



Queensland

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





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**2008**

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**A Bill**

for

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

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	<b>The Parliament of Queensland enacts—</b>	1
<b>Clause 1</b>	<b>Short title</b>	2
	This Act may be cited as the <i>Mineral Resources (Peak Downs Mine) Amendment Act 2008</i> .	3 4
<b>Clause 2</b>	<b>Act amended</b>	5
	This Act amends the <i>Mineral Resources Act 1989</i> .	6
<b>Clause 3</b>	<b>Insertion of new pt 18A</b>	7
	After part 18—	8
	<i>insert—</i>	9
	<b>‘Part 18A                   Provisions about particular                                   mining tenements</b>	10 11
	<b>‘722A Definitions for pt 18A</b>	12
	‘In this part—	13
	<b><i>Cherwell Creek</i></b> means Cherwell Creek Coal Pty Ltd ACN 063 763 002.	14 15
	<b><i>commencement day</i></b> means the day this part commences.	16
	<b><i>prescribed persons</i></b> means the holders of mining lease 1775 from time to time.	17 18
	<b>‘722B Period of operation of EPC545</b>	19
	‘Exploration permit for coal 545—	20
	(a) is renewed for a period ending at the beginning of the commencement day; and	21 22
	(b) may not be otherwise renewed; and	23
	(c) expires at the beginning of the commencement day.	24

<b>'722C Rejection of particular applications for mining tenements</b>	1
	2
'(1) This section applies to each application for a mining tenement that—	3
	4
(a) was made by Cherwell Creek; and	5
(b) relates to all or any of the prescribed land under section 722D or 722E; and	6
	7
(c) was current immediately before the commencement day.	8
'(2) The application is rejected.	9
<b>'722D Persons who may apply for, or be granted, a mining lease for land covered by MDLA364</b>	10
	11
'(1) For the prescribed period, a mining lease in respect of all or any of the prescribed land can only be applied for by, or granted to, the prescribed persons.	12
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	14
'(2) Subsection (1) applies despite section 232(1).	15
'(3) For subsection (1), the prescribed period is the period of 2 years starting on the commencement day or, if an extension is granted under subsection (4), the extended period.	16
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'(4) Before the prescribed period ends, the Minister may grant an extension of the period if the prescribed persons wish to make an application mentioned in subsection (1) and the Minister is satisfied that, in all the circumstances, there are good reasons why the application has not been made by that time.	19
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'(5) As soon as practicable after granting an extension under subsection (4), the Minister must publish a gazette notice stating the extended period.	24
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	26
'(6) The prescribed persons are eligible persons for section 233.	27
'(7) In this section—	28
<i>prescribed land</i> means the land that, as at the beginning of 14 April 2008, was the subject of application for mineral development licence 364 made by Cherwell Creek.	29
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<b>‘722E Persons who may apply for, or be granted, a mining lease for particular land covered by SL12/42239</b>	1 2
‘(1) For the prescribed period, a mining lease in respect of all or any of the prescribed land can only be applied for by, or granted to, the prescribed persons.	3 4 5
‘(2) Subsection (1) applies despite section 232(1).	6
‘(3) For subsection (1), the prescribed period is the period of 1 year starting on the commencement day or, if an extension is granted under subsection (4), the extended period.	7 8 9
‘(4) Before the prescribed period ends, the Minister may grant an extension of the period if the prescribed persons wish to make an application mentioned in subsection (1) and the Minister is satisfied that, in all the circumstances, there are good reasons why the application has not been made by that time.	10 11 12 13 14
‘(5) As soon as practicable after granting an extension under subsection (4), the Minister must publish a gazette notice stating the extended period.	15 16 17
‘(6) The prescribed persons are eligible persons for section 233.	18
‘(7) In this section—	19
<i>prescribed land</i> means land that, as at the beginning of April 2008—	20 21
(a) was comprised in special lease 12/42239 (title reference 17560077); and	22 23
(b) was not comprised in a mining tenement; and	24
(c) was not the subject of a current application for a mining tenement.	25 26
<b>‘722F No compensation payable by the State</b>	27
‘(1) No compensation is payable by the State to Cherwell Creek or any other person for or in connection with the enactment or operation of this part or anything done to carry out or give effect to this part.	28 29 30 31
‘(2) Without limiting subsection (1), the State is not liable to Cherwell Creek or any other person for any claim arising out	32 33



of or in any way connected to the rejection of applications under section 722C.	1 2
‘(3) This section applies despite any other Act or law.	3
‘(4) In this part—	4
<i>State</i> includes any person acting, or purportedly acting, for or on behalf of the State at any time.	5 6
<b>‘722G Compensation payment by prescribed persons</b>	7
‘(1) Cherwell Creek may apply to the Land Court for an order for the payment of compensation for the loss of its opportunity, because of the enactment of this part, to commercialise the MDLA364 coal resource.	8 9 10 11
‘(2) An application may only be made within 3 months after the commencement day.	12 13
‘(3) The prescribed persons are parties to the proceeding on the application.	14 15
‘(4) On an application under this section, the Land Court must—	16
(a) decide whether any compensation should be payable; and	17 18
(b) if it decides compensation should be payable—	19
(i) decide the amount of compensation; and	20
(ii) make an order for payment of the amount by the prescribed persons to Cherwell Creek.	21 22
‘(5) In making a decision under subsection (4), the Land Court must have regard to the likelihood that, had this part not been enacted, Cherwell Creek, alone or in conjunction with another person, would have been able to commercialise the MDLA364 coal resource, having regard to the following matters—	23 24 25 26 27 28
(a) the likely extent and quality of the MDLA364 coal resource;	29 30
(b) the likely mineability of the MDLA364 coal resource;	31

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- (c) the likely market for any coal mined from the MDLA364 coal resource; 1  
2
  - (d) the likely life of a mine for the MDLA364 coal resource; 3  
4
  - (e) the likely coal revenue generated from the MDLA364 coal resource; 5  
6
  - (f) the likely coal revenue generation costs; 7
  - (g) the likelihood of a mining lease, appropriate for Cherwell Creek to commercialise the MDLA364 coal resource, being granted under this Act; 8  
9  
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- Note—* 11
- See sections 269(4) and 271(1) for matters that the Land Court and Minister take into account in dealing with an application for the grant of a mining lease. 12  
13  
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- (h) any other relevant matter. 15
- ‘(6) Cherwell Creek may appeal to the Land Appeal Court against a decision of the Land Court under this section only on the ground of error of law. 16  
17  
18
- ‘(7) Subsection (6) applies despite the *Land Court Act 2000*, section 64. 19  
20
- ‘(8) In this section— 21
- coal revenue generation costs*** means the costs of generating revenue from the MDLA364 coal resource, including the costs of, or relating to, the following— 22  
23  
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- (a) the proving up of the MDLA364 coal resource; 25
  - (b) mine planning and environmental planning; 26
  - (c) development and construction of a coal mine and associated infrastructure; 27  
28
  - (d) compliance with this Act, the *Environmental Protection Act 1994* and the *Coal Mining Safety and Health Act 1999*; 29  
30  
31
  - (e) extraction of coal; 32
  - (f) preparation of coal; 33

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- (g) transportation, including access to railways, ports or other relevant infrastructure; 1  
2
- (h) employed or contracted labour; 3
- (i) equipment; 4
- (j) marketing; 5
- (k) financing; 6
- (l) rent and royalties payable to the State. 7
- MDLA364 coal resource*** means the coal resource in the land 8  
that, as at the beginning of 14 April 2008, was the subject of 9  
application for mineral development licence 364. 10
- prescribed persons*** means the persons who are the holders of 11  
mining lease 1775 on the commencement day.’. 12