

Queensland



# **MINERAL RESOURCES AMENDMENT BILL 1997**

# Queensland



## MINERAL RESOURCES AMENDMENT BILL 1997

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**1997**

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**A BILL**

**FOR**

***An Act to amend the Mineral Resources Act 1989***

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	<b>The Parliament of Queensland enacts—</b>	1
	<b>Short title</b>	2
Clause	<b>1.</b> This Act may be cited as the <i>Mineral Resources Amendment Act 1997</i> .	3
	<b>Act amended</b>	4
Clause	<b>2.</b> This Act amends the <i>Mineral Resources Act 1989</i> .	5
	<b>Amendment of s 4 (Savings, transitional and validation)</b>	6
Clause	<b>3.</b> Section 4, ‘schedule 2’—	7
	<i>omit, insert—</i>	8
	‘the schedule’.	9
	<b>Amendment of s 5 (Interpretation)</b>	10
Clause	<b>4.(1)</b> Section 5, heading—	11
	<i>omit, insert—</i>	12
	<b>‘Definitions’.</b>	13
	<b>(2)</b> Section 5, definition <b>“mine”</b> —	14
	<i>omit.</i>	15
	<b>(3)</b> Section 5—	16
	<i>insert—</i>	17
	‘ <b>“mine”</b> see section 6A.	18
	<b>“rail corridor land”</b> means existing rail corridor land or new rail corridor	19
	land under the <i>Transport Infrastructure Act 1994</i> .’.	20
	<b>(4)</b> Section 5, definition <b>“holder”</b> , after ‘and’—	21
	<i>insert—</i>	22
	‘, for part 3, division 1,’.	23

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- (5) Section 5, definition “owner”— 1  
*omit, insert—* 2
- ‘(a) for a reserve (other than land that is a reserve merely because it is 3  
in the Wet Tropics Area and land that is rail corridor land)— 4
- (i) if the reserve is a road—the entity having control of the 5  
road;<sup>1</sup> or 6
- (ii) if the reserve is a resources reserve under the *Nature 7  
Conservation Act 1992* for which there are trustees—the 8  
trustees for the reserve; or 9
- (iii) if the reserve is DOGIT land under the *Aboriginal Land Act 10  
1991* or the *Torres Strait Islander Land Act 1991*—the 11  
trustees for the land; or 12
- (iv) if the reserve is land held under a lease under the *Local 13  
Government (Aboriginal Lands) Act 1978*, section 6—the 14  
relevant local government; or 15
- (v) if Aboriginal land under the *Aboriginal Land Act 1991* is 16  
taken to be a reserve because of section 87(2) or 87(4)(b) of 17  
that Act—the grantees of the land; or 18
- (vi) if Torres Strait Islander land under the *Torres Strait Islander 19  
Land Act 1991* is taken to be a reserve because of section 20  
84(2) or 84(4)(b) of that Act—the grantees of the land; or 21
- (vii) if subparagraphs (i) to (vi) do not apply—the Minister 22  
responsible for administering the Act under which it is a 23  
reserve; or’. 24
- (6) Section 5, definition “owner”— 25  
*insert—* 26
- ‘(j) for rail corridor land—the Minister administering chapter 6 of the 27  
*Transport Infrastructure Act 1994*.’. 28

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<sup>1</sup> Under the *Local Government Act 1993*, a local government has control of all roads in its area. A state-controlled road under the *Transport Infrastructure Act 1994* is excluded from the definition of road in the *Local Government Act 1993*.

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- (7) Section 5, definition “**reserve**”, paragraph (a)(iii) to (v)— 1  
*renumber* as paragraph (a)(vii) to (ix). 2
- (8) Section 5, definition “**reserve**”, paragraph (a)— 3  
*insert*— 4
- ‘(iii) a resources reserve under the *Nature Conservation Act 1992*; or 5  
6
- (iv) Aboriginal land under the *Aboriginal Land Act 1991* taken to be a reserve because of section 87(2) or 87(4)(b) of that Act; 7  
or 8  
9
- (v) Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* taken to be a reserve because of section 84(2) 10  
or 84(4)(b) of that Act; or 11  
12
- (vi) rail corridor land; or’. 13

**Insertion of new s 6A** 14

- Clause **5.** After section 6— 15  
*insert*— 16
- ‘Meaning of “mine”** 17
- ‘6A.(1) “Mine”** means to carry on an operation with a view to, or for the 18  
purpose of— 19
- (a) winning mineral from a place where it occurs; or 20
- (b) extracting mineral from its natural state; or 21
- (c) disposing of mineral in connection with, or waste substances 22  
resulting from, the winning or extraction. 23
- ‘(2)** For subsection (1), extracting includes the physical, chemical, 24  
electrical, magnetic or other way of separation of a mineral. 25
- ‘(3)** Extracting includes, for example, crushing, grinding, concentrating, 26  
screening, washing, jigging, tabling, electro winning, solvent extraction 27  
electro winning (SX–EW), heap leaching, flotation, fluidised bedding, 28  
carbon-in-leach (CIL) and carbon-in-pulp (CIP) processing. 29
- ‘(4)** However, extracting does not include— 30

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- (a) a process in a smelter, refinery or anywhere else by which mineral is changed to another substance; or 1  
2
- (b) testing or assaying small quantities of mineral in teaching institutions or laboratories, other than laboratories situated on a mining lease; or 3  
4  
5
- (c) an activity, prescribed under a regulation, that is not directly associated with winning mineral from a place where it occurs. 6  
7

‘(5) For subsection (1), disposing includes, for example, the disposal of tailings and waste rock. 8  
9

‘(6) A regulation under subsection (4)(c) may prescribe an activity by reference to the quantities of minerals extracted or to any other specified circumstances.’. 10  
11  
12

**Amendment of s 131 (Restriction on grant of exploration permits over same sub-block) 13  
14**

Clause 6. Section 131(3) and (4)— 15  
*omit.* 16

**Insertion of new s 134A 17**

Clause 7. After section 134— 18  
*insert—* 19

**‘Priority of applications for grant of exploration permit 20**

‘134A.(1) Applications for the grant of exploration permits in respect of the same mineral, duly made in respect of or including the same land take priority, for the purpose of considering and deciding the applications, according to the day on which they are lodged under section 133(f). 21  
22  
23  
24

‘(2) If applications are lodged on the same day, they take the priority the Minister decides, after considering the relative merits of each application. 25  
26

‘(3) If an application is lodged by mail, courier service or similar means, it is taken to be lodged on the day the application is received at the prescribed office under section 133(f).’ 27  
28  
29



	<b>Amendment of s 163 (Notice of entry to be given)</b>	1
Clause	<b>8.(1)</b> Section 163(4) to (7)—	2
	<i>renumber</i> as section 163(6) to (9).	3
	<b>(2)</b> Section 163—	4
	<i>insert</i> —	5
	‘ <b>(4)</b> The holder must give the mining registrar a copy of the notice immediately after the notice is given and before entry is made under the permit.	6 7 8
	Maximum penalty—10 penalty units.	9
	‘ <b>(5)</b> Contravention of subsection (4) does not affect the validity of the notice.’.	10 11
	<b>Amendment of s 164 (Term and renewal of notice)</b>	12
Clause	<b>9.(1)</b> Section 164(5) to (8)—	13
	<i>renumber</i> as section 164(6) to (9).	14
	<b>(2)</b> Section 164(4)—	15
	<i>omit, insert</i> —	16
	‘ <b>(4)</b> The holder must give the mining registrar a copy of the notice of renewal immediately after the notice is given and before entry is made under the permit.	17 18 19
	Maximum penalty—10 penalty units.	20
	‘ <b>(5)</b> Contravention of subsection (4) does not affect the validity of the notice of renewal.’.	21 22
	<b>Amendment of s 211 (Notice of entry to be given)</b>	23
Clause	<b>10.(1)</b> Section 211(4) to (7)—	24
	<i>renumber</i> as section 211(6) to (9).	25
	<b>(2)</b> Section 211—	26
	<i>insert</i> —	27

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‘(4) The holder must give the mining registrar a copy of the notice immediately after the notice is given and before entry is made under the licence.’

‘(5) Contravention of subsection (4) does not affect the validity of the notice.’.

**Amendment of s 212 (Term and renewal of notice)**

Clause **11.(1)** Section 212(1), ‘notice of entry’—

*omit, insert—*

‘notice of initial entry’.

**(2)** Section 212(4)—

*omit, insert—*

‘(4) The holder must give the mining registrar a copy of the notice of renewal immediately after the notice is given and before entry is made under the licence.’

Maximum penalty—10 penalty units.

‘(5) Contravention of subsection (4) does not affect the validity of the notice of renewal.’

‘(6) If the owner of the land cannot easily be contacted, the holder may notify the occupier of the land of the intended entry.’

*Examples of owner not being easily contacted—*

1. The owner does not live in Australia and there is no known current address for the owner.

2. The owner is travelling within Australia and there is no known current address for the owner.

‘(7) If the holder satisfies the mining registrar it is impracticable to give either the owner or occupier notice of the intended entry, the mining registrar may dispense with the need to give notice.’

‘(8) If the mining registrar dispenses with the need to give notice, the mining registrar must make an appropriate endorsement on the licence.’

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‘(9) However, before making the endorsement, the mining registrar may require the holder to take the action the mining registrar considers appropriate to publicise the proposed entry, including, for example, publishing an advertisement in a newspaper or other publication.’.

**Insertion of new s 226A**

Clause **12.** After section 226—

*insert—*

**‘Reduction of land under mineral development licence on grant of mining lease**

‘**226A.(1)** This section applies if a mining lease is granted because of an application made by—

- (a) the holder of a mineral development licence granted for the same land for the same mineral, whether or not at the Minister’s direction; or
- (b) an eligible person with the holder’s consent.

‘(2) The land to which the licence applies is to be reduced by omitting the land to which the mining lease applies.

‘(3) The terms of the licence may be varied as the Minister directs.’.

**Amendment of s 230 (Plant remaining on former mineral development licence may be sold etc.)**

Clause **13.** Section 230(2), ‘chief executive’—

*omit, insert—*

‘Minister’.

**Amendment of s 245 (Application for grant of mining lease)**

Clause **14.(1)** Section 245(1)(o)(iii) and (iv) and (p), ‘Minister’—

*omit, insert—*

‘mining registrar’.

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	(2) Section 245(2), ‘Minister’—	1
	<i>omit, insert—</i>	2
	‘mining registrar’.	3
	(3) Section 245(4)—	4
	<i>renumber</i> as section 245(6).	5
	(4) Section 245—	6
	<i>insert—</i>	7
	‘(4) The mining registrar may accept an environmental management overview strategy, or a statement mentioned in subsection (1)(o)(iii) or (iv), that is not in its final form if the mining registrar is satisfied that it is sufficient for the application.	8 9 10 11
	‘(5) In deciding whether or not to accept the environmental management overview strategy or the statement, the mining registrar must have regard to the type of mining activities to be undertaken and their possible impact on the environment.’.	12 13 14 15
	<b>Amendment of s 248 (Consent of certain parties with registered interests to be obtained)</b>	16 17
Clause	<b>15.</b> Section 248(5), ‘subsection (4)’—	18
	<i>omit, insert—</i>	19
	‘subsection (3)’.	20
	<b>Amendment of s 252 (Certificate of application etc.)</b>	21
Clause	<b>16.</b> Section 252(7)(d), after ‘certificate of application’—	22
	<i>insert—</i>	23
	‘or a notice of the application in the approved form’.	24
	<b>Amendment of s 254 (Mining registrar may call conference in some cases)</b>	25 26
Clause	<b>17.</b> Section 254—	27

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	<i>insert—</i>	1
	‘(6) However, if the conference is about an application and an objection is lodged, the conference between the applicant and the objector must be held before the date fixed for the hearing of the application for the grant of the mining lease.’.	2 3 4 5
	<b>Insertion of new s 270A</b>	6
Clause	<b>18.</b> After section 270—	7
	<i>insert—</i>	8
	<b>‘Minister to approve environmental management overview strategy</b>	9
	‘270A.(1) The Minister must approve the final form of the environmental management overview strategy before the Minister recommends to the Governor in Council under section 271 that a mining lease be granted.	10 11 12 13
	‘(2) Subsection (1) applies whether or not an objection to the grant of a mining lease has been lodged.’.	14 15
	<b>Amendment of s 368 (Costs)</b>	16
Clause	<b>19.(1)</b> Section 368(2), after ‘of the Wardens Court’—	17
	<i>insert—</i>	18
	‘or a taxing officer of a District Court or of the Supreme Court’.	19
	<b>(2)</b> Section 368(3)—	20
	<i>renumber</i> as section 368(4).	21
	<b>(3)</b> Section 368—	22
	<i>insert—</i>	23
	‘(3) A party may apply to a Supreme Court judge for a review of the taxation.’.	24 25
	<b>Insertion of new sch, ss 13–16</b>	26
Clause	<b>20.</b> Schedule—	27

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<i>insert—</i>	1
<b>‘Consents and agreements</b>	2
<b>‘13.(1)</b> This section applies if, after the commencement of this Act—	3
(a) a consent that should have been given by the Minister as owner of land was instead given by trustees of land; or	4 5
(b) a compensation agreement under section 279 that should have been signed by the Minister as owner of land was instead signed by trustees of land.	6 7 8
<b>‘(2)</b> It is declared that the consent of the trustees was as valid as if it had been given by the Minister.	9 10
<b>‘(3)</b> It is declared that the agreement signed by the trustees was as valid as if it had been signed by the Minister.	11 12
<b>‘(4)</b> This section expires 1 year after it commences.’	13
<b>‘Grant of mining lease</b>	14
<b>‘14.(1)</b> It is declared that the grant of a mining lease on or after the commencement of the <i>Mineral Resources Amendment Act 1995</i> , section 67 <sup>2</sup> was not invalid merely because an environmental management overview strategy was not in its final form when the certificate of application was issued.	15 16 17 18 19
<b>‘(2)</b> This section expires on the day after it commences.’	20
<b>‘Application for mining lease over restricted land</b>	21
<b>‘15.(1)</b> This section applies to an application for a mining lease—	22
(a) lodged after the commencement of the <i>Mineral Resources Amendment Act 1995</i> , section 5(2); <sup>3</sup> and	23 24
(b) that is over the surface of land that was restricted land when the application was lodged.	25 26

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<sup>2</sup> Section 67 commenced on 1 May 1995.

<sup>3</sup> Section 5(2) commenced on 1 May 1995.

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‘(2) It is declared that the application for the lease was or is not invalid merely because the applicant did not lodge the written consent of an owner of adjoining land with the mining registrar before the last objection day ended.’

‘(3) This section expires on the day after it commences.’.

**‘Grant of mining lease over restricted land**

‘16.(1) This section applies to a mining lease—

- (a) granted after the commencement of the *Mineral Resources Amendment Act 1995*, section 5(2);<sup>4</sup> and
- (b) that is over the surface of land that was restricted land when the grant was made.

‘(2) It is declared that the grant of the lease was not invalid merely because the written consent of an owner of adjoining land had not been obtained.’

‘(3) This section expires 1 year after it commences.’.

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<sup>4</sup> Section 5(2) commenced on 1 May 1995.