Mineral and Energy Resources (Common Provisions) Bill 2014

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Andrew Cripps MP, Minister for Natural Resources and Mines

Title of the Bill

The short title of the Bill is the *Mineral and Energy Resources (Common Provisions) Bill 2014.*

Objectives of the Amendments

The Mineral and Energy Resources (Common Provisions) Bill 2014 is a significant step towards the modernisation of Queensland's resources legislation. The Bill implements a number of government initiatives that will establish greater certainty for landholders and reduce the regulatory burden on the resources sectors with less complexity, volume and duplication in the existing regulations.

In consideration of the recommendations of the Agriculture, Resources and Environment Committee, and the broader community and industry response to the Bill, a number of amendments are to be made to the Bill to clarify and improve its operation. In addition to minor amendments on a number of provisions in the Bill, amendments are to be made to the proposed notification and objection processes, land access, restricted land provisions and the overlapping tenure frameworks. Further detail on these amendments are outlined below.

Land Access

The amendments will make changes to the proposed restricted land framework under chapter 3 of the Bill to address some of the issues raised by stakeholders and other matters; and to correct a number of minor amendments relating to land access. The more significant amendments to the Bill give effect to the following objectives:

- ensure residences are provided protection even though they may not be a primary residence, such as when an unoccupied house on a property is intended for future use by family members;
- provide protection for buildings and other areas throughout the duration of an exploration authority and give certainty to the resources sector about what restricted land applies when an application for a production authority is made;
- ensure that accommodation used by temporary workers does not restrict authorised activities of a resource authority holder that can be considered under an agreement framework;
- provide an avenue for a resource authority holder to access an area of the resource authority when withheld landholder consent for restricted land blocks access through the only entry point;
- reduce the risk that may arise from an oral access agreement that is binding on successors and assigns;
- provide a process to deal with agreements registered on title when the lot is subdivided and the agreement no longer applies to the subdivided part; and
- ensure opt-out agreements provide certainty to all parties if there is a change in property owner or resource authority holder.

Overlapping Tenure Framework – Coal and Petroleum (CSG)

The objectives of the amendments are to:

- address a number of inadvertent omissions and areas for improvement relating to overlapping tenures for coal and CSG;
- provide increased certainty to industry, and improve the operation of the new overlapping tenures framework; and
- clarify the legislation to better reflect the intent of the industry white paper entitled '*Maximising utilisation of Queensland's coal and coal seam gas resources – A new approach to overlapping tenure in Queensland'* (the White Paper).

Notification and objections

The objectives of the amendments are to make changes to the proposed notification and objection framework in chapter 9 part 3 (*Environmental Protection Act 1994*) and part 7 (*Mineral Resources Act 1989*) of the Bill to address some of the issues raised by stakeholders.

The major amendments are to:

- provide for landholders who share a common boundary with land on which the mine is proposed to be notified and to have limited objection rights to the application;
- to provide for the Land Court to strike out objections at any point in the objection process where an objection is: outside the jurisdiction of the court, vexatious, frivolous or an abuse of the court process; and
- To remove any doubt in regard to how the Land Court may deal with an objection to an environmental authority where the environmental conditons have been set through a Coordinator-General's report for the project.

Achievement of the Objectives

Land Access

To achieve the main objectives the following changes to the Bill are proposed:

- replace the definition of residence under chapter 3 of the Bill to remove the reference to primary dwellings and provide that residence does not include accommodation for non-resident workers;
- amend the definition of restricted land under chapter 3 of the Bill so that restricted land applies for a building or area at any time for authorities other than production authorities and that for production authorities, restricted land applies to buildings and areas from the date the application for the authority is made;
- amend the definition of prescribed activities to which restricted land applies to provide an exemption to restricted land when withheld landholder consent blocks the only entry point to an area of a resource authority;
- amend the Bill so that oral access agreements are not binding on successors and assigns;
- amend the Bill to require the resource authority holder to remove from the register an agreement noted on title that, due to subdivision of land, the agreement no longer applies to the divided land; and
- amend the Bill to provide that opt-out agreements are binding on personal representatives, successors and assigns.

Overlapping Tenure Framework – Coal and Petroleum (CSG)

To achieve the objectives the following changes to the Bill are proposed:

- amend the main purposes of chapter 4 of the Bill to clarify that it is intended to provide a statutory framework that applies if parties do not otherwise agree;
- insert a new Division to ensure that industry is aware of the provisions contained in chapter 4 of the Bill that are mandatory and cannot be contracted out of by agreement;
- clarify the circumstances in which a petroleum resource authority holder can claim exceptional circumstances;
- amend the requirements for an Agreed Joint Development plan to provide increased flexibility for industry;
- provide provisions for dealing with concurrent production lease applications;
- clarify the extent of the Minister's power to change agreed joint development plans and the process by which the Minister may exercise this power;
- amend the compensation provisions and provisions relating to incidental CSG to correctly reflect the intent of the White Paper;
- clarify the process for claiming compensation and what matters may be referred to arbitration as a result of a compensation liability dispute; and
- clarify the operation of the transitional provisions relating to the Surat Basin.

Notification and objections

To achieve the objectives the following changes to the Bill are proposed:

- amend the Bill to require an applicant for a mining lease to identify land that shares a common boundary with the proposed mining lease and the owners of that land;
- amend the Bill to provide for:

  - the owner's of adjoining land to be given a notice that a mining lease has been applied for under the *Mineral Resources Act 1989;*
  - the owners of adjoining land and occupiers of directly affected land over which the mining lease or access is proposed or infrastructure providers to be provided notice of the proposed mine in accordance with one of the methods identified in a practice manual; and
  - land is still adjoining land despite being separated from the land on which a mining lease is proposed by features such as: a road; watercourse;railway; stock route; reserve; or drainage or other easement.
- amend the Bill to provide that the owner of land adjoining a proposed mining lease may object under section 260 of the *Mineral Resources Act 1989*. The grounds of an objection for an adjoining land holder are to be limited to the proximity of the mine to the adjoining land and impact of the operations of the mine on the adjoining land;
- existing section 269(4)(e) of the Mineral Resources Act was to be transferred to section 271 as a matter that must be considered by the Minster when deciding whether to grant a mining lease. This did not occur and an amendment to the Bill is needed to transfer section 269(4)(e) to section 271; and
- it is intended that the *State Development and Public Works Organisation Act 1971* be amended to ensure that where a Coordinator-General's report deals with all of the issue relating to an environmental authority and there has been no change to the development after the Coordinator-General's report is issued that no objection can be made on the environmental authority.

Alternative Ways of Achieving Policy Objectives

Land Access

Amendments to the Bill are required to achieve the policy objectives.

Overlapping Tenure Framework – Coal and Petroleum (CSG)

Amendments to the Bill are required to achieve the policy objectives.

Notification and objections

Amendments to the Bill are required to achieve the policy objectives.

Estimated Cost for Government Implementation

Land Access

Amendments to the Bill are not expected to create any additional cost to government to implement.

Overlapping Tenure Framework – Coal and Petroleum (CSG)

Amendments to the Bill are not expected to create any additional cost to government to implement.

Notification and objections

Amendments to the Bill are not expected to create any additional cost to government to implement.

Consistency with Fundamental Legislative Principles

The proposed amendments are consistent with fundamental legislative principles and have sufficient regard to the rights and liberties of individuals.

Consultation

Feedback provided through the Agriculture, Resources and Environment Committee submission process has been considered in preparing these amendments.

The department has also continued discussions with peak industry bodies throughout the drafting process to ensure the overlapping tenure amendments accurately reflect the intent of the White Paper.

NOTES ON PROVISIONS

Land Access

Chapter 3, part 2, division 2, (Entry for authorised activities requires entry notice)

Clause 1 amends the heading of chapter 3, part 2, division 2 of the Bill, to include 'access' in the heading to make it clear that entry notice requirements apply to both authorised activities for the resource authority and crossing access land.

Clause 38 (Application of div 2)

Clause 2 amends clause 38 of the Bill to make it clear that requirements under chapter 3, part 2, division 2 apply to carrying out an authorised activity in the area of the resource authority and gaining entry and crossing land outside the area of the resource authority needed to reach the area of the resource authority.

Clause 39 (Obligation to given entry notice to owners and occupiers)

Clause 3 amends subclause 39(1) of the Bill to make it clear that the obligation to give an entry notice to owners and occupiers of private land applies to the purposes mentioned in the amended clause 38. This includes when a resource authority holder intends carrying out an authorised activity in the area of the resource authority or gaining entry and crossing land outside the area of the resource authority needed to reach the area of the resource authority.

Clause 40 (Exemptions from obligations under div 2)

Clause 4 amends clause 40 of the Bill to remove subclause (1)(c) which provides an exemption from giving an entry notice if the Land Court is considering an application made

to resolve an unsuccessful negotiation of a conduct and compensation agreement. This was unintended and therefore is removed. The clause is also amended to reflect changes made to clause 38.

Clause 41 (Approval to give entry notices by publication)

Clause 5 amends clause 41 of the Bill to ensure there is a process in place as provided by the common application and decision making provisions in chapter 5 of the Bill, for an application under clause 41 for approval to give entry notices by publication.

Clause 42 (Right to give waiver of entry notice)

Clause 6 amends clause 42 of the Bill as a consequence of clarifying amendments to clause 38 of the Bill.

Clause 43 (Carrying out advanced activities on private land requires agreement)

Clause 7 amends clause 43 of the Bill to ensure that the resource authority holder must have some form of formal agreement with each owner or occupier, or be an applicant or respondent to an application made to the Land Court before accessing private land to carry out an advanced activity. Clause 43 currently implies that all parties must be subject to the same agreement or Land Court matter.

Subclause 43(1)(d) of the Bill is also amended to replace the reference to the Land Court 'considering' an application, to the when an application is 'made' to the Land Court. This adopts the existing terminology used in section 500A(e)(ii) of the *Petroleum and Gas (Production and Safety) Act* so that there is no ambiguity about when the Land Court is 'considering' an application.

Clause 57 (What is a periodic entry notice)

Clause 8 amends subclause 57(3) of the Bill to provide that any agreement with a public land authority to a longer entry period to public land must be in writing.

Clause 58 (Entry to public land to carry out authorised activity is conditional)

Clause 9 amends the example provided under subclause 58(1)(a) of the Bill to correct the reference to petroleum authority by replacing it to a reference to a resource authority. Clause 58 applies to all resources authorities, not just petroleum authorities.

Clause 63 (Use of public roads for notifiable road use)

Clause 10 amends subclause 63(1)(b)(iii) of the Bill to correct the cross reference to clause 99 with a reference to clause 98 of the Bill.

Clause 67 (Definitions for pt 4)

Clause 11 amends clause 67 of the Bill to insert new subclause (b)(iv) and renumber existing subclause (iv) to subclause (v). New subclause (b)(iv) is intended to address the scenario when withheld landholder consent to enter restricted land blocks access to any area of the

resource authority through the only entry point. The exemption only applies to crossing land and not for undertaking resource activities such as drilling or seismic surveys. It also applies when the landholder has unreasonably refused to agree to the crossing. The refusal may be unreasonable having regard to the matters mentioned in clause 49(2) and (3) of the Bill.

Clause 68 (What is restricted land)

Clause 12 amends clause 68 of the Bill to effect changes to what is considered restricted land and when restricted land applies. Existing subclauses 68(1)(a)(i) to (iii) are amended to remove reference to restricted land applying from the date the resource authority was granted. Existing subclause 68(2) of the Bill is replaced with a new subclause to limit when restricted land applies to areas, buildings or structures to when an application for a production resource authority is made. A definition of production resource authority is also added to subclause 68(3) that includes the production authorities under each of the five Resources Acts. For any other resource authority, including exploration authorities, restricted land applies at any time during the term of the authority, thereby allowing owners and occupiers to create or remove restricted land at any time.

Subclause 68(1)(a)(iv) is also amended to include 'structures' in the regulation-making power to prescribe other buildings or areas as restricted land. This is to provide flexibility to this regulation-making power to enable protection to be provided to other types of property improvements or infrastructure in the future if needed, as technologies and business practices of the resources industry and landholders evolve.

The definition of 'residence' under subclause 68(3) of the Bill is amended so that residences are provided protection if they may not be occupied at all times or be a primary residence. This may include for example, a manager's residence or an unoccupied house on a property that the owner intends for family or other use in the future. The replaced definition of residence makes it clear that it is not intended that buildings used to accommodate itinerant non-resident workers, such as for shearers or seasonal fruit pickers are restricted land. For example, buildings such as dongas, shearers quarters or bunkhouses used for these purposes are not intended to be restricted land.

Clause 69 (Who is a relevant owner or occupier)

Clause 13 amends subclause 69(d) as a consequence of amendment to subclause 68(1)(a)(iv).

Clause 71 (Consent not required for entry on particular land to carry out prescribed activities for mining lease)

Clause 14 amends clause 71 of the Bill that provides for when the holder of a mining lease can enter restricted land without obtaining written consent. The amendment is to remove any doubt that clause 71 in connection with amendments to section 279 of the *Mineral Resources Act 1989* under clause 429 of the Bill, does not require that a compensation agreement is needed for all restricted land that may form part of the proposed area of the mining lease prior to grant. The amendment does not however prevent parties from forming a compensation agreement regarding restricted land. A compensation agreement for restricted land is only needed prior to grant if the Minister has considered that the activities to be carried out on the restricted land cannot co-exist with the authorised activities under the proposed mining lease.

Clause 72 (Declaration about whether particular land is restricted land)

Clause 15 amends clause 72 of the Bill as a consequence of amendment to clause 67 of the Bill. The amendment allows a prescribed person to apply to the Land Court to seek a determination on whether a particular activity is a prescribed activity for a resource authority. The amendment will enable the Land Court to consider the authorised activity against the definition provided in clause 67 of the Bill and determine whether the activity is a prescribed activity or falls within an exemption under subclause 67(b).

Clause 76 (Access if second resource authority is not a lease)

Clause 16 amends clause 76 of the Bill to remove uncertainty in its interpretation. Clause 76 provides for when a resource authority holder can cross the area of another resource authority (that is not a lease) held by a different holder. Clause 76 currently states that crossing of the area may occur without the consent of the resource authority holder if there is no adverse impact on the holder's activity or 'proposed authorised activity'. The clause is amended to remove reference to a 'proposed authorised activity' under subclause 76(2). This phrase could cause uncertainty as to whether it applies to future activities that have not yet been authorised. To remove any doubt, a new subclause 76(3) is inserted so that the access can occur without consent if it does not adversely impact an authorised activity whether or not it has already started.

Clause 79 (Access agreements binds successors and assigns)

Clause 17 amends the heading of clause 79 of the Bill to reflect that access agreements are binding on successors and assigns if they are in writing.

Clause 79 (Access agreements binds successors and assigns)

Clause 18 amends clause 79 of the Bill so that access agreements are binding on successors and assigns only if they are in writing.

Before clause 80

Clause 19 inserts a new clause 79A before clause 80 of the Bill that states that the division 1 (compensation relating to private and public land) does not apply to prospecting permits, mining claims or mining leases under the *Mineral Resources Act 1989*. This is needed as these mining tenements have separate access and compensation provisions under that Act.

Chapter 3, part 7, division 2 (Provisions for conduct and compensation agreements)

Clause 20 inserts new subdivision 1A and new clause 80A that states that division 2 (provisions for conduct and compensation agreements) do not apply to prospecting permits, mining claims or mining leases under the *Mineral Resources Act 1989*. This is needed as these mining tenements have separate access and compensation provisions under that Act.

Clause 90 (Particular agreements to be recorded on titles)

Clause 21 amends clause 90 of the Bill to add a process for an agreement to be removed from the register if a lot is subdivided and the agreement no longer applies to the subdivided land.

Where the agreement does not apply to a new lot created by the subdivision, the resource authority holder is required to remove the agreement within 28 days of becoming aware that the land has been subdivided. However if the agreement is still relevant to all or part of a new lot created by the subdivision, the record of the agreement is to remain on the new lot's title.

Clause 93 (Compensation not affected by change in administration or of resource authority holder)

Clause 22 amends clause 93 of the Bill to add new subclause 93(3) to make opt-out agreements binding on the parties of the agreement and personal representatives, successors and assigns of the parties.

Clause 94 (Land Court may decide if negotiation process unsuccessful)

Clause 23 amends clause 94 of the Bill to allow an eligible party to apply to the Land Court to decide the resource authority holder's compensation liability or future compensation liability in addition to the matters mentioned in subclauses 81(1)(a) and (b) of the Bill. The changes remove any doubt that both the resource authority holder and an owner/occupier can apply to the Land Court. It also removes uncertainty about what the Land Court can consider by referring directly to the matters mentioned in clause 81 about conduct and compensation agreements which includes how and when the resource authority holder can enter land and how the authorised activities must be carried out.

Clause 100 (Main purposes of ch 4)

Clauses 24 and 25 amend clause 100 of the Bill to clarify that the purpose of chapter 4 is to provide a statutory framework that applies for overlapping tenures resource parties that are unable to agree to alternative commercial arrangements.

Clause 101 (Definitions for ch 4)

Clauses 26 to 36 amend clause 101 of the Bill so that the definition for agreed joint development plan in clause 101 reflects further amendments to clauses127 and 138, which now only require that a notice be lodged with the department when a joint development plan has been made.

This amendment also inserts a definition for concurrent notice, which reflects the inclusion of new provisions relating to the treatment of concurrent applications under the statutory framework.

This amendment also establishes a definition for EP (coal) and MDL (coal) which is referenced throughout chapter 4 of the Bill.

The petroleum lease (csg) definition has been amended to better reflect the meaning of a petroleum lease under the *Petroleum and Gas (Production and Safety) Act 2004.*

This amendment also includes the definition of a mining commencement date which means the date in which the ML (coal) can start to carry out authorised activities in the ML (coal) that is the subject of an initial mining area (IMA) or rolling mining area (RMA). It also clarifies that the date for starting to carry out an ML (coal) authorised activities in an overlapping area generally, means the mining commencement date.

The definition for a relevant matter has also been amended to better reflect the intent of the White Paper in the Bill. The amendment clarifies that the size, or location within an overlapping area of an IMA, an RMA or a simultaneous operations zone (SOZ) are matters which may be arbitrated. An agreed mining commencement date or abandonment for an IMA or RMA is not a relevant matter which may be arbitrated.

This amendment also updates the cross references for definitions which have changed as a result of further amendments made to various provisions in chapter 4 of the Bill.

Clause 102 (What is an *overlapping area)*

Clause 37 amends clause 102 of the Bill to clarify that the definition for an overlapping area means an area that is subject of both a coal resource authority and a petroleum resource authority.

Clause 106 (Purpose of div 3)

Clause 38 amends clause 106 of the Bill to clarify that the definitions and provisions provided for in division 3, part 1 apply to chapter 4.

After clause 114

Division 4 Mandatory requirements

114A Mandatory requirements for participants

Clause 39 inserts a new clause 114A of the Bill to clearly show which provisions of chapter 4 are mandatory for overlapping coal and CSG tenures.

Clause 118 (Advance notice)

Clause 40 amends clause 118 of the Bill to omit the words proposed joint development or an agreed joint development and instead refers to a joint development plan. This is due to clause 101 which defines a joint development plan as a proposed joint development or an agreed joint development plan.

Clause 124 (Exceptional circumstances notice may be given by petroleum resource authority holder)

Clause 41 amends clause 124 of the Bill to clarify that an ATP holder and a PL (csg) holder (petroleum resource authority holder) may both give an exceptional circumstances notice to an ML (coal) holder. This amendment also allows a petroleum resource authority holder to give an exceptional circumstances notice if the parties are negotiating amendments to an agreed joint development plan under clause 130 which relate to changes in the size, location

or mining commencement date for an IMA or RMA. As such, the petroleum resource authority holder's right to claim exceptional circumstances is reopened for an IMA or RMA that are subject to the change in size, location or mining commencement date.

Clause 125 (Acceleration notice may be given by ML (coal) holder)

Clauses 42 to 44 amend clause 125 of the Bill to clarify the requirements for when an ML (coal) holder gives an acceleration notice to the PL holder. The acceleration notice is to state a proposed earlier mining commencement date for the IMA or RMA as well as any other information that is prescribed by regulation. This amendment also clarifies that a PL holder is unable to refuse the proposed mining commencement date contained in an acceleration notice.

Clause 127 (Requirement for agreed joint development plan)

Clause 45 amends clause 127 of the Bill to provide increased flexibility for resource parties to come to agreements that are alternative to the legislative default framework set out in chapter 4 of the Bill. Concerns raised during the AREC consultation process indicate that the situation may arise during negotiation for development of an overlapping area where identification of an IMA, RMA or SOZ may not occur. The proposed amendments are a solution to industry's concern surrounding the mandatory requirement to provide details of an IMA, RMA and SOZ in an agreed joint development plan.

To decrease the regulatory burden, the department has also determined that lodging the joint development plan is not required for the State to fulfil its custodial obligations. Proposed amendments provide that instead of requiring the joint development plan to be lodged, a notice to the department stating that an agreed joint development plan is in place will suffice. Information on the timing, size and location of authorised activities is already provided to the department through initial development plans and work programs. This approach aligns with that used for Safety Management Plans under the safety and health regime. Further information regarding the content of the written notice will be provided in the regulation. This may include a statement as to how resource parties are optimising the development and use of the State's coal and CSG resources.

Clause 128 (Negotiation of agreed joint development plan)

Clause 46 amends clause 128 of the Bill to ensure consistency with amendments to clause 127 of the Bill.

Clause 129 (Consistency with work programs and development plans)

Clauses 47 and 48 amend clause 129 of the Bill to ensure the effective operation of the new overlapping tenures framework. The previous drafting of the Bill omitted that joint development plans must be consistent with work programs in addition to development plans. ATP holders are not required to have development plans and as such were not captured under the previous iteration of the Bill.

Clause 130 (Amendment of agreed joint development plan)

Clause 49 amends clause 130 of the Bill to reduce regulatory burden and ensure effective operation of the new overlapping tenures framework. To align with amendments to clause 127, parties will not be required to lodge an amended joint development plan with the department. Instead notices to the department will only be required when the amendment of the joint development plan results in a cessation or significant reduction in authorised activities for any of the resource authority holders. If there is a cessation or significant reduction or increase of authorised activities, resource authority holders will still be required to provide a statement (accompanying the notice) about whether the amendment to the joint development plan is reasonable and if the resource authority holders have taken all reasonable steps to prevent the cessation or reduction.

Clause 135 (Right of first refusal)

Clauses 50 to 53 amend clause 135 of the Bill to clarify that the ML (coal) holder must offer supply of any incidental CSG (both diluted and undiluted) to overlapping petroleum resource authority holders on reasonable terms.

This amendment also addresses concerns expressed during the AREC consultation process in that the term 'aware' is vague and may be subject to various interpretations. To provide clarity for this clause, the amendment ensures the ML (coal) holder must make the offer of undiluted incidental CSG in an IMA as early as practicable.

This amendment also clarifies in clause 135(7) that if the ML (coal) holder has not used gas under section 318CN of the *Mineral Resources Act 1989* within 12 months after becoming entitled to use the gas under subsection 135(6), then the ML (coal) must re-offer the gas to the petroleum resource authority holder. This also addresses industry concern expressed during the AREC consultation process to clarify the term 'use' in this subsection.

Chapter 4, part 2, division 5 (Subsequent petroleum production)

Part 2A (Subsequent petroleum production)
Clause 54 amends chapter 4, part 2, division 5 to be a new part 2A to improve the structure the Bill and widen the application of particular sections.

Clause 136 (Defintions for pt 2A)

Clause 54 amends clause 136 of the Bill to include definitions as a result of amendments to particular clauses in part 2A.

Clause 136A (Table for pt 2A)

Clause 54 inserts a new clause 136A to provide a table for the new chapter 4, part 2A.

Clause 137 (Petroleum production notice)

Clause 54 amends clause 137 of the Bill to align with new provisions relating to concurrent applications. Upon making an application for a petroleum lease, an ATP holder (referred to as a PL holder in the Bill) must now provide a petroleum production notice to EPC and MDL holders in addition to ML (coal) holders.

Subsection (1)(c) has been removed from the Bill as an ML (coal) holder overlapping an ATP holder would already have a joint development plan. As such, when the ATP holder applies for the petroleum lease, the agreed joint development plan would then need to be amended.

Clause 138 (Requirement for agreed joint development plan)

Clause 54 amends clause 138 of the Bill to provide increased flexibility for resource parties to come to agreements that are alternative to the legislative default framework set out in chapter 4 of the Bill. Concerns raised during the AREC consultation process indicate that the situation may arise during negotiation for development of an overlapping area where identification of an IMA, RMA or SOZ may not occur. The proposed amendments are a solution to industry's concern surrounding the mandatory requirement to provide details of an IMA, RMA and SOZ in an agreed joint development plan.

To decrease the regulatory burden, the department has also determined that lodging the joint development plan is not required for the State to fulfil its custodial obligations. Proposed amendments provide that instead of requiring the joint development plan to be lodged, a notice to the department stating that an agreed joint development plan is in place will suffice. Information on the timing, size and location of authorised activities is already provided to the department through initial development plans and work programs. This approach aligns with that used for Safety Management Plans under the safety and health regime. Further information regarding the content of the written notice will be provided in the regulation. This may include a statement as to how resource parties are optimising the development and use of the State's coal and CSG resources.

Clause 138A (Exceptional circumstances notice previously given by ATP holder when PL holder)

Clause 54 inserts new clause 138A into the Bill to clarify the legislation to better reflect the intent of the White Paper. This new section provides that when an ATP holder has claimed exceptional circumstances under clause 124 and then subsequently proceeds to a PL prior to the agreed mining commencement date, the mining commencement date as established through the exceptional circumstances process will continue to apply.

Clause 139 (Negotiation of agreed joint development plan)

Clause 54 amends clause 139 of the Bill to align with amendments to clause 127 and clause 138 of the Bill.

Clause 141 (Amendment of agreed joint development plan)

Clause 55 amends clause 141 of the Bill to reduce regulatory burden and ensure effective operation of the new overlapping tenures framework. To align with amendments to clause 138 of the Bill, parties will not be required to lodge an amended joint development plan with the department. Instead notices to the department will only be required when the amendment of the joint development plan results in a cessation or significant reduction or increase of authorised activities for any of the resource authority holders. If there is a cessation or significant reduction in authorised activities, resource authority holders will still be required to provide a statement (accompanying the notice) about whether the amendment

to the joint development plan is reasonable and if the resource authority holders have taken all reasonable steps to prevent the cessation or reduction.

After clause 143

Part 2B Concurrent applications

Clause 56 inserts a new Part 2B in chapter 4 of the Bill for concurrent applications.

Clause 143A (Concurrent notice may be given by ATP holder)

Clause 56 inserts a new clause 143A of the Bill for when an ATP holder may give an EP coal or MDL (coal) a concurrent notice. This clause applies if the ATP holder has received an advance notice and intends to apply for a PL in the overlapping area within 6 months of receiving the advance notice. The ATP holder may then issue a concurrent notice to the EP coal or MDL holder within 3 months of the advance notice.

If the ATP holder has applied for a PL within 6 months of receiving the advance notice, then chapter 4 applies as if the ATP holder was already a PL holder. That means the proposed mining commencement date stated in the advance notice for the IMA will be taken to be at least 11 years after the date on which the advance notice was given. As the ML (coal) holder has right of way to develop coal deposits within a defined area of sole occupancy, considering the ATP holder as if they were a PL holder under chapter 4 ensures that the State's CSG resources are optimised.

Clause 143B (Requirements for holder of EP (coal) or MDL (coal) if concurrent PL application

Clause 56 inserts a new clause 143B of the Bill for when a petroleum lease application is lodged and regardless of the time lapse, a subsequent mining lease application is lodged for the overlapping area and the petroleum lease application is still undecided. In this situation, the petroleum lease applicant will be afforded at least 11 years production window to carry out authorised activities, unless otherwise agreed by the resource parties.

Clause 144 (Table for pt 3)

Clause 57 amends clause 144 of the Bill to remove the reference to a a petroleum lease (csg) in column 1 and the reference to the corresponding resource authorities from column 2 from the adverse effects table.

Clause 146 (Expedited land access for petroleum resource authority holders)

Clause 58 amends clause 146 of the Bill to clarify that expedited land access provisions are to apply to ATP and PL holders (petroleum resource authority holders) in accordance with the White Paper and agreed outcomes from the Technical Working Group. This amendment also reflects changes to clauses 102 and 144 of the Bill.

Clauses 150 and 151

Clause 149A Requirement to give copy of agreed joint development plan

Clause 59 inserts clause 149A of the Bill to allow the Minister to request a copy of an agreed joint development plan from a resource authority holder for an overlapping area. The resource authority holder is required to provide a copy of the agreed joint development plan to the Minister within 30 business days after the Minister's written request.

Clause 150 Amendment of agreed joint development plan

Clause 59 amends clause 150 of the Bill to include that when the Minister requires a resource authority holder to amend the contents of an agreed development plan, the Minister must also consider the extent to which the amendment is technical and commercially feasible for the resource authority holders.

The written notice by the Minister to require a resource authority holder to amend an agreed joint development plan must also include an information notice about the Minister's decision to require the amendment.

Clause 151 Request for information

Clause 59 amends clause 151 of the Bill to include that the written notice by the Minister to request a resource authority holder to give any information considered appropriate must also include an information notice about the Minister's decision to request the information.

Clause 151A Right of appeal

Clause 59 inserts clause 151A of the Bill to include an appeal provision for resource authority holders to appeal a decision made by the Minister under chapter 4, part 4, division 2 of the Bill.

The inclusion of an appeal provision addresses concerns raised through the AREC submission process that chapter 4, part 4 does not currently provide an appeal provision for the resource authority holders regarding the Minister's decision to exercise the power to amend an agreed joint development plan or request information.

Clause 152 (Defintions for div 3)

Clause 60 amends clause 152 of the Bill to include the cross references for the definitions relating to reconciliation payment and replacement gas.

Clause 155 (What is PL *minor gas infrastructure*)

Clause 61 amends clause 155 of the Bill to clarify the legislation to better reflect the intent of the White Paper. As part of consultation with industry in the development of the new overlapping tenures framework, it was agreed that 'minor facilities associated with, and servicing, major gas infrastructure, where the major gas infrastructure itself does not require relocation' would be included under the definition of PL minor gas infrastructure. The proposed amendment corrects the inadvertent drafting omission in the Bill.

Clause 157 (What is ATP *major gas infrastructure*)

Clause 62 amends clause 157 of the Bill to clarify the legislation to better reflect the intent of the White Paper. Previous drafting of the Bill inadvertently omitted a regulation making power to include any infrastructure for the ATP that is intended to be prescribed under a regulation.

Clause 158 (Liability of ML (coal) holder to compensate PL holder)

Clause 63 amends clause 158 of the Bill to address concerns expressed during the AREC consultation process regarding the application of this provision. Amendment to clause 158(1)(a) makes it clear that this provision will apply if an acceleration notice given by an ML (coal) holder results in the PL holder suffering lost production at the time the notice was given or sometime in the future. This amendment also clarifies that as a result of the acceleration notice, the ML (coal) may be required to replace PL minor gas infrastructure for the PL holder. Amendment to clause 158(1)(b) makes it clear that this provision will apply if authorised activities carried out or proposed to be carried out by the ML (coal) holder impacts the PL (csg) holder's connecting infrastructure or major gas infrastructure.

Amendment to clause 158(2)(e) clarifies that the ML (coal) holder is liable to compensate the PL holder if the agreed mining commencement date of the IMA or an RMA as set out in the acceleration notice is delayed and the PL holder has incurred additional costs.

Amendment to clause 158(4) clarifies the process for the ML (coal) holder to reduce the compensation liability for the PL holder's additional cost mentioned in subsection 158(2)(e) if the ML (coal) holder's delay is caused by an event or combination of events which is beyond the reasonable control of the ML (coal) holder.

Clause 159 (Liability of ML (coal) holder to compensate ATP holder)

Clause 64 amends clause 159 of the Bill to clarify that this provision applies if an ATP holder is likely to abandon ATP major gas infrastructure as a result of the ML (coal) holder carrying out authorised activities in an IMA or RMA.

After clause 159

159A Meeting compensation liability

Clause 65 inserts a new clause 159A of the Bill to better reflect industry position for compensation liability as set out in the White Paper. This amendment allows parties to agree to alternative arrangements for compensation liability. However, if parties are unable to agree to alternative arrangements then this amendment ensures that the petroleum resource authority holder claiming compensation liability provides information to the ML (coal) holder that shows the value of any lost production, replacement costs or costs of abandonment for the claim. It also makes clear that a petroleum resource authority holder is only entitled to receive an amount of compensation once for the IMA or RMA identified in the acceleration notice. This amendment also clarifies that the amount of compensation the ML (coal) is required to pay will be made at the time the lost production would have otherwise occurred.

Clause 160 (Duty of mitigation)

160 Minimising compensation liability

Clause 66 amends clause 160 of the Bill to address concerns raised during the AREC consultation process regarding the omission of the hierarchy preference for compensation in relation to lost CSG production, as set out in the White Paper and Technical Working Group papers. This amendment makes clear that both the ML and petroleum resource authority holders should both take all reasonable steps to mitigate compensation liability for lost CSG production. It also clarifies that where mitigation does not meet the ML (coal) holder's compensation liability, the ML (coal) holder must to the extent reasonable, offer the petroleum resource authority holder replacement gas. Finally, where mitigation and/or replacement gas does not meet the ML (coal) holder's compensation liability, the ML (coal) holder must offer the petroleum resource authority holder financial compensation.

Clause 161 (Offsetting of compensation liability)

Clause 67 amends clause 161 of the Bill to address concerns raised during the AREC consultation process regarding offset compensation liabilities with incidental CSG. This amendment clarifies that the ML (coal) holder's offer of undiluted ICSG to the petroleum resource authority that is not accepted will only reduce compensation liabilities to the extent it is practicable for the petroleum resource authority holder acting reasonably to provide off-take infrastructure. The amendment also addresses an inadvertent drafting omission as an ML (coal) holder's compensation liability may be to a PL holder or an ATP holder.

Clause 162 (Reconciliation payments and replacement gas)

Clause 68 amends clause 162 of the Bill to clarify that the PL holder is liable to give the ML (coal) holder either reconciliation payment and/or replacement gas if the PL holder subsequently recovers CSG that was the subject of a compensation payment. The reconciliation payment and/or replacement gas must not be more than the compensation payment.

Clause 163 (Dispute resolution)

163 Claiming compensation

Clause 69 amends clause 163 of the Bill to split the provision to clearly show the process for claiming compensation.

After clause 163

163A Availability of dispute resolution

Clause 70 inserts a new clause 163A of the Bill which provides the dispute resolution process if parties cannot agree on an amount of compensation and when the compensation payment must be made. The proposed amendment also corrects the inadvertent drafting omission in the Bill in which only the ML (coal) holder and petroleum resource authority holder may apply for arbitration of a dispute.

Clause 164 (Application of div 4)

Clause 71 amends clause 164 of the Bill to clarify that an acceleration notice cannot be refused by a PL holder and as such, cannot be referred to Arbitration.

Clause 167 (Arbitrator's functions)

Clause 72 amends clause 167 of the Bill to insert a regulation making power which will provide further detail on matters that an arbitrator may consider in deciding a dispute by the issuance of an award. The insertion of a regulation making power is in response to concerns raised through the AREC submission process as to whether there was enough guidance to allow the arbitrator to determine disputes on the referrable matters to deliver outcomes consistent with the principles of the White Paper.

Clause 168 (Expert appointed by arbitrator)

Clause 73 amends clause 168 to replace the term 'petroleum mining' with 'coal seam gas exploration and production' as the term is not defined and a qualified person appointed by the arbitrator for the petroleum side must have expertise in CSG related matters rather than just petroleum in general.

Clause 173 (Lodgement of joint development plan after arbitration)

173 Notice to the chief executive after arbitration

Clause 74 amends clause 173 of the Bill to improve the structure of this provision.

Clause 218 (Definitions for div 1)

Clauses 75 and 76 amend clause 218 of the Bill to clarify that the definitions apply for part 4 of chapter 7 of the Bill.

Chapter 7, part 4, division 2 (Exploration resource authorities granted over existing production resource authorities)

Division 2 Resource authorities granted over existing production resource authorities

Clause 221 Coal resource authority granted over existing PL

Clause 77 amends clause 221 of the Bill to address concerns expressed during the AREC consultation process regarding the transitional provisions for pre-existing tenures. This amendment clarifies that regardless of when an exploration permit (coal) or mineral development (coal) or a mining lease (coal) overlaps a PL that was granted before the commencement of chapter 4 and 7 of the Bill, then the pre-amended *Mineral Resources Act 1989* and *Petroleum and Gas (Production and Safety) Act 2004* will apply.

Clause 222 Petroleum resource authority granted over existing ML

Clause 77 amends clause 222 of the Bill to address concerns expressed during the AREC consultation regarding the transitional provisions for pre-existing tenures. This amendment clarifies that regardless of when an authority to prospect or a petroleum lease (csg) is granted that overlaps an ML that was granted before the commencement of chapter 4 and 7 of the

Bill, then the pre-amended *Mineral Resources Act 1989* and *Petroleum and Gas (Production and Safety) Act 2004* will apply.

Clause 223 (Application of ML (coal) over land in area of ATP (without consent))

Clauses 78 and 79 amend clause 223 of the Bill to clarify that the ML (coal) holder and the ATP holder may agree to an alternative mining commencement date. However, if parties are unable to agree then clause 223(4)(b) will apply. This amendment also clarifies that the intention of an ATP holder is to explore and test for CSG.

Clause 224 (Application for ML (coal) over land in area of ATP (with consent))

Clause 80 amends clause 224 of the Bill to clarify that the intention of an ATP holder is to explore and test for CSG.

Clause 227 (Application for PL over land in area of coal exploration authority (without consent))

Clause 81 amends clause 227 of the Bill to reflect the changes made to clause 137 of the Bill that now requires a petroleum lease applicant to give an overlapping coal resource authority holder a petroleum production notice.

Clause 228 (Application for PL over land in area of coal exploration authority (with consent))

Clause 82 amends clause 228 of the Bill to reflect the changes made to clause 137 of the Bill that now requires a petroleum lease applicant to give an overlapping coal resource authority holder a petroleum production notice.

Clause 231 (Application of div 5)

Clause 83 amends clause 231 of the Bill to reflect the agreed industry position for transitional provisions for particular tenures within the Surat Basin area. Chapter 7, part 4, division 5 will now apply to overlapping areas in the Surat Basin in which: a petroleum lease proposing to produce or targeting CSG is granted after commencement of the Bill up until 31 December 2016; and an ML (coal) is applied for after commencement and granted before 1 July 2020; and some or all of the overlapping area is located in the Surat Basin Transitional area.

Clause 232 (Extension of period until mining commencement date)

232 Requirements for advance notice and acceleration notice

Clause 84 amends clause 232 of the Bill to reflect the agreed industry position for transitional provisions for particular tenures within the Surat Basin area. The amendments provide that a proposed mining commencement for an Initial Mining Area (IMA) or Rolling Mining Area (RMA) on an advance notice cannot be earlier than 1 July 2030, unless the PL holder agrees to an earlier date.

Clause 84 amends clause 232 of the Bill to reflect the agreed industry position for transitional provisions for particular tenures within the Surat Basin area. The amendments provide that

clauses 124, 125 and 158(1)(a) will now apply. This means that PL holders will be able to claim exceptional circumstances (in accordance with clause 124 of the Bill) upon receipt of an advance notice or a proposal for amendment of an agreed joint development plan.

For ML (coal) holders, the amendments now provide that they may issue an acceleration notice to a PL holder (under clause 125 of the Bill), and will incur a compensation liability through doing so (under clause 158(1)(a) of the Bill). To ensure investment certainty for PL holders, an acceleration notice given to a PL holder captured under clause 231 cannot state a proposed mining commencement date earlier than 1 July 2020, unless the PL holder agrees to the earlier date.

Clause 233 (Particular provisions do not apply)

Clause 85 amends clause 233 to reflect the changes to clause 232.

After clause 241

Division 2A Amendments relating to the Common Provisions Act, chapter 4

Clause 86 inserts new clauses 241A, 241B, 241C and 241D to include the criteria that should be considered in deciding a surrender application for an environmental authority where there are overlapping coal and CSG tenures.

These amendments cater for a situation where rehabilitation is not complete due to overlapping coal and CSG tenure agreements but rehabilitation responsibilities have been accepted by the remaining tenure holder.

The general rule is that a surrender application cannot be accepted until rehabilitation has been completed. However, where there is overlapping coal and CSG activities, the CSG operation cannot extract the resource if the coal operation has not fully rehabilitated the site in accordance with the conditions of their environmental authority.

A tenure holder cannot surrender the environmental authority until either the rehabilitation has been completed or liability for the rehabilitation has been transferred to the remaining tenure holder. The mechanism for this transfer of liability is via amendment of the environmental authority for the remaining tenure holder to include the old tenure holder's rehabilitation as part of the authorised activity.

This ensures that plans of operations must be updated and/or financial assurance amounts adjusted to take account of the remaining tenure holder's acceptance of liability of the old tenure holder's rehabilitation responsibilities. The amendment of the environmental authority can be applied for in advance, with the amendment only taking effect upon the administering authority accepting the surrender of the old tenure.

Clause 241A Amendment of s 268 (Criteria for decision)

Clause 86 inserts clause 241A to the Bill that amends section 268 of the *Environmental Protection Act 1994* for the heading as a consequence of the insertion of new section 268A.

Clause 241B Insertion of new s268A

Clause 86 inserts a clause 241B to the Bill which inserts a new section 268A into the *Environmental Protection Act 1994* that gives the criteria for a decision on a surrender application where there is overlapping tenure. In addition to the criteria in section 268, the administering authority must also consider the extent to which the rehabilitation is not possible or impracticable due to the activities under overlapping tenure, and whether the overlapping tenure holder has accepted liability for that rehabilitation.

Clause 241C Amendment of s 269 (Restrictions on giving approval)

Clause 86 inserts a new clause 241C to the Bill which amends section 269 of the *Environmental Protection Act 1994*. Section 269 generally provides that the administering authority may only accept a surrender application where rehabilitation has been completed. This amendment adds that the administering authority may also approve a surrender application if the application relates to an overlapping area, and liability for any rehabilitation that is not complete has been accepted by the remaining tenure holder.

A change to include an overlapping tenure reference in the surrender provisions of the *Environmental Protection Act 1994* provides certainty to the environmental authority holder through ensuring that they have met their rehabilitation obligations by allowing that any rehabilitation that is not complete will be completed by the remaining tenure holder.

Clause 241D Amendment sch 4 (Dictionary)

Clause 86 inserts a new clause 241D to the Bill which amends the Dictionary to the *Environmental Protection Act 1994* in schedule 4. These amendments cross-reference defined terms used as a result of amendments made by this Bill.

Clause 257 (Amendment of s 182 (Submitter may give objection notice))
Clause 87 amends clause 257. This amendment is a consequential amendment due to the changes made by clause 88. This amendment identifies the original clause 257 of the Bill as subclause (1), while the amendment in clause 88 is subclause (2).

Clause 88 (Amendment of s 182 (Submitter may give objection notice)) Clause 88 amends clause 257. This Bill makes amendments to the appeals process in section 182 of the *Environmental Protection Act 1994* so that an appeal cannot be made about a Coordinator-General's condition.

Due to an oversight, this amendment was not carried through to the objection process which applies to an application for an environmental authority for a mining lease. This amendment therefore ensures consistency in the appeal or objection process.

After clause 257

257A (Amendment of s 183 (Applicant may request referral to Land Court))

Clause 89 inserts new clause 257A into the Bill to amend section 183 of the *Environmental Protection Act 1994*. This amendment also corrects the oversight that an appeal for an environmental authority for a mining lease (called a referral in this process) cannot be made

about a Coordinator-General's condition. This amendment therefore ensures consistency in the appeal or objection process.

Note: the amendment is to insert the new subsection (3)(a). Subsection (3)(b) is the existing subsection (3) of this section which has been re-inserted due to the drafting style. Subsection (3)(b) relates to the existing restriction that the applicant cannot appeal if the environmental authority is refused on the grounds that the applicant is not a registered suitable operator. This is because there is grounds for appeal on the decision to refuse registration.

After clause 260

260A Insertion of new 188A

Clause 90 inserts a new section 188A into the *Environmental Protection Act 1994* to enable the Land Court, at any point of the objection process, to strike out any objection that is: outside the jurisdiction of the court; vexatious and frivolous; or an abuse of the court's process. The Land Court may at any point in proceedings, strike out all or part of the objection, and may exercise this power on its own initiative or upon application of a party. This amendment resolves an issue with the way the objections provisions are drafted, which has meant that the Land Court has interpreted that it must consider an objection, even if it is outside its jurisdiction. This has resulted in lengthy hearings where the end result is that the Land Court cannot make any recommendation in relation to those matters. This provision will assist in early resolution of matters where there are no grounds for the objection.

260B Amendment of s 194 (Final decision on application)

This amendment also inserts a new clause 260B (Amendment of s 194 (Final decision on application) which sets out when the administering authority must make its final decision after a matter has been referred to the Land Court. Essentially this is after the Land Court makes a decision, or there is no need for the Land Court to make a decision (i.e. because all objections have been withdrawn). This amendment is a consequential amendment to the insertion of the new section 188A so that the administering authority's obligation to make a final decision also arises if all objections are struck out.

After clause 262

262A Amendment of s 232 (Relevant application process applies)

Clause 91 inserts new clause 262A into the Bill which amends section 232 of the *Environmental Protection Act 1994*. Section 232 prescribes when the relevant application process applies to an amendment application. The Bill makes amendments so that the same notification process for amendment applications applies for mining leases as applies for all other resources activities. This was achieved through removing the words "other than a mining activity" from the notification stage in chapter 5 of the *Environmental Protection Act 1994*.

Due to an oversight, a consequential amendment was not made to section 232(2) of the *Environmental Protection Act 1994* to effect this change. This amendment makes this consequential amendment.

Clause 276 (Amendment of sch 1 (Decisions subject to appeal))

Clause 92 amends clause 276 of the Bill to include a variation made by a public land authority to conditions imposed on entry to public land in the decisions under the Common Provisions Act appealable under the *Geothermal Energy Act 2010* for geothermal tenures.

Clause 307 (Amendment of sch 1 (Decisions subject to appeal)

Clause 93 amends clause 307 of the Bill to include a variation made by a public land authority to conditions imposed on entry to public land in the decisions under the Common Provisions Act appealable under the *Greenhouse Gas Storage Act 2009* for GHG authorities.

Clause 312 (Amendment of s 337D (What happens if a party does not attend))

Clause 94 amends clause 312 of the Bill to replace 'Resources' with 'Provisions'. This amendment ensures section 337D of the *Greenhouse Gas Storage Act 2009* correctly refers to the Common Provisions Act, not a Common Resources Act.

Clause 313 (Amendment of s 337E (Authorised officer's role))

Clause 95 amends clause 313 of the Bill to replace 'Resources' with 'Provisions'. This amendment ensures section 337E of the *Greenhouse Gas Storage Act 2009* correctly refers to the Common Provisions Act, not a Common Resources Act.

Clause 335 (Amendment of s 10AA (Joint holders of mining tenement))

Clause 96 amends clause 335 of the Bill to replace 'petroleum authority' with 'mining tenement'. This amendment ensures section 10AA of the *Mineral Resources Act 1989* correctly refers to mining tenements.

Clause 348 (Amendment of s 318AAZM (Who may appeal))

Clause 97 amends clause 348 of the Bill to number the first amendment listed in the clause to subclause (1). This is a consequence of a further amendment to clause 348 to add an additional subclause.

Clause 348 (Amendment of s 318AAZM (Who may appeal))

Clause 98 amends clause 348 of the Bill to insert subclause (2) that makes a consequential amendment to section 318AAZM(2) of the *Mineral Resources Act 1989* to replace reference to section 318AAZ with section 318AAU. Section 318AAZ is repealed by the Bill and its intent will be covered under replaced section 318AAU after commencement of clause 346 of the Bill.

Clause 349 (Amendment of s 318AB (Relationship with ch 4-6 and ch 7, pt 1))

Clause 99 amends clause 349 of the Bill to replace reference to 'chapter 7, part 1' with 'the Common Provisions Act'. Chapter 7, part 1 under the *Mineral Resources Act 1989* will be repealed and replaced under the Common Provisions Act.

Clause 351 (Amendment of s 401A (Protection against liability as condition of approval))

Clause 100 amends clause 351 of the Bill to include new subclause (1) that replaces reference to 'chapter 7, part 1, division 3' in section 401A(1) of the *Mineral Resources Act 1989* with 'the Common Provisions Act, chapter 2, part 1'. Chapter 7 of the *Mineral Resources Act 1989* is repealed and replaced under the Common Provisions Act.

The existing amendment in clause 351 is renumbered to subclause (2) and a minor grammatical error is corrected. New subclause (3) is also inserted to remove reference to 'chapter 7, part 1, division 3' under section 401A(4) definition of *relevant matter* under the *Mineral Resources Act 1989*. This reference is replaced with 'the Common Provisions Act, chapter 2, part 1'. Chapter 7 under the *Mineral Resources Act 1989* will be repealed and replaced under the Common Provisions Act.

Clause 352 (Amendment of s 406 (Land Court may review direction or requirement)

Clause 101 amends clause 352 of the Bill to include a new subclause (d) to section 406(1) of the *Mineral Resources Act 1989.* This includes the addition of a variation made by a public land authority to conditions imposed on entry to public land in decisions under the Common Provisions Act reviewable by the Land Court under the *Mineral Resources Act 1989.*

Clause 355 (Insertion of s 7A and 7B)

Clause 102 amends the heading of clause 355 of the Bill to make it clear that the clause is inserting more than one new section.

Clause 355 (Insertion of s 7A and 7B)

Clause 103 amends clause 355 of the Bill to remove new subsection 7A(b) for the *Mineral Resources Act 1989* that was an unintended inclusion in the Bill.

Clause 356 (Amendment of s 129 (Entitlements under exploration permit))

Clause 104 amends subclause 356(2) of the Bill to include subsections 129(3) and (4) of the *Mineral Resources Act 1989* to be omitted from that Act. These subsections relate to restricted land that is being repealed and replaced under the Common Provisions Act.

Clause 361 (Amendment of s 335I (What happens if a party does not attend))

Clause 105 amends clause 361 of the Bill to replace 'Resources' with 'Provisions'. This amendment ensures section 335I of the *Mineral Resources Act 1989* correctly refers to the Common Provisions Act, not a Common Resources Act.

Clause 362 (Amendment of s 335J (Authorised officer's role))

Clause 106 amends clause 362 of the Bill to replace 'Resources' with 'Provisions'. This amendment ensures section 335J of the *Mineral Resources Act 1989* correctly refers to the Common Provisions Act, not a Common Resources Act.

Clause 403 (Amendment of s 129 (Entitlements under exploration permit))

Clause 107 amends clause 403 of the Bill to remove subclauses (2) and (3) as subclause (2) relates to restricted land and is provided for in another relevant clause and subclause (3) is an error and is omitted.

Clause 416 (Replacement of s245 (Application for grant of mining lease))

Clause 108 amends clause 416 to refer to land adjoining the land on which the mining lease is proposed. The amendment is required as the notification requirements are being extended to landholders of adjoining land.

Clause 416 (Replacement of s245 (Application for grant of mining lease)))

Clause 109 amends clause 416 to refer to land adjoining the land on which the mining lease is proposed. The amendment is required as the notification requirements are being extended to landholders of adjoining land.

Clause 418 (Replacement of ss 252-252D)

Clause 110 replaces clause 418 to amend the application process for a mining lease to require that an owner of the land adjoining a mining lease; an occupier of the land over which the mine is proposed or access is required; and any infrastructure provider, is given notice of an application for a mining lease under a practice manual developed under section 191 of the Common Provisions Act.

Adjoining land is defined in the amendment to ensure that where the land is separated from the adjoining land by a feature such as: a road; watercourse; railway;stock route; reserve or drainage or other easement, then the lot is still taken to be adjoining for notification and objection requirements.

Clause 418 (Replacement of ss 252-252D)

Clause 111 amends section 252B to ensure that the applicant must lodge a declaration that they have notified any person that is given a document, information or a notice required to be given the document, information or notice under section 252A.

Clause 420 (Replacement of s260 (objection to application for grant of mining lease))

Clause 112 amends section 260 to provide for the grounds an adjoining landholder may object on under section 269(4).

Clause 420 (Replacement of s260 (objection to application for grant of mining lease))

Clause 113 amends section 260 to provide for an adjoining landholder to be an affected person that may lodge an objection under section 260.

Clause 421 Replacement of s265 (Referral of application and objections to Land Court)

Clause 114 amends section 265 to include reference to objections that may be struck out by the Land Court under new section 276A.

After clause 422

422A Insertion of new s 267A

Clause 115 inserts a new section 288A into the *Mineral Resources Act 1989* to enable the Land Court, at any point of the objection process, to strike out any objection that is: outside the jurisdiction of the court; vexatious and frivolous; or an abuse of the court's process. This is needed to ensure that the land Court does not have to continue to hear a matter that meets the criteria in the section.

Clause 423 (Amendment of s 269 (Land Court's recommendation on hearing)

Clause 116 amends section 269 to ensure that cross referencing is correct.

Clause 423 (Amendment of s 269 (Land Court's recommendation on hearing)

Clause 117 amends section 269(4) to incorporate the grounds for an adjoining land holder's objection to include: the proximity of the proposed mine to the adjoining land and the impact of the mines operation of the proposed mine on the adjoining land.

Clause 423 (Amendment of s 269 (Land Court's recommendation on hearing)

Clause 118 inserts an amendment to cross reference adjoining land in section 269 to section 252A to ensure that is has the same meaning in regard to both sections.

Clause 424 (Amendment of s 271 (Criteria for decisng mining lease application)

Clause 119 inserts an amendment to include section 269(4)(e) of the unamended Act in the matters that the Minister must consider. This is to ensure the Minister continues to assess the length of the term of the lease when deciding whether to grant a mining lease.

Clause 431 (Amendment of s 316 (Mining lease for transportation though land)

Clause 120 amends section 316 to remove references to redundant terms and requirements resulting from the new methodology in the Bill.

Clause 488 (Amendment of schedule (Decisions subject to appeal))

Clause 121 amends clause 488 of the Bill to include a variation made by a public land authority to conditions imposed on entry to public land in the decisions under the Common Provisions Act appealable under the *Petroleum Act 1923* for 1923 Act petroleum tenures.

Clause 490 (Amendment of s 61 (Obstruction of 1923 Act petroleum tenure holder))

Clause 122 amends clause 490 of the Bill to replace 'Resources' with 'Provisions'. This amendment ensures section 61 of the *Petroleum Act 1923* correctly refers to the Common Provisions Act, not a Common Resources Act.

Clause 492 (Amendment of s 103D (What happens if a party does not attend))

Clause 123 amends clause 492 of the Bill to replace 'Resources' with 'Provisions'. This amendment ensures section 103D of the *Petroleum Act 1923* correctly refers to the Common Provisions Act, not a Common Resources Act.

Clause 493 (Amendment of s 103E (Authorised officer's role))

Clause 124 amends clause 493 of the Bill to replace 'Resources' with 'Provisions'. This amendment ensures section 103E of the *Petroleum Act 1923* correctly refers to the Common Provisions Act, not a Common Resources Act.

Clause 527 (Amendment of s 908 (Right to apply for petroleum tenure))

Clause 125 amends clause 527 of the Bill that inserts new subsection 908(5) to the *Petroleum and Gas (Production and Safety) Act 2004.* Clause 527 requires the chief executive to register any dealing against a tenure under the *Petroleum Act 1923* replaced under the *Petroleum and Gas (Production and Safety) Act 2004.* Clause 527 is amended to include caveats and associated agreements to also be registered against the replacement tenure.

Clause 529 (Amendment of sch 1 (Reviews and appeals))

Clause 126 amends clause 529 of the Bill to include a variation made by a public land authority to conditions imposed on entry to public land in the decisions under the Common Provisions Act appealable under the *Petroleum and Gas (Production and Safety) Act 2004* for petroleum authorities.

Clause 550 (Amendment of s 814A (Executive officer may be taken to have committed offence))

Clause 127 amends clause 550 of the Bill to correct a typographical error.

After clause 632

632A Insertion of new s 47D

Clause 128 inserts new section 632A into the Bill to insert a new section 47D into the *State Development and Public Works Organisation Act 1971.*

The amendments to the State Development and Public Works Organisation Act 1971 are intended to put beyond doubt the legal status of a project the subject of a Coordinator-General's report in certain circumstances. Where the Coordinator-General makes a statement in the "Coordinator-General's report" to the effect that he is satisfied that the conditions adequately address the environmental effects of the mining activity, submitters cannot subsequently make an objection to the Land Court about the Environmental Authority.

This responds to recent decisions of the Land Court, where the Land Court has stated that they cannot make a recommendation about conditions stated by the Coordinator-General for the Environmental Authority. Currently, submitters on the EIS can object to an EA

application, even where the conditions are Coordinator-General conditions, resulting in increased caseload for the Land Court on matters that are outside their jurisdiction. This amendment will ensure objections cannot be made about the Environmental Authority in these circumstances.

As a result the amendment would remove a superfluous process that only results in unnecessary delays in the Land Court where a lengthy and rigorous assessment process has already been concluded.

Schedule 1, section 7 (Parks and reserves under the *Nature Conservation Act 1992*)

Clause 129 amends schedule 1 of the Bill to remove reference to 'for which there are trustees' under section 7(1). This is to ensure the chief executive administering the Nature Conservation Act 1992 is defined as the owner of regional parks where there is no trustee.

Schedule 2 (Dictionary)
Clauses 130 to 138 amends the dictionary in schedule 2 of the Bill to reflect the minor amendments to the Bill.