 7 Miscellaneous

Division 1 Office may give information or advice or obtain information

184LA Giving information or advice to entities

Section 184LA provides that OGIA may provide information or advice about matters related to CSG-induced subsidence to the chief executive. Where requested, OGIA may also provide information or advice about matters related to CSG-induced subsidence to the chief executive, the chief executive of another department, Coexistence Queensland, the land access ombudsman in relation to a land access dispute referral under the *Land Access Ombudsman Act 2017* for a dispute under chapter 5A, and the Land Court in relation to an application under part 5, division 1, subdivision 6 or part 5, division 2, subdivision 7.

184LB Surveys to collect Information

Section 184LB provides that OGIA may undertake surveys of land to collect information about the land required to prepare a proposed subsidence impact report or a proposed amendment of a subsidence impact report for the subsidence management area, or to provide advice or information to the chief executive.

184LC Obtaining information from relevant holders

Section 184LC provides that the manager of OGIA may give a relevant holder for a subsidence management area a notice requesting the following information about the holder's petroleum resource authority:

- information the manager requires for performing OGIA's functions under Part 3
- other information the manager requires to monitor CSG-induced subsidence generally.

The notice must state how the information must be given and a reasonable period of at least 20 business days by which it must be given. The relevant holder must comply with the notice unless they have a reasonable excuse and the maximum penalty for non-compliance with this provision is 500 penalty units.

If the relevant holder is an individual, it is a reasonable excuse not to comply with the notice if complying might tend to incriminate the holder.

Division 2 Database of information about CSG-induced subsidence

184LD Office to keep and maintain database

Section 184LD provides that OGIA must keep and maintain a database of information relevant to identifying, assessing, managing and monitoring the impacts of CSG-induced subsidence, including information obtained by OGIA under Chapter 5A. The database may be kept in the way the manager of OGIA considers appropriate, including in an electronic form.

184LE Public access to database

Section 184LE provides that OGIA may make information in the database available to the public. However, the publicly available part of the database must not include information that OGIA reasonably believes is commercially sensitive.

A person may inspect the publicly available information in the database at OGIA's head office during normal business hours and may obtain a copy of the details from OGIA on payment of the fee prescribed by regulation.

184LF Chief executive's access to information

Section 184LF provides that OGIA must make any information in the database, including commercially sensitive information, available to the chief executive if the information may be relevant to the administration of Chapter 5A.

Division 3 Annual subsidence trends report

184LG Office to give annual subsidence trends report

Section 184LG provides that OGIA must give the chief executive an annual subsidence trends report for a subsidence management area. The annual subsidence trends report must comply with the content requirements for the report and be given within 12 months after the most recent relevant report for the area was approved, or if agreed by the chief executive, a later day. This section defines relevant report to mean a subsidence impact report approved for the area or an annual subsidence trends report given for the area.

In preparing the annual trends report, OGIA must comply with the prescribed requirements for the report.

OGIA must publish each annual subsidence trends report on a Queensland government website.

184LH Content of annual subsidence trends report

Section 184LH provides what must be included in an annual subsidence trend report for a declared area.

The annual subsidence trends report must include:

- a description of any change in circumstances since the most recent report for the subsidence management area that materially affects or could materially affect:
    - the assessment of the risk of impacts of CSG-induced subsidence on agricultural land in the area in the most recent report; or
    - the categorisation included in the most recent report of agricultural land in the area as category A land, category B land or category C land; or
    - information or predictions about the CSG-induced subsidence on land included in the most recent report;
- a description of any data or information about the subsidence management area that has become available since the most recent report;
- a description of any changes since the most recent report for the subsidence management area to the existing and proposed production of coal seam gas under a petroleum resource authority (csg)
- an update about emerging trends related to the CSG-induced subsidence on land in the subsidence management area, with regard to the data or information obtained under the subsidence impact management strategy in the most recent report.

An annual subsidence trends report may also include:

- a recommendation that the chief executive agree to a later date that OGIA must give them the new subsidence impact report;
- proposed updates to the subsidence impact report for the subsidence management area.

Division 4 Confidentiality

184LI Public service employee must maintain confidentiality

Section 184LI applies to a person who is or has been a public service employee performing functions under or relating to the administration of Chapter 5A or schedule 1, and has acquired, or has access to, confidential information in that capacity. The terms *'confidential information'*, *'disclose'*, and *'information'* are defined for the purposes of this section.

The person must not disclose the confidential information to anyone else or use the information other than under this section. The maximum penalty for non-compliance is 100 penalty units.

The person may disclose or use the information to the extent the disclosure or use is necessary to perform their functions, or is otherwise required or permitted, under or relating to Chapter 5A (including schedule 1A).

The person may also use or disclose the information with the consent of the person to whom the information relates, or in compliance with a lawful process requiring production of documents to, or giving evidence before, a court or tribunal.

184LJ Relevant holder must maintain confidentiality

Section 184LJ applies if an owner or occupier of agricultural land in the subsidence management area gives a relevant holder for the subsidence management area information under Chapter 5A.

The relevant holder must not disclose the information to another person unless:

- the information is publicly available; or
- the disclosure is to a secondary recipient whom the relevant holder has authorised to carry out authorised activities for the relevant holder's petroleum resource authority; or
- the disclosure is made with the owner or occupier's consent; or
- the disclosure is permitted under chapter 5A, schedule 1A or another law.

The relevant holder must not use the information for a purpose other than for which it is given.

If the relevant holder does not comply with the requirements in this section, the relevant holder is liable to pay the owner or occupier compensation for any loss they incur, and the amount of any commercial gain the relevant holder makes, because of the failure to comply with this section.

A secondary recipient must not use the information for a purpose other than for which it is given. If the secondary recipient does not comply with the requirements in this section, the secondary recipient is liable to pay the owner or occupier compensation for any loss they incur, and the amount of any commercial gain the secondary recipient makes, because of the failure to comply with the confidentiality requirements in this section.

Insertion of new ch 7A

Clause 88 inserts chapter 7A, which is intended to provide a set of common provisions pertaining to alternative dispute resolution (ADR) and arbitration for various disputes under the *Mineral and Energy Resources (Common Provisions) Act 2014.*

Chapter 7A Dispute resolution

Part 1 ADR

Division 1 ADR election notice

196I Contents of ADR election notice

Section 196I provides the content requirements for an ADR election notice. The ADR election notice must state the following information:

- details of the matters subject of the dispute;
- the type of ADR being proposed;
- the name of the proposed ADR facilitator to conduct the ADR process, who must be independent of both parties; and
- who is liable for the costs of the ADR facilitator; and
- any other information prescribed by regulation.

Division 2 Provisions about ADR

196J Application of division

Section 196J provides that this division applies to relevant provisions in the MERCP Act in relation to ADR for the resolution of a dispute between parties that is conducted in response to an ADR election notice for ADR listed in relation to:

- section 51A(1)
- section 88(1)
- section 92A(1)
- section 184HJ(1)
- section 184HL(1)
- section 184IJ(1)
- section 184IN(1).

196K Conduct of ADR

Section 196K outlines how an ADR process must be conducted. It requires the parties to use all reasonable endeavours to negotiate a resolution of the dispute within 30 business days after the ADR facilitator is appointed (the usual period).

The parties may agree to extend the period because of stated reasonable or unforeseen circumstances. If so, and the ADR facilitator consents to the longer period, the longer period will apply to the parties instead of the ‘usual period’. The parties and ADR facilitator must all agree to this extended period before the usual period ends.

This section also provides that the liability for the costs of the ADR facilitator varies according to the type of dispute:

- for a dispute mentioned in 196J(a), (b) or (c) – the party who is the resource authority holder; or
- for a dispute mentioned in 196J(d), (e), (f) or (g) – the party who is the relevant holder.

196L Non-attendance at ADR

Section 196L applies if a party that has received an ADR election notice did not attend the ADR and other party did attend the ADR. The party that did not attend the ADR is liable to pay the attending party's reasonable costs of attending. This may include any travel and accommodation costs incurred by the attending party.

The attending party may apply to the Land Court for an order requiring the payment of the costs. However, the Land Court may order the payment of costs only if satisfied the non-attending party did not have a reasonable excuse for not attending.

196M Protection, immunity and confidentiality

Section 196M provides that the *Civil Proceedings Act 2011*, part 6, division 5 applies to an ADR conducted by an ADR facilitator as if a reference to an ADR process included a reference to the ADR, and a reference to an ADR convenor included a reference to the ADR facilitator.

This section ensures that any ADR facilitator has the same protection and immunity as a Supreme Court judge performing a judicial function and a witness or other party attending the ADR has the same protection and immunity as if they were attending before the court. This section also ensures that any document given at, or used for, an ADR process has the same protection as if this had occurred before the court.

Anything said by a person at the ADR is not admissible as evidence in a proceeding without the person's consent. This does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the ADR process. These protections seek to encourage transparency between parties during the ADR process.

An ADR facilitator must not disclose information as part of the ADR process, without a reasonable excuse.

Part 2 Arbitration

Division 1 Arbitration election notice

Section 196N Contents of arbitration election notice

Section 196N provides the content requirements for an arbitration election notice. The arbitration election notice must state all of the following information:

- details of the matters the subject of the dispute;
- name of the arbitrator, independent of both parties to the dispute, proposed to conduct the arbitration;

- that if the request for arbitration is accepted, an application to the Land Court about the dispute cannot be made;
- that the costs of the arbitration are payable by the parties mentioned in section 196R; and
- any other information prescribed by regulation.

Division 2 Provisions about arbitration

196O Application of division

Section 196O lists the types of disputes to which this division applies, and includes the following provisions in relation to an arbitration of a dispute that is conducted in response to an arbitration election notice for the arbitration mentioned in the:

- section 91A(2);
- section 184IL(2).

196P Arbitrator's functions

Section 196P provides the arbitrator with authority to decide the dispute by the issuance of an award. The arbitrator may only decide a matter subject of the dispute only to the extent it is not subject to a relevant instrument for the dispute. The award must be made within six months following the appointment of the arbitrator.

A relevant instrument is defined as a conduct and compensation agreement, for a dispute under section 91A(2), or a subsidence compensation agreement, for a dispute under section 184IL(2).

196Q Application of Commercial Arbitration Act 2013

Section 196Q provides that the *Commercial Arbitration Act 2013* applies to the arbitration to the extent that it is not inconsistent with this Chapter 7A, Part 2, Division 2.

196R Costs of arbitration

Section 196R provides for who is liable to pay for the costs of the arbitration.

Where parties have not participated in an ADR process about the dispute before the arbitrator was appointed, the party who is the resource authority holder or relevant holder will be liable to pay the fees and expenses of the arbitrator.

If the parties have participated in ADR about the dispute before the appointment of the arbitrator, the parties are liable to pay the fees and expenses of the arbitrator in equal shares (unless the parties agree, or the arbitrator decides, otherwise).

Other than as provided under subsection (1) or (2), the parties to an arbitration must bear their own costs for the arbitration unless the parties agree, or the arbitrator decides, otherwise. This includes their own costs of attendance, or representation, if any.

Insertion of new ss 204A and 204B

Clause 89 inserts sections 204A and 204B.

204A Alternative calculation of rent for resource authorities

Section 204A provides that the Minister may, by regulation, provide an alternative way of calculating the rent payable for a resource authority in circumstances prescribed by regulation. The clause provides that if the Minister sets alternative rent arrangements under new section 204A and the relevant regulation, and the calculated rental amount is less than the amount of rent payable for the period under the relevant Resource Act, the lesser amount of rent may be applied. The clause also provides that despite the relevant Resource Act for the resource authority or a condition of the authority, the rental payable for the authority for the period is the lesser amount.

The purpose of section 204A is to acknowledge that industry and resource authority holders are sometimes impacted by circumstances outside of their control. By introducing a Ministerial power to provide alternative ways of calculating rent payable for resource authorities, the amendments will provide support to impacted operations during circumstances prescribed by regulation. These circumstances may include instances such as natural disasters, adverse economic conditions, or emergencies.

204B Deferral of payment of rent for resource authorities

Section 204B provides that a regulation may provide for an arrangement for deferring the payment of rent payable for a resource authority because of hardship, including providing for when the arrangement ends. The clause provides that where a resource authority is required to pay the rent payable for the authority under a deferred payment arrangement, the resource authority is taken to be required to pay the rent on or before the later day.

The purpose of section 204B is to acknowledge that industry and resource authority holders are sometimes impacted by circumstances outside of their control. By introducing a rent deferral powers to the Resource Acts, the amendments will provide support to impacted operations during times of hardship.

Insertion of new sch 1A

Clause 90 inserts a new schedule 1A into the MERCP Act. Schedule 1A provides requirements for content of the subsidence impact report in new section 184CD.

Schedule 1A Content of subsidence impact report

Part 1 Preliminary

1 Interpretation

Section 1 provides that the words that are defined in chapter 5A and are used in schedule 1A have the same meaning as given under chapter 5A of the MERCP Act.

2 Definition for schedule

Section 2 provides a definition of the term '*transport infrastructure'* in schedule 1A.

The term '*transport infrastructure*' is given the meaning provided under the *Transport Infrastructure Act 1994*, schedule 6. This includes, but is not limited to, rail or road transport and infrastructure.

Part 2 Documents to be included in subsidence impact report

3 Documents to be included in subsidence impact report

Section 3 provides that a subsidence impact report must include a cumulative subsidence assessment, a regional risk assessment and a subsidence impact management strategy for the subsidence management area. Each of these documents must comply with the relevant provisions in schedule 1A and meet the prescribed requirements for the document.

These documents may be components of the subsidence impact report.

Part 3 Cumulative subsidence assessment

4 Purpose of cumulative subsidence assessment

Section 4 provides that the purpose of a cumulative subsidence assessment is to assess cumulative existing and predicted impacts of CSG-induced subsidence on land in the subsidence management area or the use of the land.

The cumulative subsidence assessment will be undertaken by OGIA. It is not intended to assess the existing or predicted impacts of CSG-induced subsidence on individual farm fields within the subsidence management area. However, it may assess the cumulative existing and predicted impacts of CSG-induced subsidence on land in the area at a regional scale.

5 Requirements for cumulative subsidence assessment

Section 5 provides that a cumulative subsidence assessment for a subsidence management area must include:

a) a description of the existing and proposed production of coal seam gas under a petroleum resource authority (csg) in the area
b) an assessment of the background trends in ground motion on land in the area
c) an assessment of the existing drainage and slope of land in the area
d) a description of the types of land use activities on land in the area
e) an assessment of the impacts of CSG-induced subsidence on watercourses, natural vegetation or transport infrastructure on land in the area;
f) an assessment of the cumulative existing and predicted impacts of CSG-induced subsidence on land in the area
g) an assessment of the potential cumulative impacts of CSG-induced subsidence on the use of land in the area at a regional scale;
h) a description of the methods and techniques used to determine the matters outlined above, the parameters against which changes to the form of land in the area are to be measured.
i) a description of changes that have happened to the matters outlined above since the most recent cumulative subsidence assessment for the area, and the reasons for the changes.

The assessment of the potential cumulative impacts of CSG-induced subsidence on the use of land in the area at a regional scale under paragraph (g) will enable OGIA to assess whether there are potential impacts to the use of land at a regional scale. This differs to the assessment of the cumulative existing and predicted impacts of CSG-induced subsidence on land in the area under paragraph (f) which relates to impacts to the land and not the use of the land.

Part 4 Regional risk assessment

6 Purpose of regional risk assessment

Section 6 provides that the purpose of a regional risk assessment for a subsidence management area is to:

- assess the risk of impacts of CSG-induced subsidence on agricultural land in the area; and
- categorise the agricultural land as category A land, category B land or category C land, based on the outcome of the assessment mentioned above.

The regional risk assessment will be undertaken by OGIA. It is not intended to assess the existing or predicted impacts of CSG-induced subsidence on individual farm fields within the subsidence management area. However, it will assess the risk of impacts of CSG-induced subsidence on agricultural land in the area and categorise the agricultural land on the basis of that risk assessment. From that categorisation of agricultural land, Part 5 in schedule 1A provides for a subsidence impact management strategy that will outline plans and strategies to manage existing and predicted impacts of CSG-induced subsidence, commensurate with the risk assessment for the land in the subsidence management area.

7 Matters to be considered in assessing risk of impacts of CSG-induced subsidence on agricultural land

Section 7 provides that in assessing the risk of impacts of CSG-induced subsidence on agricultural land in the subsidence management area, the following matters must be considered:

- the inherent slope of the land
- the soil characteristics of the land
- the current and intended use of the land
- the current and intended farming practices on the land
- the susceptibility of uses of, or farming practices on, the land to changes in the slope of the land
- the assessment of the cumulative existing and predicted impacts of CSG-induced subsidence mentioned in section 5(f).

8 Requirements for regional risk assessment

Section 8 provides that the regional risk assessment for a subsidence management area must include:

- a categorisation of agricultural land in the area as category A land, category B land or category C land
- a description of the methods used to categorise the agricultural land, and
- a map showing the categorisation of the agricultural land.

Part 5 Subsidence impact management strategy

9 Purpose of subsidence impact management strategy

Section 9 provides that the purpose of a subsidence impact management strategy is to outline plans and strategies to manage existing and predicted impacts of CSG-induced subsidence on land in the subsidence management area or the use of the land.

10 Plan for land monitoring of category A land, category B land or category C land

Section 10 provides that a subsidence impact management strategy for a subsidence management area must include a plan for monitoring category A land, category B land or category C land in the area for impacts of CSG-induced subsidence on the land.

This plan must include a description of:

- category A land, category B land or category C land for which land monitoring must be undertaken, and
- the relevant holders for the subsidence management area who are responsible holders for undertaking the land monitoring of category A, B or C land, and
- the rationale for the plan, and
- the timetable for implementing the plan, including the day or days on or before which a responsible holder must do a thing as required under chapter 5A, part 4, division 1 in relation to the plan.

This will provide relevant petroleum resource authority holders with clarity regarding when they may be required to undertake land monitoring activities.

11 Plan for baseline data collection for category A land or category B land

Section 11 provides that a subsidence impact management strategy must include a plan for assessing baseline conditions through the collection of baseline data for category A land and category B land in the subsidence management area.

The plan must include a description of:

- category A land or category B land for which the baseline data collection must be undertaken, and
- the relevant holders for the subsidence management area who are responsible holders for undertaking the baseline data collection of category A and B land, and
- the rationale for the plan, and
- the timetable for implementing the plan, including the day or days on or before which a responsible holder must do a thing as required under chapter 5A, part 4, division 2 in relation to the plan.

This will provide the relevant petroleum resource authority holders with clarity regarding when they may be required to undertake baseline data collection.

12 Plan for farm field assessments of category A land

Section 12 provides that a subsidence impact management strategy must include a plan for relevant holders to undertake a farm field assessment for category A land in the subsidence management area.

The plan must include a description of:

- category A land for which the farm field assessment must be undertaken, and
- the relevant holders for the subsidence management area who are responsible holders for undertaking the farm field assessment of category A and B land, and
- the rationale for the plan, and
- the timetable for implementing the plan, including the day or days on or before which a responsible holder must do a thing as required under chapter 5A, part 4, division 3 in relation to the plan.

This will provide the relevant petroleum resource authority holders with clarity regarding when they may be required to undertake a farm field assessment.

13 Other requirements for subsidence impact management strategy

Section 13 provides that a subsidence impact management strategy for a subsidence management area must include:

- a plan for a further detailed assessment of the impacts of CSG-induced subsidence on watercourses, natural vegetation or transport infrastructure on land in the area, and
- if there is a previous subsidence impact management strategy for the area, an assessment of the effectiveness of any previous subsidence impact management strategy.

Part 6 Identifying responsible holders

14 Identifying responsible holders

Section 14 applies in relation to identifying the relevant holders for a subsidence management area who are responsible holders for undertaking land monitoring, baseline data collection or farm field assessments in relation to agricultural land in the area.

When deciding the relevant holders for the subsidence management area who should be identified as the responsible holders, OGIA may have regard to the following:

- the location and area of places at which the relevant holders are producing, or propose to produce, coal seam gas under a petroleum resource authority (csg)
- any submissions made by the relevant holders or owners or occupiers of land under sections 184CE (Consultation requirement) and 184CF (Submissions summary) about the proposed subsidence impact report for the area.

For information purposes only, the subsidence impact report may include a map showing the agricultural land for which relevant holders for the subsidence management area are responsible holders.

Amendment of sch 2 (Dictionary)

Clause 91 makes a number of amendments to the dictionary of the MERCP Act to reflect changes made by the Bill. Key definitions include:

- *'ADR'* which means a non-binding alternative dispute resolution process, including, for example, a case appraisal, conciliation, mediation or negotiation.
- *'Coal seam gas'* which means a substance (in any state) occurring naturally in association with coal, or with strata associated with coal mining, if the substance is petroleum under the P&G Act. Currently, coal seam gas was defined in section 103 and only applied to chapter 4 of MERCPA. Moving this definition to the dictionary in schedule 2 means that it now applies in relation to the whole Act.
- *'relevant specialist'* which for a conduct and compensation agreement, means an agronomist, or for a subsidence management plan or subsidence compensation agreement, means a person who is a type of specialist prescribed by regulation. Although subject to further consultation, the types of specialists that might be prescribed by regulation under this section could include:
    - An agronomist;
    - A geotechnical or geomechanical engineer;
    - A hydrologist;
    - A hydrogeologist;
    - An irrigation specialist;
    - A social scientist; and
    - A surveyor.

  Currently, 'relevant specialist' for a conduct and compensation agreement is defined in the context of negotiation and preparation costs which is also defined in the dictionary in schedule 2 of the MERCP Act.

This clause also makes other minor changes to existing definitions to align with new or amended definitions.

Part 9 – Amendment of the Mineral and Energy Resources (Financial Provisions) Act 2018

Act amended

Clause 92 states that this part amends the *Mineral and Energy Resources (Financial Provisions) Act 2018* (MERFP Act).

Amendment of s 11 (What is the *fund threshold*)

Clause 93 amends section 11 to provide that the fund threshold can be either the amount prescribed in the regulation or where no amount is prescribed it is $450,000,000. A fund threshold of $600,000,000 for BBB+ credit rated companies will be introduced to the regulation. For those companies that do not meet this criterion, $450,000,000 will be the fund threshold. The MERFP Act is currently structured for just the one threshold and requires some structural amendments to cater for the two thresholds.

Amendment of s 26 (Application of subdivision)

Clause 94 amends eligibility criteria for a risk assessment because of a change to the prescribed ERC now being $10m and inclusion of environmental authorities with a lower ERC, between $100k and $10m, being eligible if the holder has another environmental authority with a risk category other than high.

The amendment to s 26(1)(b)(i) is imposing a lower limit on the amount a regulation may prescribe. Until a regulation is made that prescribes an amount for (i) (being at least $100,001), the amount of $10m in (ii) will be the prescribed ERC amount.

Amendment of s 27 (Scheme manager must make initial risk category allocation)

Clause 95 amends section 27 to introduce a fifth risk category allocation of moderate-high. This risk category complements the existing very low, low, moderate and high risk categories. Very low and low contribution rates are not changing and moderate will go from 2.75% to 2.25% and moderate-high will be priced at 6.5%.

Insertion of new s 27A

Clause 96 inserts section 27A to enable the Scheme Manager to decide an annual review allocation day.

27A Scheme manager must decide annual review allocation day.

Section 27A provides the Scheme Manager the ability to decide an annual review allocation day for an initial risk category allocation. Now that environmental authorities are risk assessed together for environmental authority holders that have multiple authorities, the Scheme Manager requires the ability to set the annual review date. Currently the annual review date is set when the Scheme Manager make a risk category allocation decision, with aligning multiple environmental authorities to have the same annual review day the Scheme Manager will now decide the annual review day together with the risk category allocation decision.

Amendment of s 28 (Scheme manager must notify holder of indicative risk category allocation)

Clause 97 amends section 28 to enable the Scheme Manager to decide the initial risk category allocation and annual review day.

29 When indicative risk category allocation becomes the initial risk category allocation

Clause 98 replaces section 29 to provide when the Scheme Manager must allocate the environmental authority the risk category and decide the annual review allocation day.'

Amendment of s 30 (Period for making initial risk category allocation)

Clause 99 amends section 30 to include the risk allocation day.

Amendment of s 31 (Notice of initial risk category allocation)

Clause 100 amends section 31 to include the risk allocation day.

Amendment of pt 3, div, 1, sdiv 2 hdg (Changed holder review allocation)

Clause 101 omits the word 'review' from the heading as it pertains to the risk category review and annual review allocation day, not just the risk category review.

Amendment of s 32 (Scheme manager may review risk category allocation if changed holder)

Clause 102 amends the section title to "Scheme manager to consider or decide risk category allocation if changed holder". To omit the word 'review' is to facilitate the use of the new term of changed holder allocation. A changed holder allocation is defined to mean an existing changed holder review allocation or the new changed holder initial allocation. This supports the notion that a lower value ERC (between $100k and $10m), which may not have a risk category allocation because the original holder was either not eligible or didn't elect to remain in the risk assessment process, can be brought into the risk assessment process should the new holder be eligible and elect to be in the risk assessment process for that particular environmental authority.

Amendment of s 33 (Application to scheme manager if proposed changed holder)

Clause 103 amends this section for a proposed changed holder similar to an actual changed holder under section 32 above.

Amendment of s 34 (Scheme manager must notify interested entity of indicative changed holder review allocation)

Clause 104 amends this section to align with removing the word 'review', and inclusion for the Scheme Manager to decide the annual review allocation day together with the risk category allocation.

Amendment of s 35 (When indicative changed holder allocation becomes the changed holder review allocation)

Clause 105 amends this section to align with removing the word 'review', and inclusion for the Scheme Manager to decide the annual review allocation day together with the risk category allocation.

Amendment of s 36 (Notice of changed holder review allocation)

Clause 106 amends this section to align with removing the word 'review', and inclusion for the Scheme Manager to decide the annual review allocation day together with the risk category allocation.

Amendment of s 37 (When changed holder review decision takes effect)

Clause 107 amends this section to include environmental authorities with a lower value ERC (ERC between $100k and $10m).

Amendment of s 38 (Annual review of risk category allocation)

Clause 108 amends section 38 to include the risk allocation day.

Insertion of new pt 3, div, 1, sdiv 3A

Clause 109 inserts a new Part 3, Division 1, Subdivision 3A to enable the environmental authority holder or the Scheme Manager to change the annual review allocation day. Now that environmental authorities are risk assessed together for environmental authority holders that have multiple authorities, the Scheme Manager requires the ability to set the annual review date.

Currently the annual review date is set when the Scheme Manager makes a risk category allocation decision. When aligning multiple environmental authorities to have the same annual review day, the Scheme Manager will also be able to decide the annual review day when the risk category allocation decision is made.

Subdivision 3A Changing annual review allocation day

41A Application to scheme manager to change annual review allocation day

New section 41A enables the environmental authority holder to make an application to the Scheme Manager to change the annual review allocation day.

41B Scheme manager may change annual review allocation day on own initiative

New section 41B enables the Scheme Manager to change the annual review allocation day on their own initiative.

41C When change to annual review allocation day takes effect

New section 41C enables the environmental authority holder or the Scheme Manager to change the annual review allocation day and when that day takes effect.

41D Change to annual review allocation day in relation to changed holder event

New section 41D provides that a change to the annual review allocation day cannot take effect until the changed holder allocation takes effect in respect to a transfer of an environmental authority.

Amendment of s 42 (Holder must give scheme manager notice if changed holder)

Clause 110 amends section 42 to allow for an information request to be given for environmental authorities with an ERC $100,000 or more – this caters for the holders of those environmental authorities to elect to stay in the risk assessment process.

Insertion of new pt 3, div 1A

Clause 111 inserts a new Part 3, Division 1A to enable the environmental authority holder to decide to stay in the risk assessment process or to be removed from it if the estimated rehabilitation cost for their environmental authority is more than $100,000 and less than the Prescribed estimated rehabilitation cost ($10 million) and has a risk category of very low, low, moderate or moderate-high, the environmental authority holder can elect to stay in the risk assessment process or to be removed from it.

Division 1A Election for risk category allocation

45A Definition for division

New section 45A states the applicable holder of an authority is one where the authority has an ERC between $100k and the Prescribed ERC ($10m) and also has another environmental authority that has a risk category other than high; for the purpose of the authority being eligible to elect to stay in the risk assessment process or not to give an election.

45B Application of division

New section 45B provides that this division (eligibility to elect to stay in the risk assessment process) only applies if the estimated rehabilitation cost for an environmental authority is more than $100,000 and less than the Prescribed estimated rehabilitation cost (ERC) ($10 million). A necessary requirement is that the holder holds another environmental authority that is risk assessed as anything other than High risk. For new authorities this applies when it is the first decision for an EA that is more than $100,000 and the Prescribed ERC ($10m). It also applies for authorities that have had a change to their ERC or holders are acquiring an authority where there wasn’t a risk category allocation (because the prior holder had not elected to be in the risk assessment process).

45C Scheme manager must give notice about election

New section 45C establishes that when the holder of another environmental authority is given a notice they may decide to elect to be subject to risk category allocation.

45D Applicable holder may elect for authority to be subject to risk category allocation

New section 45D establishes that when the holder of another environmental authority is given a notice under section 45B they may decide to elect to be subject to risk category allocation.

45E Scheme manager to give election notice

New section 45E provides that the Scheme Manager must give the holder a notice stating the day the notice is given, the authority to which it relates, and that the authority is subject to a risk category allocation.

45F Period of election notice

New section 45F establishes the period that the election notice has effect. The length of effect is to allow time for a risk assessment to occur, of which will help determine the initial allocation day, so that a risk category allocation and annual review allocation day can be given.

Amendment of s 46 (Application of subdivision)

Clause 112 amends section 46 to enable contributions to the Scheme Fund to include environmental authorities with an estimated rehabilitation cost of more than $100,000 and less than the prescribed estimated rehabilitation cost that have elected to stay in the risk assessment process. It also removes the requirement for environmental authorities to have four prior years of very low, low or moderate risk category allocations to just requiring one prior year to be eligible for an extra year contribution payment where the Scheme Manager is satisfied that surety can't be provided in the next 12 months.

Amendment of s 47 (Holder must pay contribution to scheme fund)

Clause 113 provides the methodology for calculating the pro rata adjustment of contribution should the annual review allocation day change. This allows the adjustment of the yearly contribution should the annual review allocation day be more or less than 12 months. Now that environmental authorities are risk assessed together for holders that have multiple authorities, the Scheme Manager requires the ability to set the annual review date for individual environmental authorities. (Currently the annual review date is set when the Scheme Manager make a risk category allocation decision, with aligning multiple environmental authorities to have the same annual review day the Scheme Manager will now decide the annual review day together with the risk category allocation decision). There are changes to the methodology of calculating pro rata contributions for authorities to better align with the change in the annual review allocation day methodology.

Amendment of s 48 (Rate of contribution if holder not able to give surety)

Clause 114 changes the risk category rate of contribution if a holder is not able to give surety, should the Scheme Manager approve, from moderate to moderate-high.

Amendment of s 49 (Holder must pay contribution and give surety if estimated rehabilitation cost more than fund threshold)

Clause 115 provides the methodology for calculating the pro rata adjustment of contribution should the annual review allocation day change. This allows the adjustment of the yearly contribution should the annual review allocation day be more or less than 12 months. Now that environmental authorities are risk assessed together for holders that have multiple authorities, the Scheme Manager requires the ability to set the annual review date. (Currently the annual review date is set when the Scheme Manager make a risk category allocation decision, with

aligning multiple environmental authorities to have the same annual review day the Scheme Manager will now decide the annual review day together with the risk category allocation decision). There are changes to the methodology of calculating pro rata contributions for authorities to better align with the change in the annual review allocation day methodology.

Amendment of s 50 (Refund of contribution to previous holder)

Clause 116 amends this section to better define the 'pro rata amount' which is returned to the old holder following a changed holder decision. It also clears the definition to allow for refunds for contributions that may have been paid pro rata to the following annual review [not the next one] in the scenario where the environmental authority changed the annual review allocation day such that the next annual review assessment would occur within nine months and the contribution was paid to the following annual review. So instead of the refund being from the date of transfer to the next annual review it better defines it as being to the end of the period for which the previous holder paid contribution.

This '9-month' rule is a commonly accepted amount of time in which financial applications could materially change necessitating an update in financial metrics. Under 9-months it is not considered necessary to re-assess an authority for risk, thereby reducing the impost on holders to provide updated financial accounts in a short time span.

Insertion of new s 50A

50A Refund of contribution to previous holder if election notice not given to changed holder

Clause 117 inserts section 50A which provides clarification about eligibility for the old holder to receive a refund should the new holder be ineligible, or the elect to not be part of the risk assessment process, thereby dropping the environmental authority out of have a risk category allocation.

Amendment of s 53 (Application of subdivision)

Clause 118 amends section 53 to enable the subdivision to provide for the inclusion of the new risk category of moderate-high. It also clarifies the requirement for those environmental authorities that are more than $100,000 in estimated rehabilitation cost and less than the Prescribed estimated rehabilitation cost that have elected to remain in the risk assessment process or are ineligible, to provide surety.

The moderate-high risk category complements the existing very low, low, moderate and high risk categories. Very low and low contribution rates are not changing and moderate will go from 2.75% to 2.25% and moderate-high will be priced at 6.5%. Where an environmental authority is more than $100,000 and less than the prescribed estimated rehabilitation cost ($10 million) and has a risk category of very low, low, moderate or moderate-high, the environmental authority holder can elect to stay in the risk assessment process or to be removed from it.

Amendment of s 54 (Scheme manager's decision about financial viability of scheme fund)

Clause 119 amends section 54 to provide for the two-tiered fund threshold. A fund threshold of $600,000,000 for BBB+ credit rated companies will be introduced to the regulation. For those companies that don't meet this criteria, $450,000,000 will be the fund threshold. The Act currently is structured for there to be just the one threshold and requires some structural amendments to cater for the two thresholds.

Amendment of s 55 (Holder must give surety)

Clause 120 amends section to adjust wording for the changed holder review allocation to changed holder allocation and amend number references.

Insertion of new s 55A

55A When surety must be given

Clause 121 inserts new section 55A that clarifies when surety must be given considering the variety of timing differences between new, changed holder, changed ERC coupled with election notice periods. The principle is 30 business days following the day the risk category or obligation is decided.

Amendment of s 57 (When holder must give increased surety)

Clause 122 amends section 57 to provide for the two-tiered Fund Threshold. A fund threshold of $600,000,000 for BBB+ credit rated companies will be introduced to the regulation. For those companies that don't meet this criteria, $450,000,000 will be the fund threshold.

Amendment of s 64 (Requesting entity may ask for payment from scheme fund)

Clause 123 amends section 64 to provide that pre-commencement abandoned petroleum and gas operating plant are eligible for rehabilitation grant funding from the Scheme Fund. Pre-commencement means prior to the Scheme being established in April 2019.

Amendment of s 73 (Investigation of actuarial sustainability of scheme)

Clause 124 amend section 73 to provide for the two-tiered fund threshold. A fund threshold of $600,000,000 for BBB+ credit rated companies will be introduced to the regulation. For those companies that don't meet this criteria, $450,000,000 will be the fund threshold.

Amendment of s 76F (Application for judicial review of particular decisions)

Clause 125 amends section 76F to include the annual review allocation day to the application for judicial review of risk category allocations. To enable companies with multiple environmental authorities to have their assessments occur at the one time the Scheme Manager requires the ability to change the annual review dates of individual environmental authorities. To enact this the Bill proposes the Scheme Manager to decide the annual review allocation day for environmental authorities (EA's) over $10 million within 30 business days from

commencement. There is a potential breach of the fundamental legislative principles in that there is no contestability of the initial date set by the Scheme Manager.

The purpose of the annual review allocation day is an administrative trigger to complete yearly risk assessments to determine a company's risk category allocation and the resultant contribution to an insurance-styled Scheme Fund. Part of the risk assessment is understanding a company's financial standing using up to date financial statements. This can either be leveraging a company's yearly audited financial statements or fit for purpose specially prepared management accounts, should the yearly audited financial statements be older than nine months.

While it appears there may be a potential breach of fundamental legislative principles, it can be justified through the following explanation:

- the annual review allocation day is not an additional impost on industry, it is changing the date of the existing annual review day for environmental authorities;
- the changed date is to align the risk assessment in line with a company's release of financial statements;
- without aligning to financial statements, companies are required to produce management accounts so that the latest financial information can be reviewed by the Scheme;
- the changed date for individual EA's will align companies EA's where they have more than one, meaning companies only have to submit once per year;
- industry was heavily consulted during the review of the Scheme and there was strong support for this initiative; and
- there are provisions within the bill for companies to request a change to their annual review date should the initial annual review allocation day not be ideal or should they change the release date of their financial reporting.

The Scheme Manager's annual review allocation day decisions will be subject to the *Judicial Review Act 1991*, subject to the limitation that only the holder (or incoming holder) will have rights under the that Act in accordance with clauses 74 and 75. This is reasonable in the circumstances as only those entities are affected by the Scheme Manager's decision. In these circumstances any merits review would, at best, involve a review of the material considered by the scheme manager, which is simply an understanding of a company's financial statement release date rather than a reassessment independent from the Scheme Manager.

Insertion of new s 86A

86A Combined notices

Clause 126 inserts that the Scheme Manager is able to combine multiple notices into one notice. This would occur where a transferred environmental authority requires both the risk category allocation and a change to the annual review allocation day, amongst others.

Insertion of new pt 7, div 1, hdg

Clause 127 inserts new Part 7, Division 1 to clarify that the existing transitional provisions in the Act were for Act No. 30 of 2018.

Division 1 Transitional provisions for Act No. 30 of 2018

Amendment of s 89 (Application of part)

Clause 128 amends section 89 to clarify that this section only applies to this division.

Insertion of new pt 7, div 2

Clause 129 inserts new Part 7, Division 2 to provide transitional provisions for *Mineral and Energy Resources and Other Legislation Amendment Act 2024* as it relates to the MERFP Act.

Division 2 Transitional provisions for Mineral and Energy Resources and Other Legislation Amendment Act 2024

New Part 7, Division 2 to provide transitional provisions for *Mineral and Energy Resources and Other Legislation Amendment Act 2024* as it relates to the MERFP Act.

Subdivision 1 Interpretation

93 Definitions for division

New section 93 provides a definition for former as used in this division. Former for a provision of this Act means the provision as in force before the commencement of the Bill.

Subdivision 2 Provisions relating to authorities for which estimated rehabilitation cost is $10m or more

94 Allocation process not finished before the commencement

New section 94 provides how risk assessments are managed for initial risk category allocations at the time of commencement when they are within the risk assessment process. Namely that the risk assessment continues as if the changes to the Act have not been made. This section also states that the Scheme Manager must decide the annual review allocation day as part of the risk assessment process.

95 Changed holder review process not finished before the commencement

New section 95 provides for how risk assessments are managed for changed holder allocations at the time of commencement when they are within the risk assessment process and the estimated rehabilitation costs for the authority is equal to or more than the prescribed ERC. Namely that the risk assessment continues as if the changes to the Act have not been made. This section also states that the Scheme Manager must decide the annual review allocation day as part of the risk assessment process.

96 Existing changed holder review allocation not in effect before the commencement

New section 96 inserts how risk assessments are managed for changed holder allocations at the time of commencement when they have been decided but not yet in effect and the estimated rehabilitation costs for the authority is equal to or more than the prescribed ERC. Namely that the changed holder allocation is taken to be a changed holder allocation under the new section 32 and will take effect under the new section 37.

97 Annual review process not finished before the commencement

New section 97 inserts how risk assessments are managed for annual review allocations at the time of commencement when they are within the risk assessment process. Namely that the risk assessment continues as if the changes to the Act have not been made. This section also states that the Scheme Manager must decide the annual review allocation day as part of the risk assessment process.

98 Annual review allocation day for particular existing authorities

New section 98 provides for how the Scheme Manager initially decides the allocation day for particular existing environmental authorities (authorities that are above the Prescribed ERC that already have a risk category allocation). With changes to the Act, environmental authorities are risk assessed together for environmental authority holders that have multiple authorities. To provide for this the Scheme Manager requires the ability to set the annual review allocation day. Currently the annual review date is set when the Scheme Manager make a risk category allocation decision. The Scheme Manager will align multiple environmental authorities to have the same annual review day within 30 business days of commencement, for particular existing authorities, and advise the environmental authority holder.

Subdivision 3 Provisions relating to authorities for which estimated rehabilitation costs is $100,000 or more but less than $10m

99 Option to elect if allocation process not finished before the commencement

New section 99 provides that if a holder is in the process of having a risk category allocation assessment at time of commencement of these changes [normally takes approximately 3 months from the Scheme Manager asking for information to the final decision under section 31] then the holder of an environmental authority with a lower value ERC (between $100k and $10m) can elect to continue with the risk assessment as per the former Act or if they wish to not be part of the risk assessment process.

For noting the assessment process takes approximately 4 months, from time of issuing the request from information to begin the assessment (of which the holder has 20 business days to return the information) through to issuing the indicative decision, allowing the holder 20 business days to respond and then issuing the final decision. There will be a number of assessments in-flight (new environmental authorities, changed holder assessments, and annual reviews) at varying stages throughout that 4 month window.

100 Option to elect if changed holder review process is not finished before the commencement

New section 100 provides how risk assessments are managed for changed holder allocations at the time of commencement when they are within the risk assessment process and the estimated rehabilitation costs for the authority is between $100,000 and the prescribed ERC. That the changed holder review process stops and the holder is given the election notice to remain within the risk assessment process or to leave it and provide surety. If the holder elects to remain then the risk assessment continues as if the amended Act had not been enacted..

101 Option to elect for particular authorities if changed holder review allocation not in effect before the commencement

New section 101 provides how risk assessments are managed for changed holder allocations at the time of commencement when they have been decided but not yet in effect and the estimated rehabilitation costs for the authority is between $100,000 and the prescribed ERC. That the changed holder review process stops and the holder is given the election notice to remain within the risk assessment process or to leave it and provide surety. If the holder elects to remain the changed holder allocation is taken to be a changed holder allocation under the new section 32 and will take effect under the new section 37.

102 Existing authorities with high risk category allocation if changed holder review allocation not in effect before the commencement

New section 102 provides for how risk assessments are managed for changed holder allocations at the time of commencement when they have been decided as High risk but not yet in effect and the estimated rehabilitation costs for the authority is between $100,000 and the prescribed ERC. That the changed holder review allocation does not take effect, the authority is not eligible for a risk category allocation, and they are required to provide surety. The holder would no longer have to submit information or pay a fee as annual reviews no longer apply to that environmental authority.

103 Option to elect for particular authorities if annual review process not finished before the commencement

New section 103 provides that if a holder is currently in the process of an annual review [similar timeframes to an initial assessment] then the assessment pauses while the holder of an environmental authority with a lower value ERC (between $100k and $10m) elects to be in or out of the risk assessment process.

104 Existing authorities with high risk category allocation if annual review process not finished before the commencement

New section 104 provides that for environmental authorities with a lower value ERC (between $100k and $10m) that have been previously risk assessed as High then the assessment stops and the environmental authority is out of the risk assessment process. The provision of surety is required (surety would already be held due to the prior assessment of High) and they would no longer have to submit information or pay a fee as annual reviews no longer apply to that environmental authority.

For noting the assessment process takes approximately 4 months, from time of issuing the request for information to begin the assessment (of which the holder has 20 business days to

return the information) through to issuing the indicative decision, allowing the holder 20 business days to respond and then issuing the final decision. There will be a number of assessments in-flight (new environmental authorities, changed holder assessments, and annual reviews) at varying stages throughout that 4 month window.

105 Option to elect before relevant anniversary day for particular existing authorities

New section 105 inserts that after commencement for an environmental authority with a lower value ERC (between $100k and $10m) that they be given the option to elect to remain in or opt out of the risk assessment process and that the notice be give at least 30 business days prior to their annual review. For environmental authorities with an ERC over the prescribed threshold they will be advised of their annual review allocation day on commencement of the changes.

106 Application of new pt 3, div 1, sdiv 2 for particular authorities to which s 105 applies

New section 106 provides that if there is a changed holder process commenced because of a transfer of the environmental authority with a lower value ERC (between $100k and $10m) then section 105 stops for the old holder and the Scheme Manager gives an election notice to the new holder.

107 Particular existing authorities if s 105 stops applying because estimated rehabilitation cost equal to or more than prescribed ERC amount

New section 107 provides that new section 105 could stop applying if the environmental authority has a change in their ERC and it increases to the prescribed ERC threshold or more. This allows for the environmental authority to be given an annual review allocation day.

Subdivision 4 Transitional regulation

108 Transitional regulation-making power

New section 108 inserts a transitional regulation-making power so that, if something is found in the transition to the new scheme not working as expected, a transitional regulation could be made to provide for the issue. It also states that this provision would expire 2 years after commencement.

The amendments to the *Mineral and Energy Resources (Financial Provisioning) Act 2018* to support the recommended changes agreed by industry and Government provide for the making of transitional regulations (transitional regulation making power) to ensure the effective transition from the operation of the Act as in force before it's amendment to the operation of the Act as in force from such amendment.

This amendment potentially departs from the principle that legislation should have sufficient regard to the institution of Parliament. The inclusion of these amendments is justified because they provide a temporary measure to facilitate a smooth transition to the new framework under the Bill.

The regulation must be declared as a transitional regulation and it may have retrospective operation for the period. The potential contravention of this fundamental legislative provision is mitigated by the inclusion of a two-year sunset clause applying to any transitional regulations, which is similar to provisions in a number of Acts across the Queensland statute book.

109 Expiry of subdivision and transitional regulation

New section 109 clarifies that section 108 expires two years after commencement.

Amendment of sch 1 (Dictionary)

Clause 130 updates the dictionary with new terms, amended and re-clarifying existing terms and updates to referenced section numbers.

Part 10 – Amendment of the Mineral Resources Act 1989

Act amended

Clause 131 states that this part amends the *Mineral Resources Act 1989* (MR Act).

Amendment of s 85 (Compensation to be settled before grant or renewal of mining claim)

Clause 132 amends section 85 to include a note that the applicant or an interested party may agree to participate in an ADR to determine the amount of compensation payable under this section.

Insertion of new ss 85AA–85AD

Clause 133 inserts sections 85AA to 85AD. These sections insert additional pathways for parties of a compensation agreement to resolve disputes. These sections are consistent with the process and timeframes for ADR under the MERCP Act.

85AA Party may seek ADR

Section 85AA provides for a non-binding alternative dispute resolution (ADR) process, including, for example, a case appraisal, conciliation, mediation, or negotiation. The intent of this section is to provide parties with an alternative pathway to resolve disputes relating to compensation agreements for mining claims, however seeking ADR under this section is intended to be voluntary and does not limit the ability of parties to apply directly to the Land Court to resolve the matters.

This section describes that the ADR process can be used for a dispute arising between an applicant and an interested party under section 85 (the parties) about the determination of an amount of compensation. Under the section, either party may give a notice (an ADR election notice) to the other party asking to participate in a non-binding ADR process.

The ADR election notice must state the details of the matters the subject of the dispute, the type of ADR process proposed, the name of an independent ADR facilitator, that the resources

authority holder is liable for the costs of the ADR facilitator and any other information prescribed by regulation.

A party given an ADR election notice must, within 10 business days accept or refuse the request for ADR. If the request is accepted that parties may within 10 business days jointly appoint the ADR facilitator proposed to conduct the ADR.

If a party does not accept the request within this period, the party is taken to have refused the request. Following this, parties, may seek another voluntary ADR process or make an application to the Land Court.

85AB Conduct of ADR

Section 85AB provides for the conduct of an ADR accepted under section 85AA.

If the parties accept a request for an ADR the parties must use all reasonable endeavours to resolve the dispute within 30 business days after the ADR facilitator is appointed, this is referred to as the usual period. The parties may agree to a longer period because of reasonable or unforeseen circumstances. If the parties agree to a longer period and the ADR facilitator consents to the longer period, the longer period applies instead of the usual period. The operation of this section does not prevent the Minister from exercising discretion to cancel an application pursuant to section 85A if compensation has not been determined within the requisite timeframes under that section. Although, evidence of the parties undertaking ADR in good faith to negotiate compensation my inform the Minister's decision to exercise that discretion.

The mining claim applicant is liable to pay the costs of the ADR facilitator.

85AC Non-attendance at ADR

Section 85AC provides, that if a party who accepts a request for an ADR does not attend (the non-attending party) and the other party (the attending party) attends the ADR, the non-attending party is liable to pay the attending party's reasonable costs of attending. This may include any costs of the ADR facilitator. The Land Court may order the payment of costs if the Court is satisfied that the non-attending party did not have a reasonable excuse for not attending.

85AD Protection, immunity and confidentiality

Section 85AD provides that the *Civil Proceedings Act 2011*, part 6, division 5 applies to an ADR conducted by an ADR facilitator as if a reference to an ADR process included a reference to the ADR and a reference to an ADR convenor included a reference to the ADR facilitator.

Application of this division ensures that any ADR facilitator has the same protection and immunity as a Supreme Court judge performing a judicial function and a witness or other party attending the ADR has the same protection and immunity as if they were attending before the court. This division also seeks to ensure that any document produced at, or used for an ADR process has the same protection as if would have if produced before the court.

Anything said by a person at the ADR is not admissible as evidence in a proceeding without the person's consent. This does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the ADR process. These protections seek to encourage transparency between parties during the ADR process.

This division also requires that an ADR facilitator must not disclose information as part of the ADR process, without a reasonable excuse.

Amendment of s 131 (Who may apply)

Clause 134 amends section 131 to introduce a new land release framework by giving the Minister a discretionary power to determine the length of time required to re-release land that has been relinquished by exploration permits if the postponement of the sub-blocks released is in the best interests of the State.

The current land release framework under the MR Act requires that land relinquished to the State must be re-released two months after the permit has ended unless the existing exploration permit holder is surrendering the land to then subsume in another exploration permit application or moves the area to a higher form of tenure.

To achieve the intended purpose of amended section 131, the clause inserts new subsection (2A) to ensure applications cannot be made for an exploration permit over sub-blocks that have been relinquished to the State if those sub-blocks are not released for application for a period stated in a gazette published under new subsection (6).

The clause inserts new subsection (6) to establish the process for the Minister to gazette sub-clocks that are not available for application. New subsection (6) states that the gazette must identify the sub-blocks not available and state the period of unavailability, which must not start before the say the gazette notice is published. The gazette must only be published if the Minister is satisfied that the postponement is in the best interests of the State.

The clause also makes minor administrative changes to the section in line with current drafting practices and renumbers the section.

Amendment of s 276 (General conditions of mining lease)

Clause 135 amends section 276 to mandate that the holder of a mining lease must, during the term of the lease, keep the surface of the area of the mining lease tidy by, for example, ensuring that:

- rubbish and debris are removed from the surface and waste is properly stored; and
- equipment is stored in an orderly way.

The purpose of this amendment is to incentivise mining lease holders to maintain their lease in a tidy way to manage hazards that can lead to injuries, fires and damage to health.

The clause amends section 276 to make minor administrative changes to the section in line with current drafting practices and renumber the section.

Amendment of s 281 (Determination of compensation by Land Court)

Clause 136 amends section 281 to insert a note that the parties to the compensation agreement under section 279 or 280 may also agree to participate in ADR under sections 283C to 283F to determine the amount of compensation.

Amendment of s 283B (Review of compensation by Land Court)

Clause 137 amends section 283B to insert a note that the mining lease holder and an owner in relation to the mining lease mentioned in section 279(1)(a) or 280(1) may also agree to participate in ADR under sections 283C to 283F to agree to amend the original compensation.

Insertion of new ss 283C–283F

Clause 138 inserts sections 283C to 283F. These sections insert additional pathways for parties of a compensation agreement to resolve disputes. These sections are consistent with the process and timeframes for ADR under the MERCP Act.

283C Party may seek ADR

Section 283C provides for a non-binding alternative dispute resolution (ADR) process, including, for example, a case appraisal, conciliation, mediation, or negotiation. The intent of this section is to provide parties with an alternative pathway to resolve disputes relating to compensation agreements, however seeking ADR under this section is intended to be voluntary and does not limit the ability of parties to apply directly to the Land Court to resolve the matter.

This section describes that the ADR process can be used for disputes arising between an applicant for the grant of a mining lease or a mining lease holder and each owner of the land, in relation to the lease mentioned in section 279(1)(a) or 280(1) (the parties). This dispute relates to the determination of an amount of compensation or amendment of an agreement or determination about compensation. Either party may give a notice (an ADR election notice) to the other party asking to participate in a non-binding ADR process.

The ADR election notice must state the details of the matters the subject of the dispute, the type of ADR process proposed, the name of an independent ADR facilitator, that the resources authority holder is liable for the costs of the ADR facilitator and any other information prescribed by regulation.

A party given an ADR election notice must, within 10 business days accept or refuse the request for ADR. If the request is accepted that parties may within 10 business days jointly appoint the ADR facilitator proposed to conduct the ADR.

If a party does not accept the request within this period, the party is taken to have refused the request. Following this, parties, may seek another voluntary ADR process or make an application to the Land Court.

283D Conduct of ADR

Section 283D provides for the conduct of an ADR accepted under new section 283C(4).

If the parties accept a request for an ADR the parties must use all reasonable endeavours to resolve the dispute within 30 business days after the ADR facilitator is appointed, the usual period. A party may also ask the other party for a longer period because of reasonable or unforeseen circumstances. If the parties agree to a longer period and the ADR facilitator consents to the longer period, the longer period applies instead of the usual period.

The operation of this section does not prevent the Minister from exercising discretion to cancel an application pursuant to section 279A if compensation has not been determined within the requisite timeframes under that section. Although, evidence of the parties undertaking ADR in good faith to negotiate compensation may inform the Minister's decision to exercise that discretion.

This section also provides that the mining lease applicant or holder is liable for the costs of the ADR facilitator.

283E Non-attendance at ADR

New section 283E provides that if a party who accepts a request for an ADR does not attend (the non-attending party) and the other party (the attending party) attends the ADR. The non-attending party is liable to pay the attending party's reasonable costs of attending. This may include the costs of the ADR facilitator. The Land Court may order the payment of costs if they Court is satisfied that the non-attending party did not have a reasonable excuse for not attending.

283F Protection, immunity and confidentiality

Section 283F provides that the *Civil Proceedings Act 2011*, part 6, division 5 applies to an ADR conducted by an ADR facilitator as if a reference to an ADR process included a reference to the ADR and a reference to an ADR convenor included a reference to the ADR facilitator.

The application of this division ensures that any ADR facilitator has the same protection and immunity as a Supreme Court judge performing a judicial function and that a witness or other party attending the ADR has the same protection and immunity as if they were attending before the court. This division also seeks to ensure that any document produced at, or used for an ADR process has the same protection as if would have if produced before the court.

Anything said by a person at the ADR is not admissible as evidence in a proceeding without the person's consent. The applicant or mining lease holder is liable for the costs of the ADR facilitator. This does not include a civil proceeding founded on fraud alleged to be connected with, or to have happened during, the ADR process. These protections seek to encourage transparency between parties during the ADR process.

This division also requires that an ADR facilitator must not disclose information as part of the ADR process, without a reasonable excuse.

Amendment of s 317C (What is a *prescribed mineral mining lease*)

Clause 139 amends section 317C to clarify the process by which a mining lease becomes a prescribed mineral mining lease.

The clause inserts a new definition of, 'excluded year' to ensure there is no retrospective application of the clarified process when prescribed thresholds in the MRR are amended or new minerals are added. An 'excluded year' is a project year or lease year for the mining lease that began before the mineral was added to the MRR or the prescribed thresholds are changed. This means when the prescribed thresholds in the MRR are changed, a mining lease would not become a prescribed mineral mining lease until they have mined a mineral to the new threshold during a full threshold year that begins after the commencement of the new prescribed threshold.

Amendment of s 317D (What is a *new prescribed mineral mining lease*)

Clause 140 amends section 317D to insert a note under subsection (1)(b)(ii) to provide that a mining lease holder may lodge another proposed initial development plan if an earlier plan is refused within 6 months after the time mentioned in paragraph (a).

The clause also omits the definition of, 'initial plan period' as this is being replaced by the 'lodgement period' introduced under new section 317DA.

Insert of new s 317DA

317DA What is the *lodgement period* for a new prescribed mineral mining lease

Clause 141 inserts new section 317DA to introduce and define the lodgement period for new prescribed mineral mining leases.

The clause defines the 'lodgement period' for a new prescribed mineral mining lease as the period of 6 months starting when the mining lease becomes a prescribed mineral mining lease under section 317C(2). The 'lodgement period' replaces the former 'initial plan period', as the former, 'initial plan period' was structured in a way that was unclear to industry.

Replacement of s 317X (Changes to prescribed minerals or prescribed thresholds)

317X Effect if mineral stops being prescribed mineral or prescribed threshold increases

Clause 142 replaces section 317X to rename the section and clarify the circumstances by which a mining lease ceases to be a prescribed mineral mining lease.

The clause replaces the previous title, 'Changes to prescribed minerals or prescribed thresholds' to 'Effect if mineral stops being prescribed mineral or prescribed threshold increases'. This new title more appropriately reflects the function of the section 317X.

The clause outlines the circumstances by which a mining lease that is part of a mining project or mining lease not part of a project would stop being a prescribed mineral mining lease.

Subsection (2) provides that a mining lease that is part of a mining project would stop being a prescribed mineral mining lease if the prescribed threshold for the mineral increases and an

amount of the mineral that equals or exceeds the increased prescribed threshold for the mineral has not been mined under the project in any project year for the project.

Subsection (2) also provides that mining lease that is not part of a mining project would stop being a prescribed mineral mining lease if the prescribed threshold for the mineral increases and an amount of the mineral that equals or exceeds the increased prescribed threshold for the mineral has not been mined under the lease in any lease year of the lease.

Subsection (3) also provides that if the mining lease is for more than one prescribed mineral, the mining lease stops being a prescribed mineral mining lease only if the prescribed threshold for the mineral increases and an amount of the mineral that equals or exceeds the increased prescribed threshold for the mineral has not been miner under the lease in any lease year of the lease for each prescribed mineral.

Amendment of ch 7, hdg (Transfers affecting applications for mining leases)

Clause 143 amends the heading of chapter 7 from, 'Transfers affecting applications for mining leases' to 'Transfers affecting applications for mining leases and appeals relating to dealings. This amendment clarifies the application of chapter 7.

Amendment of ch 7, pt 1, hdg (Application transfers)

Clause 144 amends the heading of chapter 7 part 1 to insert a note that directs the reader to chapter 2 part 2 of the *Mineral and Energy Resources (Common Provisions) Act 2014* for information on lodging and the effect of caveats over an application for a mining lease or an interest in the application.

Amendment of ch 7, pt 4, hdg (Appeals about transfers)

Clause 145 amends the heading of chapter 7 part 4 from, 'Appeals about transfers' to 'Appeals relating to transfers and other dealings'. This amendment clarifies that the application of chapter 7 part 4 is broader than transfers.

Replacement of s 382 (Public release of required information)

382 Public release of required information

Clause 146 replaces section 382 to clarify that confidentiality periods prescribed by the Mineral Resources Regulation 2013 are intended to continue to apply to required information about an authorised activity that has transitioned to a higher form of tenure. The amendments also clarify that the required information is only released if the relevant confidentiality period ends, or the total area to which the required information relates ceases being in the area of the mining tenement.

The clause also ensures the amendments to section 382 only apply prospectively.

Insertion of new ch 15, pt 23

Part 23 Transitional provisions for Mineral and Energy Resources and Other Legislation Amendment Act 2024

Clause 147 inserts new part 23 dealing with transitional provisions for the *Mineral and Energy Resources and Other Legislation Amendment Act 2024* as it relates to the MR Act and includes new sections 901 and 902.

901 Application of particular condition to mining leases

New section 901 provides a transitional arrangement to enable the new mining lease condition to section 276 to apply to mining leases granted before and after commencement of this Bill.

The purpose of this amendment is to incentivise compliance amongst mining lease holders to maintain organised operations, equipment, and stores to manage hazards that can lease to injuries, fires and damages to health and safety.

Amendment of sch 2 (Dictionary)

Clause 148 amends the dictionary in schedule 2 to omit definitions for 'initial plan period' and 'specified works' and to insert a definition for, 'lodgement period' in line with the new section 317DA.

The clause also amends the definition of 'new prescribed mineral mining lease' to replace the cross-refence to 'section 317D(1)' with 'section 317D' to reflect the changes made to section 317D by this Bill.

This clause inserts a new definition for 'ADR' and 'ADR facilitator' that applies to the new alternative pathways for resolving disputes related to compensation agreements for mining claims and mining leases. ADR is a general term used to describe the broad methods for dispute resolution, including case appraisal, conciliation, mediation or negotiation. However, ADR methods are not limited to those examples. These definitions align with the same terms in the MERCP Act.

Part 11 – Amendment of Petroleum Act 1923

Act amended

Clause 149 states that this part amends the *Petroleum Act 1923* (1923 Act).

Amendment of s 53B (Plan period)

Clause 150 amends section 53B to clarify that plan period for proposed later development plans under the 1923 Act.

The clause provides that the stated plan must not be longer than:

- the remaining term of the lease, if the remaining term of the lease is less than five years from the day the current plan period for the lease ends; or

- five years from the day the current plan period for the lease ends if the remaining term of the lease is five years or more from the day the current plan period for the lease ends.

The clause defines 'current plan period' as the plan period for the current development plan for the lease and has the effect that resource authority holders are always required to have a relevant later development plan and must lodge a new proposed later development plan for approval before the end of their current plan period.

Amendment of s 53C (Application of sdiv 2)

Clause 151 amends section 53C to make administrative changes to the section to reflect current drafting practice. The clause amends the heading to replace, 'subdiv' with 'subdivision, and replaces 'is lodged for approval' with 'for a lease is lodged for approval by the lessee'.

Insertion of new s 53CA

53CA Application of pt 9, div 1 to lodgement

Clause 152 inserts section 53CA to ensure the application provisions in Part 9, Division 1 of the 1923 Act applies to the lodgement of proposed later development plans. The ability to apply application provisions to proposed later development plans was the original intent of the 1923 Act, however, as a result of a drafting error, the application of Part 9, Division 1 to the lodgement of later development plans was missed. This amendment corrects this error to ensure the application provision apply to proposed later development plans as intended.

The ability to apply the application provisions to proposed later development plans under the 1923 Act will for example mean, amongst other things, that:

- later development plans that have substantially complied with application requirements can be accepted;
- the Department can request further information from applicants; and
- applicants will have the ability to amend the later development plan after lodgement.

Amendment of s 53E (Deciding whether to approve proposed plan)

Clause 153 amends section 53E to omit subsections (3) and (4). These subsections are no longer necessary as the application provisions under Part 9 Division 1 will apply to manage the lodgement, request for further information, and approval of proposed later development plans as a result of the new section 53CA.

Replacement of s 76D (Public release of required information)

76D Public release of required information

Clause 154 replaces section 76D to clarify that confidentiality periods prescribed by the Petroleum and Gas (General Provisions) Regulation 2017 (P&G Regulation) are intended to continue to apply to required information about an authorised activity that has transitioned to a higher form of tenure. The amendments also clarify that the required information is only released if the relevant confidentiality period ends, or the total area to which the required information relates ceases being in the area of the 1923 Act petroleum tenure.

The clause also ensures the amendments to section 76D only apply prospectively.

Amendment of 76G (Power to require information or reports about authorised activities to be kept or given)

Clause 155 amends section 76G to insert new paragraph (2)(c) that allows the chief executive to request, in addition to basic exploration data or opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data, any information, or a report prescribed by regulation.

The amendments intend to allow the State increased flexibility and agility in prescribing what information 1923 Act petroleum tenures must provide in their reports to suit the Department's changing business needs.

The clause also amends subsection (3) to replace, 'notice' with 'requirement' as it relates to the requirement imposed on a petroleum tenure holder by paragraph (1)(b) and will ensure the equivalent provisions in the GE Act, GGS Act, and the P&G Act are consistently drafted.

Replacement of s 119 (Application of div 1)

119 Application of division

Clause 156 replaces section 119 to make administrative changes to clarify the application of this division. The clause renames the section from, 'Application of div 1' to 'Application of division' to reflect current drafting standards.

The clause also inserts a note under the heading that directs readers to new section 53CA if they are seeking information about the application of this division to the lodgement of a proposed later development plan.

Part 12 – Amendment of the Petroleum and Gas (Production and Safety) Act 2004

Act amended

Clause 157 states that this part amends the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act).

Amendment of s 64A (What is the *relinquishment day*)

Clause 158 amends section 64A to provide that this section does not apply in relation an authority to prospect granted before 25 May 2020. The clause directs readers who are seeking information that applies to authorities to prospect granted before 25 May 2020 to new section 71AA.

The amendment excludes authorities to prospect granted before 25 May 2020 from section 64A to fix a drafting error that unintentionally did not exempt these tenures from the section 64A relinquishment day, where they were intended to be subject to the former relinquishment provisions.

Amendment of s 65 (Standard relinquishment condition)

Clause 159 amends section 65 to replace 'on or before', with 'by the end of'. This amendment is a minor administrative change to the section to reflect current drafting standards.

Amendment of s 66 (Part usually required to be relinquished)

Clause 160 amends section 66 to clarify its application and to insert a cross-reference for information specific to authorities to prospect granted before 25 May 2020.

The clause amends the section to specify that the 'usual relinquishment' reference in section 66 is for the authority to prospect and inserts a note after subsection (3) to direct those looking for relinquishment information specific to authorities to prospect granted before 25 May 2020 to new section 71AA and section 1004.

As discussed in the amendment of section 64A, the amendment excludes authorities to prospect granted before 25 May 2020 to fix a drafting error that unintentionally did not exempt these tenures from the section 66 relinquishment requirements, where they were intended to be subject to the former relinquishment provisions.

Amendment of s 68 (Adjustments for sub-blocks that can not be counted)

Clause 161 amends section 68 clarify that the 'usual relinquishment' reference in section 68 is for the authority to prospect.

Insertion of new s 71AA

71AA Provision relating to authorities to prospect granted before 25 May 2020

Clause 162 inserts section 71AA to provide relinquishment information specific to authorities to prospect granted before 25 May 2020. The clause includes information about the relinquishment day and the usual relinquishment requirements for these tenures (found in section 64A and 66, respectively, for authorities to prospect granted on or after 25 May 2020).

The purpose of section 71AA is to appropriately direct holders of authorities to prospect granted before 25 May 2020 to the relevant relinquishment information, as when the P&G Act was amended to introduce the current replenishment requirements, incomplete transitional provisions were introduced that did not appropriately provide for authorities to prospect in force before the new conditions were introduced. The intention was for these tenures to be subject to the former provisions, and this amendment will fix this drafting error.

The clause states that if the day is at least 30 days after the day this section commences, the relinquishment day is:

- a day stated in the authority to be a relinquishment day; or
- if no relinquishment days are stated in the authority – each day during the term of the authority that is a four-yearly interval after the day the authority took effect.

The clause states that, subject to sections 66A, 68 and 69, the holder of the authority must relinquish, by the end of each relinquishment day for the authority, at least 8.33% of the original notional sub-blocks of the authority for each year since the authority took effect. The sub-blocks required to be relinquished by this clause are the usual relinquishment for the authority.

The clause provides that new section 71AA, other than section 64A and 66, applies in relation to the authority as if:

- a reference in section 62(4), 65(2) 66A(1)(b) or 68(1) to the relinquishment day for the authority were a reference to a relinquishment day for the authority; and
- a reference in section 65(1)(a) to the relinquishment day for the authority were a reference to each relinquishment day for the authority; and
- a reference in section 66A to section 66 of section 66(2) were a reference to subsection (3).

Amendment of s 143 (General requirements)

Clause 163 amends section 143 to replace paragraph (1)(a) to provide that any proposed later development plan lodged must comply with the initial development plan requirement's other than section 139, which specifies the plan period for initial development plans.

The clause works in conjunction with new section 143A that introduces plan period information for later development plans, where they had previously relied on the plan period information for initial development plans under section 139.

Insertion of new s 143A

143A Plan period

Clause 164 inserts section 143A detailing the period of time later development plans apply. The clause clarifies that the plan period for proposed later development plans under the P&G Act.

The clause requires that the proposed later development plan must state its period.

The clause provides that for a proposed later development plan that relates to an application under division 6 to renew the year, the stated plan must not be longer than:

- the renewed term of the lease, if the renewed term sought for the lease is less than five years; or
- five years from the day the renewed term starts, if the renewed term sought for the lease is five years or more.

The clause provides that, for all other proposed later development plans, the stated plan must not be longer than:

- the remaining term of the lease, if the remaining term of the lease is less than five years from the day the current plan period for the lease ends; or

- five years from the day the current plan period for the lease ends if the remaining term of the lease is five years or more from the day the current plan period for the lease ends.

The clause has the effect that resource authority holders are always required to have a relevant later development plan and must lodge a new proposed later development plan for approval before the end of their current plan period.

Amendment of s 170B (Applying to amalgamate 1923 Act lease)

Clause 165 amends section 170B to clarify the application process to amalgamate two or more individual petroleum leases.

The clause replaces subsection (2)(a) to provide that an application to amalgamate two or more petroleum leases can only be made if, for each individual lease:

- the holder of the individual lease has applied under section 908 for a petroleum lease for all or part of the area of the lease; or
- the application for amalgamation is accompanied by a section 908 application in relation to the individual lease.

The purpose of the amendment is to streamline the process by which individual petroleum leases transition to an amalgamated lease. Under the current framework, the P&G Act does not allow for the simultaneous replacement and amalgamation of leases, making the process onerous and time consuming for petroleum lease holders. The amendments will streamline the replacement and amalgamation process to streamline the process.

The clause also makes administrative changes to subsections (4) and (5) to reflect current drafting standards.

Amendment of s 170D (Deciding application)

Clause 166 amends section 170D to provide that an application for an amalgamated petroleum lease cannot be granted by the Minister unless a relevant environmental authority for the amalgamated lease has been issued.

The purpose of the amendment is to align the provisions for amalgamating petroleum leases with the provisions for grant. Currently, the requirement to have a relevant environmental authority before grant is a notable omission from the requirements to amalgamate a petroleum lease. this amendment will remedy this difference to make the two application processes consistent.

Amendment of s 170E (Provisions of amalgamated lease)

Clause 167 amends section 170E to omit subsection (2) and insert new detail on production commencement date requirements for granted amalgamated petroleum leases.

The amendments seek to streamline the production commencement process and have the effect that, if production has not started for any of the individual leases to be amalgamated, the production commencement date cannot be later than the earliest production commencement

day for the individual leases. The amendments also provide that if, before the amalgamated lease is granted, production has commenced under some, but not all, of the individual leases, the amalgamated lease may state a production commencement day for the production that has not yet started.

Replacement of s 550 (Public release of required information)

550 (Public release of required information)

Clause 168 replaces section 550 to clarify that confidentiality periods prescribed by the P&G Regulation are intended to continue to apply to required information about an authorised activity that has transitioned to a higher form of tenure. The amendments also clarify that the required information is only released if the relevant confidentiality period ends, or the total area to which the required information relates ceases being in the area of the petroleum tenure.

The clause also ensures the amendments to section 550 only apply prospectively.

Amendment of s 553 (Power to require information or reports about authorised activities to be kept or given)

Clause 169 amends section 553 to insert new paragraph (2)(c) that allows the chief executive to request, in addition to basic exploration data or opinions, conclusions, technical consolidations and advanced interpretations based on basic exploration data, any information, or a report prescribed by regulation.

The amendments intend to allow the State increased flexibility and agility in prescribing what information petroleum authority must provide in their reports to suit the Department's changing business needs.

The clause also amends subsection (3) to replace, 'notice' with 'requirement' as it relates to the requirement imposed on a petroleum authority holder by paragraph (1)(b) and will ensure the equivalent provisions in the GE Act, GGS Act, and the 1923 Act are consistently drafted.

Amendment of s 910 (Renewal application provisions apply for making and deciding grant application)

Clause 170 amends section 910 to insert a note directing readers to new section 1043 in relation to the plan period for a proposed later development plan for a replacement tenure.

Insertion of new ch 15, pt 32

Part 32 Transitional provision for Mineral and Energy Resources and Other Legislation Amendment Act 2024

Clause 171 inserts part 19 dealing with transitional provisions for the *Mineral and Energy Resources and Other Legislation Amendment Act 2024* as it relates to the P&G Act and includes new section 1043.

1043 Plan period for proposed later development plans for replacement tenures

New section 1043 provides for how new 143A applies to replacement tenures. The clause provides that new section 143A(2)(a) applies in relation to a grant application as if:

- a reference in the section to an application under chapter 2, part 2, division 6 to renew a petroleum lease were a reference to the grant application; and
- a reference in the section to the renewed term for a petroleum lease were a reference to the term of the replacement tenure.

Amendment of sch 1 (Reviews and appeals)

Clause 172 amends schedule 1, table 3 of the *Petroleum and Gas (Production and Safety) Act 2004* to provide appeal rights to the Land Court for the following decisions under chapter 5A of the MERCP Act:

- decisions to give subsidence management directions (section 184KB(1));
- decisions not to give farm field assessment directions to relevant holders for a subsidence management area (section 184KG(1)(b));
- decisions on applications for critical consequence decisions about agricultural land (section 184KL);
- directions if critical consequences are likely to happen (section 184KM(2) or (3)); and
- directions on if critical consequences has happened (section 184KN).

Sections 824-828 *Petroleum and Gas (Production and Safety Act) 2004* provide for the period to appeal, how to start an appeal, seeking a stay, hearing procedures and the Land Court's powers in an appeal of a critical consequences decision.

Amendment of sch 2 (Dictionary)

Clause 173 amends the dictionary in schedule 2 to amend the definition of 'relinquishment day' to omit the reference to section 64 and insert references to sections 64A(1) and 71AA(2).

The clause also amends the definition of 'usual relinquishment' to omit the reference to section 66(3) and insert references to sections 66(3) and 71AA(4).

Part 13 Amendment of Regional Planning Interests Act 2014

Act amended

Clause 174 amends the *Regional Planning Interests Act 2014* (RPI Act).

Amendment of s 46 (Additional advice or comment about assessment application)

Clause 175 amends section 46(1) to replace reference to the 'Gasfields Commission', with reference to 'Coexistence Queensland'. This is a consequential amendment that updates the *Regional Planning Interests Act 2014* to reflect the change of the GFCQ's name to Coexistence Queensland.

Insertion of new pt 10

*Clause 176*inserts a new Part 10 into the RPI Act that provides for the transitional provisions for the Mineral and Energy Resources and Other Legislation Amendment Act 2024.

Part 10 Transitional provision for Mineral and Energy and Other Legislation Amendment Act 2024

109 Advice about existing assessment applications

New section 109 applies if assessment application has been made, but not decided, before the commencement. The section also provides that section 46(1) as in force immediately before the commencement continues to apply in relation to an assessment application as if the Mineral and Energy Resources and Other Legislation Amendment Act 2024 had not been enacted.

Amendment of sch 1 (Dictionary)

Clause 177 amends schedule 1 of the RPI Act to omit the definition of, 'Gasfields Commission' and insert a new definition for, 'Coexistence Queensland'.

Part 14 – Amendment of the Water Act 2000

Act amended

Clause 178 states that this part amends the *Water Act 2000* (Water Act).

Amendment of s 425 (Application of div 4)

Clause 179 amends section 425 to clarify that a dispute about a make good obligation, also includes a dispute about the amount of the costs the resource tenure holder must reimburse the bore owner under section 423(3)(a). This includes disputes about the costs of any accounting, hydrogeology, legal or valuations costs the bore owner necessarily and reasonably incurs in negotiating or preparing a make good agreement. The intent of this amendment is to clarify that disputes about negotiation and preparation costs for make good agreements fall within the Land Court's jurisdiction, and the ADR framework that applies to make good agreements under the *Water Act 20000*.

Amendment of s 426 (Parties may seek conference or independent ADR)

Clause 180 amends section 426 by inserting a note that refers parties to the *Land Access Ombudsman Act 2017*. The provision is intended to notify parties to disputes about make good agreements where ADR can be sought, of the ability for the Land Access Ombudsman to provide ADR in such disputes.

Amendment of s 435 (Provisions for making decision)

Clause 181 amends section 435 to provide that the Land Court may make a declaration about or an order for the payment of costs under section 423(3)(a) if the dispute is about the amount of the costs the resource tenure holder must reimburse the bore owner under section 423(3)(a).

Amendment of s 479 (Annual levy for underground water management)

Clause 182 amends section 479 to provide a clear head of power for OGIA to raise an annual levy for their new functions under chapter 5A of the *Mineral and Energy Resources (Common Provisions) Act 2014*. These new functions relate the OGIA's requirements under the subsidence management framework and includes requiring a report that provides for identification, assessment, monitoring and management of the impacts of CSG-induced subsidence in a subsidence management area, providing advice to about CSG-induced subsidence and maintaining a database.

It also makes a minor amendment to the heading of the section to replace 'management' with 'and CSG-induced subsidence management'.

Part 15 – Other amendments

Legislation amended

Clause 183 states that schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

Minor administrative and consequential changes are made to the legislation listed in schedule 1. The amendments contained in schedule 1 commence on proclamation.

Part 1 Amendments commencing on assent

Gasfields Commission Act 2013

Schedule 1, Part 1, includes a table, clarifying each provision mentioned in column 1 amends by omitting the words in column 2 and inserting the words in column 3. This table reflects all these amendments and replacement of common terms needed to reflect the Gasfields Commission's expanded functions.

Mineral Resources Act 1989

Schedule 1, Part 1:

- omits 'other than subdivision 3' in section 334ZZT(3). Subdivision 3 does not exist under division 5 and removes an incorrect reference, and ensures that Part 7, divisions 1, 2 and 5 of the MERCP Act applies to section 334ZZT(3); and)
- replaces 'parts are' with 'chapter is' in section 397B(1)(a), to ensure the correct chapter is referenced.

Petroleum and Gas (Production and Safety Act) 2004

Schedule 1, Part 1 omits 'other than subdivision 3' in section 293(3). Subdivision 3 does not exist under division 5 and removes an incorrect reference, and ensures that Part 7, divisions 1, 2 and 5 of the MERCP Act applies to section 293(3).

Public Sector Act 2022

Schedule 1, Part 1inserts ‘Coexistence Queensland’ under the *Coexistence Queensland Act 2013*, and ‘chief executive officer’ under the *Coexistence Queensland Act 2013* into Schedule 1 entry for Gasfields Commission.

Regional Planning Interests Act 2014

Schedule 1, Part 1 replaces ‘Gasfields Commission Queensland’ with ‘Coexistence Queensland’ in sections 49(1)(e), 51(2)(c) and (4)(b), and 56(2)(c).

Part 2 Amendments commencing by proclamation

Geothermal Energy Act 2010

Schedule 1, Part 2 replaces ‘matters’ with things’ in section 195(b).

Greenhouse Gas Storage Act 2009

Schedule 1, Part 2:

- omits from ‘access’ to ‘activities’ from note 1 in section 29.
- omits from ‘access’ to ‘activities’ from note 1 in section 109.
- replaces ‘matters’ with ‘things’ in section 260(b).

Mineral and Energy Resources (Common Provisions) Act 2014

Schedule 1, Part 2:

- omits ‘any’ from section 21(1)(a) and inserts *‘either’*.
- omits section 21(1)(a)(ii*).*
- replaces *reference to section 53(e) in section 21(1)(a)(iii) and inserts reference to section 53(1).*
- renumbers section 21(1)(a)(iii) as section 21(1)(a)(ii).
- omits the definition for ‘coal seam gas’ in section 103.
- inserts ‘under section 85’ after ‘period’ in section 153(1)(b).
- inserts ‘(iv) the degree of precision required for information contained in the material; and’ in section 202(2)(a).

Mineral and Energy Resources (Financial Provisioning) Act 2018

Schedule 1, Part 2:

- omits reference to section 38(6) in sections 39(1)(c) and 41(c) and inserts reference to section 38(8).
- omits reference to section 38(6)(c) in sections 39(1)(c) and 41(c) and inserts reference to section 38(8)(c).
- omits ‘review decision’ from section 45 and inserts, ‘allocation’.
- inserts, ‘(e), (f), (g) or (h)’ after reference to section 53(a) in section 61(1)(a).

- omits reference to section 53(e) in section 61(1)(b) and inserts reference to section 53(*i*).
- omits reference to section 55(3) in section 61(3)(a) and inserts reference to section 55A.

Mineral Resources Act 1989

Schedule 1, Part 2:

- replaces 'authority' with 'government' in section 81(1)(m)(iii*);*
- replaces 'subsection (4)' with 'the Common Provisions Act, section 196C' in section 137(2)(e*);*
- replaces *178A(b)(ii), 178B(b)(ii), 178C(b)(ii), 231AA(b)(ii), 231AB(b)(ii), 231AC(b)(ii) and 315(1)(b)(ii) with '(ii) the format of the report; and (iii) the information to be contained in the report and the degree of precision required for the information';*
- replaces 315A(2)(b)(ii) with '(ii) the format of the report; (iia) the information to be contained in the report and the degree of precision required for the information;'.
- renumbers 315A(2)(b)(iia) and (iii) as section 315A(2)(b)(iii) and (iv).
- replaces section 315B(2)(b)(ii) with (ii) the format of the report; and (iii) the information to be contained in the report and the degree of precision required for the information.'
- replaces 'initial plan period' with 'lodgement period' under section 317H(2).
- replaces 'the proposed initial development plan' under the definition for relevant fee with 'a proposed initial development plan for a new prescribed mineral mining lease' under section 317H(3).
- replaces 'initial plan period' under the definition for relevant fee with 'lodgement period for the lease' under section 317H(3);
- replaces 'initial plan period' with 'lodgement period for the lease' under section 317I(1)(a); and
- replaces sections 317Z, 318BL, 318BM, 318BU, 318CG and 318ELBG, 'section 276(1)(n)' with section 276(1)(o).
- replaces 'Minister' with 'Chief executive' in section 383.

Petroleum Act 1923

Schedule 1, Part 2 replaces 'matters' with things under section 76C(b).

Petroleum and Gas (Production and Safety) Act 2004

Schedule 1, Part 2:

- replaces 'section 276(1)(m) or 276(3)' with section 276(1)(n) or (3).
- replaces' this section with '(ii) if any relevant lease is a mining lease—the main purposes of the Common Provisions Act, chapter 4 and the objectives of the Mineral Resources Act.'
- inserts 'holder' after 'petroleum tenure' in section 284.
- replaces 'under a' with 'by' in section 284.
- replaces 'this chapter' with 'the Common Provisions Act, chapter 4' in section 381(a).

- replaces ‘matters’ with ‘things’ in section 549(b).