



Geothermal Energy Act 2010

Reprinted as in force on 1 September 2010

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Also see endnotes for information about when provisions commenced.

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Queensland

Geothermal Energy Act 2010

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Geothermal Energy Act 2010

[reprinted as in force on 1 September 2010]

An Act to enable and facilitate the production of geothermal energy, to amend this Act, amend and repeal the *Geothermal Exploration Act 2004*, to repeal the *Timber Utilisation and Marketing Act 1987*, to amend the *Aboriginal Land Act 1991*, *Coastal Protection and Management Act 1995*, *Dangerous Goods Safety Management Act 2001*, *Electricity Act 1994*, *Environmental Protection Act 1994*, *Fire and Rescue Service Act 1990*, *Foreign Ownership of Land Register Act 1988*, *Forestry Act 1959*, *Greenhouse Gas Storage Act 2009*, *Land Act 1994*, *Land Court Act 2000*, *Land Protection (Pest and Stock Route Management) Act 2002*, *Land Title Act 1994*, *Local Government Act 2009*, *Mineral Resources Act 1989*, *Nature Conservation Act 1992*, *Pest Management Act 2001*, *Petroleum Act 1923*, *Petroleum and Gas (Production and Safety) Act 2004*, *Queensland Heritage Act 1992*, *State Development and Public Works Organisation Act 1971*, *Survey and Mapping Infrastructure Act 2003*, *Sustainable Planning Act 2009*, *Torres Strait Islander Land Act 1991*, *Valuation of Land Act 1944*, *Water Act 2000*, *Whistleblowers Protection Act 1994* and *Workplace Health and Safety Act 1995* for particular purposes and to make a consequential amendment of the *Wild Rivers Act 2005*

Editor's note—

This Act (other than sections 1–2, chapter 9 part 2, chapter 10 part 1 and schedule 2 part 1) had not commenced on or before the reprint date.

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Geothermal Energy Act 2010*.

2 Commencement

- (1) Subject to subsections (2) and (3), this Act commences on a day to be fixed by proclamation.
- (2) The following provisions commence on the date of assent—
 - (a) chapter 9, part 2;
 - (b) chapter 10, part 1;
 - (c) schedule 2, part 1.
- (3) Schedule 2, part 3 commences immediately after all of chapter 10 and all of the other provisions of schedule 2 have commenced.

Part 2 Purposes and application of Act

3 Purposes of Act and their achievement

- (1) *The main purpose of this Act is to encourage and facilitate the safe production of geothermal energy for the benefit of all Queenslanders.*
- (2) *The main purpose is achieved principally by—*

-
- (a) *providing for the granting of authorities (called ‘geothermal tenures’) to explore for or produce geothermal energy; and*

Note—

Under section 327, there are several exemptions from the requirement to hold a geothermal tenure. They include exemptions for—

- exempt heat pump production*
- other geothermal production that is not of a large-scale.*

- (b) *creating a regulatory system for the carrying out of activities relating to geothermal tenures.*

(3) *Other purposes of this Act are to—*

- (a) *ensure the following for the carrying out of the activities—*

- (i) minimisation of conflict with other land uses;*
- (ii) constructive consultation with people affected by the activities;*
- (iii) appropriate compensation for owners or occupiers of land adversely affected by the activities;*
- (iv) responsible land and resource management; and*

- (b) *encourage the use of renewable energy in the State.*

4 Facilitation of Act by Petroleum and Gas (Production and Safety) Act 2004

The Petroleum and Gas (Production and Safety) Act 2004 (the P&G Act) also facilitates the operation of this Act by—

- (a) *applying chapter 9 of that Act (the **P&G Act safety provisions**) to particular authorised activities for a geothermal tenure; and*
- (b) *applying its provisions about investigations and some of its provisions about enforcement to authorised activities for geothermal tenures.*

[s 5]

5 Act binds all persons

- (1) *This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.*
- (2) *However, the Commonwealth or a State can not be prosecuted for an offence against this Act.*

6 Application of Act to coastal waters of the State

- (1) *This Act applies to the coastal waters of the State as if the coastal waters of the State were part of the State.*
- (2) *However, this Act does not apply to the adjacent area under the Petroleum (Submerged Lands) Act 1982.*

7 Relationship with Nature Conservation Act 1992

This Act is subject to the Nature Conservation Act 1992, sections 27 and 70QA.

Editor's note—

Nature Conservation Act 1992, sections 27 (Prohibition on mining, geothermal activities and GHG storage activities) and 70QA (Prohibition on mining, geothermal activities and GHG storage activities in forest reserves)

8 Relationship with GHG storage Act and principal mining and petroleum Acts

The relationship between this Act and the following Acts and the tenures and other authorities under them is provided for under chapter 5, parts 2 to 8 and—

- (a) *for the Greenhouse Gas Storage Act 2009 (the **GHG storage Act**)—chapter 4, parts 2 to 8 of that Act;*
- (b) *for the Mineral Resources Act 1989 (the **Mineral Resources Act**)—part 7AAC of that Act;*

-
- (c) *for the Petroleum Act 1923 (the 1923 Act)—section 40(1A) and part 6FA of that Act;*
 - (d) *for the P&G Act—chapter 3A of that Act.*

9 Act does not affect other rights or remedies

- (1) *Subject to sections 202, 360 and 381 this Act does not affect or limit a civil right or remedy that exists apart from this Act, whether at common law or otherwise.*

Editor's note—

sections 202 (Responsibility for geothermal well after decommissioning) and 381 (Protection from liability for particular persons)

- (2) *Without limiting subsection (1), compliance with this Act does not necessarily show that a civil obligation that exists apart from this Act has been satisfied or has not been breached.*
- (3) *In addition, a breach of an obligation under this Act does not of itself give rise to an action for breach of statutory duty or another civil right or remedy.*
- (4) *This Act does not limit a court's powers under the Penalties and Sentences Act 1992 or another law.*

Part 3 Interpretation

Division 1 Dictionary

10 Definitions

The dictionary in schedule 3 defines particular words used in this Act.

Division 2 Key definitions

Subdivision 1 Key concepts

11 What is geothermal energy

Geothermal energy is heat energy derived from the earth's natural (subsurface) heat.

12 What are geothermal resources

Geothermal resources are geological strata and associated material in which elevated levels of geothermal energy exist.

Examples of associated material—

groundwater, other fluids and gases that may fill fractures or voids in geological strata

13 What is geothermal exploration

Geothermal exploration is—

- (a) exploring for and quantifying geothermal resources; and*
- (b) carrying out investigations and other activities associated with exploring for, or quantifying, geothermal resources.*

Note—

Some geothermal exploration and production is not regulated under this Act, but may be under other legislation. See section 327(b) and (d) to (f) and note and also sections 16, 35 and 77.

14 What is geothermal production

- (1) Geothermal production is the recovery of geothermal energy—*

-
- (a) *on or from beneath the surface of the land in which it is contained, other than production testing; or*
 - (b) *from a place at which geothermal energy naturally appears at the surface of the land.*

Example for paragraph (b)—

hot springs

- (2) *However, for this Act, geothermal energy is only produced when it is used for any purpose.*

15 What is exempt heat pump production

Exempt heat pump production is geothermal production using a geothermal heat pump if—

- (a) *the purpose of the production is to cool or heat buildings; and*
- (b) *the production is not of a large-scale.*

16 References to large-scale geothermal production

- (1) *This section applies to a reference in this Act to large-scale geothermal production.*
- (2) *In deciding whether geothermal production is or will not be of a large-scale, regard must be had to any criteria prescribed under a regulation.*
- (3) *In making a regulation under subsection (2), the following may be considered—*
 - (a) *the temperature of fluid or gases extracted in the geothermal production;*
 - (b) *the flow rate of fluid or gases extracted in the geothermal production;*
 - (c) *the amount of geothermal energy produced.*
- (4) *In this section—*

[s 17]

geothermal production includes proposed geothermal production.

17 What is production testing

Production testing is testing from a geothermal well to evaluate the feasibility of geothermal production.

18 What is a geothermal activity

A *geothermal activity* is any activity that may be an authorised activity for any geothermal tenure, whether or not a geothermal tenure has been granted for the activity.

Subdivision 2 Definitions relating to authorities under Act

19 Types of authority under Act

(1) *The types of authority under this Act are—*

(a) *a geothermal exploration permit (also called a geothermal permit)—*

(i) *granted under section 40; or*

(ii) *continued in force under section 79 or 293; or*

(iii) *renewed under section 294; and*

Note—

See also section 399 (Conversion of 2004 Act permits on 2010 Act start day).

(b) *a geothermal production lease (also called a geothermal lease)—*

(i) *granted under section 82; or*

(ii) *continued in force under section 79 or 293; or*

(iii) *renewed under section 294.*

-
- (2) A **geothermal tenure** is a geothermal permit or a geothermal lease.

20 What are the conditions of a geothermal tenure

- (1) The **conditions** of a geothermal tenure are—
- (a) the conditions stated in it from time to time; and
 - (b) the geothermal tenure holder's obligations under chapters 2 to 6; and
 - (c) any condition of the geothermal tenure imposed under chapters 2 to 6 or prescribed under section 385; and
 - (d) a condition that the holder must ensure each person who, under section 359, may carry out an authorised activity for the geothermal tenure complies with its conditions to the extent the conditions apply to the carrying out of the activity.
- (2) A condition mentioned in subsection (1)(b) or (c) is a **mandatory condition** of the geothermal tenure.

21 References to geothermal tenure or provisions of geothermal tenure

- (1) A reference in this Act to a geothermal tenure includes a reference to its provisions.
- (2) A reference in this Act to the provisions of a geothermal tenure is a reference to its mandatory or other conditions and anything written in it.

22 What is an authorised activity for a geothermal tenure

An **authorised activity**, for a geothermal tenure, is an activity that its holder is, under this Act or the tenure, entitled to carry out in relation to the tenure.

[s 23]

Notes—

- 1 *The provisions of the geothermal tenure may restrict the carrying out of authorised activities. See sections 40, 82, 295, 296, 297 and 320(3).*
- 2 *The carrying out of authorised activities is subject to the restrictions under chapters 2 to 6 and section 357 and holder's rights and obligations under those chapters.*

Subdivision 3 Other key definitions

23 Who is an eligible person

An eligible person is—

- (a) *an adult; or*
- (b) *a company or registered body under the Corporations Act; or*
- (c) *a government owned corporation.*

24 What is a work program for a geothermal permit

- (1) *The **work program**, for a geothermal permit, is its current initial or later work program approved under chapter 2, part 3 as amended from time to time under that part.*
- (2) *For subsection (1), the work program is current if the period to which the program applies has started and not ended.*

25 What is a development plan for a geothermal lease

- (1) *The **development plan**, for a geothermal lease, is its current initial or later development plan approved under chapter 3, part 3 as amended from time to time under that part.*
- (2) *For subsection (1), the development plan is current if the period to which the plan applies has started and has not ended.*

26 Graticulation of earth's surface into blocks and sub-blocks

- (1) A **block** is the land resulting from a notional division of the earth's surface—
- (a) by 2 meridians of longitude 5 minutes apart, each meridian being a multiple of 5 minutes of longitude from the meridian of Greenwich; and
 - (b) by 2 parallels of latitude 5 minutes apart, each parallel being a multiple of 5 minutes of latitude from the equator.
- (2) A **sub-block** is the land resulting from a notional division of a block into 25 areas, each sub-block being bounded by 2 meridians of longitude 1 minute of longitude apart and 2 parallels of latitude 1 minute of latitude apart.
- (3) Each block and sub-block must be identified in the way approved by the chief executive.

27 What is a resource Act

A resource Act is any of the following—

- *this Act*
- *the GHG storage Act*
- *the Mineral Resources Act*
- *the 1923 Act*
- *the P&G Act.*

Part 4 **State ownership of geothermal energy**

28 **State ownership of geothermal energy**

- (1) *All geothermal energy on or below the surface of any land in the State is, and is taken always to have been, the property of the State.*
- (2) *To remove any doubt, it is declared that—*
 - (a) *a person does not acquire any property in geothermal energy merely because the person discovers it or discovers geothermal resources from which geothermal energy may be extracted; and*
 - (b) *subsection (1) applies whether or not the land is freehold or other land.*
- (3) *This section applies despite any other Act, grant, title or other document.*

29 **Reservation in land grants**

- (1) *This section applies to each grant under another Act of a right relating to land.*
- (2) *This section applies whether the grant was made before or after the commencement of this section.*
- (3) *The grant is taken to contain a reservation to the State of—*
 - (a) *all geothermal energy on or below the surface of the land; and*
 - (b) *the exclusive right to do the following in relation to the land—*
 - (i) *to enter and carry out any geothermal activity;*
 - (ii) *to authorise, under this Act, persons to carry out any geothermal activity;*

(iii) *to regulate, under this Act, geothermal activities carried out by others.*

Note—

See, however, section 375 (Provision for entry by State to carry out geothermal activity).

(4) *In this section—*

grant, *of a right, includes an authority, lease, licence, permit or other instrument of tenure, however called.*

Chapter 2 Geothermal exploration permits

Notes—

- 1 For the general requirement to have a geothermal tenure and the exceptions to the requirement, see section 327.*
- 2 In particular, section 327 does not require the holding of a geothermal permit for geothermal exploration that is only for exempt heat pump production.*
- 3 Chapter 5 (Coordination with particular authorities under other resource Acts) imposes requirements for and restrictions on the granting of, and restrictions on authorised activities that may be carried out under, particular geothermal tenures. See section 134.*

Part 1 Key authorised activities

30 Operation of pt 1

This part provides for the key authorised activities for a geothermal permit.

Notes—

- 1 For other authorised activities, see chapter 6, part 5, division 2 (Access to private land outside area of geothermal tenure) and*

[s 31]

chapter 8, part 1, division 2 (General provisions about authorised activities).

- 2 *For general restrictions on authorised activities, their relationship with owners' and occupiers' rights and who may carry out authorised activities for a geothermal tenure holder, see chapter 4 and chapter 8, part 1, division 2.*

31 Principal authorised activities

The geothermal permit holder may carry out the following activities in the permit's area—

- (a) *geothermal exploration;*
- (b) *evaluating the feasibility of geothermal production, including, for example, by production testing.*

32 Incidental activities

- (1) *The geothermal permit holder may carry out any other activity (an **incidental activity**) in the permit's area if carrying out the activity is reasonably necessary for or is incidental to geothermal exploration.*

Examples of incidental activities—

- *constructing or operating facilities, plant or works, including, for example, communication systems, compressors, pipelines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks*
 - *constructing or using temporary structures or structures of a technical nature*
- (2) *However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.*

Part 2 **Obtaining geothermal permit**

Division 1 **Restricted areas**

33 **Minister's power to decide restricted areas for geothermal tenures**

- (1) *The Minister may declare that land in an area (a **restricted area**) is land for which a geothermal tenure application can not be made.*
- (2) *However, a declaration can not be made under subsection (1) for excluded land or land in an existing geothermal tenure's area.*
- (3) *The declaration must be made by gazette notice or by publishing a notice about the declaration.*

34 **Amendment or cancellation of restricted area**

- (1) *The power under section 33 to declare a restricted area includes the power to amend or cancel a restricted area.*
- (2) *If land ceases to be in a restricted area, the relevant declaration may state a period within which geothermal permit applications for the land will not be considered, to allow them to be considered competitively after the period ends.*
- (3) *Land mentioned in subsection (2) is a **released area**.*
- (4) *The period stated under subsection (2) for a released area is the **application period** for the area.*

Division 2 Applying for geothermal permit

35 Who may apply

- (1) *Any eligible person may apply for a geothermal permit for land other than—*
 - (a) *land in a restricted area; or*
 - (b) *excluded land; or*
 - (c) *land in an existing geothermal tenure’s area; or*
 - (d) *land that has been in a geothermal tenure’s area within 2 months before the making of the application.*
- (2) *Also, a geothermal permit application (the **relevant application**) may be made for land the subject of an existing application only if—*
 - (a) *the land is in a released area and the relevant application is made during the application period for the area; or*
 - (b) *the existing application was made on the same day as the relevant application.*
- (3) *Despite subsection (1), a geothermal permit application can not be made for geothermal exploration—*
 - (a) *for exempt heat pump production; or*
 - (b) *to evaluate the feasibility of exempt heat pump production.*
- (4) *In this section—*

existing application *means another geothermal permit application made but not decided.*

36 Requirements for making application

The application must—

- (a) *be made to the Minister in the approved form; and*

-
- (b) *include a proposed work program complying with the initial work program requirements; and*
 - (c) *include a statement about the extent to which the applicant has—*
 - (i) *the financial and technical resources to carry out authorised activities for the proposed geothermal permit; and*
 - (ii) *the ability to manage geothermal exploration; and*
 - (d) *state the name and address for service of 1 person on whom any notice to the applicant may be served; and*
 - (e) *be accompanied by the fee prescribed under a regulation.*

Division 3 Deciding application

37 Restriction on deciding during application period for released area

If the application is for land in a released area and is made within the application period for the area, the application can not be decided before the end of that period.

Note—

See also section 43 (Priority for deciding competing applications).

38 Effect of identification of restricted area on application

- (1) *If, before the deciding of the application, any land the subject of the application is declared to be in a restricted area, the application lapses to the extent it applies to the restricted area.*
- (2) *No amount, whether by way of compensation, reimbursement or otherwise, is payable by the State to any person for or in connection with the operation of subsection (1).*

[s 39]

39 Deciding whether to grant geothermal permit

- (1) *The Minister must decide whether or not to grant the applicant a geothermal permit.*
- (2) *However—*
 - (a) *before deciding to grant the geothermal permit, the Minister must decide whether to approve the applicant's proposed initial work program for the permit; and*
 - (b) *the Minister can not grant the geothermal permit unless the following apply—*
 - (i) *the applicant continues to be an eligible person;*
 - (ii) *the proposed work program has been approved;*
 - (iii) *the relevant environmental authority has been issued;*
 - (iv) *any relevant Water Act authorisation has been issued.*
- (3) *The Minister may, as a condition of deciding to grant the geothermal permit, require the applicant to do either or both of the following within a stated reasonable period—*
 - (a) *pay the annual rent for the first year of the geothermal permit;*
 - (b) *give, under section 204, security for the geothermal permit.*
- (4) *If the applicant does not comply with the requirement, the application may be refused.*

40 Provisions and granting of geothermal permit

- (1) *If the Minister decides to grant the applicant a geothermal permit, the Minister must decide its provisions and grant the applicant the permit.*
- (2) *The permit must state its term and area.*

-
- (3) *The term must end no later than 5 years after the permit takes effect.*
 - (4) *The area must comply with chapter 6, part 1.*
 - (5) *The permit may also state—*
 - (a) *conditions or other provisions of the permit, other than conditions or provisions that are—*
 - (i) *inconsistent with the mandatory conditions for geothermal permits; or*
 - (ii) *the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the permit; and*
 - (b) *the day the permit takes effect.*
 - (6) *However, the provisions of the permit may exclude or restrict the carrying out of an authorised activity for the permit.*
 - (7) *The day the permit takes effect can not be before the day it is granted.*
 - (8) *If no day of effect is stated, the permit takes effect on the day after it is granted.*

41 Criteria for decisions

In deciding whether or not to grant the applicant a geothermal permit, or in deciding its provisions, the Minister must consider—

- (a) *the applicant's proposed initial work program; and*
- (b) *the extent to which the Minister is of the opinion that the applicant is capable (the **capability criteria**) of carrying out authorised activities for the geothermal permit, having regard to the applicant's—*
 - (i) *financial and technical resources; and*
 - (ii) *ability to manage geothermal exploration.*

[s 42]

42 Notice of decision

The Minister must, as soon as practicable after deciding whether or not to grant the applicant a geothermal permit, give the applicant notice of the decision.

Division 4 Priority for deciding competing geothermal permit applications

43 Priority for deciding competing applications

- (1) *This section applies if 2 or more geothermal permit applications are—*
- (a) *for land in a released area and made before the end of the application period for the area; or*
 - (b) *for the same land and made on the same day.*

Note—

Competing applications for land other than land in a released area can not be made on different days. See section 35.

- (2) *The applications take the priority the Minister decides, after considering the relative merits of each application.*

Part 3 Work programs

Division 1 Function and purpose

44 Function and purpose

- (1) *The work program for a geothermal permit gives detailed information about the nature and extent of activities to be carried out under the permit.*
- (2) *The purposes of giving the information are to—*

-
- (a) *allow resource management decisions to be made; and*
 - (b) *ensure appropriate development of the geothermal permit's area.*

Division 2 Requirements for proposed initial work programs

45 Operation of div 2

*This division provides for requirements (the **initial work program requirements**) for a proposed work program for a proposed geothermal permit.*

46 Program period

- (1) *The proposed work program must state its period.*
- (2) *The period can not be longer than 5 years from when the proposed geothermal permit is to take effect.*

47 General requirements

- (1) *The proposed work program must provide for the following—*
 - (a) *its period;*
 - (b) *an overview of the activities proposed to be carried out under the proposed geothermal permit during all of its term (the **proposed activities**);*
 - (c) *for each year of the program period—*
 - (i) *the extent and nature of geothermal exploration proposed to be carried out during the year; and*
 - (ii) *generally where the proposed activities will be carried out; and*
 - (iii) *the estimated cost of the proposed activities;*

[s 48]

- (d) *maps showing where the proposed activities will be carried out;*
 - (e) *reasons why the program is considered appropriate;*
 - (f) *any other matter prescribed under a regulation.*
- (2) *The proposed program may include any other information relevant to the work program criteria.*
 - (3) *A regulation may impose requirements about the form of the work program.*
 - (4) *The proposed program can not be inconsistent with the mandatory conditions for geothermal permits.*
 - (5) *In this section—*

program period start day means the day the program period starts.

year, of the program period, means—

- (a) *the period starting on the program period start day and ending on the first anniversary of that day; and*
- (b) *each subsequent period of 12 months or less during the program period, starting on an anniversary of the program period start day and ending on—*
 - (i) *the next anniversary of that day; or*
 - (ii) *if the program period ends before the next anniversary—the day the program period ends.*

48 Water issues

- (1) *The proposed work program must include an assessment of—*
 - (a) *water needed for the proposed activities; and*
 - (b) *the potential for obtaining any relevant Water Act authorisation; and*
 - (c) *the potential structural and other impacts of the carrying out of the proposed activities on aquifers.*

- (2) *The proposed program must include a plan for the treatment and disposal of any water taken or that may be taken because of the proposed activities.*
- (3) *This section is subject to section 52(2).*

Division 3 **Approval of proposed initial work programs**

Note—

For the requirement for an initial work program, see section 39.

49 **Criteria**

- (1) *In deciding whether to approve a proposed initial work program, the Minister must consider the following—*
 - (a) *the potential of the proposed area of the geothermal permit for geothermal exploration;*
 - (b) *the extent and nature of the proposed geothermal exploration and when and where it will be carried out;*
 - (c) *any relevant environmental authority;*
 - (d) *any relevant Water Act authorisation;*
 - (e) *any potential structural and other impacts of the carrying out of the proposed activities on aquifers.*
- (2) *The matters mentioned in subsection (1) are the **work program criteria**.*

50 **Verification may be required**

- (1) *The Minister may by notice require the applicant to give the Minister, within a stated reasonable period, a document made by an appropriately qualified independent person verifying all or any of the following—*
 - (a) *an assessment of data supplied in the proposed work program;*

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- (b) *the source of the data;*
 - (c) *the work done for the proposed work program;*
 - (d) *that, in the person's opinion, the applicant has—*
 - (i) *the financial and technical resources to carry out authorised activities for the proposed geothermal permit; and*
 - (ii) *the ability to manage geothermal exploration.*
- (2) *If the applicant does not comply with the requirement, the Minister may refuse to approve the proposed program.*
- (3) *The applicant must bear any costs incurred in complying with the requirement.*

Division 4 Requirements for proposed later work programs

51 Operation of div 4

*This division provides for requirements (the **later work program requirements**) for a proposed later work program for a geothermal permit.*

Note—

For the requirements to give a proposed later work program, see sections 118, 187(7) and 320.

52 General requirements

- (1) *The proposed work program must—*
- (a) *other than for the program period, comply with the initial work program requirements; and*
 - (b) *state the extent to which the current work program for the geothermal permit has been complied with; and*
 - (c) *if there have been any amendments to the geothermal permit or its current work program, state—*

-
- (i) *whether the changes have been incorporated in the proposed program; and*
 - (ii) *any effect the changes have on the proposed program; and*
 - (d) *state the effect of the discovery of geothermal resources on the proposed program.*
- (2) *The proposed program can not be inconsistent with any relevant environmental condition for the geothermal permit.*

53 Program period

The program period for the work program can not be longer than the proposed term of the geothermal permit.

54 Implementation of evaluation program for potential geothermal commercial area

If, under section 67, an evaluation program is taken to be an additional part of the existing work program for the geothermal permit, the proposed work program must include work necessary to implement the evaluation program for the period of that program.

Division 5 Approval of proposed later work programs

55 Application of div 5

This division applies if, under this Act, the Minister is given a proposed later work program for a geothermal permit for approval.

56 Geothermal permit taken to have work program until decision on whether to approve proposed program

- (1) *This section applies until—*

[s 57]

- (a) *if the approval is given—the geothermal permit holder is given notice of the approval; or*
- (b) *if the approval is refused—the refusal takes effect.*
- (2) *Despite the ending of the program period for the current work program for the geothermal permit—*
 - (a) *the geothermal permit is taken to have a work program; and*
 - (b) *the holder may carry out any authorised activity for the geothermal permit.*

57 Deciding whether to approve proposed program

- (1) *The Minister may approve or refuse to approve the proposed later work program.*
- (2) *In deciding whether to give the approval, the Minister must consider the following—*
 - (a) *the capability criteria;*
 - (b) *the work program criteria;*
 - (c) *the extent to which the current work program for the geothermal permit has been complied with;*
 - (d) *any amendments made to the geothermal permit or any of the following for the permit, and the reasons for the amendments—*
 - (i) *the current work program;*
 - (ii) *the relevant environmental authority;*
 - (iii) *any relevant Water Act authorisation;*
 - (e) *any geothermal viability report or independent viability assessment for the geothermal permit.*
- (3) *Section 50 applies for the proposed program as if it were an initial work program and an application for approval of the initial work program had been made.*

58 Steps after, and taking effect of, decision

- (1) *If the Minister decides to approve the proposed program, the Minister must give the geothermal permit holder notice of the decision.*
- (2) *The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.*
- (3) *If the Minister decides to refuse to approve the later work program, the Minister must give the holder an information notice about the decision.*
- (4) *The refusal does not take effect until the end of the appeal period for the decision to refuse.*
- (5) *Subsection (4) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.*

Division 6 Amending work programs

59 Restrictions on amending work program

- (1) *A geothermal permit holder may amend the work program for the permit.*
- (2) *However, the amendment is subject to approval under this division.*
- (3) *Also, a work program can not be amended if the program as amended would be inconsistent with—*
 - (a) *the mandatory conditions for geothermal permits; or*
 - (b) *any relevant environmental condition for the permit.*

60 Applying for approval to amend

- (1) *A geothermal permit holder may apply to the Minister for approval of an amendment of the work program for the permit.*

[s 61]

- (2) *The application must be in the approved form and accompanied by the fee prescribed under a regulation.*

61 Verification

Section 50 applies for the application as if—

- (a) *the application were an application for a geothermal permit; and*
- (b) *a reference in the section to a proposed work program were a reference to the amendment.*

62 Deciding application

- (1) *The Minister must consider and decide whether or not to approve the amendment.*
- (2) *In making the decision the Minister must consider the following—*
 - (a) *the capability criteria;*
 - (b) *the work program criteria;*
 - (c) *the extent to which the current work program for the geothermal permit has been complied with;*
 - (d) *any amendments made to the geothermal permit or any of the following for the permit, and the reasons for the amendments—*
 - (i) *the current work program;*
 - (ii) *the relevant environmental authority;*
 - (iii) *any relevant Water Act authorisation;*

63 Steps after, and taking effect of, decision

- (1) *If the Minister decides to approve the amendment, the Minister must give the geothermal permit holder notice of the decision.*

- (2) *The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.*
- (3) *If the Minister decides to refuse to approve the amendment, the Minister must give the holder an information notice about the decision.*
- (4) *The refusal takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.*
- (5) *Subsection (4) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.*

Part 4 **Potential geothermal commercial areas**

64 **Purpose of potential geothermal commercial area**

- (1) *The purpose of the declaration of an area as a potential geothermal commercial area for a geothermal permit is to encourage longer-term development of the area for geothermal production.*
- (2) *The purpose is achieved by making special provisions about work programs and relinquishment for potential geothermal commercial areas.*

Note—

For the provisions, see sections 67 and 115.

65 **Applying for potential geothermal commercial area**

- (1) *A geothermal permit holder may apply for a declaration by the Minister that all or a stated part of the permit's area is a potential geothermal commercial area for the permit.*
- (2) *The application must be—*

[s 65]

- (a) *made to the Minister in the approved form; and*
 - (b) *accompanied by the fee prescribed under a regulation.*
- (3) *The application may be made—*
 - (a) *for more than 1 part of the geothermal permit's area; and*
 - (b) *even if another part of the geothermal permit's area is already a potential geothermal commercial area.*
- (4) *The application must include—*
 - (a) *a report for or that includes the proposed potential geothermal commercial area that—*
 - (i) *complies with the requirements prescribed under a regulation for geothermal viability reports; and*
 - (ii) *is still relevant to the circumstances of the proposed potential geothermal commercial area; and*
 - (b) *an evaluation program for—*
 - (i) *potential geothermal production in the proposed potential geothermal commercial area; and*
 - (ii) *market opportunities for potential geothermal production.*
- (5) *However, subsection (4)(a) does not apply if—*
 - (a) *a geothermal viability report or an independent viability assessment relates to or includes the proposed potential geothermal commercial area; and*
 - (b) *the report or assessment is still relevant to the circumstances of the proposed potential geothermal commercial area.*
- (6) *The evaluation program may provide for a suspension of all or part of the work program for the area the subject of the application.*

66 Deciding potential geothermal commercial area application

- (1) *The Minister may declare an area the subject of the application to be a potential geothermal commercial area only if satisfied—*
 - (a) *the area is no more than is needed to cover the maximum extent of geothermal resources identified in the report; and*
 - (b) *geothermal production in the area is not, and will not soon be, commercially viable, but is likely to become viable within 5 years.*
- (2) *The area declared must form a single contiguous parcel of land.*
- (3) *In deciding the application, regard must be had to—*
 - (a) *whether the relevant geothermal permit's conditions have been substantially complied with; and*
 - (b) *any other matter prescribed under a regulation.*
- (4) *To remove any doubt, it is declared that the declaration may be made even if the geothermal permit is being continued in force under section 79 or 293.*
- (5) *If the Minister decides to refuse the application, the Minister must give the applicant an information notice about the decision.*

67 Inclusion of evaluation program in work program

- (1) *If the declaration is made, the evaluation program that accompanied the application is taken to be an additional part of the existing work program for the geothermal permit.*
- (2) *If there is an inconsistency between the evaluation program and the rest of the work program, the evaluation program prevails to the extent of the inconsistency.*

[s 68]

68 Term of declaration

- (1) *A declaration of a potential geothermal commercial area continues in force for the period stated in the declaration.*
- (2) *The period can not be more than 5 years.*
- (3) *In deciding a shorter period, the Minister must consider—*
 - (a) *when any discovery of geothermal resources was made; and*
 - (b) *any geothermal viability report or independent viability assessment for or that includes the proposed potential geothermal commercial area.*
- (4) *Despite subsection (1), the declaration ceases if the geothermal permit holder gives the chief executive a notice stating that the holder no longer wishes the area to be a potential geothermal commercial area.*

69 Potential geothermal commercial area still part of geothermal permit

A declaration of a potential geothermal commercial area does not change the land the subject of the declaration from being—

- (a) *part of the area of the geothermal permit the subject of the application for the declaration; and*
- (b) *subject to the geothermal permit.*

70 Effect of ending of declaration of potential geothermal commercial area

- (1) *This section applies if—*
 - (a) *all or part of the area of a geothermal permit is a potential geothermal commercial area; and*
 - (b) *the declaration of the potential geothermal commercial area ends more than 5 years after the geothermal permit originally took effect.*

- (2) *If the declaration applied to a part of the geothermal permit's area, the part ceases to be included in the area.*
- (3) *If the declaration applies to all of the geothermal permit's area, the permit ends.*

Part 5 **Provisions to facilitate transition to geothermal lease**

71 **Application of pt 5**

This part applies if the Minister reasonably considers a geothermal permit holder should apply for a geothermal lease for all or part of the permit's area because the Minister considers geothermal production in the area—

- (a) *is currently of a large-scale; or*
- (b) *is likely to become of a large-scale within 2 years.*

72 **Ministerial direction to apply for geothermal lease**

- (1) *The Minister may give the geothermal permit holder a notice stating the following—*
 - (a) *that the Minister proposes to do either of the following, (the **proposed action**) unless the holder has made an appropriate lease application—*
 - (i) *excise a stated area from the area of the geothermal permit;*
 - (ii) *cancel the geothermal permit;*
 - (b) *the grounds for the proposed action;*
 - (c) *the facts and circumstances forming the basis for the grounds;*

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- (d) *that the holder may, within a stated period, make submissions to the Minister about why the holder should not make a geothermal lease application under chapter 3, part 2 for the stated area.*
- (2) *The stated period must be reasonable but must not be more than 6 months.*
- (3) *In this section—*
 - appropriate lease application*** *means a geothermal lease application for—*
 - (a) *the stated area or an area that is substantially the same as the stated area; or*
 - (b) *another area the Minister reasonably considers will effectively allow the holder to carry out authorised activities for a geothermal lease in relation to the stated area.*

73 Taking proposed action

- (1) *Proposed action under section 72 may be taken only if—*
 - (a) *the stated period under that section has ended; and*
 - (b) *either—*
 - (i) *the holder has not made an appropriate lease application under that section; or*
 - (ii) *any appropriate lease application under that section made by the holder has been refused; and*
 - (c) *the Minister has considered any submissions made by the holder within the period.*
- (2) *If the Minister decides to take the proposed action, the Minister must give the holder an information notice about the decision.*
- (3) *A decision to take the proposed action does not take effect until the end of the appeal period for the decision.*

Chapter 3 Geothermal production leases

Notes—

- 1 *Under this chapter, a geothermal lease can only be obtained for large-scale geothermal production. See section 77.*
- 2 *For the general requirement to have a geothermal tenure and the exceptions to the requirement, see section 327. In particular, section 327 only requires the holding of a geothermal lease for large-scale geothermal production.*
- 3 *Chapter 5 (Coordination with particular authorities under other resource Acts) imposes requirements for and restrictions on the granting of, and restrictions on authorised activities that may be carried out under, particular geothermal tenures. See section 134.*

Part 1 Key authorised activities

74 Operation of pt 1

This part provides for the key authorised activities for a geothermal lease.

Notes—

- 1 *For other authorised activities, see chapter 6, part 5, division 2 (Access to private land outside area of geothermal tenure) and chapter 8, part 1, division 2 (General provisions about authorised activities).*
- 2 *For general restrictions on authorised activities, their relationship with owner's and occupiers' rights and who may carry out authorised activities for a geothermal tenure holder, see chapter 4 and chapter 8, part 1, division 2.*

75 Principal authorised activities

The geothermal lease holder may carry out the following activities in the lease's area—

- (a) *geothermal exploration;*

[s 76]

- (b) *evaluating the feasibility of geothermal production, including, for example, by production testing;*
- (c) *geothermal production.*

76 Incidental activities

- (1) *The geothermal lease holder may carry out any other activity (an **incidental activity**) in the lease's area if carrying out the activity is reasonably necessary for or is incidental to geothermal production.*

Examples of incidental activities—

- *constructing or operating facilities, plant or works, including, for example, communication systems, compressors, pipelines, pumping stations, reservoirs, roads, evaporation or storage ponds and tanks*
 - *constructing or using temporary structures or structures of a technical nature*
- (2) *However, constructing or using a structure, other than a temporary structure, for office or residential accommodation is not an incidental activity.*
- (3) *To remove any doubt, it is declared that the use of infrastructure supporting the use of, or using, geothermal energy is not, of itself, an incidental activity.*

Example of infrastructure that uses geothermal energy—

a power station

Part 2 **Transition from geothermal permit to geothermal lease**

Division 1 **Applying for geothermal lease**

77 **Who may apply**

- (1) *A geothermal permit holder who continues to be an eligible person may apply for a geothermal lease over all or part of the permit's area.*

Note—

For restrictions on what land may be included in a geothermal tenure, see sections 33, 35 and 184.

- (2) *However, the holder can only apply for a geothermal lease for the land for large-scale geothermal production.*
- (3) *Also, a person other than the holder may apply for the geothermal lease—*
- (a) *jointly with the holder; or*
 - (b) *with the holder's consent.*
- (4) *To remove any doubt, it is declared that a geothermal lease can only be applied for or granted under this part.*

78 **Requirements for making application**

The application must—

- (a) *be made to the Minister in the approved form; and*
- (b) *address the capability criteria; and*
- (c) *include a proposed development plan complying with the initial development plan requirements; and*
- (d) *include a statement about the extent to which the applicant has—*

[s 79]

- (i) *the financial and technical resources to carry out authorised activities for the proposed geothermal lease; and*
- (ii) *the ability to manage geothermal production; and*
- (e) *state the name and address for service of 1 person on whom any notice to the applicant may be served; and*
- (f) *be accompanied by the fee prescribed under a regulation.*

79 Continuing effect of geothermal permit for application

- (1) *This section applies if, other than for subsection (2), the relevant geothermal permit would, other than by cancellation under this Act, end before the application is decided.*
- (2) *The geothermal permit continues in force for the area the subject of the application until the earliest of the following—*
 - (a) *the term of the geothermal lease starts;*
 - (b) *a refusal of the application takes effect;*
 - (c) *the application is withdrawn.*
- (3) *Despite any ending of the program period for the current work program for the geothermal permit—*
 - (a) *the geothermal permit is taken to have a work program; and*
 - (b) *the holder may carry out any authorised activity for the geothermal permit.*

Division 2 Deciding application

80 Deciding whether to grant geothermal lease

Subject to section 83, the Minister may grant the applicant a geothermal lease only if satisfied the requirements mentioned in section 81 have been complied with.

81 Requirements for grant

For section 80, the requirements are the following—

- (a) the applicant continues to be an eligible person;*
- (b) the proposed area of the proposed geothermal lease—*
 - (i) is appropriate for the authorised activities proposed to be carried out; and*
 - (ii) contains adequately identified geothermal resources that are adequate for the geothermal lease's proposed purpose;*
- (c) the relevant geothermal permit's conditions have been substantially complied with;*
- (d) the Minister has approved the applicant's proposed initial development plan for the geothermal lease;*
- (e) the relevant environmental authority has been issued;*
- (f) any relevant Water Act authorisation has been issued;*
- (g) the applicant has established that geothermal production in the geothermal lease's area will or is likely to happen within 2 years after the lease is to take effect;*
- (h) the applicant has paid the annual rent for the first year of the proposed geothermal lease;*
- (i) the applicant has, under section 204, given security for the geothermal lease;*
- (j) the Minister is of the opinion that the applicant is capable (the **capability criteria**) of carrying out authorised activities for the geothermal lease having regard to the applicant's—*
 - (i) financial and technical resources; and*
 - (ii) ability to manage geothermal production.*

[s 82]

82 Provisions and granting of geothermal lease

- (1) *If the Minister decides to grant the applicant a geothermal lease, the Minister must decide its provisions and grant the applicant the lease.*
- (2) *The lease must state its term and area.*
- (3) *The term must end no later than 30 years after the lease takes effect.*
- (4) *The area must comply with chapter 6, part 1.*
- (5) *The geothermal lease may also state—*
 - (a) *conditions or other provisions of the lease, other than conditions or provisions that are—*
 - (i) *inconsistent with the mandatory conditions for geothermal leases; or*
 - (ii) *the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the lease; and*
 - (b) *a day for the lease to take effect; and*
 - (c) *a day by which geothermal production under the lease is to start (the **production commencement day**).*
- (6) *However, the provisions of the lease may exclude or restrict the carrying out of an authorised activity for the lease.*
- (7) *The day the lease takes effect can not be before the day it is granted.*
- (8) *If no day of effect is stated, the lease takes effect on the day after it is granted.*
- (9) *In deciding the provisions of the lease, the Minister must consider the development plan criteria and capability criteria.*
- (10) *This section applies subject to section 83.*

83 Provisions about grant and conditions of geothermal lease for significant project

- (1) *This section applies if a proposed geothermal lease is for a significant project.*
- (2) *The Minister must not grant the geothermal lease until the Minister has been given the coordinator-general's report for the project.*
- (3) *Any coordinator-general's conditions for the geothermal lease must be stated in the lease.*
- (4) *Any other condition of the geothermal lease stated under section 82 can not be inconsistent with the coordinator-general's conditions.*
- (5) *If a mandatory condition for geothermal leases conflicts with any of the coordinator-general's conditions, the mandatory condition prevails to the extent of the inconsistency.*
- (6) *In this section—*

***coordinator-general's conditions**, for the proposed geothermal lease, means the conditions for the lease stated in the coordinator-general's report for the significant project.*

***coordinator-general's report** means the coordinator-general's report under the State Development and Public Works Organisation Act 1971 for the EIS for the significant project.*

84 Information notice about refusal

If the Minister decides to refuse to grant the applicant a geothermal lease, the Minister must give the applicant an information notice about the decision.

85 When refusal takes effect

- (1) *A decision to refuse to grant the applicant a geothermal lease takes effect at the end of the appeal period for the decision.*

[s 86]

- (2) *Subsection (1) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.*

Part 3 Development plans

Division 1 Function and purpose

86 Function and purpose

- (1) *The development plan for a geothermal lease (the **relevant lease**) gives detailed information about the nature and extent of activities to be carried out under the relevant lease.*
- (2) *The development plan may—*
- (a) *also be about another geothermal lease or proposed geothermal lease if the other geothermal lease or proposed geothermal lease relates to the relevant lease; and*
 - (b) *provide that when the plan is approved it will replace any development plan for the other lease.*
- (3) *The purposes of giving the information are to—*
- (a) *allow resource management decisions to be made; and*
 - (b) *ensure appropriate development of the geothermal lease's area.*

Division 2 **Requirements for proposed initial development plans**

87 **Operation of div 2**

*This division provides for requirements (the **initial development plan requirements**) for a proposed initial development plan for a proposed geothermal lease.*

88 **Plan period**

The plan period for the proposed development plan must be for the following period from when the proposed geothermal lease is to take effect—

- (a) generally—5 years;*
- (b) if the applicant is seeking a term of less than 5 years for the proposed geothermal lease—the duration of the proposed term.*

89 **General requirements**

(1) The proposed development plan must provide for the following—

- (a) an overview of the activities proposed to be carried out under the proposed geothermal lease during all of its term (the **proposed activities**);*
- (b) a description of the proposed activities for each year of the plan period;*
- (c) reasons why the plan is considered appropriate;*
- (d) the following—*
 - (i) after geothermal energy has been produced, the purpose for which it will be used and by whom;*
 - (ii) the characteristics of geothermal resources in the geothermal lease's area;*

[s 89]

- (iii) *the extent to which further drilling and artificial fracturing is proposed;*
 - (iv) *the scale and scope of geothermal production, including information about the following—*
 - *the number of geothermal wells*
 - *the time of commissioning of the geothermal wells*
 - *the expected life of geothermal resources*
 - *whether geothermal production is to be staged;*
 - (v) *the part of the area required for full and staged production proposals;*
 - (vi) *how many more geothermal wells need to be drilled;*
 - (vii) *when the area is expected to be free of drilling rigs;*
 - (viii) *the proposed level of investment, and whether the proposed holder has finance or how the proposed holder proposes to obtain finance;*
 - (ix) *the skills, experience and qualifications of staff who comply with the proposed holder's requirements for carrying out the proposed activities;*
 - (x) *a risk management plan for the proposed activities that deals with safety and seismicity issues;*
 - (xi) *a plan for decommissioning exploration wells and any plant or facilities used for the proposed activities, including the expected costs of the decommissioning;*
- (e) *any other matter prescribed under a regulation.*
- (2) *The proposed plan may include any other information relevant to the development plan criteria.*

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- (3) *A regulation may impose requirements about the form of the development plan.*
- (4) *The proposed plan can not be inconsistent with the mandatory conditions for geothermal leases.*
- (5) *In this section—*

***plan period start day** means the day the plan period starts.*

year, of the plan period, means—

- (a) *the period starting on the plan period start day and ending on the first anniversary of that day; and*
- (b) *each subsequent period of 12 months or less during the plan period, starting on an anniversary of the plan period start day and ending on—*
- (i) *the next anniversary of that day; or*
- (ii) *if the plan period ends before the next anniversary—the day the plan period ends.*

90 Water issues

- (1) *The proposed development plan must include an assessment of—*
- (a) *water needed for the proposed activities; and*
- (b) *the potential for obtaining any relevant Water Act authorisation; and*
- (c) *the potential structural and other impacts of the carrying out of the proposed activities on aquifers.*
- (2) *The proposed plan must include a plan for the treatment and disposal of any water taken or that may be taken because of the carrying out of the proposed activities.*
- (3) *This section is subject to section 94(2).*

[s 91]

Division 3 **Approval of proposed initial development plans**

Note—

For the requirement for approval of an initial development plan, see section 81 (Requirements for grant).

91 **Criteria**

- (1) *In deciding whether to approve a proposed development plan the Minister must consider the following—*
 - (a) *the potential of the area of the proposed geothermal lease for geothermal production and related activities;*
 - (b) *the nature and extent of the proposed activities and when and where they will be carried out;*
 - (c) *whether geothermal production under the geothermal lease will be optimised in the best interests of the State;*
 - (d) *the nature and extent of water disposal and treatment activities;*
 - (e) *any relevant environmental authority;*
 - (f) *any relevant Water Act authorisation;*
 - (g) *any potential structural and other impacts of the carrying out of the proposed activities on aquifers.*
- (2) *The matters mentioned in subsection (1) are the **development plan criteria**.*

92 **Verification may be required**

- (1) *The Minister may by notice require the applicant to give the Minister, within a stated reasonable period, a document made by an appropriately qualified independent person verifying all or any of the following—*
 - (a) *an assessment of data supplied in the proposed development plan;*

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- (b) *the source of the data;*
 - (c) *the work done for the proposed development plan;*
 - (d) *that, in the person's opinion, the applicant has—*
 - (i) *the financial and technical resources to carry out authorised activities for the proposed geothermal lease; and*
 - (ii) *the ability to manage geothermal production.*
- (2) *If the applicant does not comply with the requirement, the Minister may refuse to approve the proposed plan.*
- (3) *The applicant must bear any costs incurred in complying with the requirement.*

Division 4 Requirements for proposed later development plans

93 Operation of div 4

*This division provides for requirements (the **later development plan requirements**) for a proposed later development plan for a geothermal lease.*

Note—

For the requirements to give a proposed later development plan, see sections 125, 187(7) and 320.

94 General requirements

- (1) *The proposed development plan must—*
- (a) *comply with the initial development plan requirements as if a reference in the requirements to a proposed holder were a reference to the geothermal lease holder; and*

[s 95]

- (b) *highlight any significant changes from the geothermal lease's current development plan (the **current plan**); and*
- (c) *if the current plan has not been complied with—state the details of and reasons for each noncompliance.*
- (2) *The proposed plan can not be inconsistent with any relevant environmental condition for the lease.*
- (3) *If the effect of the proposed plan is to significantly change an activity provided for under the current plan, the proposed plan must also state the reasons for the change.*
- (4) *Also, for a significant change that is a reduction of geothermal production, the proposed plan must include an evaluation of the following in the geothermal lease's area—*
 - (a) *the potential for geothermal production;*
 - (b) *the market opportunities for geothermal energy produced.*

Division 5 Approval of proposed later development plans

95 Application of div 5

This division applies if—

- (a) *under this Act, the Minister is given a proposed later development plan for a geothermal lease for approval; or*
- (b) *the Minister is considering an application under section 140 for approval of a proposed geothermal coordination arrangement.*

96 Geothermal lease taken to have development plan until decision on whether to approve proposed plan

- (1) *This section applies until—*

-
- (a) *if the approval is given—the geothermal lease holder is given notice of the approval; or*
 - (b) *if the approval is refused—the refusal takes effect.*
 - (2) *Despite the ending of the plan period for the geothermal lease’s current development plan—*
 - (a) *the geothermal lease is taken to have a development plan; and*
 - (b) *the holder may carry out any authorised activity for the geothermal lease.*

97 Deciding whether to approve proposed plan

- (1) *The Minister may approve or refuse to approve the proposed development plan.*
- (2) *In deciding whether to give the approval, the Minister must consider the following—*
 - (a) *the development plan criteria;*
 - (b) *the extent to which the current development plan for the geothermal lease has been complied with;*
 - (c) *if the proposed plan provides for a significant change that is a reduction of geothermal production—*
 - (i) *whether the reduction is reasonable; and*
 - (ii) *whether the geothermal lease holder has taken all reasonable steps to prevent the reduction;*
 - (d) *any amendments made to the geothermal lease or any of the following for the lease, and the reasons for the amendments—*
 - (i) *the current development plan;*
 - (ii) *the relevant environmental authority;*
 - (iii) *any relevant Water Act authorisation.*

[s 98]

- (3) *Section 92 applies for the proposed plan as if it were an were an initial development plan and an application for approval of the initial development plan had been made.*

98 Steps after, and taking effect of, decision

- (1) *If the Minister decides to approve the proposed later development plan, the Minister must give the geothermal lease holder notice of the decision.*
- (2) *The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.*
- (3) *If the Minister decides to refuse to approve the proposed plan, the Minister must give the holder an information notice about the decision.*
- (4) *The refusal takes effect at the end of the appeal period for the decision to refuse.*
- (5) *Subsection (4) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.*

Division 6 Amending development plans

99 Restrictions on amendment

- (1) *A geothermal lease holder may amend the development plan for the lease.*
- (2) *However, the amendment is subject to approval under this division.*
- (3) *Also, a development plan can not be amended—*
- (a) *in a way that provides for a cessation of geothermal production under a geothermal lease; or*
- (b) *if the plan as amended would be inconsistent with—*

-
- (i) *the mandatory conditions for geothermal leases;
or*
 - (ii) *any relevant environmental condition for the lease.*

100 Applying for approval to amend

- (1) *A geothermal lease holder may apply for approval to amend the development plan for the lease.*
- (2) *The application must be—*
 - (a) *made to the Minister in the approved form; and*
 - (b) *accompanied by the fee prescribed under a regulation.*

101 Verification

Section 92 applies for the application as if—

- (a) *the application were a geothermal lease application;
and*
- (b) *a reference in the section to a proposed development plan were a reference to the amendment.*

102 Deciding application

In deciding whether to approve the amendment, the Minister must consider the following—

- (a) *the development plan criteria;*
- (b) *the extent to which the current development plan for the geothermal lease has been complied with;*
- (c) *if the proposed plan provides for a significant change that is a reduction of geothermal production—*
 - (i) *whether the reduction is reasonable; and*
 - (ii) *whether the geothermal lease holder has taken all reasonable steps to prevent the reduction;*

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- (d) *any amendments made to the geothermal lease or any of the following for the lease, and the reasons for the amendments—*
- (i) *the current development plan;*
 - (ii) *the relevant environmental authority;*
 - (iii) *any relevant Water Act authorisation.*

103 Steps after, and taking effect of, decision

- (1) *If the Minister decides to approve the amendment, the Minister must give the geothermal lease holder notice of the decision.*
- (2) *The approval takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.*
- (3) *If the Minister decides to refuse to approve the amendment, the Minister must give the holder an information notice about the decision.*
- (4) *The refusal takes effect when the holder is given the notice or, if the notice states a later day of effect, on the later day.*
- (5) *Subsection (4) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.*

Part 4 Royalty on geothermal production

104 Imposition of geothermal royalty on geothermal producers

- (1) *A geothermal lease holder who produces geothermal energy, or for whom geothermal energy is produced (a **geothermal***

producer) must pay the State geothermal royalty for the geothermal energy.

- (2) *The obligation under subsection (1) is subject to any regulation under section 105.*

105 Regulation for geothermal royalty

A regulation may provide for any matter connected with geothermal royalty, including, for example, the following—

- (a) *when the royalty must be paid;*
- (b) *the rate of the royalty;*
- (c) *the value of geothermal energy for the royalty;*
- (d) *concessions or exemptions from the payment of the royalty;*
- (e) *royalty returns;*
- (f) *the measurement of, or information about, geothermal energy required for the purpose of a return;*
- (g) *interest on unpaid royalty;*
- (h) *the recovery of unpaid royalty and interest;*
- (i) *monitoring the payment of the royalty, including, for example, by auditors;*
- (j) *disclosure by the Minister of personal confidential information about the administration of provisions about the royalty.*

106 Obligation to lodge royalty returns

A geothermal producer must, in the way and at the times prescribed under a regulation, give the chief executive returns containing the information prescribed under a regulation about the geothermal energy produced by or for the producer.

Maximum penalty—500 penalty units.

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107 Confidentiality

- (1) *This section applies to a person who—*
 - (a) *is or has been a public service officer or engaged to perform functions under this Act; and*
 - (b) *in that capacity has acquired information or has or had access to, or custody of, a document containing information relating to the administration of this chapter that is not publicly available.*
- (2) *This section also applies to a person to whom the Minister has disclosed information mentioned in section 105(j), other than the person to whom the information relates.*
- (3) *The person must not—*
 - (a) *make a record of the information; or*
 - (b) *whether directly or indirectly, disclose the information; or*
 - (c) *use the information to benefit any person.*

Maximum penalty—200 penalty units or 1 year’s imprisonment.
- (4) *However, subsection (3) does not apply if the record is made, or the information is disclosed or used—*
 - (a) *to the extent necessary to perform the person’s functions under or relating to this chapter; or*
 - (b) *with the consent of the person to whom the information relates; or*
 - (c) *as required or permitted by law.*

108 Refusal of disclosure of particular information

- (1) *A person engaged in the administration or enforcement of this chapter can not be compelled to disclose to a court in a proceeding, or to a party to the proceeding—*

-
- (a) *information disclosed under or relating to this chapter (**confidential information**); or*
- (b) *whether or not the person has received particular confidential information; or*
- (c) *the identity of the source of particular confidential information.*
- (2) *Subsection (1) does not apply for a proceeding for the administration or enforcement of this chapter.*

Chapter 4 General mandatory conditions for geothermal tenures

Notes—

- 1 *The following provisions also impose mandatory conditions on all geothermal tenures—*
- *chapter 2, part 1*
 - *chapter 3, part 1*
 - *chapters 5 and 6.*
- 2 *For what is a mandatory condition, see section 20(2).*

Part 1 Geothermal permits

Division 1 Standard relinquishment condition and related provisions

109 Standard relinquishment condition

- (1) *It is a condition (the **relinquishment condition**) of each geothermal permit that its holder must relinquish part of its area as provided for under this division—*

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- (a) *at the end of or before the end of each period of 5 years after the permit originally took effect; and*
 - (b) *if section 114(4) applies—on the day provided for under that subsection.*
- (2) *A relinquishment required under the relinquishment condition—*
 - (a) *must be made by notice to the chief executive (a **relinquishment notice**); and*
 - (b) *takes effect on the day after the notice is given.*
- (3) *This section does not prevent the holder from relinquishing by relinquishment notice more than the part provided for under this division.*

110 Consequence of failure to comply with relinquishment condition

- (1) *If a geothermal permit holder does not comply with the relinquishment condition, the Minister must give the holder a notice requiring the holder to comply with the condition within 20 business days after the giving of the notice.*
- (2) *If the holder does not comply with the requirement, the geothermal permit is cancelled.*

111 Part usually required to be relinquished

- (1) *The relinquishment must have the effect that an area that equates to at least 33.33% of the original sub-blocks of the geothermal permit is relinquished for each 5-year period that has passed since it originally took effect.*
- (2) *This section is subject to sections 114 and 115.*

112 Relinquishment must be by blocks or sub-blocks

- (1) *A relinquishment under the relinquishment condition can only be by blocks or sub-blocks.*

-
- (2) *However, if a block or sub-block contains an area that, under section 113, can not be counted as a relinquishment, subsection (1) is complied with if all of the rest of the land within the block or sub-block is relinquished.*

113 Blocks or sub-blocks that can not be counted towards relinquishment

- (1) *The following can not be counted as blocks or sub-blocks relinquished for the relinquishment condition—*
- (a) *blocks or sub-blocks in an area that, under section 189, have ceased to be included in the geothermal permit's area;*
 - (b) *blocks or sub-blocks the subject of a geothermal lease application or potential geothermal commercial area;*
 - (c) *blocks or sub-blocks relinquished under a penalty relinquishment.*
- (2) *To remove any doubt, it is declared that—*
- (a) *a potential geothermal commercial area can be relinquished and can be counted as an area relinquished for the relinquishment condition; but*
 - (b) *the mere fact of the declaration of the blocks or sub-blocks as a potential geothermal commercial area for the geothermal permit is not, of itself, a relinquishment.*

114 Adjustments for blocks or sub-blocks that can not be counted

- (1) *This section applies if, after taking away all blocks or sub-blocks that, under section 113, can not be counted for the relinquishment condition, the balance of the blocks of the geothermal permit's area is less than the blocks or sub-blocks required to be relinquished under section 111.*

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- (2) *The relinquishment condition is taken to have been complied with if the geothermal permit holder gives a relinquishment notice for all of the balance.*
- (3) *However, subsection (4) applies if—*
 - (a) *a block or sub-block not counted for the relinquishment condition was the subject of a geothermal lease application or potential geothermal commercial area; and*
 - (b) *the application is refused.*
- (4) *The geothermal permit holder must, within 20 business days after the appeal period for the decision to refuse, give a relinquishment notice to the extent necessary to comply with section 111.*

115 Adjustment for particular potential geothermal commercial areas

- (1) *This section applies if, apart from this section, the only way to comply with the relinquishment condition would be to relinquish all or part of a potential geothermal commercial area for the geothermal permit.*
- (2) *The relinquishment condition is taken to be complied with if all remaining original sub-blocks of the permit's area, other than any blocks that consist of the potential geothermal commercial area, are relinquished.*

Division 2 Conditions relating to work programs

116 Requirement to have work program

A geothermal permit holder must have a work program for the permit.

117 Compliance with activities in work program

A geothermal permit holder must carry out the geothermal exploration activities proposed in the work program for the permit.

118 Obligation to give proposed later work program

- (1) *This section imposes an obligation on a geothermal permit holder to give the Minister a proposed later work program for the permit.*

Notes—

- 1 For approval of the proposed later work program, see chapter 2, part 3, division 5.*
 - 2 If the holder wishes to renew the geothermal permit, a proposed later work program must be included in the renewal application. See section 292.*
- (2) *The obligation is complied with only if the proposed later work program—*
- (a) complies with the later work program requirements; and*
 - (b) is accompanied by the relevant fee.*
- (3) *The Minister must be given a proposed later work program at least 40 but no more than 100 business days before the end of the program period for the current work program for the geothermal permit (the **current work program period**).*
- (4) *However, if before the end of the current work program period a decision is made to refuse to approve a proposed later work program given under subsection (3), the holder may within the period give another proposed later work program.*
- (5) *If the holder does not give the Minister any proposed later work program before the end of the current work program period, or if subsection (4) applies and the holder has not given the Minister another proposed later work program within the current work program period—*
- (a) the Minister must give the holder a notice requiring the holder to give the Minister a proposed later work*

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program for the geothermal permit within 40 business days after the giving of the notice; and

(b) the holder must comply with the requirement.

(6) In this section—

relevant fee, for the giving of the proposed program, means—

(a) if the proposed program is given within the time required under subsection (3)—the fee prescribed under a regulation; or

(b) if the proposed program is given after the time required under subsection (3) and—

(i) if it is given under subsection (4)—nil; or

(ii) if it is not given under subsection (4)—an amount that is 10 times the prescribed fee.

119 Consequence of failure to comply with notice to give proposed later work program

(1) If a geothermal permit holder does not comply with a requirement under section 118(5)(a), the permit is cancelled.

(2) However, the cancellation does not take effect until the Minister gives the holder a notice stating that the geothermal permit has been cancelled because of the operation of subsection (1).

Division 3 Conditions relating to production testing

120 Compliance with test plan for production testing

(1) A geothermal permit holder may carry out production testing only in accordance with the following—

(a) a test plan for that purpose approved by the Minister;

(b) all conditions of the approval.

- (2) *The holder may ask the Minister to approve a test plan proposed by the holder.*
- (3) *The proposed test plan must comply with any requirements prescribed under a regulation.*
- (4) *The Minister may impose conditions on the granting of the approval.*
- (5) *If the Minister makes a decision as follows, the Minister must give the holder an information notice about the decision—*
 - (a) *a decision to refuse to approve the proposed test plan;*
 - (b) *a decision to impose conditions on the granting of the approval, other than a condition agreed to or requested by the geothermal permit holder.*

121 Requirement of geothermal tenure holder to report outcome of production testing

- (1) *This section applies if a geothermal permit holder carries out production testing.*
- (2) *The holder must within 40 business days after the testing ends give the chief executive a report stating the outcome of the testing.*
- (3) *The report must also state how much water was taken during the testing.*

Part 2 Geothermal leases

122 Obligation to commence geothermal production

A geothermal lease holder must start geothermal production under the geothermal lease on or before the later of the following—

- (a) *the end of 2 years after the geothermal lease takes*

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effect;

- (b) *any production commencement day for the geothermal lease.*

123 Requirement to have development plan

A geothermal lease holder must have a development plan for the lease.

124 Compliance with development plan

A geothermal lease holder must comply with the development plan for the lease.

125 Obligation to give proposed later development plan

- (1) *This section imposes an obligation on a geothermal lease holder to give the Minister a proposed later development plan for the lease.*
- (2) *The obligation is complied with only if the proposed later development plan—*
- (a) *complies with the later development plan requirements; and*
 - (b) *is accompanied by the relevant fee.*
- (3) *The Minister must be given a proposed later development plan—*
- (a) *at least 40 but no more than 100 business days before the end of the plan period for the current development plan for the lease (the **current plan period**); or*
 - (b) *as soon as practicable after the holder proposes or becomes aware of a significant change to the nature and extent of an authorised activity that is not already dealt with under the geothermal lease's current development plan.*

-
- (4) *However, if before the end of the current plan period a decision is made to refuse to approve a proposed later development plan given under subsection (3), the holder may within the period give the Minister another proposed later development plan.*
- (5) *If the holder does not give the Minister any proposed later development plan before the end of the current plan period, or if subsection (4) applies and the holder does not give the Minister another proposed later development plan within the current plan period—*
- (a) *the Minister must give the holder a notice requiring the holder to give the Minister a proposed later development plan for the geothermal lease within 40 business days after the giving of the notice; and*
 - (b) *the holder must comply with the requirement.*
- (6) *In this section—*
- relevant fee**, *for the giving of the proposed plan, means—*
- (a) *if the proposed plan is given within the time required under subsection (3)—the fee prescribed under a regulation; or*
 - (b) *if the proposed plan is given after the time required under subsection (3) and—*
 - (i) *if it is given under subsection (4)—nil; or*
 - (ii) *if it is not given under subsection (4)—an amount that is 10 times the prescribed fee.*

126 Consequence of failure to comply with notice to give proposed later development plan

- (1) *If a geothermal lease holder does not comply with a requirement under section 125(5)(a), the lease is cancelled.*
- (2) *However, the cancellation does not take effect until the Minister gives the holder a notice stating that the geothermal*

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lease has been cancelled because of the operation of subsection (1).

Part 3 All geothermal tenures

127 Water Act authorisation required for taking or interfering with water

A geothermal tenure holder can not take or interfere with water as defined under the Water Act unless the taking or interference is authorised under that Act.

128 Obligation to consult with particular owners and occupiers

- (1) *A geothermal tenure holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the tenure are proposed to be carried out or are being carried out.*
- (2) *The consultation must be about—*
 - (a) *access; and*
 - (b) *the carrying out of authorised activities for the geothermal tenure (including, for example, crossing access land for the tenure) to the extent they relate to the owners and occupiers; and*
 - (c) *the geothermal tenure holder's compensation liability to the owners or occupiers.*

129 Compliance with land access code

A geothermal tenure holder must—

- (a) *comply with the mandatory provisions of the land access code to the extent it applies to the holder; and*

-
- (b) *ensure any other person carrying out an authorised activity for the geothermal tenure complies with the mandatory provisions of the land access code.*

130 Annual rent

- (1) *A geothermal tenure holder must pay the State the annual rent as prescribed under a regulation.*
- (2) *The annual rent must be paid in the way, and on or before the day, prescribed under a regulation.*

131 Civil penalty for nonpayment of annual rent

- (1) *If a geothermal tenure holder does not pay the annual rent as required under section 130, the holder must also pay the State a civil penalty.*
- (2) *The amount of the penalty is the greater of the following—*
- (a) *\$1000;*
- (b) *15% of the rent.*
- (3) *The penalty—*
- (a) *must be paid on the day after the last day for payment of the rent; and*
- (b) *is still payable even if the holder later pays the rent.*

Note—

See also section 372 (Interest on amounts owing to the State).

132 Obligation to comply with Act and prescribed standards

- (1) *A geothermal tenure holder must—*
- (a) *comply with this Act; and*
- (b) *in carrying out an authorised activity for the geothermal tenure, comply with—*

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- (i) *any standard that the geothermal tenure provides for the activity; and*
 - (ii) *to the extent that the geothermal tenure does not provide a standard for the activity—any standard prescribed under a regulation for carrying out the activity.*
- (2) *In this section—*
standard *includes an Australian Standard, an international standard and a code or protocol.*

133 Obligation to survey if Minister requires

- (1) *The Minister may, by notice to a geothermal tenure holder, require the holder to survey or resurvey the tenure's area within a stated reasonable period.*
- (2) *The holder must cause the survey or resurvey to be carried out by a person who is a cadastral surveyor under the Surveyors Act 2003.*
- (3) *The holder must bear any costs incurred in complying with the notice.*

Chapter 5 Coordination with particular authorities under other resource Acts

Part 1 Preliminary

134 Relationship with chs 2, 3 and 6

- (1) *Requirements and restrictions under this chapter relating to the granting of a geothermal tenure apply as well as any relevant requirements under chapter 2, 3 or 6.*
- (2) *If this chapter imposes a requirement for or a restriction on the granting of a geothermal tenure, it can not be granted if the restriction applies or if the requirement has not been complied with.*
- (3) *If a provision of this chapter conflicts with a provision of chapter 2, 3 or 6, the provision of this chapter prevails to the extent of the inconsistency.*
- (4) *This chapter does not otherwise limit or affect the requirements of chapter 2, 3 or 6.*
- (5) *Subsection (6) applies if this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a geothermal tenure.*
- (6) *Despite chapters 2, 3 and 6, the activity is not an authorised activity for the geothermal tenure while the restriction applies or if the requirement has not been complied with.*

135 What is an overlapping resource authority

- (1) *An **overlapping resource authority**, for a geothermal tenure, is any authority of the following types, all or part of the area of which is in the geothermal tenure's area—*
 - (a) *an exploration authority (non-geothermal);*

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- (b) *a GHG lease;*
 - (c) *a mining lease;*
 - (d) *a petroleum lease.*
- (2) *An **overlapping resource authority**, for a proposed geothermal tenure, is another authority of a type mentioned in subsection (1), all or part of the area of which will, if the proposed tenure is granted, be in the proposed tenure's area.*

136 What is an exploration authority (non-geothermal)

An exploration authority (non-geothermal) is—

- (a) *a GHG permit; or*
- (b) *an authority to prospect under the 1923 Act or the P&G Act; or*
- (c) *any of the following under the Mineral Resources Act—*
 - (i) *a mining claim;*
 - (ii) *an exploration permit;*
 - (iii) *a mineral development licence.*

137 Relationship with other resource Acts and overlapping resource authorities

Subject to the other provisions of this chapter and chapters 2, 3 and 6, another resource Act, or an authority, tenement or tenure under a resource Act, does not limit or otherwise affect—

- (a) *the power under this Act to grant a geothermal tenure over land in the area of an overlapping resource authority for a proposed geothermal tenure; or*
- (b) *the carrying out of authorised activities for a geothermal tenure.*

Part 2 **Geothermal coordination arrangements for overlapping resource authorities**

Division 1 **Making of arrangements**

138 **Power to make arrangement**

- (1) *A geothermal tenure holder may make an arrangement with the holder of an overlapping resource authority for the tenure about the carrying out of authorised activities for the tenure.*
- (2) *An authority of a type mentioned in subsection (1) is a **relevant authority** for a geothermal coordination arrangement.*
- (3) *A person who proposes to enter into a relevant authority may enter into an arrangement mentioned in subsection (1).*
- (4) *An arrangement of a type mentioned in subsection (1), that under section 141 has taken effect and has not ceased to operate according to its terms and has not been cancelled under this part, is a **geothermal coordination arrangement**.*

139 **Other provisions about and effect of geothermal coordination arrangement**

- (1) *A geothermal coordination arrangement may—*
 - (a) *be for any term; and*
 - (b) *have more than 2 relevant authorities; and*
 - (c) *be included in, or form part of, a coordination arrangement under the P&G Act or a GHG coordination arrangement under the GHG storage Act.*
- (2) *A person, other than the holder or proposed holder of a relevant authority, may also be a party to the arrangement.*

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- (3) *A proposed geothermal coordination arrangement has no effect unless it is approved by the Minister under section 141.*

140 Applying for ministerial approval of proposed geothermal coordination arrangement

- (1) *The parties to a proposed geothermal coordination arrangement may jointly apply for approval of the arrangement.*
- (2) *The application must be—*
- (a) *made to the Minister in the approved form; and*
 - (b) *accompanied by—*
 - (i) *the original or a certified copy of the proposed arrangement; and*
 - (ii) *the fee prescribed under a regulation.*
- (3) *If the proposed arrangement is inconsistent with the work program or development plan for the relevant geothermal tenure, the application must be accompanied by the following document so that the Minister may decide whether to approve the document—*
- (a) *for a geothermal permit—a proposed later work program complying with the later work program requirements;*
 - (b) *for a geothermal lease—a proposed later development plan complying with the later development plan requirements.*

141 Ministerial approval of proposed geothermal coordination arrangement

- (1) *The Minister may approve the proposed arrangement only if—*
- (a) *the Minister is satisfied—*

-
- (i) *the arrangement clearly identifies the safety responsibilities of each party to the arrangement for the land the subject of the arrangement; and*
 - (ii) *the spatial relationship between the relevant authorities for the arrangement is appropriate; and*
 - (b) *the proposed later work program or development plan accompanying the application has been approved; and*
 - (c) *the arrangement is consistent with the purposes of this Act.*
- (2) *In considering whether to give the approval the Minister may have regard to any—*
- (a) *coordination arrangement or proposed coordination arrangement under the P&G Act; or*
 - (b) *GHG coordination arrangement or proposed GHG coordination arrangement under the GHG storage Act.*
- (3) *If a relevant authority has not been granted, the approval does not take effect until the authority takes effect.*

142 Approval does not confer right to renew

- (1) *This section applies if the term of a geothermal coordination arrangement is longer than the current term of any relevant authority for the arrangement.*
- (2) *To remove any doubt, it is declared that the approval of the arrangement does not impose an obligation or create a right to renew the relevant authority.*

Division 2 Amendment and cancellation

143 Amendment or cancellation by parties to arrangement

- (1) *A geothermal coordination arrangement may be amended or cancelled by the parties to the arrangement only with the Minister's approval.*
- (2) *A purported amendment or cancellation of a geothermal coordination arrangement by the parties to it has no effect unless it is approved under subsection (1).*

144 Minister's power to cancel arrangement

- (1) *The Minister may, by complying with subsections (2) and (3), cancel a geothermal coordination arrangement.*
- (2) *If the Minister proposes to cancel the arrangement, the Minister must give each party to the arrangement a notice stating—*
 - (a) *that the Minister proposes to cancel the arrangement; and*
 - (b) *the reasons for the proposed cancellation; and*
 - (c) *that any party to the arrangement may make submissions to the Minister about the proposed cancellation or the likely impact of the cancellation on the relevant authorities.*
- (3) *Before cancelling the arrangement, the Minister must consider—*
 - (a) *any submissions made by any party to the arrangement within the stated period; and*
 - (b) *the likely impact of the cancellation on the relevant authorities; and*
 - (c) *the public interest.*

-
- (4) *If the Minister decides to cancel the arrangement, the Minister must give each party to the arrangement an information notice about the decision.*
 - (5) *The cancellation takes effect at the end of the appeal period for the decision to cancel or, if a later day of effect is stated in the information notice, on the later day.*
 - (6) *When the decision takes effect, the arrangement and the Minister's approval of it cease to have effect.*

145 Cancellation does not affect relevant authorities

The cancellation of a former geothermal coordination arrangement does not affect any relevant authority.

Part 3 Obtaining geothermal lease if overlapping resource authority

Division 1 Preliminary

146 Application of pt 3

This part applies if—

- (a) *a person (the **applicant**) wishes to make a geothermal lease application; and*
- (b) *there is an overlapping resource authority for the proposed geothermal lease.*

Division 2 Requirements for application

147 Requirements for making application

- (1) *The geothermal lease application must include—*
- (a) *a statement complying with section 148 (a **geothermal statement**); and*
 - (b) *other information addressing the matters mentioned in subsection (2) (the **geothermal assessment criteria**).*
- (2) *The geothermal assessment criteria are—*
- (a) *compliance with the P&G Act safety provisions to the extent they are relevant; and*

Note—

The definition of operating plant under the P&G Act, section 670 does not include wet geothermal production.

- (b) *the additional requirements under part 7 for proposed initial development plans; and*
- (c) *the potential for the parties to make a geothermal coordination arrangement for the proposed geothermal lease; and*
- (d) *the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed geothermal lease and the overlapping resource authority; and*
- (e) *the public interest.*

148 Content requirements for geothermal statement

The geothermal statement must—

- (a) *assess—*
 - (i) *the likely effect of proposed authorised activities for the proposed geothermal lease on the future use*

-
- of resources under the overlapping resource authority; and*
- (ii) *the technical and commercial feasibility of coordinating the proposed activities and the future use of the resources; and*
- (b) *include proposals for the minimisation of potential adverse effects on possible future safe and efficient use of the resources under the overlapping resource authority.*

Division 3 Consultation provisions

149 Applicant's information obligation

- (1) *The applicant must, within 10 business days after making the geothermal lease application, give the overlapping resource authority holder a copy of the application, other than any part of the application relating to the capability criteria.*
- (2) *If the Minister is reasonably satisfied the applicant has not complied with subsection (1), the Minister may refuse the application.*

150 Submissions by overlapping resource authority holder

- (1) *The overlapping resource authority holder may make submissions to the Minister about the geothermal lease application (**holder submissions**).*
- (2) *However, holder submissions may be made only within 4 months after the holder is given a copy of the application.*
- (3) *Holder submissions may do all or any of the following—*
- (a) *state that the holder does not object to the granting of the proposed geothermal lease;*
- (b) *if the overlapping resource authority is an exploration authority (non-geothermal)—state that the holder does not wish any priority for the carrying out of authorised*

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*activities for any future lease that may arise from the overlapping resource authority (**overlapping authority priority**);*

- (c) include information about authorised activities carried out under the overlapping resource authority;*
 - (d) include a proposal by the overlapping resource authority holder for the use of the resource;*
 - (e) include information relevant to the geothermal assessment criteria;*
 - (f) propose reasonable provisions for the safety management plan for the proposed geothermal lease.*
- (4) The holder must give the applicant a copy of the holder submissions.*

Division 4 Resource management decision if overlapping exploration authority (non-geothermal)

151 Application of div 4

- (1) This division applies if—*
- (a) the overlapping resource authority is an exploration authority (non-geothermal); and*
 - (b) the overlapping resource authority holder has made holder submissions within 4 months after the holder was given a copy of the application; and*
 - (c) the submissions state that the holder wishes overlapping authority priority.*
- (2) However, this division does not apply if, under another resource Act, overlapping authority priority has been given for any of the relevant land.*

Note—

If this division does not apply, the geothermal lease application proceeds immediately to decision under chapter 3 as affected by division 7.

152 Resource management decision

*The Minister must make a decision (the **resource management decision**) about whether—*

- (a) to grant the geothermal lease application; or*
- (b) to give any overlapping authority priority for all or part of the relevant land; or*
- (c) not to grant the geothermal lease application and not to give any overlapping authority priority for any of the relevant land.*

153 Criteria for decision

In making the resource management decision the Minister must have regard to the following—

- (a) the geothermal statement;*
- (b) the geothermal assessment criteria;*
- (c) the holder submissions;*
- (d) the public interest.*

154 Restrictions on giving overlapping authority priority

Overlapping authority priority may be given only if the Minister considers that—

- (a) either—*
 - (i) it is unlikely the applicant and the overlapping resource authority holder will enter into a geothermal coordination arrangement; or*

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- (ii) *a geothermal coordination arrangement for the proposed geothermal lease is not commercially or technically feasible; and*
- (b) *the public interest would be best served by not granting a geothermal lease to the applicant first.*

Division 5 **Process if resource management decision is to give overlapping authority priority**

155 **Application of div 5**

This division applies only if—

- (a) *under division 4, a resource management decision is required for the geothermal lease application; and*
- (b) *the decision is to give overlapping authority priority for all or part of the relevant land.*

156 **Notice to applicant and overlapping resource authority holder**

- (1) *The chief executive must give the applicant and the overlapping resource authority holder notice of the resource management decision.*
- (2) *The notice must invite the overlapping resource authority holder to apply, within 6 months after the giving of the notice (the **overlapping authority application period**), for a lease under the Act under which the overlapping resource authority was granted (a **relevant lease**)—*
 - (a) *if the overlapping authority priority is for all of the land—for all of the land; or*
 - (b) *if the priority is for part of the land—for that part.*

157 Relevant lease application for all of the land

- (1) *This section applies if—*
 - (a) *the overlapping authority priority is for all of the land; and*
 - (b) *within the overlapping authority application period the overlapping resource authority holder applies for a relevant lease for all of the land.*
- (2) *A further step can not be taken to decide the geothermal lease application until after the relevant lease application has been decided.*

Note—

Acts under which the overlapping resource authority was granted provide for refusal of the relevant lease application if it is not pursued in a timely manner.

- (3) *If the decision on the relevant lease application is to grant a relevant lease for all of the land, the geothermal lease application is taken to have lapsed.*

158 Relevant lease application for part of the land

- (1) *This section applies if the overlapping resource authority holder applies for a relevant lease for part of the land within the overlapping authority application period.*
- (2) *The person who made the geothermal lease application may amend it so that a geothermal lease is only sought for all or part of the rest of the land.*
- (3) *Unless the amendment is made, a further step can not be taken to decide the geothermal lease application until after the relevant lease application has been decided.*
- (4) *If—*
 - (a) *the amendment has not been made; and*
 - (b) *the decision on the relevant lease application is to grant a relevant lease for part of the land;*

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the person who made the geothermal lease application may amend it so that a geothermal lease is sought only for all or part of the rest of the land.

Note—

If the geothermal lease application is not amended, see section 162.

159 No relevant lease application

If the overlapping resource authority holder does not apply for a relevant lease for any of the land within the overlapping authority application period, the geothermal lease application may be decided.

Division 6 Resource management decision not to grant and not to give priority

160 Lapsing of application

The geothermal lease application is taken to have lapsed if—

- (a) under division 4, a resource management decision is required; and*
- (b) the decision was not to grant the geothermal lease application and not to give any overlapping authority priority for any of the relevant land.*

Division 7 Deciding application

161 Application of div 7

This division applies if—

- (a) the overlapping resource authority holder has not made holder submissions within 4 months after the holder was given a copy of the application (the **submission period**) or at all; or*

-
- (b) *the overlapping resource authority holder has made holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or*
 - (c) *under division 4, a resource management decision is required and—*
 - (i) *the resource management decision is not to give overlapping authority priority for any of the relevant land; or*
 - (ii) *the resource management decision is to give overlapping authority priority for all or part of the relevant land and, after division 5 has been complied with, the Minister decides to grant a geothermal lease for the land.*

162 Application may be refused if no reasonable prospects of geothermal coordination arrangement

The Minister may decide to refuse the application if—

- (a) *the Minister is satisfied the applicant and the overlapping authority holder have made reasonable attempts to reach a proposed geothermal coordination arrangement (a **relevant arrangement**) for the proposed geothermal lease; and*
- (b) *either—*
 - (i) *the overlapping resource authority holder has given the Minister a notice stating there are no reasonable prospects of a relevant arrangement being made; or*
 - (ii) *the Minister has not been given a relevant arrangement for approval and the Minister considers the applicant and the overlapping resource authority holder have had a reasonable opportunity to make a relevant arrangement.*

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163 Additional criteria for deciding provisions of geothermal lease

In deciding the provisions of the geothermal lease, the Minister must consider the following—

- (a) the geothermal statement;*
- (b) the geothermal assessment criteria;*
- (c) any holder submissions;*
- (d) the effect of the geothermal lease on safe and efficient use of resources under any overlapping resource authority for the geothermal lease if the overlapping resource authority is a lease;*
- (e) the effect on safe and efficient use of resources under any future lease that may arise from the overlapping resource authority.*

164 Publication of outcome of application

(1) After the Minister decides whether or not to grant the geothermal lease, the chief executive must publish a notice about the outcome of the geothermal lease application in or on at least 1 of the following—

- (a) the gazette;*
- (b) the department's website;*
- (c) another publication the chief executive considers appropriate.*

(2) The notice must state—

- (a) the decision; and*
- (b) if the decision was to grant the geothermal lease—all of the geothermal lease's conditions other than the mandatory conditions; and*
- (c) if, under division 4, a resource management decision was required and the decision is to give overlapping*

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- (a) *before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2 was granted for the voluntary preparation of an EIS; and*
 - (b) *the EIS is for a project that is or includes a proposed GHG lease, mining lease or petroleum lease (the **other proposed lease**) for land the subject of the application.*
- (2) *The application must not be decided until—*
- (a) *if no application is made for the other proposed lease within 2 years after the granting of the approval—the end of the 2 years; or*
 - (b) *if an application is made for the other proposed lease within the 2 years—that application is decided.*

167 Proposed GHG, mining or petroleum lease declared a significant project

- (1) *This section applies for a geothermal lease application if—*
- (a) *before the making of the application, a significant project was declared; and*
 - (b) *the project is or includes a proposed GHG lease, mining lease or petroleum lease (the **other proposed lease**) for land the subject of the application.*
- (2) *The application must not be decided until—*
- (a) *if no application is made for the other proposed lease within 1 year after the making of the declaration—the end of that year; or*
 - (b) *if an application is made for the other proposed lease within that year—that application is decided.*

Part 5 **Geothermal lease applications in response to invitation under another resource Act**

168 **Application of pt 5**

This part applies if—

- (a) *a geothermal lease application is made in response to an invitation given because of a resource management decision under another resource Act; and*
- (b) *the application is made within 6 months after the giving of the invitation.*

169 **Additional ground for refusing application**

- (1) *The Minister may decide to refuse the geothermal lease application if satisfied the applicant has not in a timely manner—*
 - (a) *taken any step for the application required of the applicant under chapter 3 or this chapter; or*
 - (b) *satisfied the Minister about a matter that, under chapter 3 or this chapter, is required for the granting of the application.*
- (2) *Subsection (1) does not limit section 365.*

Editor's note—

section 365 (Request to applicant about application)

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Part 6 **Additional provisions for geothermal tenures**

Division 1 **Restrictions on authorised activities other than for geothermal leases**

170 **Overlapping GHG, mining or petroleum lease**

- (1) *This section applies if land is in the area of both of the following—*
 - (a) *a geothermal permit;*
 - (b) *a GHG lease, mining lease or petroleum lease (a **relevant lease**).*
- (2) *However, this section does not apply if the same person holds the geothermal permit and the relevant lease.*
- (3) *An authorised activity for the geothermal permit may be carried out on the land only if—*
 - (a) *the relevant lease holder has not, in the way required under subsection (4), objected to—*
 - (i) *the carrying out of the activity; or*
 - (ii) *if the P&G Act safety provisions require a safety management plan for the geothermal permit holder—the safety management plan; or*
 - (b) *if an objection under paragraph (a) has been made—the Minister has, under section 172, decided the authorised activity may be carried out.*

Note—

For notice of authorised activities, see section 174.

- (4) *The objection must be in the approved form and given to the Minister and the geothermal tenure holder.*

Note—

See also the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).

171 Overlapping exploration authority (non-geothermal)

- (1) *This section applies if land is in the area of a geothermal permit and an exploration authority (non-geothermal).*
- (2) *An authorised activity for the geothermal permit can not be carried out on the land if—*
 - (a) *carrying out the activity adversely affects the carrying out of an authorised activity for the exploration authority (non-geothermal); and*
 - (b) *the authorised activity for the exploration authority (non-geothermal) has already started.*

172 Resolving disputes

- (1) *This section applies if, under section 170, a relevant lease holder has objected to the carrying out of a geothermal activity by a geothermal permit holder.*
- (2) *This section also applies if there is a dispute between a geothermal permit holder and an exploration authority (non-geothermal) holder about whether an authorised activity for the geothermal tenure can be carried out under section 171.*
- (3) *Either of the parties may by a notice in the approved form ask the Minister to decide—*
 - (a) *for section 170—whether the authorised activity may be carried out under that section; or*
 - (b) *for section 171—whether the authorised activity may be carried out under that section.*
- (4) *Before making the decision the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.*

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- (5) *The Minister must, after complying with subsection (2) and considering any submissions made under that subsection, decide the matter and give the parties notice of the decision.*
- (6) *The Minister's decision binds the parties.*
- (7) *If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.*
- (8) *In this section—*
parties means—
 - (a) *for a request about a matter mentioned in subsection (1)—the geothermal permit holder and the relevant lease holder; or*
 - (b) *for a request about a matter mentioned in subsection (2)—the geothermal permit holder and the exploration authority (non-geothermal) holder.*

Division 2 Additional conditions

173 Notice of grant by particular geothermal permit holders

- (1) *This section applies if land in a geothermal permit's area is in the area of, or in a proposed area under an application for, any of the following other authorities—*
 - (a) *an exploration authority (non-geothermal);*
 - (b) *a GHG data acquisition authority under the GHG storage Act;*
 - (c) *a data acquisition authority under the P&G Act;*
 - (d) *a water monitoring authority under the P&G Act.*
- (2) *It is a condition of the permit that its holder must, within 20 business days after the holder receives notice of the grant of the permit, give the holder of or applicant for the other authority a notice stating—*

- (a) *the permit has been granted; and*
- (b) *the permit holder's name and address; and*
- (c) *the permit's term.*

174 Condition to notify particular other authority holders of proposed start of particular authorised activities

- (1) *This section applies to a geothermal tenure holder if—*
 - (a) *there is any of the following (the **other authority**) for the geothermal tenure—*
 - (i) *an overlapping resource authority;*
 - (ii) *a GHG authority, a mining lease or a petroleum tenure sharing a common boundary with the geothermal tenure; or*
 - (b) *land in the geothermal tenure's area is in the area of any of the following (also the **other authority**)—*
 - (i) *a GHG data acquisition authority under the GHG storage Act;*
 - (ii) *a data acquisition authority under the P&G Act.*
- (2) *Before the geothermal tenure holder first starts a designated activity in the other authority's area, the geothermal tenure holder must give the other authority holder at least 30 business days notice of the activity.*
- (3) *A notice under subsection (2) must state—*
 - (a) *when the designated activity is to start; and*
 - (b) *where the designated activity is to be carried out; and*
 - (c) *the nature of the activity.*
- (4) *Before changing the land on which the designated activity is being carried out, the geothermal tenure holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.*

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- (5) *Compliance with this section is a condition of the geothermal tenure.*
- (6) *In this section—*
- designated activity** *means any authorised activity for the geothermal tenure other than—*
- (a) *an incidental activity under section 32 or 76; or*
 - (b) *an activity only involving selecting places where other authorised activities for the geothermal tenure may be carried out.*

175 Continuation of geothermal coordination arrangement after transfer

- (1) *This section applies if—*
- (a) *there is an overlapping resource authority for a geothermal lease; and*
 - (b) *a geothermal coordination arrangement applies to the geothermal lease; and*
 - (c) *the geothermal lease is transferred.*
- (2) *It is a condition of the geothermal lease that its holder must continue to be a party to a geothermal coordination arrangement for the lease while the overlapping resource authority continues in force.*

Division 3 Restriction on Minister's power to amend geothermal lease if overlapping resource authority

176 Interests of overlapping resource authority holder to be considered

If there is an overlapping resource authority for a geothermal lease, it may be amended under section 353 only if the

interests of the overlapping resource authority holder have been considered.

Part 7 Additional provisions for development plans if overlapping resource authority

177 Operation of pt 7

This part imposes additional requirements for the following for a geothermal lease or proposed geothermal lease for which there is an overlapping resource authority—

- (a) a proposed initial development plan;*
- (b) a proposed later development plan;*
- (c) an amendment the subject of a development plan amendment application.*

178 Statement about interests of overlapping resource authority holder

The proposed development plan or amendment must include a statement of how the effects on and the interests of any overlapping resource authority holder have or have not been considered, having regard to the geothermal assessment criteria.

179 Consistency with overlapping resource authority's development plan and with any relevant coordination arrangement

- (1) To the extent the area of the geothermal lease and the overlapping resource authority coincide or will coincide, the proposed development plan or amendment must be consistent with any geothermal coordination arrangement for that area.*

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- (2) *Subsection (3) applies if the overlapping resource authority is a mining lease or petroleum lease (the **relevant lease**).*
- (3) *The proposed plan or amendment must, to the extent the area of the geothermal lease and the relevant lease coincide or will coincide, be consistent with the development plan for the overlapping resource authority.*

180 Additional criteria for approval

In deciding whether to approve the proposed development plan or amendment, the Minister must consider the geothermal assessment criteria.

Part 8 Additional provisions for safety management plans

181 Grant of geothermal lease does not affect obligation to make plan

- (1) *This section applies if a geothermal statement accompanies a geothermal lease application as required under this chapter.*
- (2) *The deciding of the application or the grant of the geothermal lease—*
 - (a) *does not affect the obligation under the P&G Act safety provisions to make a safety management plan for any operating plant in the geothermal lease's area; and*
 - (b) *is not of itself evidence that a safety management plan, or purported safety management plan, for an operating plant in the geothermal lease's area complies with those provisions.*

182 Requirements for consultation with particular overlapping resource authority holders

- (1) *This section applies if—*
 - (a) *a person (an **operator**) proposes to be an operator of operating plant under the P&G Act in a geothermal tenure's area; and*
 - (b) *the operating plant is used, or is proposed to be used, for geothermal activities (**relevant operating plant**); and*
 - (c) *activities (**relevant activities**) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient use of resources under an overlapping resource authority for the geothermal tenure.*
- (2) *Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the overlapping resource authority holder about relevant activities for the plant.*
- (3) *If there is more than 1 operator, the geothermal tenure holder may coordinate the consultation between the operators and the overlapping resource authority holder.*
- (4) *For subsection (2), an operator is taken to have made reasonable attempts to consult if—*
 - (a) *the operator gives the overlapping resource authority holder a copy of the parts of the operator's proposed safety management plan concerning any relevant operating plant the operator proposes to operate for the relevant activities; and*
 - (b) *the overlapping resource authority holder has not, within 30 days after the giving of the copy, made any proposal to the operator about provisions for the plan.*
- (5) *An operator must, before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the*

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overlapping resource authority holder concerning relevant activities for the plant.

- (6) *However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant geothermal tenure holder.*
- (7) *If an operator makes a safety management plan for relevant operating plant and the plan includes provisions proposed by the overlapping resource authority holder, the operator must—*
 - (a) *give the overlapping resource authority holder a copy of the plan; and*
 - (b) *give the chief inspector under the P&G Act a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.*
- (8) *In this section—*

remaking, *a safety management plan, includes an amendment or remaking of the plan of a type required under the P&G Act, section 678.*

183 Application of P&G Act provisions for resolving disputes about reasonableness of proposed provision

- (1) *This section applies if a dispute exists between an operator under section 182 and an overlapping resource authority holder about the reasonableness of a provision proposed by the overlapping resource authority holder for the operator's proposed safety management plan.*
- (2) *The P&G Act, section 387, chapter 12 and schedule 1 apply for the dispute as if it were a dispute to which section 387 of that Act applies.*

Editor's note—

P&G Act, chapter 12 and schedule 1 (Reviews and appeals)

Chapter 6 General provisions for geothermal tenures

Note—

See also chapter 8, part 1.

Part 1 Area provisions

184 Area of geothermal tenure

- (1) *This section provides for the area of a geothermal tenure.*
- (2) *Subject to section 187, the area does not include excluded land for the geothermal tenure.*
- (3) *The area can not include—*
 - (a) *land in another geothermal tenure’s area, unless—*
 - (i) *the geothermal tenure is a geothermal lease; and*
 - (ii) *under section 189, the land will cease to be included in the geothermal permit’s area on the grant of the lease; or*
 - (b) *excluded land for a geothermal tenure.*
- (4) *Unless the Minister otherwise decides, the area must form a single contiguous parcel of land.*
- (5) *The area may include a part of a block only if the part consists of all areas within the block that are left after taking away all excluded land within the block (a **residual block**).*
- (6) *The area must be no more than the following number of blocks or residual blocks, in any combination, unless the Minister considers there are exceptional circumstances—*
 - (a) *for geothermal permit—50;*
 - (b) *for a geothermal lease—25.*

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185 References to blocks of geothermal tenure

- (1) *This section applies if a geothermal tenure states its area includes land within a block without including or excluding any particular sub-block.*
- (2) *The reference to the block is a reference to all sub-blocks within the block to the extent they do not consist of excluded land or land in a restricted area.*
- (3) *To remove any doubt, it is declared that if land within any of the sub-blocks ceases to be excluded land or land in a restricted area, the cessation itself does not cause the land to be within the geothermal tenure's area.*

186 Minister's power to decide excluded land

- (1) *The Minister may decide excluded land for a geothermal tenure or proposed geothermal tenure.*
- (2) *However, the power under subsection (1) may be exercised only when the Minister is deciding whether to—*
 - (a) *grant or renew the geothermal tenure; or*
 - (b) *approve any later work program or development plan for the geothermal tenure.*
- (3) *Also, excluded land must be within any block that the geothermal tenure states is included in its area.*
- (4) *Excluded land may be described in a way the Minister considers appropriate, including, for example, by area or by reference to a stated type of land.*
- (5) *Land ceases to be excluded land for a geothermal tenure if—*
 - (a) *the block in which the land is located is relinquished or for any other reason ceases to be in the geothermal tenure's area; or*
 - (b) *the geothermal tenure is a geothermal permit and—*

-
- (i) *a geothermal lease is granted over any of the geothermal permit's area; and*
 - (ii) *the land is excluded land for the geothermal lease.*

187 Minister may add excluded land

- (1) *The Minister may amend a geothermal tenure by adding excluded land for the tenure to its area.*
- (2) *However, the excluded land may be added only if the relevant environmental authority applies to the excluded land.*
- (3) *The amendment may be made—*
 - (a) *on the Minister's initiative with the consent of the holder of the geothermal tenure; or*
 - (b) *on the holder's application.*
- (4) *The application must be—*
 - (a) *in the approved form; and*
 - (b) *accompanied by the fee prescribed under a regulation.*
- (5) *The Minister must consider the application and decide whether to add or refuse to add the excluded land.*
- (6) *If the decision on the application is not to add the land, the Minister must as soon as practicable give the applicant notice of the decision.*
- (7) *The amendment may be made subject to the holder applying to the Minister for approval of an amendment of the geothermal tenure's work program or development plan to reflect the inclusion of the excluded land.*
- (8) *If the land is added to the geothermal tenure's area it ceases to be excluded land for the tenure.*
- (9) *The Minister may amend the provisions of the geothermal tenure in a way that reflects the addition of the land and complies with—*

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- (a) *for a geothermal permit—section 40; or*
- (b) *for a geothermal lease—section 82.*

188 ***Ending of geothermal permit if all of its area relinquished***

If all of the area of a geothermal permit is relinquished, the permit ends.

189 ***Area of geothermal permit reduced on grant of geothermal lease***

- (1) *Land ceases to be in a geothermal permit's area if a geothermal lease is granted to the geothermal permit holder over the land.*
- (2) *If a geothermal lease is granted to the geothermal permit holder over all of the area of a geothermal permit, the permit ends.*

Part 2 ***Reporting and information provisions***

Division 1 ***General reporting provisions***

190 ***Relinquishment report for partial relinquishment***

- (1) *This section applies if part of the area of a geothermal tenure is relinquished as required or authorised under this Act and the tenure continues to exist.*
- (2) *The holder of the geothermal tenure must, within 6 months after the relinquishment, give the chief executive a report—*
 - (a) *describing—*

- (i) *the authorised activities for the geothermal tenure carried out in the part; and*
- (ii) *the results of the activities; and*
- (b) *including other information prescribed under a regulation.*

Maximum penalty—200 penalty units.

- (3) *The report must—*
 - (a) *be given electronically using the system for submission of reports made or approved by the chief executive; and*
 - (b) *be in the digital format made or approved by the chief executive.*
- (4) *The chief executive must ensure the system and a document detailing the digital format made or approved by the chief executive are available for inspection on the department's website.*
- (5) *The requirements under subsection (3) are the **required way** for giving reports to the chief executive.*

191 End of tenure report

Within 6 months after a geothermal tenure ends, the person who held the tenure immediately before it ended must give the chief executive a report in the required way that includes all of the following—

- (a) *a summary of all authorised activities for the tenure carried out for the tenure since it took effect;*
- (b) *a summary of the results of the activities;*
- (c) *an index of all reports given as required under this Act, for the activities;*
- (d) *a summary of all significant hazards created to future safe and efficient mining that under the P&G Act safety provisions, are required to be reported by the person;*

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- (e) *for each hazard mentioned in the summary under paragraph (d)—a reference to the report containing details of the hazard;*
 - (f) *any information required to be reported under this Act that has not been previously reported;*
 - (g) *other information prescribed under a regulation.*
- Maximum penalty—150 penalty units.*

192 Power to require information or reports about authorised activities to be kept or given

- (1) *A regulation or the chief executive may, for the services of the State, require a geothermal tenure holder to—*
 - (a) *keep, in a stated way, stated information or types of information about authorised activities carried out under the geothermal tenure; or*

Example of a way of keeping information—
in a stated digital format
 - (b) *give the chief executive a notice in the approved form giving stated information or types of information or stated reports at stated times or intervals about authorised activities carried out under the geothermal tenure.*

Example of a stated time—
for a report about a geothermal well, 6 months after its completion
- (2) *For subsection (1), the information or report required to be given or kept may be—*
 - (a) *exploration data; or*
 - (b) *opinions, conclusions, technical consolidations and advanced interpretations based on exploration data.*
- (3) *A requirement by the chief executive under subsection (1)(b) may state—*

-
- (a) *a format required for giving the information or types of information; and*
 - (b) *a degree of precision required for the giving of the information.*
- (4) *A person of whom a requirement under subsection (1) has been made must comply with the requirement.*
- Maximum penalty—100 penalty units.*
- (5) *In this section—*
- information includes documents, records and samples.*

Division 2 Records and samples

193 Requirement to keep records and samples

- (1) *A geothermal tenure holder must, for the period and in the way prescribed under a regulation, keep the records and samples about authorised activities carried out under the tenure as prescribed under a regulation.*
- Maximum penalty—500 penalty units.*
- (2) *For subsection (1), the prescribed records may be—*
- (a) *exploration data; or*
 - (b) *opinions, conclusions, technical consolidations and advanced interpretations based on exploration data.*

194 Requirement to give records and samples

- (1) *A person who, under section 193, is required to keep a record or sample must, for the services of the State, give a copy of the record and a part of the sample to the chief executive within 6 months after the earlier of the following (the **required time**)—*
- (a) *the day the record or sample was acquired or made;*
 - (b) *the day the relevant geothermal tenure ends.*

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Maximum penalty—500 penalty units.

- (2) *The copy of the record must be given in the required way for giving reports to the chief executive.*
- (3) *If the chief executive gives the person a notice asking the person for more of the sample, the person must give it to the chief executive at the address stated in the notice within the reasonable period stated in the notice (also the **required time**), unless the holder has a reasonable excuse.*

Maximum penalty—500 penalty units.

- (4) *The chief executive may extend the required time by up to 1 year if—*
 - (a) *the person asks for the extension before the required time ends; and*
 - (b) *the chief executive is satisfied the extension is necessary.*
- (5) *However, the extension must not end later than—*
 - (a) *for subsection (1)—6 months after the required time ends; or*
 - (b) *for subsection (3)—1 year after the required time ends.*
- (6) *Without limiting subsection (1), the uses to which the State may put the copy of the record and the part of the sample may include the building of a publicly available database to facilitate geothermal exploration for the services of the State.*

Division 3 Releasing required information

195 Meaning of required information

*The **required information**, for a geothermal tenure, is any form of information given under this Act by the tenure holder about authorised activities carried out under the tenure, including, for example—*

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- (a) *a sample; and*
 - (b) *data and other matters mentioned in section 192(2).*

196 Public release of required information

- (1) *The mere fact of the existence of a geothermal tenure is taken to be an authorisation from its holder to the chief executive to do the following, after the end of any confidentiality period prescribed under a regulation—*
 - (a) *to publish in the way prescribed under a regulation required information for the geothermal tenure for public use;*
 - (b) *on payment of a fee prescribed under a regulation, to make the required information available to any person.*
- (2) *Any confidentiality period prescribed under subsection (1) ceases if the information is about an authorised activity carried out only in an area no longer in the geothermal tenure's area.*

Example—

The required information is a well completion report about a geothermal well drilled on particular land in a geothermal permit's area. Subsection (1) ceases to apply if all of that land is relinquished under the relinquishment condition for the permit.

- (3) *The authorisation is not affected by the ending of the geothermal tenure.*

197 Chief executive may use required information

- (1) *The mere fact of the existence of a geothermal tenure is taken to be an authorisation from its holder to the chief executive to use required information for—*
 - (a) *purposes reasonably related to this Act that are required for the geothermal tenure; or*
 - (b) *the services of the State.*

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- (2) *The authorisation is not affected by the ending of the geothermal tenure.*

Part 3 **General provisions for geothermal wells**

Division 1 **Responsibility for geothermal wells**

198 **Requirements for drilling geothermal well**

A person drilling a geothermal well must comply with—

- (a) *any requirements prescribed under a regulation for the drilling of the geothermal well; and*
- (b) *any relevant requirements about construction and drilling standards for water well drilling activities under the Water Act.*

Maximum penalty—500 penalty units.

Division 2 **Decommissioning of geothermal wells**

199 **Application of div 2**

This division applies to a geothermal well drilled by or for a geothermal tenure holder.

200 **Obligation to decommission**

- (1) *The geothermal tenure holder must ensure the geothermal well is decommissioned from use under this Act before the*

tenure ends or the land on which the well is located ceases to be in the tenure's area.

Maximum penalty—500 penalty units.

- (2) *However, subsection (1) does not apply for land that, under section 189(1), ceases to be in a geothermal permit's area.*
- (3) *For subsection (1), the geothermal well is decommissioned from use under this Act only if—*
 - (a) *it has been plugged and abandoned in the way prescribed under a regulation; and*
 - (b) *any relevant requirements under the Water Act for the decommissioning of water wells used for the geothermal well have been complied with; and*
 - (c) *the geothermal tenure holder has given the Minister of the department in which the Water Act is administered a notice in the approved form about the decommissioning.*

201 Right of entry to facilitate decommissioning

- (1) *This section applies if—*
 - (a) *the geothermal tenure has ended or the land on which the geothermal well is located is no longer in the tenure's area; and*
 - (b) *the geothermal tenure holder or former holder has not carried out decommissioning as required under section 200.*
- (2) *The holder or former holder may enter the following land to carry out the decommissioning—*
 - (a) *land (the **primary land**) on which the decommissioning must be or was required to be carried out;*
 - (b) *any other land (the **access land**) it is reasonably necessary to cross for access to the primary land.*
- (3) *Parts 5, 6 and 8 apply to the holder or former holder in the following way—*

[s 202]

- (a) *if the geothermal tenure has ended, as if—*
 - (i) *it were still in force; and*
 - (ii) *the former holder were still its holder;*
- (b) *as if the primary land and access land is in the geothermal tenure's area;*
- (c) *as if the decommissioning is an authorised activity for the geothermal tenure.*

Editor's note—

parts 5 (Private land), 6 (Public land) and 8 (Compensation and negotiated access)

202 Responsibility for geothermal well after decommissioning

- (1) *This section applies if the geothermal tenure holder has decommissioned a geothermal well under section 200.*

Note—

For ownership before decommissioning, see section 271 (Ownership of equipment and improvements).

- (2) *Despite the decommissioning, the holder continues to be responsible under this Act for the geothermal well until the earlier of the following times (the **relevant time**)—*
 - (a) *when the geothermal tenure ends;*
 - (b) *when the land on which the geothermal well is located ceases to be in the geothermal tenure's area.*
- (3) *The geothermal well is taken to have been transferred to the State at the relevant time.*

Note—

However, the holder may still have obligations under the Environmental Protection Act, chapter 5A for the geothermal well.

- (4) *Subsection (3) applies despite—*

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- (a) *the geothermal well being on or part of land owned by someone else; or*
 - (b) *the sale or other disposal of the land.*

Part 4 Security

203 Operation and purpose of pt 4

- (1) *This part empowers the Minister to require, from time to time, a geothermal tenure holder or a person who has applied for a geothermal tenure to give the State security for the tenure or proposed tenure.*
- (2) *The security may be used to pay—*
 - (a) *any liability under this Act the State incurs because of an act or omission of the holder; and*
 - (b) *any unpaid annual rent payable by the holder to the State; and*
 - (c) *other unpaid amounts payable under this Act by the holder to the State, including, for example, any of the following—*
 - (i) *an unpaid civil penalty;*
 - (ii) *unpaid interest on unpaid annual rent;*
 - (iii) *any debt payable by the holder under section 352; and*
 - (d) *any compensation the State must pay under section 309 because of the exercise or purported exercise of remedial powers for the geothermal tenure, whether or not the tenure has ended.*

[s 204]

204 Power to require security for geothermal tenure

- (1) *The Minister may require a geothermal tenure holder or a person who has applied for a geothermal tenure to give the State security for the tenure, or proposed tenure.*
- (2) *The security must be—*
 - (a) *in the form prescribed under a regulation; and*
 - (b) *of at least the amount prescribed under a regulation.*
- (3) *The requirement may be made at any time.*
- (4) *However, the requirement does not take effect until the holder or applicant is given—*
 - (a) *for a requirement to give security in the form and amount prescribed under subsection (2)—notice of the requirement; or*
 - (b) *otherwise—an information notice about the decision to make the requirement.*

205 Minister's power to require additional security

- (1) *The Minister may at any time require a geothermal tenure holder to increase the amount of security given for the tenure.*
- (2) *However—*
 - (a) *if, because of an increase in the prescribed amount under section 204(2), the requirement is to increase the total security required to no more than the increased prescribed amount—the requirement must be made by notice to the holder; or*
 - (b) *if the requirement is to increase the total security required to more than the prescribed amount under section 204(2) when the requirement is made—*
 - (i) *subsections (3) to (6) must be complied with before making the requirement; and*

-
- (ii) *the requirement does not take effect until the holder is given an information notice about the decision to make the requirement.*
- (3) *The Minister must give the holder notice—*
- (a) *stating the proposed increased amount of the security for the geothermal tenure; and*
 - (b) *inviting the holder to make submissions about the proposed increased amount to the Minister within a stated reasonable period.*
- (4) *The stated period must end at least 20 business days after the holder is given the notice.*
- (5) *The Minister must consider any submissions made by the holder within the stated period.*
- (6) *In this section—*
security given *includes security given or increased because of a requirement under subsection (1).*

206 Interest on security

The State may keep any interest accruing on security given under this part for a geothermal tenure.

207 Power to use security

The State may use security given under this part for a geothermal tenure and any interest accruing on the security to make a payment mentioned in section 203(2) concerning the tenure.

208 Replenishment of security

- (1) *This section applies if—*
- (a) *under section 207, all or part of the security for a geothermal tenure has been used; and*

[s 209]

- (b) the geothermal tenure is still in force.*
- (2) The Minister must give the geothermal tenure holder a notice—*
 - (a) stating how much of the security has been used; and*
 - (b) directing the holder to replenish the security for the geothermal tenure, within 30 days after the giving of the notice, up to the higher of the following—*
 - (i) the amount prescribed under a regulation;*
 - (ii) if the notice states that, under section 204, another amount is required—the other amount.*

209 Security not affected by change in tenure holder

- (1) This section applies if security for a geothermal tenure has been given under this part for the tenure and its holder changes.*
- (2) Despite the change, the security and any interest accruing on it continues in force for the benefit of the State and may be used under section 207.*
- (3) If the security is in the form of money, until the security is replaced or refunded it continues in force for the holder from time to time of the geothermal tenure.*

210 Retention of security after geothermal tenure ends

- (1) Security or part of security given for a geothermal tenure may be kept by the State for 1 year after the tenure has ended.*
- (2) Also, if a claim made for the use of the security has not been assessed, an appropriate amount of the security to meet the claim may be kept by the State until the claim has been assessed.*

Part 5 **Private land**

Division 1 **Requirements for entry to private
land in geothermal tenure area**

Subdivision 1 **Entry notice requirement for
preliminary activities and particular
advanced activities**

211 **Entry notice requirement**

(1) *A person must not—*

- (a) *enter private land in a geothermal tenure's area to carry out a preliminary activity for the tenure; or*
- (b) *enter private land in a geothermal tenure's area to carry out an advanced activity for the tenure if either of the following applies for the entry—*
 - (i) *the deferral agreement exemption;*
 - (ii) *the Land Court application exemption;*

*unless the geothermal tenure's holder has given each owner and occupier of the land a written notice of the entry that complies with section 212 (an **entry notice**).*

Maximum penalty—500 penalty units.

(2) *The entry notice must be given—*

- (a) *generally—at least 10 business days before the entry; or*
- (b) *if, by a signed endorsement on the notice, the relevant owner or occupier has agreed to a shorter period—the shorter period.*

Maximum penalty—500 penalty units.

[s 212]

- (3) *The holder must give the chief executive a copy of the entry notice immediately after the notice is given and before entry is made under the geothermal tenure.*

Maximum penalty—10 penalty units.

- (4) *A contravention of subsection (3) does not affect the validity of the notice or the entry.*
- (5) *This section is subject to section 213.*
- (6) *In this section—*

deferral agreement exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 217(c)(i).

give, for an entry notice, includes publishing it in a way approved under section 215.

Land Court application exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 217(c)(ii).

212 Required contents of entry notice

- (1) *An entry notice must state the following—*
- (a) *the land proposed to be entered;*
 - (b) *the period during which the land will be entered (the **entry period**);*
 - (c) *the activities proposed to be carried out on the land;*
 - (d) *when and where the activities are proposed to be carried out;*
 - (e) *contact details for—*
 - (i) *the relevant geothermal tenure holder; or*
 - (ii) *another person the holder has authorised to discuss the matters stated in the notice.*

-
- (2) *Also, the first entry notice from the geothermal tenure holder to a particular owner or occupier must be accompanied by or include a copy of—*
- (a) *the geothermal tenure; and*
 - (b) *the land access code; and*
 - (c) *any code of practice made under this Act applying to authorised activities for the geothermal tenure; and*
 - (d) *the relevant environmental authority documentation.*
- (3) *The entry period can not be longer than—*
- (a) *generally—*
 - (i) *for a geothermal permit—6 months; or*
 - (ii) *for a geothermal lease—1 year; or*
 - (b) *if the relevant owner or occupier agrees in writing to a longer period—the longer period.*
- (4) *Subject to subsections (1) to (3), an entry notice may state an entry period that is different to the entry period stated in another entry notice given by the geothermal tenure holder to another owner or occupier of the land.*
- (5) *In this section—*
- relevant environmental authority documentation*** *means—*
- (a) *if, under the Environmental Protection Act, the relevant environmental authority for the geothermal tenure is a code compliant authority—the relevant code; or*
 - (b) *if, under the Environmental Protection Act, the relevant environmental authority for the geothermal tenure is a non-code compliant authority—*
 - (i) *the environmental authority; and*
 - (ii) *if the environmental authority imposes conditions by referring to a code—that code.*

[s 213]

213 Exemptions from entry notice requirement

- (1) *The requirement under section 211(1) to give an entry notice does not apply for an entry to land to carry out an authorised activity if any of the following apply—*
- (a) *the geothermal tenure holder owns the land;*
 - (b) *the holder has the right other than under this Act to enter the land to carry out the activity;*
 - (c) *if—*
 - (i) *there is a conduct and compensation agreement relating to the land; and*
 - (ii) *each eligible claimant for the land is a party to the agreement; and*
 - (iii) *the agreement includes a waiver of entry notice;*
 - (d) *the entry is to preserve life or property or because of an emergency that exists or may exist;*
 - (e) *the relevant owner or occupier has, by signed writing, given a waiver of entry notice.*
- (2) *A waiver of entry notice mentioned in subsection (1) must comply with section 214(1).*

214 Provisions for waiver of entry notice

- (1) *A waiver of entry notice mentioned in section 213 must—*
- (a) *if it does not form part of a conduct and compensation agreement, be written and signed; and*
 - (b) *state the following—*
 - (i) *that the relevant owner or occupier has been told they are not required to agree to the waiver of entry notice;*
 - (ii) *the authorised activities proposed to be carried out on the land;*
 - (iii) *the period during which the land will be entered;*

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- (iv) *when and where the activities are proposed to be carried out.*
- (2) *The relevant owner or occupier can not withdraw the waiver of entry notice during the period.*
- (3) *The waiver of entry notice ceases to have effect at the end of the period.*

215 Giving entry notice by publication

- (1) *The chief executive may approve a geothermal tenure holder giving an entry notice for the tenure by publishing it in a stated way.*
- (2) *The publication may relate to more than 1 entry notice.*
- (3) *The chief executive may give the approval only if satisfied—*
- (a) *for a relevant owner or occupier who is an individual, it is impracticable to give the owner or occupier the notice personally; and*
- (b) *the publication will happen at least 20 business days before the entry.*

Subdivision 2 Conduct and compensation agreement requirement for particular advanced activities

216 Conduct and compensation agreement requirement

- (1) *A person must not enter private land in a geothermal tenure's area to carry out an advanced activity for the tenure (the **relevant activity**) unless each eligible claimant for the land is a party to an appropriate conduct and compensation agreement.*

Maximum penalty—500 penalty units.

[s 217]

- (2) *The requirement under subsection (1) is the **conduct and compensation agreement requirement**.*

Note—

For conduct and compensation agreements, see part 8, division 1.

- (3) *In this section—*

***appropriate conduct and compensation agreement**, for an eligible claimant, means a conduct and compensation agreement about the holder's compensation liability to the eligible claimant of at least to the extent the liability relates to the relevant activity and its effects.*

217 Exemptions from conduct and compensation agreement requirement

The conduct and compensation agreement requirement does not apply for an entry to land to carry out an advanced activity if any of the following apply—

- (a) *the geothermal tenure holder owns the land;*
- (b) *the holder has the right other than under this Act to enter the land to carry out the activity;*
- (c) *each eligible claimant for the land is—*
 - (i) *a party to an agreement, complying with section 218, that a conduct and compensation agreement can be entered into after the entry (a **deferral agreement**); or*
 - (ii) *an applicant or respondent to a Land Court application under section 256 relating to the land;*
- (d) *the entry is to preserve life or property or because of an emergency that exists or may exist.*

218 Requirements for deferral agreement

A deferral agreement must—

- (a) *be written and signed by or for the holder and each eligible claimant for the land to be entered; and*
- (b) *state the following—*
 - (i) *that the eligible claimant has been told the claimant is under no obligation to enter into a deferral agreement before entering into a conduct and compensation agreement;*
 - (ii) *the authorised activities proposed to be carried out on the land;*
 - (iii) *the period during which the land will be entered;*
 - (iv) *when and where the activities are proposed to be carried out;*
 - (v) *the period for which the deferral agreement has effect;*
 - (vi) *when it is proposed to enter into a conduct and compensation agreement.*

Division 2 ***Access to private land outside area of geothermal tenure***

Subdivision 1 ***Preliminary***

219 ***Application of div 2***

This division applies for a geothermal tenure in relation to all private land outside its area.

Subdivision 2 Access rights and access agreements

220 Access rights of geothermal tenure holder

(1) *Subject to section 221, the geothermal tenure holder has the following rights—*

- (a) *to cross the land if it is reasonably necessary to allow the holder to enter the geothermal tenure's area;*
- (b) *to carry out activities on the land that are reasonably necessary to allow the crossing of the land.*

Example for paragraph (b)—

opening a gate or fence

- (2) *The rights under subsection (1) that may, under section 221, be exercised are the **access rights** for the geothermal tenure.*
- (3) *Land to which the access rights apply is **access land** for the geothermal tenure.*

221 Restriction on exercise of access rights

(1) *The access rights may be exercised only if—*

- (a) *the exercise of the rights is needed to preserve life or property because of a dangerous situation or emergency that exists or may exist; or*
- (b) *the following have agreed orally or in writing to the exercise of the rights—*
 - (i) *if exercising the rights is likely to have a permanent impact on the land—each owner and the occupier of the land;*
 - (ii) *if exercising the rights is unlikely to have a permanent impact on the land—each occupier of the land.*

Note—

See also section 330 (Duty to avoid interference in carrying out geothermal activities).

(2) *An agreement mentioned in subsection (1)(b) is an **access agreement**.*

(3) *In this section—*

permanent impact, *on the land, means a continuing effect on the land or its use or a permanent or long-term adverse effect on its current lawful use by an occupier of the land.*

Example of an exercise of the rights that is likely to have a permanent impact—

building a road

Example of an exercise of the rights that is unlikely to have a permanent impact—

opening or closing a gate

222 Owner or occupier must not unreasonably refuse to make access agreement

(1) *An owner or occupier of the land must not, if asked by the geothermal tenure holder, unreasonably refuse to make an access agreement for the exercise of the access rights.*

(2) *For subsection (1), the owner or occupier does not unreasonably refuse only because the owner or occupier asks for the agreement to be subject to reasonable and relevant conditions offered by the owner or occupier.*

(3) *If the holder asks the owner or occupier to make an access agreement and the owner or occupier has not within 20 business days made the agreement, the owner or occupier is taken to have refused to agree.*

Note—

Either party may refer a refusal under subsection (1) or (3) to the Land Court to decide whether the refusal is unreasonable. See section 226.

[s 223]

223 Principles for deciding whether access is reasonable

- (1) *This section provides for matters to which regard must be had in deciding whether—*
 - (a) *it is reasonably necessary for the geothermal tenure holder to cross the land to allow the holder to enter the tenure's area; or*
 - (b) *it is reasonably necessary for the holder to carry out activities on the land to allow the crossing of the land; or*
 - (c) *the owner or occupier has unreasonably refused to make an access agreement.*
- (2) *The holder must first show it not possible or reasonable to exercise the access rights by using a formed road.*
- (3) *After subsection (2) has been satisfied, the following must be considered—*
 - (a) *the nature and extent of any impact the exercise of the access rights will have on the land and the owner or occupier's use and enjoyment of it;*
 - (b) *how, when and where and the period during which the holder proposes to exercise the access rights.*
- (4) *In this section—*

formed road *means any existing road or track on private land or public land used, or that may reasonably be capable of being used, to drive or ride motor vehicles.*

224 Provisions for access and access agreements

- (1) *Section 211 applies for any entry to the land by the geothermal tenure holder as if the entry were an entry to carry out authorised activities.*

Editor's note—

Section 211 (Entry notice requirement)

-
- (2) *However—*
- (a) *a written access agreement may include a waiver of entry notice for the entry; and*
 - (b) *if an access agreement provides for alternative conditions to section 211 for the entry—section 211 does not apply for so long as the alternative conditions are in force.*
- (3) *A written access agreement may include a conduct and compensation agreement for the exercise or future exercise of access rights by the holder.*
- (4) *This division does not limit or otherwise affect the ability of the owner or occupier to grant the holder a right of access to the land, including, for example, by the grant of an easement.*

225 Access agreement binds successors and assigns

Subject to section 227, an access agreement binds the parties to it and each of their personal representatives, successors in title and assigns.

Subdivision 3 Land Court resolution

226 Power of Land Court to decide access agreement

- (1) *If a dispute arises between the geothermal tenure holder and an owner or occupier of the land (the **parties**) about a matter mentioned in section 223(1), any party to the dispute may apply to the Land Court for it to decide the matter.*
- (2) *In deciding the matter, the Land Court may impose conditions it considers appropriate for the exercise of the access rights.*
- (3) *Conditions imposed under subsection (2) are taken to be—*
 - (a) *if there is already an access agreement between the parties—conditions of that agreement; or*

[s 227]

(b) *if there is no access agreement between the parties—an access agreement between the parties.*

227 Power of Land Court to vary access agreement

- (1) *An owner or occupier of the land or the geothermal tenure holder may apply to the Land Court to vary any access agreement between them.*
- (2) *The Land Court may vary the access agreement only if it considers the change is appropriate because of a material change in circumstances.*
- (3) *Subsection (2) does not limit section 223.*
- (4) *This section does not prevent the owner or occupier and the holder from agreeing to vary the access agreement.*

228 Criteria for deciding access

In deciding an application under this subdivision, the Land Court must have regard to section 223(2) and (3).

Division 3 Provisions for dealings or change in ownership or occupancy

229 Entry notice or waiver of entry notice or access agreement not affected by a dealing

A dealing with a geothermal tenure does not affect an entry notice or waiver of entry notice or an access agreement given or made for the tenure.

230 Change in ownership or occupancy

- (1) *If, after the giving of an entry notice, the ownership or occupancy of the relevant land changes—*

-
- (a) *the holder of the geothermal tenure for which the entry notice was given is taken to have given that notice to each new owner or occupier of the land; and*
 - (b) *section 211(2) does not apply for the new owner or occupier for the entry period stated in the notice.*
 - (2) *If, after the giving of a waiver of entry notice, the ownership or occupancy of the relevant land changes, each new owner or occupier of the land is taken to have given that waiver of entry notice.*
 - (3) *If the relevant geothermal tenure holder becomes aware of a new owner or occupier mentioned in subsection (1) or (2), the holder must, within 15 business days, give the new owner or occupier a copy of the entry notice or waiver of entry notice.*
 - (4) *If the holder does not comply with subsection (3), subsections (1) and (2) cease to apply for the entry notice or consent.*

Division 4 Periodic notice after entry of land

231 Notice to owners and occupiers

- (1) *This section applies if—*
 - (a) *private land has been entered to carry out authorised activities for a geothermal tenure; or*
 - (b) *access land for a geothermal tenure has been entered in the exercise of the access rights over the land.*
- (2) *The holder of the geothermal tenure must, within 3 months after the end of the period under subsection (3), (4) or (5), give each owner and occupier of the land a notice stating—*
 - (a) *what activities were carried out on the land during that period and where they were carried out; or*
 - (b) *if no activities were carried out on the land during the period—that no activities were carried out on the land during that period.*

[s 232]

- (3) *If an entry notice was given for the entry to all owners or occupiers of the land, the period for subsection (2) is the period stated in the entry notice.*
- (4) *If all owners or occupiers of the land gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of the following periods after the giving of the waiver of entry notice—*
 - (a) *either—*
 - (i) *for a geothermal permit—6 months; or*
 - (ii) *for a geothermal lease—1 year;*
 - (b) *if, within the period under paragraph (a), each owner or occupier of the land consented to a longer period—the longer period.*
- (5) *If an entry notice for the entry was given to some of the owners or occupiers and the rest of the owners or occupiers gave a waiver of entry notice for the entry, the period for subsection (2) is the longer of the periods under subsections (3) and (4).*

Division 5 Access to carry out rehabilitation and environmental management

232 Right of access for authorised activities includes access for rehabilitation and environmental management

- (1) *This section applies if, under this part, a geothermal tenure holder has the right to enter private land to carry out authorised activities for the tenure.*
- (2) *The right includes a right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.*

Division 6 **Miscellaneous provision**

233 ***Direction to ease concerns of owner or occupier***

- (1) *This section applies if the Minister reasonably believes that, to ease a valid concern of an owner or occupier of land in a geothermal tenure's area, the tenure holder ought reasonably to take action, or cease taking action.*
- (2) *The Minister may, by notice, direct the holder to take the action, or cease taking the action, within a stated reasonable period.*
- (3) *However, before deciding to give the notice, the Minister must—*
 - (a) *give the holder a notice stating—*
 - (i) *the proposed direction; and*
 - (ii) *the grounds for giving the proposed direction; and*
 - (iii) *the facts and circumstances forming the basis for the grounds; and*
 - (iv) *that the holder may, within a stated reasonable period, make submissions to the Minister about the proposed direction; and*
 - (b) *consider any submissions made by the holder within the period.*
- (4) *The decision does not take effect until the holder is given an information notice about the decision.*

Note—

For the consequence of noncompliance with the direction, see section 321 (When noncompliance action may be taken).

Part 6 Public land

Division 1 Public roads

Subdivision 1 Preliminary

234 Significant projects excluded from div 1

- (1) *This division does not apply for a geothermal tenure for a significant project.*
- (2) *Subsection (1) does not limit or otherwise affect conditions the coordinator-general may, under the State Development and Public Works Organisation Act 1971, part 4, recommend for the geothermal tenure.*

235 What is a notifiable road use

- (1) *A **notifiable road use**, for a geothermal tenure, is—*
 - (a) *the use of a public road in the geothermal tenure's area for transport relating to a seismic survey or drilling activity; or*
 - (b) *the use of a public road at more than the haulage threshold rate if the haulage relates to the construction of a pipeline.*
- (2) *Subsection (1)(b) applies even if the road is not on land in the geothermal tenure's area.*
- (3) *In this section—*

haulage threshold rate means—

 - (a) *for a State-controlled road—50000t a year; or*
 - (b) *for another public road—10000t a year.*

Subdivision 2 Notifiable road uses

236 Notice of notifiable road use

- (1) *It is a condition of each geothermal tenure that its holder must not use a public road for a notifiable road use unless the holder has given the public road authority for the road notice that the holder proposes to carry out the use.*

Note—

See also section 268 (Compensation to be addressed before carrying out notifiable road use).

- (2) *The notice must—*
- (a) *be given—*
- (i) *at least 10 business days before the use starts; or*
- (ii) *within a shorter period agreed to by the public road authority in writing; and*
- (b) *state the following—*
- (i) *the public road proposed to be used;*
- (ii) *the type of haulage under the use;*
- Examples of type of haulage—*
- *vehicle type*
 - *material hauled*
- (iii) *the total weight of material proposed to be hauled;*
- (iv) *when the use is proposed to start and end;*
- (v) *the frequency of vehicle movements;*
- (vi) *contact details for the holder or someone else the holder has authorised to discuss the matters stated in the notice.*

[s 237]

237 Directions about notifiable road use

- (1) *The public road authority for a public road may, by notice, give a geothermal tenure holder a direction (a **road use direction**) about the way the holder may use the road for notifiable road uses being carried out, or proposed to be carried out, by the holder.*
- (2) *The direction must—*
 - (a) *be reasonable; and*
 - (b) *only be about—*
 - (i) *preserving the condition of the road; or*
 - (ii) *the safety of road users or the public; and*
 - (c) *be accompanied by or include an information notice about the decision to give the direction.*

Examples of what a direction may be about—

- *when the road may be used*
- *the route for the movement of heavy vehicles*
- *safety precautions the holder must take*

- (3) *The direction may also require the holder to—*
 - (a) *carry out an assessment of the impacts likely to arise from the notifiable road use the subject of the notice; and*
 - (b) *consult with the public road authority in carrying out the assessment.*
- (4) *However—*
 - (a) *an assessment can not be required if the notifiable road use is transport relating to a seismic survey or drilling activity; and*
 - (b) *the public road authority can not require an assessment of an impact to the extent it has already been assessed under an EIS under the Environmental Protection Act or a similar document under another Act.*

238 Obligation to comply with road use directions

It is a condition of each geothermal tenure that its holder must comply with any road use direction given to its holder relating to the tenure, unless the holder has a reasonable excuse.

Division 2 Other public land

Note—

For the ownership of equipment and improvements on public land see part 9.

239 When entry notice has to be given

- (1) *This section does not apply for a notifiable road use.*
- (2) *A person must not enter public land to carry out an authorised activity for a geothermal tenure on public land unless—*
 - (a) *the activity is an activity that may be carried out by a member of the public without requiring the specific approval of the public land authority for the land; or*

Example—

travelling on a public road in the geothermal tenure's area

- (b) *the holder has, at least 30 business days before the entry, given the public land authority notice under this part (an **entry notice**) of the proposed entry; or*
- (c) *the public land authority has agreed in writing that an entry notice is not required and the agreement complies with section 240; or*
- (d) *the entry is needed to preserve life or property because of a dangerous situation or emergency that exists or may exist.*

Maximum penalty—100 penalty units.

- (3) *An agreement under subsection (2)(c) is a **waiver of entry notice**.*

240 Waiver of entry notice

- (1) *A waiver of entry notice must—*
 - (a) *be signed; and*
 - (b) *state the following—*
 - (i) *that the public land authority has been told it is not required to agree to the waiver of entry notice;*
 - (ii) *the authorised activities proposed to be carried out on the land;*
 - (iii) *the period during which the land will be entered;*
 - (iv) *when and where the activities are proposed to be carried out.*
- (2) *The public land authority can not withdraw the waiver of entry notice during the period.*
- (3) *The waiver of entry notice ceases to have effect at the end of the period.*

241 Required contents of entry notice

- (1) *An entry notice must state the following—*
 - (a) *the land proposed to be entered;*
 - (b) *the period during which the land will be entered (the **entry period**);*
 - (c) *the activities proposed to be carried out on the land;*
 - (d) *when and where the activities are proposed to be carried out;*
 - (e) *contact details for—*
 - (i) *the relevant geothermal tenure holder; or*
 - (ii) *another person the holder has authorised to discuss the matters stated in the notice.*
- (2) *The entry period can not be longer than—*

- (a) *for a geothermal permit—6 months; or*
- (b) *for a geothermal lease—1 year.*
- (3) *However, for a geothermal lease the entry period may be longer if the public land authority agrees in writing.*
- (4) *Subject to subsections (2) and (3), an entry notice given to 1 public land authority for the public land may state a different entry period from an entry notice given to another public land authority for the public land.*
- (5) *If a proposed activity is not likely to significantly disrupt activities the public land authority ordinarily carries out on the land, the entry notice may comply with subsection (1)(c) and (d) by generally describing the nature and extent of the activity.*

242 Conditions public land authority may impose

- (1) *A public land authority may impose relevant and reasonable conditions on a geothermal tenure holder, including, for example, about giving the public land authority—*
 - (a) *notice of proposed entry—*
 - (i) *generally—at least 2 business days before the proposed entry; or*
 - (ii) *if the holder and the public land authority have agreed to a longer or shorter period for giving the notice—within the longer or shorter period; or*
 - (b) *notice at stated intervals of activities carried out by, or for, the holder on the land.*
- (2) *However, the public land authority can not impose a condition that is any of the following for a condition of the geothermal tenure or the relevant environmental authority (the **existing condition**)—*
 - (a) *the same as the existing condition;*
 - (b) *substantially the same as the existing condition;*

244 Access if second authority is a lease

If the second authority is a lease, the first authority holder may enter the land only if—

- (a) the second authority holder has consented in writing to the entry; and*
- (b) the first authority holder has given the chief executive a notice stating that the consent has been given.*

245 Access if second authority is not a lease

(1) If the second authority is not a lease, the first authority holder may do the following without the second authority holder's consent—

- (a) cross the land if it is reasonably necessary to allow the first authority holder to enter the first authority's area;*
- (b) carry out activities on the land that are reasonably necessary to allow the crossing of the land.*

(2) However, a right under subsection (1) may be exercised only if its exercise does not adversely affect the carrying out of an authorised activity for the second authority.

(3) Subsection (2) applies whether or not the authorised activity has already started.

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Part 8 Compensation and negotiated access

Division 1 Compensation other than for notifiable road uses

Subdivision 1 Preliminary

246 Application of div 1

This division does not apply for a public land authority in relation to a notifiable road use.

Subdivision 2 General provisions

247 General liability to compensate

- (1) *The holder of each geothermal tenure is liable to compensate each owner or occupier of private land or public land that is in the area of, or is access land for, the tenure (an **eligible claimant**) for any compensatable effect the eligible claimant suffers caused by relevant authorised activities.*
- (2) *A geothermal tenure holder's liability under subsection (1) to an eligible claimant is the holder's **compensation liability** to the claimant.*
- (3) *This section is subject to section 262.*
- (4) *In this section—*
compensatable effect *means all or any of the following—*
 - (a) *all or any of the following relating to the eligible claimant's land—*
 - (i) *deprivation of possession of its surface;*

- (ii) *diminution of its value;*
 - (iii) *diminution of the use made or that may be made of the land or any improvement on it;*
 - (iv) *severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;*
 - (v) *any cost, damage or loss arising from the carrying out of activities under the geothermal tenure on the land;*
- (b) *accounting, legal or valuation costs the claimant necessarily and reasonably incurs to negotiate or prepare a conduct and compensation agreement, other than the costs of a person facilitating an ADR;*

Examples of negotiation—

an ADR or conference

- (c) *consequential damages the eligible claimant incurs because of a matter mentioned in paragraph (a) or (b).*

relevant authorised activities means authorised activities for the geothermal tenure carried out by the holder or a person authorised by the holder.

Subdivision 3 General provisions for conduct and compensation agreements

248 Conduct and compensation agreement

- (1) *An eligible claimant and a geothermal tenure holder may enter into an agreement (a **conduct and compensation agreement**) about—*
- (a) *how and when the geothermal tenure holder may enter the land for which the eligible claimant is an eligible claimant; and*

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- (b) how authorised activities under the geothermal tenure, to the extent they relate to the eligible claimant, must be carried out; and*
 - (c) the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.*
- (2) However, a conduct and compensation agreement can not be inconsistent with this Act, a condition of the geothermal tenure or a mandatory provision of the land access code and is unenforceable to the extent of the inconsistency.*
- (3) A conduct and compensation agreement may relate to all or part of the liability or future liability.*

249 Content of conduct and compensation agreement

- (1) A conduct and compensation agreement must—*
 - (a) provide for the matters mentioned in section 248(1); and*
 - (b) be written and signed by or for the geothermal tenure holder and the eligible claimant; and*
 - (c) state whether it is for all or part of the compensation liability; and*
 - (d) if it is for only part of the compensation liability, state—*
 - (i) details of each activity or effect of the activity to which the agreement relates; and*
 - (ii) the period for which the agreement has effect; and*
 - (e) provide for how and when the compensation liability will be met.*
- (2) A conduct and compensation agreement may—*
 - (a) extend the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant to any renewal of the geothermal tenure; and*
 - (b) provide for—*

- (i) *monetary or non-monetary compensation; or*

Example of non-monetary compensation—

A conduct and compensation agreement may provide for the construction of a road for the claimant.

- (ii) *a process by which it may be amended or enforced; and*

Example of a process for amendment—

A conduct and compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the geothermal tenure, including a change in the extent of activities required under a later development plan for a geothermal lease.

- (c) *provide for any compensation that is or may be payable by the holder to the eligible claimant under the Environmental Protection Act.*

- (3) *This section does not limit the matters that may be provided for in a conduct and compensation agreement.*

Subdivision 4 Negotiation process

Note—

Generally, a geothermal tenure holder can not enter private land to carry out an advanced activity unless the holder complies with this subdivision. See sections 216 and 217.

250 Notice of intent to negotiate

- (1) *A geothermal tenure holder may give an eligible claimant to whom the holder has a compensation liability a notice (the **negotiation notice**) that the holder wishes to negotiate a conduct and compensation agreement or a deferral agreement with the eligible claimant.*
- (2) *The negotiation notice must be accompanied by a copy of the land access code and state all of the following—*

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- (a) *if the holder wishes to negotiate a conduct and compensation agreement—*
 - (i) *whether the holder wishes to negotiate all or part of the holder's compensation liability to the eligible claimant; and*
 - (ii) *if the holder only wishes to negotiate part of the liability—what the part is;*
 - (b) *if the holder wishes to negotiate a deferral agreement—that wish and the reasons for it;*
 - (c) *the land the holder proposes to enter;*
 - (d) *the activities proposed to be carried out on the land;*
 - (e) *when and where the activities are proposed to be carried out;*
 - (f) *if the holder is a corporation—contact details for the holder and an individual the holder has authorised to negotiate the agreement.*
- (3) *The geothermal tenure holder must give the chief executive a copy of the negotiation notice immediately after it is given.*
- Maximum penalty for subsection (3)—10 penalty units.*

251 Negotiations

- (1) *On the giving of the negotiation notice, the geothermal tenure holder and the eligible claimant (the **parties**) must use all reasonable endeavours to negotiate a conduct and compensation agreement or a deferral agreement (a **relevant agreement**).*
- (2) *The period of the negotiations—*
 - (a) *must be at least for the period provided for under section 252 (the **minimum negotiation period**); but*
 - (b) *may continue for as long as the parties wish.*
- (3) *If, during the minimum negotiation period, the parties enter into a relevant agreement, the geothermal tenure holder can*

not enter the relevant land to carry out advanced activities for the tenure until the period ends.

- (4) *Subsection (3) applies despite the terms of the agreement.*

252 Provision for the minimum negotiation period

- (1) *Generally, the minimum negotiation period is 20 business days from the giving of the negotiation notice (the **usual period**).*
- (2) *Either party may, within the usual period, ask the other to agree to a longer minimum negotiation period because of stated reasonable or unforeseen circumstances.*
- (3) *If the other party so agrees, the longer minimum negotiation period is the minimum negotiation period.*

253 Cooling-off during minimum negotiation period

- (1) *This section applies if the parties enter into a conduct and compensation agreement or a deferral agreement during the minimum negotiation period.*
- (2) *Either of the parties may, within the minimum negotiation period, terminate the agreement by giving notice to the other party.*
- (3) *On the giving of a notice under subsection (2), the terminated agreement is taken never to have had any effect.*
- (4) *To remove any doubt, it is declared that subsection (3) does not change the time when the negotiation notice was given.*

254 Parties may seek conference or independent ADR

- (1) *This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement or deferral agreement.*
- (2) *Either party may by a notice (an **election notice**)—*

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- (a) *to the other party and an authorised officer—ask for an authorised officer to call a conference to negotiate a conduct and compensation agreement; or*
 - (b) *to the other party—call upon them to agree to an alternative dispute resolution process (an **ADR**) to negotiate a conduct and compensation agreement.*
- (3) *If the notice calls for an ADR, it must—*
 - (a) *identify the ADR; and*
 - (b) *state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR (the **facilitator**).*
- (4) *An ADR may be a process of any kind including, for example, conciliation or mediation.*
- (5) *However, the facilitator must be independent of either party.*

255 Conduct of conference or ADR

- (1) *This section applies if an election notice is given.*
- (2) *If a conference was requested—*
 - (a) *the authorised officer must take all reasonable steps to ensure the conference is finished within 20 business days after the notice is given (the **usual period**); and*
 - (b) *chapter 7, part 1 applies for the conference.*
- (3) *If an ADR was called for, the parties must use reasonable endeavours to finish it within 20 business days after the giving of the notice (also the **usual period**).*
- (4) *Either party may, within the usual period, ask the other to agree to a longer period to finish the conference or ADR because of stated reasonable or unforeseen circumstances.*
- (5) *If the parties agree to the longer period, that period applies instead of the usual period.*

- (6) *If an ADR was called for, section 315 applies to the ADR as if a reference in the section to a conference were a reference to an ADR.*

Editor's note—

section 315 (What happens if a party does not attend)

Subdivision 5 Deciding compensation through Land Court

256 Land Court may decide if negotiation process unsuccessful

- (1) *This section applies if an election notice is given and—*
- (a) *a party asked an authorised officer to call a conference and the authorised officer does not finish it within the period required under section 255 (the **required period**); or*
 - (b) *a party called for an ADR and the person facilitating the ADR does not finish it within the period required under section 255 (also the **required period**).*
- (2) *This section also applies if an election notice is given and—*
- (a) *only 1 party attended the conference requested or ADR called for; or*
 - (b) *both parties attended the conference or ADR and, at the end of the required period, there is no conduct and compensation agreement between the parties.*
- (3) *An eligible party may apply to the Land Court for it to decide the geothermal tenure holder's—*
- (a) *compensation liability to the claimant; or*
 - (b) *future compensation liability to the claimant for an authorised activity for the geothermal tenure proposed to be carried out by or for the holder.*

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- (4) *However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement.*
- (5) *In hearing the application, the Land Court must as much as practicable ensure the hearing happens together with, or as closely as possible to, the hearing of any relevant environmental compensation application.*
- (6) *In this section—*

***eligible party** means a party who attended the conference or ADR.*

***relevant environmental compensation application** means an application to the Land Court for compensation that is or may be payable by the geothermal tenure holder to the eligible claimant under the Environmental Protection Act.*

257 Land Court review of compensation

- (1) *This section applies if—*
 - (a) *the compensation liability or future compensation liability of a geothermal tenure holder to an eligible claimant has been agreed to under a conduct and compensation agreement or decided by the Land Court (the **original compensation**); and*
 - (b) *there has been a material change in circumstances (the **change**) since the agreement or decision.*
- (2) *The eligible claimant or the holder may apply to the Land Court for it to review the original compensation.*
- (3) *In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.*
- (4) *If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.*

- (5) *The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.*
- (6) *If the decision is to amend the original compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.*

258 Orders Land Court may make

- (1) *The Land Court may make any order it considers appropriate to meet or enforce its decision on an application under this part.*
- (2) *Without limiting subsection (1), the Land Court may order non-monetary compensation as well as monetary compensation.*

Subdivision 6 Additional Land Court jurisdiction for compensation and related matters

259 What sdiv 6 is about

- (1) *This subdivision provides for additional matters for which the Land Court has jurisdiction.*
- (2) *The jurisdiction is subject to subdivisions 1 to 5.*

260 Additional jurisdiction

- (1) *This section applies to a geothermal tenure holder and an eligible claimant (the **parties**) if any of the following apply—*
 - (a) *the geothermal tenure holder has carried out a preliminary activity;*
 - (b) *the parties can not reach agreement about a conduct and compensation agreement;*

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- (c) *there is a conduct and compensation agreement or deferral agreement between the parties.*
- (2) *The Land Court may do all or any of the following—*
 - (a) *assess all or part of the relevant geothermal tenure holder's compensation liability to another party;*
 - (b) *decide a matter related to the compensation liability;*
 - (c) *declare whether or not a proposed authorised activity for the relevant geothermal tenure would, if carried out, interfere with the carrying out of lawful activities by the eligible claimant;*
 - (d) *make any order it considers necessary or desirable for a matter mentioned in paragraph (a), (b) or (c).*

Example—

The Land Court declares that a particular proposed authorised activity interferes with the carrying out of lawful activities by the eligible claimant. It may also order that a stated modification of, or reduction in, the activity would remove the interference.

261 Jurisdiction to impose or vary conditions

- (1) *In deciding a matter mentioned in section 260(2), the Land Court may—*
 - (a) *impose any condition it considers appropriate for the exercise of the parties' rights; or*
 - (b) *vary any existing condition under an agreement between the parties.*
- (2) *The variation may be made on any ground the Land Court considers appropriate.*
- (3) *The imposed or varied condition is taken to be—*
 - (a) *if there is an agreement between the parties—a condition of the agreement; or*
 - (b) *if there is no agreement between the parties—an agreement between the parties.*

(4) *In this section—*

agreement means a conduct and compensation agreement.

condition means a condition of or for a conduct and compensation agreement.

Subdivision 7 Miscellaneous provision

262 Compensation not affected by change in ownership or occupancy

(1) *A conduct and compensation agreement or a Land Court decision under this part is for the benefit of, and is taken to have been agreed to or decided for and is binding on, the following—*

- (a) *the relevant eligible claimant;*
- (b) *the geothermal tenure holder;*
- (c) *each of their successors and assigns including successors and assigns for the area of the relevant geothermal tenure.*

(2) *Subsection (1) is subject to section 257.*

Division 2 Compensation for notifiable road uses

263 Liability to compensate public road authority

(1) *The holder of each geothermal tenure is liable to compensate the public road authority for a public road for any cost, damage or loss it incurs or will incur that is or will be caused by notifiable road uses carried out by the holder that relate to the road.*

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Examples of a possible cost for subsection (1)—

- *repair costs to rectify damage to the road caused or that will be caused by any of the uses*
- *capital costs for unplanned upgrades of the road incurred or that will be incurred because of any of the uses*
- *bring-forward costs, including interest charges, for a planned upgrade of the road that because of any of the uses is or will be required earlier than planned*

- (2) *The holder's liability under subsection (1) is the holder's **compensation liability** to the public road authority.*
- (3) *The compensation liability—*
- (a) *applies whether or not the holder has, under section 236, given notice of the use; and*
 - (b) *is subject to section 269; and*
 - (c) *is in addition to and does not limit or otherwise affect the holder's liability under another provision of this Act about compensating the public road authority or anyone else.*

264 Compensation agreement

- (1) *A geothermal tenure holder and the public road authority for a public road may enter into an agreement (a **compensation agreement**) about the holder's compensation liability to the public road authority relating to the road.*
- (2) *A compensation agreement may relate to all or part of the liability.*
- (3) *A compensation agreement must—*
- (a) *be signed by or for the holder and the public road authority; and*
 - (b) *state whether it is for all or part of the liability; and*
 - (c) *if it is for only part of the liability, state—*

-
- (i) *each part of the notifiable road use to which the agreement relates; and*
 - (ii) *the period for which the agreement has effect; and*
 - (d) *provide for how and when the liability will be met.*
- (4) *A compensation agreement may—*
- (a) *extend the holder's compensation liability to the public road authority relating to the road to any renewal of the geothermal tenure; and*
 - (b) *provide for—*
 - (i) *monetary or non-monetary compensation; or*
 - (ii) *a process by which it may be amended or enforced.*

Example for paragraph (b)—

A compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the geothermal tenure, including a significant decrease or increase in the extent of the relevant notifiable road use.

- (5) *Subsections (2) to (4) do not limit the matters that may be provided for in a compensation agreement.*

265 Deciding compensation through Land Court

- (1) *The public road authority for a public road or a geothermal tenure holder may apply to the Land Court for it to decide the holder's compensation liability to the public road authority relating to the road.*
- (2) *The Land Court may decide the compensation liability only to the extent it is not subject to a compensation agreement.*
- (3) *In making the decision, the Land Court may have regard to whether the applicant has attempted to mediate or negotiate the compensation liability.*

266 Criteria for decision

- (1) *The criteria the Land Court must consider in deciding a compensation application include—*
 - (a) *the reasonableness of the cost, damage or loss claimed; and*
 - (b) *if the public road authority is a local government—the extent to which the cost, damage or loss claimed has been, will be or ought reasonably to be or to have been paid from—*
 - (i) *amounts the geothermal tenure holder has paid or agreed to pay the public road authority for notifiable road uses; or*
 - (ii) *rates and charges under the Local Government Act 2009 paid or payable by the geothermal tenure holder to the public road authority; and*
 - (c) *any other relevant matter.*
- (2) *In considering the reasonableness of any cost, damage or loss claimed, the Land Court must have regard to—*
 - (a) *any action taken or proposed by the geothermal tenure holder to, or to attempt to, avoid, minimise or remedy the cost, damage or loss; and*
 - (b) *any relevant act or omission of the public road authority.*
- (3) *Subsection (1)(b)(ii) applies whether or not the rates and charges relate to notifiable road uses.*

267 Land Court review of compensation

- (1) *This section applies if—*
 - (a) *the compensation liability or future compensation liability of a geothermal tenure holder to a public road authority has been agreed to under a compensation agreement or decided by the Land Court (the **original compensation**); and*

- (b) *there has been a material change in circumstances since the agreement or decision.*

Example of a material change in circumstances—

a significant decrease or increase in the extent of the relevant notifiable road use

- (2) *The public road authority or geothermal tenure holder may apply to the Land Court for it to review the original compensation.*
- (3) *Sections 265 and 266 apply for the review as if the application were a compensation application.*
- (4) *The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.*
- (5) *However, before making the decision, the Land Court must have regard to—*
- (a) *the original compensation; and*
 - (b) *whether the applicant has attempted to mediate or negotiate an amendment of the original compensation; and*
 - (c) *any change in the matters mentioned in section 266(1) since the original compensation was agreed or decided.*
- (6) *If the decision is to amend the original compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.*

268 Compensation to be addressed before carrying out notifiable road use

- (1) *It is a condition of each geothermal tenure that its holder must not carry out a notifiable road use on a public road unless—*
- (a) *the holder and the relevant public road authority have signed a compensation agreement for the use; or*
 - (b) *the public road authority has given written consent to the carrying out of the use; or*

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- (c) *a compensation application has been made to decide the holder's compensation liability to the public road authority relating to the road.*
- (2) *A consent under subsection (1)(b) may be given for any renewal of the geothermal tenure.*

269 Compensation not affected by change in administration or holder

- (1) *An agreement or decision under this part about compensation liability is binding on—*
 - (a) *the relevant public road authority; and*
 - (b) *the relevant geothermal tenure holder; and*
 - (c) *each of their personal representatives, successors and assigns.*
- (2) *Subsection (1) is subject to section 267.*

Part 9 Ownership of equipment and improvements

270 Application of pt 9

- (1) *This part applies if—*
 - (a) *equipment or improvements are taken onto or constructed or placed on land in a geothermal tenure's area; and*
 - (b) *the equipment or improvements were taken onto or constructed or placed on the land for use for an authorised activity for the geothermal tenure; and*
 - (c) *the geothermal tenure continues in force.*
- (2) *However, this part is subject to part 14.*

Editor's note—

part 14 (Enforcement of end of tenure and area reduction obligations)

(3) *In this section—*

equipment *includes machinery and plant.*

improvements—

(a) *does not include a geothermal well; but*

(b) *does include any works constructed in connection with a geothermal well.*

271 Ownership of equipment and improvements

(1) *While the equipment or improvements are on the land they remain the property of the person who owned them immediately before they were taken onto or constructed or placed on the land, unless that person otherwise agrees.*

Note—

See, however, section 361 (Obligation to remove equipment and improvements).

(2) *However, for a geothermal well, subsection (1) is subject to part 3, division 2.*

Editor's note—

part 3, division 2 (Decommissioning of geothermal wells)

(3) *Subsection (1) applies despite—*

(a) *the plant or equipment having become part of the land;*
or

(b) *the sale or other disposal of the land of which the plant or equipment has become a part.*

(4) *The equipment or improvements can not be—*

(a) *levied or seized in execution; or*

(b) *sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder or the owner of the land.*

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- (5) *This section applies despite—*
- (a) *an Act or law of a State; or*
 - (b) *a contract, covenant or claim of right under a law of a State.*

Part 10 **Geothermal register**

272 **Geothermal register**

The chief executive must keep a register of details about the following—

- (a) *restricted areas;*
- (b) *excluded land;*
- (c) *geothermal tenures;*
- (d) *geothermal coordination arrangements;*
- (e) *dealings with geothermal authorities.*

273 **Keeping of register**

- (1) *The chief executive must include in the geothermal register the information prescribed under a regulation.*
- (2) *The chief executive may also keep in the register information the chief executive considers appropriate about matters relating to this Act or another resource Act.*
- (3) *If under this Act, there is a change relating to information required to be kept in the register or to information that, under subsection (2), the chief executive keeps in the register, the chief executive must—*
 - (a) *amend the register to reflect the change; and*
 - (b) *record in the register—*

- (i) *when the information was amended; and*
 - (ii) *for a dealing—when it took effect under section 281(2).*
- (4) *For subsection (3), if the change requires approval under this Act, the change happens when the approval takes effect.*

274 Access to register

- (1) *The chief executive must—*
 - (a) *keep the geothermal register open for inspection by the public during office hours on business days at the places the chief executive considers appropriate; and*
 - (b) *allow a person, on payment of the fee prescribed under a regulation, to search and take extracts from the register; and*
 - (c) *give a person who asks for a copy of all or part of a document or information held in the register the copy on payment of the fee prescribed under a regulation.*
- (2) *This section is subject to section 275.*

275 Arrangements with other departments for copies from geothermal register

- (1) *Despite section 274, the chief executive may enter into an arrangement with another department allowing it to carry out a search of, take extracts from or obtain a copy of particulars recorded in the geothermal register without payment of the fees prescribed under section 274.*
- (2) *However, the chief executive may enter into an arrangement under subsection (1) only if the chief executive is reasonably satisfied the information obtained from the copy will not be—*
 - (a) *used for a commercial purpose, including, for example, the marketing or sale of the information or other information; or*

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- (b) *included in another database of information in any form other than with chief executive's approval.*

276 Supply of statistical data from geothermal register

- (1) *The chief executive may enter into an agreement to supply statistical data derived from instruments or information kept in the geothermal register.*
- (2) *If the chief executive supplies statistical data under subsection (1)—*
- (a) *the fees and charges applying for the supply of the data are the fees and charges provided for in the agreement; and*
- (b) *without limiting paragraph (a), the agreement may also state—*
- (i) *how the fees and charges are to be calculated; and*
- (ii) *how payment of the fees and charges is to be made.*
- (3) *Without limiting subsection (1), an agreement for the supply of statistical data may limit the use to which the data supplied may be put.*
- (4) *An agreement for the supply of statistical data must include—*
- (a) *a provision allowing the chief executive to exclude particulars from data supplied under the agreement if the chief executive is satisfied on reasonable grounds that inclusion of the particulars may result in the particulars being inappropriately disclosed or used; and*
- (b) *a provision allowing the chief executive to prohibit disclosure or to limit distribution or use of data supplied under the agreement.*
- (5) *An agreement under this section must not provide for the obtaining of information or anything else that may be obtained under section 274.*

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- (6) *The chief executive must exclude geothermal tenure particulars and personal information from data supplied under the agreement.*
- (7) *Subsection (6) applies despite anything in the agreement.*
- (8) *In this section—*

***geothermal tenure particulars** means particulars from any instrument or information kept by the chief executive that may allow a person to identify a geothermal tenure to which the instrument or information relates.*

***personal information** means particulars from any instrument or information kept by the chief executive that may allow a person to identify a person to whom the instrument or information relates.*

277 Chief executive may correct register

- (1) *The chief executive may correct the geothermal register if satisfied—*
- (a) *the register is incorrect; and*
- (b) *the correction will not prejudice the rights recorded in the register of a geothermal tenure holder, a person who holds an interest in a geothermal tenure or a person who is a party to a geothermal coordination arrangement.*
- (2) *The power to correct includes power to correct information in the register or a document forming part of the register.*
- (3) *If the register is corrected, the chief executive must record in it—*
- (a) *the state of the register before the correction; and*
- (b) *the time, date and circumstances of the correction.*
- (4) *A correction under this section has the same effect as if the relevant error had not been made.*
- (5) *For subsection (1)(b), a right is not prejudiced if the relevant person acquired or has dealt with the right with actual or*

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constructive knowledge that the register was incorrect and how it was incorrect.

Part 11 Dealings

Division 1 Preliminary

278 What is a dealing with a geothermal tenure

- (1) *Each of the following is a **dealing** with a geothermal tenure—*
 - (a) *a transfer of a geothermal tenure or of a share in a geothermal tenure;*
 - (b) *a mortgage of a geothermal tenure or of a share in a geothermal tenure;*
 - (c) *a release, transfer or surrender of a mortgage mentioned in paragraph (b);*
 - (d) *a sublease or an acquisition of a share in a sublease;*
 - (e) *a transfer of a sublease share mentioned in paragraph (d);*
 - (f) *a change to a geothermal tenure holder's name even if the holder continues to be the same person after the change.*
- (2) *However, a **dealing** with a geothermal tenure does not include a prohibited dealing mentioned in section 279(1).*
- (3) *In this section—*

transfer *includes—*

 - (a) *a transmission by death; and*
 - (b) *a transfer by operation of law.*

Example for paragraph (b)—

A geothermal tenure is held by individuals as joint tenants and one of them dies. A transfer of the tenure includes a record of the death to record the passing by survivorship of the deceased holder's share of the tenure to the other holders.

279 Prohibited dealings

- (1) *A dealing having the effect of transferring a divided part of the area of a geothermal tenure is prohibited.*

Examples of a divided part of the area of a geothermal tenure—

- *a specific part of the surface of the area*
 - *a specific strata beneath the surface of the area*
- (2) *A dealing or transfer prohibited under subsection (1) is of no effect.*

280 What is a third party transfer

*A **third party transfer**, of a geothermal tenure, is a transfer of a geothermal tenure or of a share in a geothermal tenure other than—*

- (a) *a transfer under which—*
- (i) *the proposed transferee is someone who holds the same ABN as any proposed transferor; or*
 - (ii) *all of one holder's share in the geothermal tenure will be transferred to another holder of the tenure;*
or
- (b) *a transmission by death; or*
- (c) *a transfer by operation of law.*

Division 2 Registration of dealings generally

281 Registration required for all dealings

- (1) *A dealing with a geothermal tenure has no effect until it has been registered.*
- (2) *A registered dealing takes effect on—*
 - (a) *for a third party transfer—the day the transfer was finished; or*
 - (b) *otherwise—the day the dealing was given to the chief executive for registration.*

282 Approval requirement for third party transfer or sublease

A dealing that is a third party transfer or sublease can not be registered unless an application has been made under division 3 for approval of the dealing and the approval has been given.

283 Obtaining registration other than third party transfer or sublease

- (1) *Registration of a dealing other than a third party transfer or sublease may be sought only by giving the chief executive notice of the dealing in the approved form.*
- (2) *The form must be accompanied by the fee prescribed under a regulation.*

284 Effect of approval and registration

The registration of a dealing or the giving of an approval under division 3 for a dealing does not of itself give the dealing any more effect or validity than it would have had, had section 281 not been enacted.

Division 3 **Approval of third party transfers
and subleases**

285 **Who may apply**

- (1) *Any party to a third party transfer or sublease may apply for approval and registration of the transfer or sublease.*
- (2) *However, the application can not be made if the proposed transferee or sublessee is not an eligible person.*

286 **Requirements for application**

- (1) *The application must be—*
 - (a) *made to the Minister in the approved form; and*
 - (b) *accompanied by—*
 - (i) *if the relevant geothermal tenure or interest is subject to a mortgage—the mortgagee’s consent; and*
 - (ii) *the fee prescribed under a regulation.*
- (2) *Also, if the application relates to a sublease, the application must—*
 - (a) *be accompanied by a plan of survey for the sublease; and*
 - (b) *state—*
 - (i) *the authorised activities for the relevant geothermal lease that are proposed to be carried out under the sublease; and*
 - (ii) *information that addresses the capability criteria for geothermal leases for authorised activities.*

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287 Deciding application

- (1) *The Minister must decide whether or not to approve and register the third party transfer or sublease.*
- (2) *The approval may be given only if—*
 - (a) *the proposed transferee or sublessee—*
 - (i) *continues to be an eligible person; and*
 - (ii) *is a holder of the relevant environmental authority and any relevant Water Act authorisation; and*
 - (b) *either—*
 - (i) *any financial assurance required under the Environmental Protection Act for the environmental authority has been given; or*
 - (ii) *the administering authority under that Act has given the Minister notice that it has not required financial assurance under that Act from the proposed transferee or sublessee for the environmental authority; and*
 - (c) *for a sublease—*
 - (i) *the authorised activities for the relevant geothermal lease proposed to be carried out under the sublease are not inconsistent with the lease; and*
 - (ii) *the Minister has approved the plan of survey accompanying the application.*
- (3) *In making the decision, the Minister must consider the relevant criteria under chapter 2 or 3 for obtaining the relevant type of geothermal tenure.*

288 Security may be required

- (1) *The Minister may, as a condition of deciding to give the approval, require the proposed transferee or sublessee to give, under section 204, security for the geothermal tenure as if the*

proposed transferee or sublessee were an applicant for the tenure.

- (2) *If the proposed transferee or sublessee does not comply with the requirement, the approval may be refused.*

289 Information notice about refusal

If the Minister decides not to give the approval, the Minister must give the applicant an information notice about the decision.

Part 12 Renewals

290 General conditions for renewal application

- (1) *A geothermal tenure holder may apply to renew the tenure only if none of the following is outstanding by the holder—*
- (a) *annual rent for any geothermal tenure;*
 - (b) *a civil penalty under section 131 for nonpayment of annual rent;*
 - (c) *security required for any geothermal tenure, as required under section 204;*
 - (d) *interest payable under section 372 on annual rent or a civil penalty;*
 - (e) *geothermal royalty.*
- (2) *Also, the application can not be made—*
- (a) *more than 60 business days before the geothermal tenure's term ends; or*
 - (b) *after the geothermal tenure has ended; or*
 - (c) *if the area the subject of the application is more than the area of the geothermal tenure sought to be renewed*

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immediately before the renewed geothermal tenure is to take effect.

291 Restriction on applying for renewal of geothermal permit

A geothermal permit holder can not apply to renew the permit for a proposed term ending later than 15 years after the permit originally took effect.

292 Requirements for making application

The application must—

- (a) be made to the Minister in the approved form; and*
- (b) include the following for the renewed geothermal tenure—*
 - (i) for a geothermal permit—a proposed later work program complying with the later work program requirements;*
 - (ii) for a geothermal lease—a proposed later development plan complying with the later development plan requirements; and*
- (c) be accompanied by—*
 - (i) the application fee prescribed under a regulation; and*
 - (ii) if the application is made less than 20 business days before the end of the geothermal tenure's term—an amount that is 10 times the application fee.*

293 Continuing effect of geothermal tenure for renewal application

- (1) This section applies if, before the application is decided, the geothermal tenure's term ends.*

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- (2) *Despite the ending of the term, the geothermal tenure continues in force until the earlier of the following happens—*
 - (a) *any renewed term of the geothermal tenure starts;*
 - (b) *a refusal of the application takes effect;*
 - (c) *the application is withdrawn;*
 - (d) *the geothermal tenure is cancelled under this Act.*
 - (3) *Subsections (4) and (5) also apply if—*
 - (a) *the geothermal tenure is a geothermal permit; and*
 - (b) *the applicant has applied for a declaration of a potential geothermal commercial area for the geothermal permit.*
 - (4) *The geothermal permit continues in force until the declaration application is decided but only for the area of the proposed potential geothermal commercial area applied for.*
 - (5) *The evaluation program included in the declaration application is taken to be the work program for the geothermal permit.*
 - (6) *If the geothermal tenure is renewed, subsections (2) and (4) are taken never to have applied for the period from the end of the term of the geothermal tenure being renewed as stated in that tenure.*

294 Deciding application

- (1) *The Minister may grant or refuse the renewal.*
- (2) *However—*
 - (a) *before deciding to grant the renewal, the Minister must decide whether to approve the following for the renewed geothermal tenure—*
 - (i) *for a renewed geothermal permit—the applicant’s proposed work program;*
 - (ii) *for a renewed geothermal lease—the applicant’s proposed development plan; and*

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- (b) *the renewal can not be granted unless—*
 - (i) *the proposed program or plan has been approved; and*
 - (ii) *the applicant satisfies the capability criteria; and*
 - (iii) *the Minister is satisfied the applicant has substantially complied with the geothermal tenure being renewed; and*
 - (iv) *the relevant environmental authority has been issued; and*
 - (v) *any relevant Water Act authorisation has been issued.*
- (3) *Also, if—*
 - (a) *the geothermal tenure is a geothermal permit; and*
 - (b) *the applicant has been given a notice under section 72 to apply for a geothermal lease;*

the renewal application must not be decided until the issue of whether a geothermal lease will be granted is decided.
- (4) *Subsection (3) does not limit the power under section 73 to take a proposed action as stated in the notice.*
- (5) *The Minister may, as a condition of deciding to grant the application, require the applicant to do either or both of the following within a stated reasonable period—*
 - (a) *pay the annual rent for the first year of the renewed geothermal tenure;*
 - (b) *give, under section 204, security for the renewed geothermal tenure.*
- (6) *If the applicant does not comply with the requirement, the Minister may refuse the application.*

295 Provisions and term of renewed geothermal permit

- (1) *This section, as well as section 297, applies if the Minister decides to grant the renewal and the geothermal tenure is a geothermal permit.*
- (2) *Subject to this section and section 297, section 40 applies to the renewed geothermal permit as if it were a geothermal permit decided to be granted under chapter 2.*
- (3) *The renewed geothermal permit's term can not be—*
 - (a) *more than 5 years; or*
 - (b) *for a term ending more than 15 years after the permit originally took effect.*
- (4) *However, if any part of the renewed geothermal permit's area is a potential geothermal commercial area, its term for that part may be for a longer period that—*
 - (a) *ends no later than when the declaration of the potential geothermal commercial area ends; and*
 - (b) *is no more than the last term of the geothermal permit being renewed.*
- (5) *To remove any doubt, it is declared that subsection (4)(b) does not prevent a renewal of the renewed geothermal tenure.*

296 Provisions of renewed geothermal lease

- (1) *This section, as well as section 297, applies if the Minister decides to grant the renewal and the geothermal tenure is a geothermal lease.*
- (2) *Subject to this section and section 297, section 82 applies to the renewed geothermal tenure as if it were a geothermal lease decided to be granted under chapter 3.*
- (3) *The renewed lease's term must not be more than 20 years.*

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297 Additional provisions for term of any renewed geothermal tenure

- (1) *The renewed geothermal tenure's conditions may be different from the conditions or other provisions of the geothermal tenure being renewed.*
- (2) *If the renewed geothermal tenure is decided before the end of the term of the geothermal tenure being renewed as stated in that tenure (the **previous term**), the term of the renewed geothermal tenure is taken to start from the end of the previous term.*
- (3) *If the renewed geothermal tenure is decided after the previous term, the term of the renewed geothermal tenure starts immediately after the end of the previous term, but—*
 - (a) *the renewed geothermal tenure's conditions do not start until its holder is given notice of them; and*
 - (b) *until the notice is given, the conditions of the geothermal tenure being renewed apply to the renewed geothermal tenure as if they were its conditions.*

298 Criteria for decisions

In deciding whether to grant the renewal, or deciding the provisions of the renewed geothermal tenure, the Minister must consider—

- (a) *for a renewed geothermal permit—the work program criteria; and*
- (b) *for a renewed geothermal lease—the development plan criteria; and*
- (c) *whether the applicant continues to satisfy the capability criteria.*

299 Information notice about refusal

If the Minister decides to refuse the application, the Minister must give the applicant an information notice about the decision.

300 When refusal takes effect

- (1) *A refusal of the application takes effect at the end of the appeal period for the decision to refuse.*
- (2) *Subsection (1) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.*

Part 13 Surrenders

301 Requirements for surrender

- (1) *A geothermal tenure holder may surrender all or part of the tenure's area only if, under this part—*
 - (a) *an application (a **surrender application**) has been made for approval of the surrender; and*
 - (b) *the surrender has been approved.*
- (2) *In this section—*

***surrender** does not include a relinquishment of an area if the relinquishment is required or authorised under—*

 - (a) *the relinquishment condition; or*
 - (b) *a penalty relinquishment.*

302 Requirements for making surrender application

- (1) *A surrender application must be—*

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- (a) *made to the Minister in the approved form; and*
 - (b) *accompanied by the fee prescribed under a regulation.*
 - (2) *A surrender application must also be accompanied by a report by the applicant about—*
 - (a) *the authorised activities for the geothermal tenure carried out on the area the subject of the application; and*
 - (b) *the results of the activities; and*
 - (c) *any other information prescribed under a regulation.*
- Maximum penalty for subsection (2)—150 penalty units.*

303 Deciding application

- (1) *The Minister may approve a surrender only if—*
 - (a) *up to the day the application was made, the holder had submitted all reports required to be submitted under this Act; and*
 - (b) *for a surrender of all of the area of the geothermal tenure—all of the relevant environmental authority has been cancelled or surrendered; and*
 - (c) *for a surrender of part of the area of the geothermal tenure—the relevant environmental authority has been amended or partially surrendered in a way that reflects the partial surrender of the tenure; and*
 - (d) *all geothermal wells in the geothermal tenure’s area have been decommissioned in the way required under section 200.*
- (2) *In deciding whether to give the approval, the Minister must consider the extent to which the applicant has complied with the geothermal tenure’s conditions.*
- (3) *If the application is for part of the area of the geothermal tenure, the surrender may be approved subject to the applicant’s written agreement to the Minister amending the*

conditions applying to the rest of the area of the tenure in a stated way the Minister considers appropriate.

304 Notice and taking effect of decision

- (1) *If the Minister decides to approve a surrender, the Minister must give the applicant notice of the decision.*
- (2) *The surrender takes effect on the day after the decision is made.*
- (3) *If the Minister decides to refuse a surrender, the Minister must give the applicant an information notice about the decision.*

Part 14 Enforcement of end of tenure and area reduction obligations

305 Power of authorised person to ensure compliance

- (1) *This section applies if the holder, or former holder, of a geothermal tenure has not complied with any of the following relating to land that was in the former tenure's area (the **primary land**)—*
 - (a) *a requirement under section 200 or 361 relating to the land;*
 - (b) *a requirement under an environmental requirement under the Environmental Protection Act to conduct work on the land.*

Editor's note—

section 200 (Obligation to decommission) or 361 (Obligation to remove equipment and improvements)

- (2) *A person authorised (the **authorised person**) by the chief executive may, by complying with section 306, exercise the following powers (**remedial powers**)—*

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- (a) *enter the primary land and do all things necessary to ensure the requirement is complied with;*
- (b) *enter any other land (**secondary land**) necessary or desirable to cross for access to the primary land.*
- (3) *However, remedial powers do not include power to enter a structure or a part of a structure used for residential purposes without the consent of the occupier of the structure or part of the structure.*
- (4) *The authorisation under subsection (2)—*
 - (a) *must be written; and*
 - (b) *may be given on conditions the chief executive considers appropriate.*

306 Requirements for entry to ensure compliance

- (1) *Remedial powers may be exercised for the primary or secondary land under section 305 only if a following person is given notice of the proposed entry at least 10 business days before the proposed entry—*
 - (a) *if the land has an occupier—any occupier of the land;*
 - (b) *if the land does not have an occupier—its owner.*
- (2) *The notice must—*
 - (a) *identify the authorised person; and*
 - (b) *describe the land; and*
 - (c) *state—*
 - (i) *that the authorised person has under this section, been authorised to enter the land; and*
 - (ii) *the purpose of the entry; and*
 - (iii) *the period of the entry.*
- (3) *The chief executive may approve the giving of the notice by publishing it in a stated way.*

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- (4) *The chief executive may give the approval only if satisfied the publication is reasonably likely to adequately inform the person to whom the notice is required to be given of the proposed entry.*
 - (5) *If the authorised person intends to enter the land and any occupier of the land is present at the land, the person also must show or make a reasonable attempt to show the occupier the person's authorisation under this section.*

307 Duty to avoid damage in exercising remedial powers

In exercising remedial powers, a person must take all reasonable steps to ensure the person causes as little inconvenience, and does as little damage, as is practicable.

308 Notice of damage because of exercise of remedial powers

- (1) *If a person exercising remedial powers damages land or something on it, the person must give the owner and any occupier of the land notice of the damage.*
- (2) *If for any reason it is not practicable to comply with subsection (1), the person must—*
 - (a) *leave the notice at the place where the damage happened; and*
 - (b) *ensure it is left in a conspicuous place and in a reasonably secure way.*
- (3) *The notice must state—*
 - (a) *particulars of the damage; and*
 - (b) *that the owner or occupier may claim compensation under section 309 from the State.*

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309 Compensation for exercise of remedial powers

- (1) *This section applies if an owner or occupier of land (the **claimant**) suffers a cost, damage or loss because of the exercise or purported exercise of remedial powers.*
- (2) *Compensation is payable to the claimant by the State for the cost, damage or loss.*
- (3) *The compensation may be claimed and ordered in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.*
- (4) *The court may order the compensation only if it is satisfied it is just to make the order in the circumstances of the particular case.*

310 Ownership of thing removed in exercise of remedial powers

- (1) *This section applies if—*
 - (a) *remedial powers are exercised for land; and*
 - (b) *in the exercise of the powers a thing is removed from the land; and*
 - (c) *immediately before the removal, the thing was the property of—*
 - (i) *the holder or former holder of a geothermal tenure about whom the powers were exercised; or*
 - (ii) *an agent of or contractor for the holder.*
- (2) *On the removal, the thing becomes the property of the State.*
- (3) *The State may deal with the thing as it considers appropriate, including, for example, by destroying it or giving it away.*
- (4) *The chief executive may deal with the thing for the State.*
- (5) *If the State sells the thing, the State may, after deducting the costs of the sale, return the net proceeds of the sale to the former owner of the thing.*

311 Recovery of costs of and compensation for exercise of remedial power

- (1) *The State may recover from the responsible person as a debt any—*
- (a) *reasonable costs the State or an authorised person under section 305 incurs in exercising a remedial power; and*
 - (b) *compensation payable by the State under section 309 for the exercise of the remedial power.*
- (2) *However, in any proceeding to recover the costs, any relevant net proceeds of sale mentioned in section 310 must be deducted from the amount claimed for the costs.*
- (3) *In this section—*

***relevant net proceeds of sale** means the net proceeds of sale under which the thing sold was the property of the responsible person immediately before its removal under section 310.*

***responsible person** means the holder or former holder of the geothermal tenure about whom the remedial powers were exercised.*

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- (b) *a geothermal tenure holder who is concerned about something relevant to the tenure involving the holder and the owner or occupier of land gives an authorised officer notice of the concerns; or*
 - (c) *for another reason, an authorised officer considers it desirable to call a conference to discuss concerns about a geothermal tenure.*

Division 2 Calling conference and attendance

313 Calling conference

- (1) *If this part applies because of the giving of an election notice, the authorised officer must, by notice, ask the geothermal tenure holder and the eligible claimant (the **parties**) to attend a conference by the authorised officer about negotiating a conduct and compensation agreement.*
- (2) *If this part applies under section 312(2), the authorised officer may, by notice, ask the geothermal tenure holder and the owner or occupier or other person with an interest in the concerns (also the **parties**) to attend a conference by the authorised officer about the concerns.*
- (3) *The notice must state when and where the conference will be held and what is to be discussed at the conference.*

314 Who may attend conference

- (1) *Apart from the authorised officer, anyone given notice of the conference may attend and take part in the conference.*
- (2) *Also, with the authorised officer's approval, someone else may be present to help a person attending the conference.*
- (3) *However, a party can not be represented by a lawyer unless the parties agree and the authorised officer is satisfied there is no disadvantage to a party.*

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315 What happens if a party does not attend

- (1) *This section applies if a party given notice of the conference does not attend.*
- (2) *The authorised officer may hold the conference even though someone given notice of it does not attend.*

Note—

If the conference was called because of an election notice and only 1 party attends, the Land Court may decide the issue of compensation. See section 256.

- (3) *A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party's reasonable costs of attending.*
- (4) *The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.*
- (5) *If the Land Court makes the order, it must decide the amount of the costs.*

Division 3 Conduct of conference

316 Authorised officer's role

- (1) *In conducting the conference, the authorised officer must endeavour to help those attending to reach an early and inexpensive settlement of the subject of the conference.*
- (2) *Subject to section 255, the authorised officer is to decide how the conference is to be conducted.*

317 Statements made at conference

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

318 Agreement made at conference

- (1) *If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be written and signed by or for the parties.*
- (2) *The agreement—*
 - (a) *may, if appropriate, be a conduct and compensation agreement or an amendment of an existing conduct and compensation agreement between the parties; and*
 - (b) *has the same effect as any other compromise.*

Part 2 Noncompliance action for geothermal tenures

Division 1 Preliminary

319 Operation of div 1

- (1) *This division provides a process for noncompliance action against a geothermal tenure holder.*
- (2) *The power to take noncompliance action under this part does not limit a power as follows (the **other power**)—*
 - (a) *the power under chapter 6, part 4 to require new or additional security;*
 - (b) *a power under another provision of this Act to amend the geothermal tenure;*
 - (c) *the power under the P&G Act to give compliance direction.*
- (3) *The other power does not limit the power to take noncompliance action.*
- (4) *Noncompliance action may be taken when the other power is exercised.*

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Note—

The P&G Act, chapter 10 includes provisions about investigating geothermal activities and for the giving of compliance and dangerous situation directions as defined under that Act concerning those activities.

Division 2 Noncompliance action by Minister

320 Types of noncompliance action that may be taken

(1) *The noncompliance action the Minister may take under this division is all or any of the following—*

(a) *amending the geothermal tenure by doing all or any of the following—*

(i) *reducing its term;*

(ii) *reducing its area;*

Example of a possible reduction—

A geothermal permit holder has not, in contravention of section 117, carried out work required under the work program for the permit. Noncompliance action may include amending the permit to reduce its area to reflect the work not carried out.

(iii) *amending a condition of the geothermal tenure;*

(iv) *imposing a new condition;*

(b) *requiring the holder of the geothermal tenure to relinquish a stated part of its area on or before a stated time;*

(c) *cancelling the geothermal tenure, immediately or on a stated day;*

(d) *withdrawing from a stated day, the approval of the work program or development plan for the tenure and directing its holder to, on or before that day, give the Minister the following document so the Minister may decide whether to approve the document—*

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- (i) *for a geothermal permit—a proposed later work program complying with the later work program requirements;*
 - (ii) *for a geothermal lease—a proposed later development plan complying with the later development plan requirements;*
 - (e) *requiring the geothermal tenure holder to pay the State a penalty of an amount no more than the monetary value of 2000 penalty units.*
- (2) *However, a requirement under subsection (1)(e) may be made only if the holder has agreed to the requirement being made instead of the taking of other noncompliance action under subsection (1).*
 - (3) *A condition or amendment under subsection (1) may restrict the authorised activities for the geothermal tenure.*
 - (4) *If, under subsection (1)(c), the geothermal tenure is cancelled on a stated day, a condition may be imposed under subsection (1)(a) restricting the authorised activities for the tenure until the cancellation.*
 - (5) *Noncompliance action may be taken despite the mandatory conditions for the geothermal tenure.*

321 When noncompliance action may be taken

- (1) *Noncompliance action may be taken if—*
 - (a) *an event mentioned in subsection (2) or (3) has happened; and*
 - (b) *the procedure under division 3 for taking the action has been followed; and*
 - (c) *the geothermal tenure for which the noncompliance action is taken relates to the event for which the action is taken.*
- (2) *For subsection (1), the event is that the holder—*

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- (a) *obtained the geothermal tenure because of a materially false or misleading representation or declaration made orally or in writing; or*
 - (b) *has failed to comply with this Act, a direction given under this Act or the geothermal tenure; or*
 - (c) *did not pay an amount under this Act by the day it became owing; or*
 - (d) *has used any land in the geothermal tenure's area for an activity that—*
 - (i) *is not an authorised activity for the geothermal tenure or that, under any of the following Acts can not be carried out on the land—*
 - (A) *the GHG storage Act, chapter 4, part 6;*
 - (B) *the Mineral Resources Act, part 7AAC;*
 - (C) *the P&G Act, chapter 3A;*
 - (D) *the 1923 Act, part 6FA; and*
 - (ii) *the holder can not otherwise lawfully carry out; or*
 - (e) *has used the geothermal tenure for a purpose other than for a purpose for which it was granted; or*
 - (f) *has carried out or purported to carry out work under the geothermal tenure for which the tenure was not granted.*
- (3) *Also, it is an event for subsection (1) if the holder is not, or has ceased to be, an eligible person.*

Division 3 Procedure for noncompliance action

322 Notice of proposed noncompliance action

- (1) *The Minister must give the geothermal tenure holder a notice stating the following—*

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- (a) *that the Minister proposes to take noncompliance action against the holder;*
 - (b) *the types of noncompliance action that may be taken against the holder and the type likely to be taken;*
 - (c) *the grounds for taking noncompliance action against the holder;*
 - (d) *the facts and circumstances that are the basis for the grounds;*
 - (e) *that the holder may, within a stated period, make submissions to the Minister about the proposal to take noncompliance action.*
- (2) *The notice may state—*
- (a) *if the noncompliance action is likely to include amending the geothermal tenure—the likely amendment; and*
 - (b) *the amount of any likely reduction of the tenure’s area.*

323 Considering submissions

- (1) *The Minister must consider any submissions made by the holder within the period stated in the notice given under section 322.*
- (2) *If the Minister decides not to take noncompliance action, the Minister must, as soon as practicable, give the holder notice of the decision.*

324 Decision on proposed noncompliance action

- (1) *If, after complying with section 323, the Minister still believes a ground exists to take noncompliance action, the Minister may decide to take noncompliance action for the geothermal tenure relating to a ground stated in the notice given under section 322.*

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- (2) *The Minister must, in deciding whether to take the action, have regard to whether the holder is a suitable person to hold or continue to hold the geothermal tenure.*
- (3) *In considering whether the holder is a suitable person to hold or to continue to hold the geothermal tenure, the Minister must consider the criteria under the following for granting that type of geothermal tenure, to the extent the criteria are relevant—*
 - (a) *for a geothermal permit—sections 39 and 41;*
 - (b) *for a geothermal lease—section 91.*

325 Notice and taking effect of decision

- (1) *The Minister must, after making a decision under section 324, give an information notice about the decision to—*
 - (a) *the geothermal tenure holder; and*
 - (b) *any other person who holds an interest in the geothermal tenure recorded in the geothermal register.*
- (2) *Generally, the decision takes effect on the later of the following—*
 - (a) *the day the holder is given the information notice;*
 - (b) *a later day of effect stated in the notice.*
- (3) *However, if the decision was to cancel the geothermal tenure the decision takes effect at the end of the appeal period for the decision.*
- (4) *Subsection (3) applies subject to section 338 and any decision of the Land Court under section 340 relating to the decision to refuse.*

326 Consequence of failure to comply with relinquishment requirement

- (1) *This section applies if—*

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- (a) *noncompliance action taken is a requirement under section 320(1)(b) of a geothermal tenure holder; and*
 - (b) *the requirement is not complied with.*
 - (2) *The Minister must give the holder a notice requiring the holder to comply with the requirement under section 320(1)(b) within 20 business days after the giving of the notice.*
 - (3) *If the holder does not comply with the requirement under the notice, the geothermal tenure is cancelled.*
 - (4) *However, the cancellation does not take effect until the Minister gives the holder a notice stating that the geothermal tenure has been cancelled because of the operation of subsection (3).*

Part 3 General offences

327 Restriction on carrying out geothermal activities

A person must not carry out a geothermal activity in relation to land unless—

- (a) *the activity is carried out under a geothermal tenure or a direction under this Act; or*
- (b) *the carrying out of the activity is necessary to preserve life or property because of a dangerous situation or emergency that exists or may exist; or*
- (c) *the person—*
 - (i) *is carrying out the activity for the State; and*
 - (ii) *has, under section 375, been authorised for that purpose; and*
 - (iii) *is acting within the scope of that authority; or*

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- (d) *the activity is exempt heat pump production or the installation of a geothermal heat pump for exempt heat pump production; or*
- (e) *the activity is geothermal production and it is not of a large-scale; or*
- (f) *the activity is geothermal exploration for exempt heat pump production.*

Maximum penalty—2000 penalty units.

Note—

Other legislation may regulate geothermal production that is not of a large-scale and activities relating to geothermal heat pumps. See the Sustainable Planning Act 2009 and the Plumbing and Drainage Act 2002.

328 Defence if geothermal activity is for GHG storage injection

- (1) *This section applies to a geothermal activity consisting of the injection into an underground reservoir of a GHG stream.*
- (2) *It is a defence to a proceeding for an offence against section 327 for the defendant to prove the injection—*
 - (a) *was for the purpose of GHG storage injection testing or GHG stream storage as defined under the GHG storage Act; and*
 - (b) *was authorised under that Act.*

329 Geothermal tenure holder's measurement obligations

A geothermal tenure holder must—

- (a) *ensure geothermal energy produced from the geothermal tenure's area is measured; and*
- (b) *give the chief executive details of the measurement at the times and in the way prescribed under a regulation.*

Maximum penalty—500 penalty units.

330 Duty to avoid interference in carrying out geothermal activities

A person who carries out an authorised activity for a geothermal tenure must carry out the activity in a way that does not unreasonably interfere with anyone else carrying out a lawful activity.

Maximum penalty—500 penalty units.

331 Obstruction of geothermal tenure holder

(1) *A person must not, without reasonable excuse, obstruct a geothermal tenure holder from—*

- (a) *entering or crossing land to carry out an authorised activity for the geothermal tenure if chapter 6, part 5, 6 or 7 to the extent the part is relevant, has been complied with for the entry; or*
- (b) *carrying out an authorised activity for the geothermal tenure on the land.*

Maximum penalty—500 penalty units.

(2) *If a person has obstructed a geothermal tenure holder from carrying out an activity mentioned in subsection (1) and the holder decides to proceed with the carrying out of the activity, the holder must warn the person that—*

- (a) *it is an offence to obstruct the holder unless the person has a reasonable excuse; and*
- (b) *the holder considers the person's conduct is an obstruction.*

(3) *In this section—*

***obstruct** includes assault, hinder, resist and attempt or threaten to assault, hinder or resist.*

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332 False or misleading information

- (1) *A person must not make an entry in a document required to be kept under this Act knowing the entry is false or misleading in a material particular.*

Maximum penalty—500 penalty units.

- (2) *A person of whom a direction or requirement under this Act has been made must not state anything or give a document or thing in response to the direction or requirement that the person knows is false or misleading in a material particular.*

Maximum penalty—500 penalty units.

333 Executive officers must ensure corporation does not commit particular offences

- (1) *The executive officers of a corporation must ensure the corporation complies with each designated provision of this Act.*

- (2) *If a corporation commits an offence against a designated provision of this Act, each of its executive officers also commits an offence namely, the offence of failing to ensure the corporation complies with the provision.*

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) *Evidence that the corporation has been convicted of an offence against a designated provision of this Act is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the provision.*

- (4) *However, it is a defence for an executive officer to prove that—*

(a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the designated provision; or

(b) *the officer was not in a position to influence the conduct of the corporation in relation to the offence.*

(5) *In this section—*

designated provision, of this Act, means any of the following provisions—

- *sections 198, 200, 242 and 361*
- *chapter 6, part 2*
- *this part, other than this section.*

334 Attempts to commit offences

(1) *A person who attempts to commit an offence against this Act commits an offence.*

Maximum penalty for an attempt—half the maximum penalty for the completed offence.

(2) *The Criminal Code, section 4 applies to subsection (1).*

Part 4 Appeals

335 Who may appeal

(1) *A person whose interests are affected by a decision identified in schedule 1 may appeal against the decision to the Land Court.*

(2) *For this section, a person who has been given or is entitled to be given an information notice about a decision is taken to be a person whose interests are affected by the decision.*

336 Period to appeal

(1) *The appeal must be started within 20 business days after—*

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- (a) *if the person has been given an information notice about the decision—the day the person is given the notice; or*
 - (b) *if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.*
- (2) *However, the Land Court may at any time within the 20 business days extend the period for making an appeal.*

337 Starting appeal

- (1) *The appeal is started by filing a written notice of appeal with the Land Court.*
- (2) *The appellant must give the chief executive a copy of the notice.*

338 Stay of operation of decision

- (1) *The Land Court may grant a stay of the decision to secure the effectiveness of the appeal.*
- (2) *A stay—*
 - (a) *may be given on the conditions the Land Court considers appropriate; and*
 - (b) *operates for the period fixed by the Land Court; and*
 - (c) *may be amended or cancelled by the Land Court.*
- (3) *The period of a stay under this section must not extend past the time when the Land Court decides the appeal.*
- (4) *The appeal affects the decision or carrying out of the decision only if it is stayed.*

339 Hearing procedures

- (1) *In deciding an appeal, the Land Court—*
 - (a) *has the same powers as the Minister; and*
 - (b) *is not bound by the rules of evidence; and*

-
- (c) *must comply with natural justice; and*
 - (d) *may hear the appeal in court or in chambers.*
 - (2) *An appeal is by way of rehearing unaffected by the decision.*
 - (3) *Subject to subsections (1) and (2), the procedure for the appeal is—*
 - (a) *in accordance with the rules for the Land Court; or*
 - (b) *in the absence of relevant rules, as directed by the Land Court.*
 - (4) *A power under an Act to make rules for the Land Court includes power to make rules for appeals under this part.*

340 Land Court's powers on appeal

- (1) *Subject to section 341, in deciding an appeal, the Land Court may—*
 - (a) *confirm the decision; or*
 - (b) *set aside the decision and substitute another decision; or*
 - (c) *set aside the decision and return the issue to the Minister with the directions the court considers appropriate.*
- (2) *If the Land Court substitutes another decision, the substituted decision is for this Act other than this part taken to be the decision of the Minister.*

341 Restriction on Land Court's powers for decision not to grant geothermal lease

- (1) *This section applies if the Land Court is deciding an appeal against a decision not to grant a geothermal lease.*
- (2) *The Land Court can not exercise a power mentioned in section 340(1)(b) or (c) in relation to the decision on the ground that any resource management decision for the*

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application for the geothermal lease was to give overlapping authority priority, in whole or part.

Part 5 **Evidence and legal proceedings**

Division 1 **Evidentiary provisions**

342 **Application of div 1**

This division applies to a proceeding under or in relation to this Act.

343 **Authority**

The power of the Minister, chief executive or an auditor appointed for the geothermal royalty to do anything under this Act must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it.

344 **Signatures**

A signature purporting to be the signature of the Minister or the chief executive is evidence of the signature it purports to be.

345 **Other evidentiary aids**

A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) *that a stated document of any of the following types is a document given, issued, kept or made under this Act—*

- (i) *an appointment, approval or decision;*
- (ii) *a direction, notice or requirement;*
- (iii) *a geothermal tenure;*
- (iv) *the geothermal register;*
- (v) *a report;*
- (vi) *another record;*
- (b) *that a stated document is another document kept under this Act;*
- (c) *that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);*
- (d) *that on a stated day—*
 - (i) *a stated person was given a stated decision, direction or notice under this Act; or*
 - (ii) *a stated requirement under this Act was made of a stated person;*
- (e) *that on a stated day or during a stated period a geothermal tenure—*
 - (i) *was or was not in force; or*
 - (ii) *was or was not subject to a stated condition; or*
 - (iii) *was or was not cancelled;*
- (f) *that a stated amount is payable under this Act by a stated person and has not been paid;*
- (g) *that a stated address for a geothermal tenure holder is the last address of the holder known to the Minister or the chief executive.*

Division 2 Offence proceedings

346 Offences under Act are summary

- (1) *An offence against this Act is a summary offence.*
- (2) *A proceeding for an offence against this Act must start within the later of the following periods to end—*
 - (a) *1 year after the commission of the offence;*
 - (b) *6 months after the offence comes to the complainant's knowledge but within 2 years after the commission of the offence.*

347 Statement of complainant's knowledge

In a complaint starting a proceeding for an offence against this Act, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

348 Conduct of representatives

- (1) *This section applies to a proceeding for an offence against this Act if it is relevant to prove a person's state of mind about particular conduct.*
- (2) *It is enough to show—*
 - (a) *the conduct was engaged in by a representative of the person within the scope of the representative's actual or apparent authority; and*
 - (b) *the representative had the state of mind.*
- (3) *Conduct engaged in for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been engaged in also by the person unless the person proves—*

-
- (a) *if the person was in a position to influence the representative in relation to the conduct—the person took reasonable steps to prevent the conduct; or*
- (b) *the person was not in a position to influence the representative in relation to the conduct.*
- (4) *In this section—*
- engaging, in conduct, includes failing to engage in conduct.***
- representative means—***
- (a) *for a corporation—an agent, employee or executive officer of the corporation; or*
- (b) *for an individual—an agent or employee of the individual.*
- state of mind, of a person, includes the person’s—***
- (a) *belief, intention, knowledge, opinion or purpose; and*
- (b) *reasons for the belief, intention, opinion or purpose.*

349 Additional orders that may be made on conviction

- (1) *If a court convicts a person for an offence against this Act, it may—*
- (a) *order the forfeiture to the State of—*
- (i) *anything used to commit the offence; or*
- (ii) *anything else the subject of the offence; and*
- (b) *make any order to enforce the forfeiture it considers appropriate; and*
- (c) *order the person to pay the State the amount of costs it incurred for remedial work that was necessary or desirable because of the commission of the offence.*
- (2) *Forfeiture of a thing may be ordered—*
- (a) *whether or not it has been seized under this Act; and*

- (b) *if it has been seized under this Act, whether or not it has been returned to its owner.*

Chapter 8 Miscellaneous provisions

Part 1 Provisions about geothermal tenures

Division 1 General provisions

350 Geothermal tenure does not create an interest in land

The granting of a geothermal tenure does not create an interest in any land.

351 Joint holders of a geothermal tenure

- (1) *A geothermal tenure may be held by 2 or more persons as joint tenants or as tenants in common.*
- (2) *If, under this Act—*
- (a) *an application is made for, or for approval to transfer, a geothermal tenure for more than 1 proposed holder or transferee; and*
 - (b) *the application does not show whether the proposed holders or transferees are to hold as joint tenants or as tenants in common; and*
 - (c) *the application is granted;*

the chief executive must record in the geothermal register that the applicants hold the geothermal tenure as tenants in common.

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- (3) *In this section—*
geothermal tenure includes a share in a geothermal tenure.

352 Minister's power to ensure compliance by geothermal tenure holder

- (1) *This section applies if—*
- (a) *a geothermal tenure holder has not complied with a requirement under this Act of the holder; and*
 - (b) *no other provision of this Act allows someone other than the holder to ensure compliance with the requirement.*
- (2) *The Minister may take any action the Minister considers appropriate to ensure all or part of the requirement is complied with if—*
- (a) *subsections (3) and (4) have been complied with; or*
 - (b) *the holder has agreed to the Minister taking the action.*
- (3) *The Minister must give the holder notice—*
- (a) *stating the requirement and the action the Minister proposes to take; and*
 - (b) *inviting the holder to, within a stated reasonable period, make submissions to the Minister about the proposed action.*
- (4) *The Minister must consider any submissions made by the holder within the stated period.*
- (5) *A decision to take the action does not take effect until the holder is given an information notice about the decision.*
- (6) *The State may recover from the holder as a debt any reasonable costs it incurs in the exercise of the power under subsection (2).*

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353 Power to correct or amend tenure

- (1) *The Minister may amend a geothermal tenure at any time by giving its holder a notice of the amendment and recording particulars in the relevant register if the amendment—*
 - (a) *is to correct a clerical error; or*
 - (b) *is to state, or more accurately state, the boundaries of the area of the geothermal tenure because of a survey carried out under section 133.*
- (2) *The Minister may at any time amend a condition of the geothermal tenure if its holder agrees in writing.*
- (3) *Despite subsections (1) and (2), the following can not be amended under this section—*
 - (a) *the mandatory conditions for that type of geothermal tenure;*
 - (b) *the geothermal tenure's term;*
 - (c) *any work program or development plan for the geothermal tenure.*
- (4) *Also, the Minister can not amend the geothermal tenure in a way that would make a provision of the tenure—*
 - (a) *inconsistent with the mandatory conditions for that type of geothermal tenure; or*
 - (b) *the same as, or substantially the same as, or inconsistent with, any relevant environmental condition for the tenure.*

354 Replacement of instrument for geothermal tenure

- (1) *If the instrument for a geothermal tenure has been lost, stolen or destroyed, its holder may apply to replace it.*
- (2) *The application must be made to the Minister in the approved form.*
- (3) *If the Minister is reasonably satisfied the instrument has been lost, stolen or destroyed, the Minister must replace it.*

- (4) *If the Minister decides to refuse to replace the instrument, the Minister must give the holder an information notice about the decision.*

355 Joint and several liability for conditions and for debts to State

If more than 1 person holds a geothermal tenure, each holder is jointly and severally—

- (a) *responsible for complying with its conditions; and*
- (b) *liable for all debts payable under this Act and unpaid by the geothermal tenure holder to the State.*

Division 2 General provisions about authorised activities

356 Authorised activities may be carried out despite rights of owner or occupier

- (1) *The authorised activities for a geothermal tenure may be carried out despite the rights of an owner or occupier of land on which the activities are carried out.*
- (2) *However, subsection (1) applies for an authorised activity only if section 357 does not prevent it from being carried out.*

357 General restrictions on right to carry out authorised activity

- (1) *The right under this Act to carry out an authorised activity for a geothermal tenure is subject to the following—*
 - (a) *chapter 5 and this chapter;*
 - (b) *compliance with the tenure holder's rights and obligations under—*
 - (i) *chapters 2 to 6; and*

- (ii) *this chapter; and*
- (iii) *sections 329 and 330; and*

Editor's note—

sections 329 (Geothermal tenure holder's measurement obligations) and 330 (Duty to avoid interference in carrying out geothermal activities)

- (c) *the mandatory conditions and the other conditions and provisions of the geothermal tenure;*
 - (d) *any exclusion or restriction provided for in the geothermal tenure on the carrying out of the activities;*
 - (e) *the P&G Act safety provisions;*
 - (f) *the Environmental Protection Act;*
 - (g) *the Water Act;*
 - (h) *any other relevant Act or law.*
- (2) *Also, the right may be exercised only by the holder or someone that the holder has authorised under section 359.*

358 Restrictions on carrying out authorised activities on particular land

- (1) *Geothermal exploration or geothermal production can not be carried out within 300m of any boundary of a geothermal tenure.*
- (2) *An authorised activity for a geothermal tenure may be carried out within 300m laterally of any of the following buildings only if its owner or occupier has given written consent to the carrying out of the activity—*
 - (a) *a permanent building used mainly for accommodation for a business purpose;*
 - (b) *a permanent building used for sporting, community or recreational purposes or as a place of worship.*
- (3) *An authorised activity for a geothermal tenure can not be carried out within 50m laterally of any of the following things*

unless its owner or occupier has given written consent to the carrying out of the activity—

- (a) a principal stockyard;*
- (b) a bore or artesian well;*
- (c) a dam;*
- (d) another artificial water storage connected to a water supply;*
- (e) a cemetery or burial place.*

359 Who may carry out authorised activity for geothermal tenure holder

- (1) An authorised activity for a geothermal tenure may be carried out for the holder by any of the following persons acting within the scope of the person’s authority from the holder—*
- (a) if the holder is a corporation—its officers and employees;*
 - (b) the holder’s employees or partners who are individuals;*
 - (c) agents of or contractors for the holder;*
 - (d) officers and employees of or agents of or contractors for agents or contractors mentioned in paragraph (c).*

Example—

A geothermal lease holder may also enter into a geothermal coordination arrangement under which another party to the arrangement may carry out an authorised activity for the geothermal lease. See section 138(1).

- (2) The authority may be express, or implied from—*
- (a) the nature of the relationship between the person and the holder; or*
 - (b) the duties the person performs for the holder; or*
 - (c) the duties a person mentioned in subsection (1) customarily performs.*

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- (3) *If a geothermal lease is subject to a registered sublease, the sublessee may, subject to the terms of the sublease, carry out authorised activities for the lease stated in the relevant application for approval of the sublease.*

360 Limitation of owner's or occupier's tortious liability for authorised activities

- (1) *This section applies to an owner or occupier of land in the area of a geothermal tenure if—*
- (a) *someone else carries out an authorised activity for a geothermal tenure on the land; or*
 - (b) *someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a geothermal tenure.*
- (2) *The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.*
- (3) *However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.*
- (4) *This section applies—*
- (a) *despite any other Act or law; and*
 - (b) *even though this Act or the geothermal tenure prevents or restricts the carrying out of the activity as an authorised activity for the tenure.*
- (5) *Subject to subsection (2), in this section, the terms claim, damages and harm have the same meaning that they have under the Civil Liability Act 2003.*

Division 3 **Provisions for when geothermal tenure ends or area reduced**

361 **Obligation to remove equipment and improvements**

(1) *This section applies for equipment or improvements in a geothermal tenure's area or on access land for a geothermal tenure that are being, or have been, used for an authorised activity for the tenure.*

(2) *However, this section does not apply for—*

(a) *a geothermal well; or*

Note—

For a geothermal well, see chapter 6, part 3, division 2 (Decommissioning of geothermal wells).

(b) *equipment or improvements on land that, under section 189, ceases to be in a geothermal permit's area.*

(3) *The holder of the geothermal tenure must, before the removal day, remove the equipment or improvements from the land unless the owner of the land otherwise agrees.*

Maximum penalty—1000 penalty units.

(4) *To remove any doubt, it is declared that subsection (3) applies even if the equipment or improvements are not owned by the holder.*

(5) *In this section—*

equipment *includes machinery and plant.*

removal day *means the latest of the following days—*

(a) *the earlier of the following—*

(i) *the day the geothermal tenure ends;*

(ii) *the day the land ceases to be in the geothermal tenure's area;*

(b) *if before the day provided for under paragraph (a), the Minister fixes a day—that day;*

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- (c) *if before a day fixed under paragraph (b), the Minister fixes a later day—that day.*

362 Authorisation to enter to facilitate compliance

- (1) *The Minister may, by notice, authorise a former holder of a geothermal tenure to enter any of the following land to comply with, or remedy a contravention of, section 129 or this division—*

- (a) *the land to which section 129 or this division applies (**primary land**);*

Editor's note—

section 129 (Compliance with land access code)

- (b) *any other land (**secondary land**) necessary or desirable to cross for access to the primary land.*

- (2) *Chapter 6, parts 5 (other than division 4), 6 and 8 and sections 20 and 132 apply to the former holder for the authorisation as if—*

- (a) *the geothermal tenure were still in force (the **notional tenure**); and*
- (b) *the former holder is the holder of the notional tenure; and*
- (c) *the primary land and any secondary land are in the notional tenure's area; and*
- (d) *the compliance or the remedying of the contravention were authorised activities for the notional tenure.*

Editor's note—

chapter 6, parts 5 (Private land), 6 (Public land) and 8 (Compensation and negotiated access)

- (3) *However, the power under this section does not include the power to enter a structure or a part of a structure used for residential purposes without the consent of the occupier of the structure or part of the structure.*

- (4) *If the former holder intends to enter the land and any occupier of the land is present at the land, the former holder also must show or make a reasonable attempt to show the occupier the former holder's authorisation under this section.*

Part 2

Applications, lodging documents and making submissions

363 Place for making applications, lodging documents or making submissions

- (1) *This section applies to any of the following under this Act—*
- (a) *the making of an application;*
 - (b) *the giving of a document to the Minister or the chief executive;*
 - (c) *the making of a submission.*
- (2) *The application, document or submission may be made or given only at the following place—*
- (a) *the office of the department provided for under the relevant approved form for that purpose;*
 - (b) *if the relevant approved form does not make provision as mentioned in paragraph (a) or if there is no relevant approved form—the office of the department notified on the department's website.*

364 Requirements for making an application

- (1) *The Minister must refuse to receive or process a purported application not made under the requirements under this Act for making the application.*
- (2) *However, the Minister may decide to allow the application to proceed and be decided as if it did comply with the*

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requirements if the Minister is satisfied the application substantially complies with the requirements.

365 Request to applicant about application

(1) *If the Minister is deciding or is required to decide an application under this Act, the Minister may by notice require the applicant to do all or any of the following within a stated reasonable period—*

- (a) *complete or correct the application if it appears to the Minister to be incorrect, incomplete or defective;*
- (b) *give the Minister additional information about, or relevant to, the application;*

Example—

The application is for a geothermal tenure. The Minister may require a document, prepared by an appropriately qualified person, independently verifying geological or predictive migration data given in the proposed work program or development plan for the tenure.

- (c) *give the Minister an independent report by an appropriately qualified person or a statutory declaration verifying all or any of the following—*
 - (i) *any information included in the application;*
 - (ii) *any additional information required under paragraph (b);*
 - (iii) *if the application is for a geothermal tenure—that the applicant meets the capability criteria.*
- (2) *For subsection (1)(b), if the application is for a geothermal tenure, a required document may include a survey or resurvey of the area of the proposed tenure carried out by a person who is a cadastral surveyor under the Surveyors Act 2003.*
- (3) *For subsection (1)(c), the notice may require—*
 - (a) *the statutory declaration to be made by an appropriately qualified independent person or by the applicant; and*

-
- (b) *if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.*
- (4) *The applicant must bear any costs incurred in complying with the notice.*
- (5) *The Minister may extend the period for complying with the notice.*
- (6) *Without limiting section 364(1) or 366, the Minister may refuse to decide the application until the request is complied with.*
- (7) *In this section—*
information includes a document.

366 Refusing application for failure to comply with request

The Minister may refuse an application if—

- (a) *a notice under section 365 has been given for the application; and*
- (b) *the period stated in the notice for complying with it has ended; and*
- (c) *the request has not been complied with to the Minister's satisfaction.*

367 Particular criteria generally not exhaustive

- (1) *This section applies if another provision of this Act permits or requires the Minister to consider particular criteria in deciding an application.*
- (2) *To remove any doubt, it is declared that the Minister may in making the decision consider any other criteria the Minister considers relevant.*
- (3) *However, subsection (2) does not apply if the provision otherwise provides.*

[s 368]

- (4) *In this section—
criteria includes issues and matters.*

368 Particular grounds for refusal generally not exhaustive

- (1) *This section applies if another provision of this Act provides for particular grounds on which the Minister may refuse an application.*
- (2) *To remove any doubt, unless the other provision otherwise provides, the Minister may refuse the application on another reasonable and relevant ground.*
- (3) *In this section—
refuse, an application, includes refuse the thing the subject of the application.*

369 Amending applications

- (1) *If a person has made an application under this Act, the person may amend the application or a document accompanying the application only if—*
- (a) *the application has not been decided; and*
 - (b) *the Minister has agreed to the making of the amendment; and*
 - (c) *if the amendment is to change the applicant—each applicant and proposed applicant has agreed to the change.*
- (2) *If, under subsection (1), the application is amended to change the applicant, for the deciding of the application the applicant as changed is taken to have been the applicant from the making of the application.*

370 Withdrawal of application

- (1) *A person who has made an application under this Act may give the chief executive a notice withdrawing the application*

at any time before any decision about the application takes effect.

- (2) *The withdrawal takes effect when the notice is given.*

371 Minister's power to refund application fee

If an application under this Act is withdrawn, the Minister may refund all or part of any fee paid for the application.

Part 3 Other miscellaneous provisions

372 Interest on amounts owing to the State

- (1) *Interest is payable to the State on any amount owing under this Act by anyone to the State and unpaid from time to time after the relevant day.*

Examples of an amount that may be owing under this Act—

- annual or other rent*
- a civil penalty for nonpayment of annual rent*

- (2) *The interest accrues daily at the rate prescribed under a regulation on the unpaid amount for the period starting on the day immediately after the amount became payable and ending on the day the amount owing on which interest is payable is paid in full, both days inclusive.*
- (3) *Any amount received in payment of the unpaid amount or the interest must first be applied in payment of the interest.*
- (4) *Subsection (3) applies despite any order or direction of the payer.*
- (5) *In this section—*
relevant day means the following—

[s 373]

- (a) *for an amount for annual or other rent or a civil penalty for nonpayment of annual rent—the day that is 3 months after the last day for payment of the rent or civil penalty;*
- (b) *for another amount—the day the amount becomes owing.*

373 Recovery of unpaid amounts

- (1) *If a provision of this Act requires a geothermal tenure holder to pay the State an amount (including interest) the State may recover the amount from the holder as a debt.*
- (2) *In this section—*
***holder** includes a former holder of the geothermal tenure about whom the remedial powers were exercised.*

374 General public interest criteria for particular Ministerial decisions

- (1) *This section does not apply to an application for or about a geothermal permit.*
- (2) *The Minister must consider the public interest in making a decision under this Act about an application or the granting of an approval by the Minister.*
- (3) *If—*
 - (a) *another provision of this Act permits or requires the Minister to make a decision; and*
 - (b) *the other provision does not require the Minister to consider the public interest;**the Minister may still consider the public interest in making the decision.*

375 Provision for entry by State to carry out geothermal activity

- (1) *If the State proposes to exercise a right under section 29(3)(b)(i), the right may be exercised by anyone authorised by the chief executive.*
- (2) *However, a person authorised under subsection (1) may enter the land only if the person has given the owner of the land at least 5 business days notice of the proposed entry.*
- (3) *To remove any doubt, it is declared that subsection (2) does not apply to an inspector or authorised officer performing functions under the P&G Act relating to this Act.*

376 Name and address for service

- (1) *A person (the **first person**) may by a signed notice given to the chief executive nominate another person (a **nominated person**) at a stated address as the first person's address for service for this Act.*
- (2) *If this Act requires or permits the Minister or chief executive to serve a notice or other document on the first person, it may be served on the first person by serving it on the last nominated person at the stated address for that person.*
- (3) *In this section—
serve includes give.*

377 Notice of agents

*A person carrying out functions under this Act (the **first person**) may refuse to deal with a person who claims to be acting as the agent of a geothermal tenure holder unless the holder has given the first person notice of the agency.*

378 Additional information about reports and other matters

- (1) *This section applies if—*

[s 379]

- (a) *a person is required under this Act to give a notice or copy of a document, report or information (the **advice**) to the Minister or the chief executive; and*
 - (b) *the person gives the advice.*
 - (2) *The Minister or chief executive may by notice require the person to give, within the reasonable time stated in the notice, written information about the matter for which the advice was given.*
 - (3) *The person must comply with the notice.*
- Maximum penalty for subsection (3)—500 penalty units.*

379 References to right to enter

A right under this Act to enter a place includes the right to—

- (a) *leave and re-enter the place from time to time; and*
- (b) *remain on the place for the time necessary to achieve the purpose of the entry; and*
- (c) *take on the place equipment, materials, vehicles or other things reasonably necessary to exercise a power under this Act.*

380 Application of provisions

*If a provision of this Act applies any of the following (the **applied law**) for a purpose—*

- (a) *another provision of this Act;*
- (b) *another law;*
- (c) *a provision of another law;*

for that purpose the applied law and any definition relevant to it apply with necessary changes.

381 Protection from liability for particular persons

- (1) *A person as follows (a **designated person**) does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act—*
- (a) *the Minister;*
 - (b) *a public service officer or public service employee;*
 - (c) *a person if—*
 - (i) *the person has, under section 375, been authorised to carry out an activity for the State; and*
 - (ii) *the act or omission happened while the person was acting within the scope of that authority;*
 - (d) *a geothermal tenure holder given a direction under this Act who is complying with the direction.*
- (2) *For subsection (1)(b), it does not matter what is the form of appointment or employment of the person.*
- (3) *If subsection (1) prevents a civil liability attaching to a designated person, the liability attaches instead to the State.*
- (4) *In this section—*
***civil liability** includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.*

382 Delegation by Minister or chief executive

- (1) *The Minister may delegate the Minister's functions under this Act to an appropriately qualified public service officer or public service employee.*
- (2) *The chief executive may delegate the chief executive's functions under this Act to an appropriately qualified public service officer or employee.*
- (3) *In this section—*
***functions** includes powers.*

[s 383]

383 Practice manual

- (1) *The chief executive may keep, in the way the chief executive considers appropriate, a manual (however called) about geothermal tenure administration practice to guide and inform persons dealing with the department.*
- (2) *The manual may include—*
 - (a) *directions about—*
 - (i) *what information, documents or instruments (**material**) a person may or must give; and*
 - (ii) *how or when requested material must be given; and*
 - (iii) *the format of requested material; and*
 - (b) *practices to ensure there is consistency and efficiency in geothermal tenure administration processes.*
- (3) *If—*
 - (a) *a person is required or permitted to give the Minister or the chief executive (the **official**) information for a particular purpose relating to this Act; and*
 - (b) *this Act does not provide for how the information may or must be given to the official for the purpose; and*
 - (c) *the person gives the official the information in the way required or permitted under the manual;*

the person is taken to have given the official the information for the purpose.
- (4) *The information must be given at—*
 - (a) *if the manual states a particular office of the department where the information must be given (a **required office**)—that office; or*
 - (b) *if the manual does not state a required office and the information relates to a particular application—the department’s office where the application was lodged; or*

-
- (c) *otherwise—the office of the chief executive.*
- (5) *The chief executive must—*
- (a) *keep a copy of the manual and a record (however called) of each part of the manual, including the dates when each part was published or superseded; and*
 - (b) *make the manual and the record available to the public in the way the chief executive considers appropriate.*
- (6) *Without limiting subsection (5), the chief executive must ensure an up-to-date copy of the manual and the record are available to be read free of charge—*
- (a) *on the department’s website; and*
 - (b) *if information relates to a particular application—at the department’s office where the application was made.*

384 Approved forms

- (1) *The chief executive may approve forms for use under this Act.*
- (2) *A form may be approved for use under this Act that is combined with or is to be used together with an approved form under another Act.*

385 Regulation-making power

- (1) *The Governor in Council may make regulations under this Act.*
- (2) *A regulation may be made about the following—*
 - (a) *assessing the viability of geothermal production under geothermal tenures, including, for example—*
 - (i) *requiring geothermal tenure holders to give reports about the viability of geothermal production under their tenure (a **geothermal viability report**); and*

[s 386]

- (ii) *empowering the Minister to make an independent assessment of the viability of carrying out geothermal production in all or part of a geothermal tenure's area (an **independent viability assessment**); and*
- (iii) *providing for who must pay the cost of an independent viability assessment;*
- (b) *the fees payable under this Act including late payment fees;*
- (c) *the conditions of geothermal tenures;*
- (d) *imposing a penalty, of no more than 20 penalty units, for a contravention of a regulation.*

Chapter 9 Repeal and transitional provisions

Part 1 Repeal provisions

386 *Repeal of Geothermal Exploration Act 2004*

The Geothermal Exploration Act 2004, No. 12 is repealed.

387 *Repeal of Timber Utilisation and Marketing Act 1987*

The Timber Utilisation and Marketing Act 1987, No. 30 is repealed.

Part 2 Transitional provisions

Division 1 Preliminary

388 Definitions for pt 2

In this part—

2004 Act means the *Geothermal Exploration Act 2004*, to be repealed under section 386.

2004 Act permit means a geothermal exploration permit under the 2004 Act.

2010 Act permit means a geothermal permit under this Act.

2010 Act start day means the day section 386 commences.

assent means the date of assent of this Act.

Birdsville lease see section 389(1).

Ergon Energy means—

- (a) Ergon Energy Corporation Limited ACN 087 646 062;
or
- (b) if, after assent, anyone else becomes a holder of the Birdsville lease—the holder of that lease.

new land access provisions start day means the day section 480 commences.

[s 389]

Division 2 **Provisions for Ergon Energy geothermal production near Birdsville**

Subdivision 1 **Grant of and provisions about Birdsville lease**

389 **Geothermal lease for Ergon Energy**

- (1) On assent, Ergon Energy is taken to have been granted a geothermal lease (the *Birdsville lease*) for the following sub-blocks—

Cooper Creek block identification map

Block	Sub-blocks
1600	P, T, U, Y, Z
1601	L, M, N, O, Q, R, S, T, V, W, X, Y
1672	D, E
1673	A, B, C, F, G, H

- (2) The term of the Birdsville lease is 5 years from assent.
- (3) This Act applies to the Birdsville lease as if all of this Act, other than chapters 2 and 3, had commenced on assent.
- (4) In this section—

block identification map means a map that forms part of the series of maps known as the ‘Block Identification Map—Series B’ held by the department.

390 **Authorised activities**

From assent, Ergon Energy may, subject to this Act, carry out for the Birdsville lease any authorised activity for a geothermal lease.

391 Conditions

- (1) The mandatory conditions for geothermal leases apply for the Birdsville lease.
- (2) However, sections 130 and 131 do not apply for the Birdsville lease until the third anniversary of assent.

Editor's note—

sections 130 (Annual rent) and 131 (Civil penalty for nonpayment of annual rent)

- (3) Subsection (1) is subject to sections 392 and 393.

392 Land access provisions until the new land access provisions start day

- (1) This section applies only until the new land access provisions start day.
- (2) The following provisions of this Act do not apply for the Birdsville lease—
 - (a) section 129;
 - (b) the following provisions of chapter 6—
 - part 5
 - part 6, division 2
 - part 8, division 1;
 - (c) chapter 7, part 1.
- (3) The 2004 Act, sections 90 to 96 and 98 to 101, and any definitions under that Act to the extent they are relevant to the sections, apply for the Birdsville lease as if—
 - (a) the lease were a permit under that Act; and
 - (b) a reference in the provisions to a permit included a reference to the lease.

Subdivision 2 Development plan provisions

393 Deferral of development plan requirement

Section 123 does not apply for the Birdsville lease until the later of the following—

- (a) 12 months after the Environmental Protection Act, section 665 commences;

Editor's note—

Environmental Protection Act, section 665 (Deferral of requirement for environmental authority for Birdsville geothermal lease)

- (b) if, within the 12 months, Ergon Energy applies under section 394 for approval of a development plan for the lease—the day the application is decided.

394 Provisions for approval of development plan

- (1) Ergon Energy may at any time apply to the Minister for approval of a proposed development plan for the Birdsville lease.
- (2) Chapter 3, part 3, divisions 1 to 3 apply for the application as if Ergon Energy had applied for a geothermal lease and did not hold one.
- (3) If the Minister approves the proposed development plan, it becomes the development plan for the Birdsville lease.

395 Exemption from geothermal royalty

Section 104 does not apply for the Birdsville lease.

Division 3 New land access provisions for 2004 Act permits until 2010 Act start day

396 Application of div 3

This division applies for a 2004 Act permit from the new land access provisions start day to the 2010 Act start day.

Note—

See also section 399 (Conversion of 2004 Act permits on 2010 Act start day).

397 Compliance with land access code

- (1) Section 129 applies to holder of the permit as if it were a 2010 Act permit and compliance with that section were a mandatory condition of the permit under the 2004 Act.
- (2) If a mandatory or tenure condition of the permit under the 2004 Act is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

398 Application of particular provisions of this Act

- (1) The 2004 Act, sections 90 to 96 and 98 to 101 cease to apply for the permit.
- (2) The following provisions of this Act apply for the permit—
 - (a) section 129;
 - (b) the following provisions of chapter 6—
 - part 5
 - part 6, division 2
 - part 8, division 1;
 - (c) chapter 7, part 1;

[s 399]

- (d) any definitions under schedule 3 to the extent they are relevant to the provisions mentioned in paragraphs (a) to (c).
- (3) The provisions applied under subsection (2) apply as if—
 - (a) the permit were a 2010 Act permit; and
 - (b) a reference in the provisions to a geothermal tenure included a reference to the permit; and
 - (c) the provisions were in force.
- (4) Despite the provisions applied under subsection (2), a proceeding for compensation started under the 2004 Act, section 101 before the new land access provisions start day may be finished as if the provisions did not apply.

Division 4 General provisions

399 Conversion of 2004 Act permits on 2010 Act start day

- (1) This section applies to a 2004 Act permit (the *old permit*) in force immediately before the 2010 Act start day.
- (2) On the 2010 Act start day, the permit becomes a 2010 Act permit (the *converted permit*).
- (3) The converted permit continues in force subject to this Act for the rest of the old permit's term.
- (4) However, the old permit's conditions immediately before the 2010 Act start day, as amended from time to time under this Act, continue in force for the converted permit.
- (5) If a condition of the old permit mentioned in subsection (4) conflicts with a mandatory condition for geothermal permits, or a mandatory provision of the land access code, the mandatory condition or mandatory provision prevails to the extent of the inconsistency.

- (6) The work program for the converted permit is the proposed work program included in the tender for the old permit made under section 21 of the 2004 Act.

400 Outstanding tenders under 2004 Act

- (1) This section applies to a tender for a proposed 2004 Act permit made but not decided before the 2010 Act start day.
- (2) On the 2010 Act start day, the tender becomes an application for a 2010 Act permit.
- (3) The tender is taken to comply with the requirements under this Act for making the application.
- (4) To remove any doubt, subsection (2) does not prevent the application of sections 92 and 365 to the application.

401 Other undecided applications

- (1) An application under the 2004 Act about a 2004 Act permit becomes an application for any corresponding matter under this Act.
- (2) The application is taken to comply with the requirements under this Act for making an application of that type under this Act.
- (3) To remove any doubt, subsection (2) does not prevent the application of section 365 to the application.

402 Decisions or documents under 2004 Act

- (1) This section applies to a decision or document under the 2004 Act in force immediately before the 2010 Act start day about a matter under that Act.
- (2) On the 2010 Act start day, the decision or document is taken to have been given under this Act about any corresponding matter under this Act.

[s 403]

- (3) However, subsection (2) does not change the time when the decision or document was given or made.

403 Outstanding appeals

If, immediately before the 2010 Act start day, an appeal about a matter under the 2004 Act had not been decided, on the 2010 Act start day the appeal is taken to be an appeal about any corresponding matter under this Act.

Chapter 10 Amendment of Acts

Part 2 Amendments relating to land access and owners and occupiers

Division 1 Amendment of Greenhouse Gas Storage Act 2009

437 Act amended

The following provisions amend the Greenhouse Gas Storage Act 2009—

- *this division*
- *part 1, division 3*
- *part 3, division 3*
- *schedule 2, parts 1, 2 and 4.*

438 Amendment of s 9 (Act does not affect other rights or remedies)

Section 9(1), after ‘sections 269’—

insert—

‘, 338A’.

439 Replacement of s 85 (Obligation to consult with particular owners and occupiers)

Section 85—

omit, insert—

‘85 Obligation to consult with particular owners and occupiers

‘(1) A GHG permit holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the permit are proposed to be carried out or are being carried out.

‘(2) The consultation must be about—

(a) access; and

(b) the carrying out of authorised activities for the GHG permit (including, for example, crossing access land for the permit) to the extent they relate to the owners and occupiers; and

(c) the GHG permit holder’s compensation liability to the owners or occupiers.’.

440 Replacement of s 166 (Obligation to consult with particular owners and occupiers)

Section 166—

omit, insert—

[s 441]

‘166 Obligation to consult with particular owners and occupiers

- ‘(1) A GHG lease holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the lease are proposed to be carried out or are being carried out.
- ‘(2) The consultation must be about—
- (a) access; and
 - (b) the carrying out of authorised activities for the GHG lease (including, for example, crossing access land for the lease) to the extent they relate to the owners and occupiers; and
 - (c) the GHG lease holder’s compensation liability to the owners or occupiers.’.

441 Replacement of ch 5, pt 7, divs 1 to 3

*Chapter 5, part 7, divisions 1 to 3—
omit, insert—*

‘Division 1 Requirements for entry to private land in GHG authority area

‘Subdivision 1 Entry notice requirement for preliminary activities and particular advanced activities

‘278 Entry notice requirement

- ‘(1) A person must not—
- (a) enter private land in a GHG authority’s area to carry out a preliminary activity for the authority; or

(b) *enter private land in a GHG authority's area to carry out an advanced activity for the authority if either of the following applies for the entry—*

(i) *the deferral agreement exemption;*

(ii) *the Land Court application exemption;*

*unless the GHG authority's holder has given each owner and occupier of the land a written notice of the entry that complies with section 279 (an **entry notice**).*

Maximum penalty—500 penalty units.

'(2) *The entry notice must be given—*

(a) *generally—at least 10 business days before the entry; or*

(b) *if, by a signed endorsement on the notice, the relevant owner or occupier has agreed to a shorter period—the shorter period.*

Maximum penalty—500 penalty units.

'(3) *The holder must give the chief executive a copy of the entry notice immediately after the notice is given and before entry is made under the GHG authority.*

Maximum penalty—10 penalty units.

'(4) *A contravention of subsection (3) does not affect the validity of the notice or the entry.*

'(5) *This section is subject to section 280.*

'(6) *In this section—*

***deferral agreement exemption**, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 284(c)(i).*

***give**, for an entry notice, includes publishing it in a way approved under section 282.*

***Land Court application exemption**, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 284(c)(ii).*

‘279 Required contents of entry notice

- ‘(1) *An entry notice must state the following—*
- (a) the land proposed to be entered;*
 - (b) the period during which the land will be entered (the **entry period**);*
 - (c) the activities proposed to be carried out on the land;*
 - (d) when and where the activities are proposed to be carried out;*
 - (e) contact details for—*
 - (i) the relevant GHG authority holder; or*
 - (ii) another person the holder has authorised to discuss the matters stated in the notice.*
- ‘(2) *Also, the first entry notice from the GHG authority holder to a particular owner or occupier must be accompanied by or include a copy of—*
- (a) the GHG authority; and*
 - (b) the land access code; and*
 - (c) any code of practice made under this Act applying to authorised activities for the GHG authority; and*
 - (d) the relevant environmental authority documentation.*
- ‘(3) *The entry period can not be longer than—*
- (a) generally—*
 - (i) for a GHG permit—6 months; or*
 - (ii) for another GHG authority—1 year; or*
 - (b) if the relevant owner or occupier agrees in writing to a longer period—the longer period.*
- ‘(4) *Subject to subsections (1) to (3), an entry notice may state an entry period that is different to the entry period stated in another entry notice given by the GHG authority holder to another owner or occupier of the land.*

‘(5) *In this section—*

relevant environmental authority documentation means—

- (a) *if, under the Environmental Protection Act, the relevant environmental authority for the GHG authority is a code compliant authority—the relevant code; or*
- (b) *if, under the Environmental Protection Act, the relevant environmental authority for the GHG authority is a non-code compliant authority—*
 - (i) *the environmental authority; and*
 - (ii) *if the environmental authority imposes conditions by referring to a code—that code.*

‘280 Exemptions from entry notice requirement

‘(1) *The requirement under section 278(1) to give an entry notice does not apply for an entry to land to carry out an authorised activity if any of the following apply—*

- (a) *the GHG authority holder owns the land;*
- (b) *the holder has the right other than under this Act to enter the land to carry out the activity;*
- (c) *if—*
 - (i) *there is a conduct and compensation agreement relating to the land; and*
 - (ii) *each eligible claimant for the land is a party to the agreement; and*
 - (iii) *the agreement includes a waiver of entry notice;*
- (d) *the entry is to preserve life or property or because of an emergency that exists or may exist;*
- (e) *the relevant owner or occupier has, by signed writing, given a waiver of entry notice.*

‘(2) *A waiver of entry notice mentioned in subsection (1) must comply with section 281(1).*

[s 441]

‘281 Provisions for waiver of entry notice

- ‘(1) *A waiver of entry notice mentioned in section 280 must—*
- (a) if it does not form part of a conduct and compensation agreement, be written and signed; and*
 - (b) state the following—*
 - (i) that the relevant owner or occupier has been told they are not required to agree to the waiver of entry notice;*
 - (ii) the authorised activities proposed to be carried out on the land;*
 - (iii) the period during which the land will be entered;*
 - (iv) when and where the activities are proposed to be carried out.*
- ‘(2) *The relevant owner or occupier can not withdraw the waiver of entry notice during the period.*
- ‘(3) *The waiver of entry notice ceases to have effect at the end of the period.*

‘282 Giving entry notice by publication

- ‘(1) *The chief executive may approve a GHG authority holder giving an entry notice for the authority by publishing it in a stated way.*
- ‘(2) *The publication may relate to more than 1 entry notice.*
- ‘(3) *The chief executive may give the approval only if satisfied—*
- (a) for a relevant owner or occupier who is an individual, it is impracticable to give the owner or occupier the notice personally; and*
 - (b) the publication will happen at least 20 business days before the entry.*

**‘Subdivision 2 Conduct and compensation
agreement requirement for
particular advanced activities**

‘283 Conduct and compensation agreement requirement

‘(1) *A person must not enter private land in a GHG authority’s area to carry out an advanced activity for the authority (the **relevant activity**) unless each eligible claimant for the land is a party to an appropriate conduct and compensation agreement.*

Maximum penalty—500 penalty units.

‘(2) *The requirement under subsection (1) is the **conduct and compensation agreement requirement**.*

Note—

For conduct and compensation agreements, see part 10, division 1.

‘(3) *In this section—*

***appropriate conduct and compensation agreement**, for an eligible claimant, means a conduct and compensation agreement about the holder’s compensation liability to the eligible claimant of at least to the extent the liability relates to the relevant activity and its effects.*

**‘284 Exemptions from conduct and compensation
agreement requirement**

‘The conduct and compensation agreement requirement does not apply for an entry to land to carry out an advanced activity if any of the following apply—

- (a) the GHG authority holder owns the land;*
- (b) the holder has the right other than under this Act to enter the land to carry out the activity;*
- (c) each eligible claimant for the land is—*

[s 441]

- (i) *a party to an agreement, complying with section 285, that a conduct and compensation agreement can be entered into after the entry (a **deferral agreement**); or*
- (ii) *an applicant or respondent to a Land Court application under section 325B relating to the land;*
- (d) *the entry is to preserve life or property or because of an emergency that exists or may exist.*

‘285 Requirements for deferral agreement

‘A deferral agreement must—

- (a) *be written and signed by or for the holder and each eligible claimant for the land to be entered; and*
- (b) *state the following—*
 - (i) *that the eligible claimant has been told the claimant is under no obligation to enter into a deferral agreement before entering into a conduct and compensation agreement;*
 - (ii) *the authorised activities proposed to be carried out on the land;*
 - (iii) *the period during which the land will be entered;*
 - (iv) *when and where the activities are proposed to be carried out;*
 - (v) *the period for which the deferral agreement has effect;*
 - (vi) *when it is proposed to enter into a conduct and compensation agreement.’*

442 Amendment of s 297 (Change in ownership or occupancy)

*Section 297(1)(b), from ‘the requirement’ to ‘before entry’—
omit, insert—
‘section 279(2)’.*

443 Amendment of s 314 (Required contents of entry notice)

*Section 314(3), ‘for a GHG lease’—
omit.*

444 Replacement of ch 5, pt 10 (General compensation provisions)

*Chapter 5, part 10—
omit, insert—*

‘Part 10 Compensation and negotiated access

‘Division 1 Compensation other than for notifiable road uses

‘Subdivision 1 Preliminary

‘319 Application of div 1

‘This division does not apply for a public land authority in relation to a notifiable road use.

‘Subdivision 2 General provisions

‘320 General liability to compensate

- ‘(1) *The holder of each GHG authority is liable to compensate each owner or occupier of private land or public land in the area of, or access land for, the authority (an **eligible claimant**) for any compensatable effect the eligible claimant suffers caused by relevant authorised activities.*
- ‘(2) *A GHG authority holder’s liability under subsection (1) to an eligible claimant is the holder’s **compensation liability** to the claimant.*
- ‘(3) *This section is subject to section 325E.*
- ‘(4) *In this section—*

compensatable effect means all or any of the following—

- (a) *all or any of the following relating to the eligible claimant’s land—*
- (i) *deprivation of possession of its surface;*
 - (ii) *diminution of its value;*
 - (iii) *diminution of the use made or that may be made of the land or any improvement on it;*
 - (iv) *severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;*
 - (v) *any cost, damage or loss arising from the carrying out of activities under the GHG authority on the land;*
- (b) *accounting, legal or valuation costs the claimant necessarily and reasonably incurs to negotiate or prepare a conduct and compensation agreement, other than the costs of a person facilitating an ADR;*

Examples of negotiation—

an ADR or conference

(c) *consequential damages the eligible claimant incurs because of a matter mentioned in paragraph (a) or (b).*

relevant authorised activities means authorised activities for the GHG authority carried out by the holder or a person authorised by the holder.

‘Subdivision 3 General provisions for conduct and compensation agreements

‘321 Conduct and compensation agreement

‘(1) *An eligible claimant and a GHG authority holder may enter into an agreement (a **conduct and compensation agreement**) about—*

(a) *how and when the GHG authority holder may enter the land for which the eligible claimant is an eligible claimant; and*

(b) *how authorised activities under the GHG authority to the extent they relate to the eligible claimant must be carried out; and*

(c) *the holder’s compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.*

‘(2) *However, a conduct and compensation agreement can not be inconsistent with this Act, a condition of the GHG authority or a mandatory provision of the land access code and is unenforceable to the extent of the inconsistency.*

‘(3) *A conduct and compensation agreement may relate to all or part of the liability or future liability.*

‘322 Content of conduct and compensation agreement

‘(1) *A conduct and compensation agreement must—*

(a) *provide for the matters mentioned in section 321(1); and*

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- (b) *be written and signed by or for the GHG authority holder and the eligible claimant; and*
- (c) *state whether it is for all or part of the compensation liability; and*
- (d) *if it is for only part of the compensation liability, state—*
 - (i) *details of each activity or effects of the activity to which the agreement relates; and*
 - (ii) *the period for which the agreement has effect; and*
- (e) *provide for how and when the compensation liability will be met.*

‘(2) A conduct and compensation agreement may—

- (a) *extend the holder’s compensation liability to the claimant or any future compensation liability that the holder may have to the claimant to any renewal of the GHG authority; and*

(b) *provide for—*

- (i) *monetary or non-monetary compensation; or*

Example of non-monetary compensation—

A conduct and compensation agreement may provide for the construction of a road for the claimant.

- (ii) *a process by which it may be amended or enforced; and*

Example of a process for amendment—

A conduct and compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the GHG authority including a change in the extent of activities required under a later development plan for a GHG lease.

- (c) *provide for any compensation that is or may be payable by the holder to the eligible claimant under the Environmental Protection Act.*

‘(3) This section does not limit the matters that may be provided for in a conduct and compensation agreement.

‘Subdivision 4 Negotiation process

Note—

Generally, a GHG authority holder can not enter private land to carry out an advanced activity unless the holder complies with this subdivision. See sections 283 and 284.

‘323 Notice of intent to negotiate

- ‘(1) A GHG authority holder may give an eligible claimant to whom the holder has a compensation liability a notice (the **negotiation notice**) that the holder wishes to negotiate a conduct and compensation agreement or a deferral agreement with the eligible claimant.*
- ‘(2) The negotiation notice must be accompanied by a copy of the land access code and state all of the following—*
- (a) if the holder wishes to negotiate a conduct and compensation agreement—*
 - (i) whether the holder wishes to negotiate all or part of the holder’s compensation liability to the eligible claimant; and*
 - (ii) if the holder only wishes to negotiate part of the liability—what the part is;*
 - (b) if the holder wishes to negotiate a deferral agreement—that wish and the reasons for it;*
 - (c) the land the holder proposes to enter;*
 - (d) the activities proposed to be carried out on the land;*
 - (e) when and where the activities are proposed to be carried out;*
 - (f) if the holder is a corporation—contact details for the holder and an individual the holder has authorised to negotiate the agreement.*

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‘(3) *The GHG authority holder must give the chief executive a copy of the negotiation notice immediately after it is given.*

Maximum penalty for subsection (3)—10 penalty units.

‘324 Negotiations

‘(1) *On the giving of the negotiation notice, the GHG authority holder and the eligible claimant (the **parties**) must use all reasonable endeavours to negotiate a conduct and compensation agreement or a deferral agreement (a **relevant agreement**).*

‘(2) *The period of the negotiations—*

*(a) must be at least for the period provided for under section 324A (the **minimum negotiation period**); but*

(b) may continue for as long as the parties wish.

‘(3) *If, during the minimum negotiation period, the parties enter into a relevant agreement the GHG authority holder can not enter the relevant land to carry out advanced activities for the authority until the period ends.*

‘(4) *Subsection (3) applies despite the terms of the agreement.*

‘324A Provision for the minimum negotiation period

‘(1) *Generally, the minimum negotiation period is 20 business days from the giving of the negotiation notice (the **usual period**).*

‘(2) *Either party may, within the usual period, ask the other to agree to a longer minimum negotiation period because of stated reasonable or unforeseen circumstances.*

‘(3) *If the other party so agrees, the longer minimum negotiation period is the minimum negotiation period.*

‘325 Cooling-off during minimum negotiation period

- ‘(1) *This section applies if the parties enter into a conduct and compensation agreement or a deferral agreement during the minimum negotiation period.*
- ‘(2) *Either of the parties may, within the minimum negotiation period, terminate the agreement by giving notice to the other party.*
- ‘(3) *On the giving of a notice under subsection (2), the terminated agreement is taken never to have had any effect.*
- ‘(4) *To remove any doubt, it is declared that subsection (3) does not change the time when the negotiation notice was given.*

‘325A Parties may seek conference or independent ADR

- ‘(1) *This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement or deferral agreement.*
- ‘(2) *Either party may by a notice (an **election notice**)—*
 - (a) *to the other party and an authorised officer—ask for an authorised officer to call a conference to negotiate a conduct and compensation agreement; or*
 - (b) *to the other party—call upon them to agree to an alternative dispute resolution process (an **ADR**) to negotiate a conduct and compensation agreement.*
- ‘(3) *If the notice calls for an ADR, it must—*
 - (a) *identify the ADR; and*
 - (b) *state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR.*
- ‘(4) *An ADR may be a process of any kind including, for example, arbitration, conciliation, mediation or negotiation.*
- ‘(5) *However, the facilitator must be independent of either party.*

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‘325AB Conduct of conference or ADR

- ‘(1) *This section applies if an election notice is given.*
- ‘(2) *If a conference was requested—*
 - (a) *the authorised officer must take all reasonable steps to ensure the conference is finished within 20 business days after the notice is given (the **usual period**); and*
 - (b) *chapter 6, part 1A applies for the conference.*
- ‘(3) *If an ADR was called for, the parties must use reasonable endeavours to finish it within 20 business days after the giving of the notice (also the **usual period**).*
- ‘(4) *Either party may, within the usual period, ask the other to agree to a longer period to finish the conference or ADR because of stated reasonable or unforeseen circumstances.*
- ‘(5) *If the parties agree to the longer period, that period applies instead of the usual period.*
- ‘(6) *If an ADR was called for, section 377D applies to the ADR as if a reference in the section to a conference were a reference to an ADR.*

Editor’s note—

section 377D (What happens if a party does not attend)

‘Subdivision 5 Deciding compensation through Land Court

‘325B Land court may decide if negotiation process unsuccessful

- ‘(1) *This section applies if an election notice is given and—*
 - (a) *a party asked an authorised officer to call a conference and the authorised officer does not finish it within the period required under section 325AB (the **required period**); or*

-
- (b) *a party called for an ADR and the person facilitating the ADR does not finish it within the period required under section 325AB (also the **required period**).*
- ‘(2) *This section also applies if an election notice is given and—*
- (a) *only 1 party attended the conference requested or ADR called for; or*
- (b) *both parties attended the conference or ADR and, at the end of the required period, there is no conduct and compensation agreement between the parties.*
- ‘(3) *An eligible party may apply to the Land Court for it to decide the GHG authority holder’s—*
- (a) *compensation liability to the claimant; or*
- (b) *future compensation liability to the claimant for an authorised activity for the GHG authority proposed to be carried out by or for the holder.*
- ‘(4) *However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement.*
- ‘(5) *In hearing the application, the Land Court must as much as practicable ensure the hearing happens together with, or as closely as possible to, the hearing of any relevant environmental compensation application.*
- ‘(6) *In this section—*
- eligible party** means a party who attended the conference or ADR.*
- relevant environmental compensation application** means an application to the Land Court for compensation that is or may be payable by the GHG authority holder to the eligible claimant under the Environmental Protection Act.*

‘325C Land Court review of compensation

- ‘(1) *This section applies if—*
- (a) *the compensation liability or future compensation liability of a GHG authority holder to an eligible claimant has been agreed to under a conduct and compensation agreement or decided by the Land Court (the **original compensation**); and*
 - (b) *there has been a material change in circumstances (the **change**) since the agreement or decision.*
- ‘(2) *The eligible claimant or the holder may apply to the Land Court for it to review the original compensation.*
- ‘(3) *In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.*
- ‘(4) *If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.*
- ‘(5) *The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.*
- ‘(6) *If the decision is to amend the compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.*

‘325D Orders Land Court may make

- ‘(1) *The Land Court may make any order it considers appropriate to meet or enforce its decision on an application under this part.*
- ‘(2) *Without limiting subsection (1), the Land Court may order non-monetary compensation as well as monetary compensation.*

‘Subdivision 6 Additional Land Court jurisdiction for compensation and related matters

‘325DA What sdiv 6 is about

- ‘(1) This subdivision provides for additional matters for which the Land Court has jurisdiction.*
- ‘(2) The jurisdiction is subject to subdivisions 1 to 5.*

‘325DB Additional jurisdiction

- ‘(1) This section applies to a GHG authority holder and an eligible claimant (the **parties**) if any of the following apply—*
 - (a) the GHG authority holder has carried out a preliminary activity;*
 - (b) the parties can not reach agreement about a conduct and compensation agreement;*
 - (c) there is a conduct and compensation agreement or deferral agreement between the parties.*
- ‘(2) The Land Court may do all or any of the following—*
 - (a) assess all or part of the relevant GHG authority holder’s compensation liability to another party;*
 - (b) decide a matter related to the compensation liability;*
 - (c) declare whether or not a proposed authorised activity for the relevant GHG authority would, if carried out, interfere with the carrying out of lawful activities by the eligible claimant;*
 - (d) make any order it considers necessary or desirable for a matter mentioned in paragraph (a), (b) or (c).*

Example—

The Land Court declares that a particular proposed authorised activity interferes with the carrying out of lawful activities by the

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eligible claimant. It may also order that a stated modification of, or reduction in, the activity would remove the interference.

‘325DC Jurisdiction to impose or vary conditions

- ‘(1) *In deciding a matter mentioned in section 325DB(2), the Land Court may—*
- (a) impose any condition it considers appropriate for the exercise of the parties’ rights; or*
 - (b) vary any existing condition under an agreement between the parties.*
- ‘(2) *The variation may be made on any ground the Land Court considers appropriate.*
- ‘(3) *The imposed or varied condition is taken to be—*
- (a) if there is an agreement between the parties—a condition of the agreement; or*
 - (b) if there is no agreement between the parties—an agreement between the parties.*
- ‘(4) *In this section—*
- agreement** *means a conduct and compensation agreement.*
- condition** *means a condition of or for a conduct and compensation agreement.*

‘Subdivision 7 Miscellaneous provision

‘325E Compensation not affected by change in ownership or occupancy

- ‘(1) *A conduct and compensation agreement or a Land Court decision under this part is for the benefit of, and is taken to have been agreed to or decided for and is binding on, the following—*
- (a) the relevant eligible claimant;*

- (b) *the GHG authority holder;*
- (c) *each of their successors and assigns including successors and assigns for the area of the relevant GHG authority.*

‘(2) *Subsection (1) is subject to section 325C.*

‘Division 2 Compensation for notifiable road uses’.

445 Replacement of ss 329 and 330

*Sections 329 and 330—
omit, insert—*

‘329 Compliance with land access code

‘A GHG authority holder must—

- (a) *comply with the mandatory provisions of the land access code to the extent it applies to the holder; and*
- (b) *ensure any other person carrying out an authorised activity for the GHG authority complies with the mandatory provisions of the land access code.’.*

446 Insertion of new s 338A

*Chapter 5, part 12—
insert—*

‘338A Limitation of owner’s or occupier’s tortious liability for authorised activities

- ‘(1) *This section applies to an owner or occupier of land in the area of a GHG authority if—*
- (a) *someone else carries out an authorised activity for a GHG authority holder on the land; or*

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- (b) *someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a GHG authority.*
- ‘(2) *The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.*
- ‘(3) *However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.*
- ‘(4) *This section applies—*
- (a) *despite any other Act or law; and*
- (b) *even though this Act or the GHG authority prevents or restricts the carrying out of the activity as an authorised activity for the authority.*
- ‘(5) *Subject to subsection (2), in this section, the terms claim, damages and harm have the same meaning that they have under the Civil Liability Act 2003.’.*

447 Replacement of ch 6 hdg (Enforcement, offences and proceedings)

Chapter 6, heading—

omit, insert—

‘Chapter 6 Conferences, investigations and enforcement

‘Part 1A Conferences with eligible claimants or owners and occupiers

‘Division 1 Preliminary

‘377A Application of pt 1A

- ‘(1) *This part applies if an authorised officer is given an election notice by a GHG authority holder or an eligible claimant asking for a conference.*
- ‘(2) *This part also applies if—*
- (a) *an owner or occupier of land who is concerned about any of the following gives an authorised officer notice of the concerns—*
 - (i) *that someone claiming to act under a GHG authority, or to have entered land on the authority holder’s instructions—*
 - (A) *is not authorised to be on the land; or*
 - (B) *is not complying with a provision of this Act or a condition of the GHG authority;*
 - (ii) *activities being, or proposed to be, carried out on the land apparently under a GHG authority (including when the activities are being, or are to be, carried out);*
 - (iii) *the conduct on the land of someone apparently acting under a GHG authority; or*
 - (b) *a GHG authority holder who is concerned about something relevant to the authority involving the holder and the owner or occupier of land gives an authorised officer notice of the concerns; or*
 - (c) *for another reason, an authorised officer considers it desirable to call a conference to discuss concerns about a GHG authority.*

‘Division 2 Calling conference and attendance

‘377B Calling conference

- ‘(1) If this part applies because of the giving of an election notice, the authorised officer must, by notice, ask the GHG authority holder and the eligible claimant (the **parties**) to attend a conference by the authorised officer about negotiating a conduct and compensation agreement.*
- ‘(2) If this part applies under section 377A(2), the authorised officer may, by notice, ask the GHG authority holder and the owner or occupier or other person with an interest in the concerns (also the **parties**) to attend a conference by the authorised officer about the concerns.*
- ‘(3) The notice must state when and where the conference will be held and what is to be discussed at the conference.*

‘377C Who may attend conference

- ‘(1) Apart from the authorised officer, anyone given notice of the conference may attend and take part in the conference.*
- ‘(2) Also, with the authorised officer’s approval, someone else may be present to help a person attending the conference.*
- ‘(3) However, a party can not be represented by a lawyer unless the parties agree and the authorised officer is satisfied there is no disadvantage to a party.*

‘377D What happens if a party does not attend

- ‘(1) This section applies if a party given notice of the conference does not attend.*
- ‘(2) The authorised officer may hold the conference even though someone given notice of it does not attend.*

Note—

If the conference was called because of an election notice and only 1 party attends, the Land Court may decide the issue of compensation. See section 325B.

- ‘(3) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party’s reasonable costs of attending.*
- ‘(4) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.*
- ‘(5) If the Land Court makes the order, it must decide the amount of the costs.*

‘Division 3 Conduct of conference

‘377E Authorised officer’s role

- ‘(1) In conducting the conference, the authorised officer must endeavour to help those attending to reach an early and inexpensive settlement of the subject of the conference.*
- ‘(2) Subject to section 325AB, the authorised officer is to decide how the conference is to be conducted.*

‘377F Statements made at conference

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

‘377G Agreement made at conference

- ‘(1) If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be written and signed by or for the parties.*
- ‘(2) The agreement—*

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- (a) *may, if appropriate, be a conduct and compensation agreement or an amendment of an existing conduct and compensation agreement between the parties; and*
- (b) *has the same effect as any other compromise.’*

448 Insertion of new ch 8, pt 2

After section 436—

insert—

‘Part 2 Transitional provisions for amendments under Geothermal Energy Act 2010

‘437 Land access code prevails over conditions

‘If a condition of a GHG authority is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

‘438 Existing compensation agreements other than for notifiable road uses

- ‘(1) This section applies if immediately before the commencement of this section a compensation agreement under chapter 5, part 10 was in force.*
- ‘(2) On the commencement the agreement becomes a conduct and compensation agreement under chapter 5, part 10, division 1.*

‘439 Existing entry notices

- ‘(1) This section applies to an entry notice for the carrying out of an authorised activity for a GHG authority if the notice complied with the entry notice requirements before the commencement of this section.*

(2) *The notice continues, according to its terms, to be valid for the carrying out of the activity after the commencement even though the notice does not comply with all of the entry notice requirements from the commencement.*

(3) *In this section—*

entry notice requirements means the requirements under this Act relating to the giving of an entry notice.

440 References to geothermal tenure

‘Until the Geothermal Energy Act 2010, chapter 9, part 1 commences, a reference in this Act to a geothermal tenure is taken to be a reference to a geothermal exploration permit.’

449 Amendment of sch 2 (Dictionary)

(1) *Schedule 2, definitions compensation agreement, compensation application, compensation liability, eligible claimant, entry notice, entry period, occupier, petroleum interest, private land, public land and waiver of entry notice—omit.*

(2) *Schedule 2—*

insert—

‘ADR see section 325A(2)(b).

advanced activity, for a provision about a GHG authority, means an authorised activity for the authority other than a preliminary activity for the authority.

Examples—

- *levelling of drilling pads and digging sumps*
- *earthworks associated with pipeline installation*
- *vegetation clear-felling*
- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*

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- *carrying out a seismic survey using explosives*
- *constructing a track or access road*
- *changing a fence line*

compensation application, for chapter 5, part 10, division 2, means an application made under section 325H(1).

compensation liability—

- (a) *for chapter 5, part 10, division 1—see section 320(2); or*
- (b) *for chapter 5, part 10, division 2—see section 325F(2).*

conduct and compensation agreement see section 321(1).

conduct and compensation agreement requirement see section 283(2).

deferral agreement see section 284(c)(i).

election notice see section 325A(2).

eligible claimant, for compensation, see section 320(1).

entry notice—

- (a) *for chapter 5, part 7—see section 279(1); or*
- (b) *for chapter 5, part 8—see section 312(2)(b).*

land access code see the P&G Act, section 24A.

mandatory provision, of the land access code, means a provision of that code that the code requires compliance with.

minimum negotiation period see section 324(2)(a).

negotiation notice see section 323(1).

occupier, of a place, means—

- (a) *a person who, under an Act, or, for freehold land, a lease registered under the Land Title Act 1994, has a right to occupy the place other than under a mining interest, petroleum authority, 1923 Act petroleum tenure, GHG authority or geothermal tenure; or*
- (b) *a person who has been given a right to occupy the place by a person mentioned in paragraph (a).*

parties—

- (a) *for chapter 5, part 10, division 1, subdivision 4—see section 324(1); or*
- (b) *for chapter 6, part 1A—see section 377B.*

preliminary activity—

- 1 *A preliminary activity, for a provision about a GHG authority, means an authorised activity for the authority that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.*

Examples—

- *walking the area of the permit or licence*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging*

- 2 *However, the following are not preliminary activities—*

- (a) *an authorised activity carried out on land that—*
 - (i) *is less than 100ha; and*
 - (ii) *is being used for intensive farming or broadacre agriculture;*

Examples—

- *land used for dryland or irrigated cropping, plantation forestry or horticulture*
 - *a dairy, cattle or sheep feedlot, piggery or poultry farm*
- (b) *an authorised activity carried out within 600m of a school or an occupied residence;*

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- (c) *an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.*

private land—

1 *Private land is—*

- (a) *freehold land; or*
- (b) *an interest in land less than fee simple held from the State under another Act.*

2 *However, land is not private land to the extent of an interest in any of the following relating to the land—*

- (a) *a mining interest;*
- (b) *a petroleum authority or 1923 Act petroleum tenure;*
- (c) *a GHG authority;*
- (d) *a geothermal tenure;*
- (e) *an occupation right under a permit under the Land Act 1994.*

3 *Also, land owned by a public land authority is not private land.*

public land means land other than—

- (a) *private land; or*
- (b) *to the extent an interest in any of the following relates to the land—*
 - (i) *a mining interest;*
 - (ii) *a petroleum authority or 1923 Act petroleum tenure;*
 - (iii) *a GHG authority;*
 - (iv) *a geothermal tenure;*
 - (v) *an occupation right under a permit under the Land Act 1994.*

relevant owner or occupier, for a provision about entry notices, means the owner or occupier to whom the entry notice is to be given, or would be given, other than for an exemption from the requirement to give an entry notice.

waiver of entry notice—

- (a) for chapter 5, part 7—means a waiver of entry notice mentioned in section 281 that complies with section 281(1); or
- (b) for chapter 5, part 8—see section 312(3).

Division 2 Amendment of Mineral Resources Act 1989

450 Act amended

The following provisions amend the Mineral Resources Act 1989—

- *this division*
- *part 1, division 4*
- *part 3, division 5*

451 Amendment of s 10A (Extension of certain entitlements to registered native title bodies corporate and registered native title claimants)

Section 10A(3), ‘sections 34, 96(11), 125, 169, 198(10), 217, 231(6), 300(13) and 317’—

omit, insert—

‘sections 34, 96(11), 125, 198(10), 231(6), 300(13) and 317 and part 10, division 1B’.

452 Amendment of s 141 (Conditions of exploration permit)

Section 141(1), before paragraph (a)—

[s 453]

insert—

‘(aa) a condition that the holder must—

- (i) comply with the mandatory provisions of the land access code to the extent it applies to the holder; and*
- (ii) ensure any other person carrying out an authorised activity for the exploration permit complies with the mandatory provisions of the land access code; and’.*

453 Omission of s 145 (Compensation)

Section 145—

omit.

454 Replacement of ss 163 and 164

Sections 163 and 164—

omit, insert—

‘163 Access and compensation provisions—sch 1

‘Schedule 1 contains provisions about access, compensation and related matters for exploration permits.’.

455 Omission of ss 169–174

Sections 169 to 174—

omit.

456 Omission of s 191 (Compensation)

Section 191—

omit.

457 Amendment of s 194 (Conditions of mineral development licence)

*Section 194(1), before paragraph (a)—
insert—*

‘(aa) a condition that the holder must—

- (i) comply with the mandatory provisions of the land access code to the extent it applies to the holder; and*
- (ii) ensure any other person carrying out an authorised activity for the mineral development licence complies with the mandatory provisions of the land access code; and’.*

458 Replacement of ss 211 and 212

*Sections 211 and 212—
omit, insert—*

‘211 Access and compensation provisions—sch 1

‘Schedule 1 contains provisions about access, compensation and related matters for mineral development licences.’.

459 Omission of ss 217–222

*Sections 217 to 222—
omit.*

460 Omission of ss 254–259

*Sections 254 to 259—
omit.*

461 Insertion of new pt 10, divs 1A and 1B

Part 10—

insert—

‘Division 1A Directions to remedy contravention

‘335A Power to give compliance direction

- ‘(1) *This section applies if a relevant officer reasonably believes a person—*
- (a) has contravened, or is contravening, this Act or a mandatory provision of the land access code; or*
 - (b) is involved in an activity that is likely to result in a contravention of this Act or a mandatory provision of the land access code.*
- ‘(2) *The relevant officer may give the person a written direction (a **compliance direction**) to take steps reasonably necessary to remedy the contravention or avoid the likely contravention.*
- ‘(3) *The direction may also state—*
- (a) the steps the relevant officer reasonably believes are necessary to remedy the contravention or avoid the likely contravention; or*
 - (b) that the person must notify the relevant officer when the person has complied with the compliance direction; or*
 - (c) that a relevant officer proposes, at a stated time or at stated intervals, to enter premises of which the person is the owner or occupier to check compliance with the direction.*

‘335B Requirements for giving compliance direction

- ‘(1) *A compliance direction must state the following—*
- (a) that the relevant officer giving it believes the person given the direction—*
 - (i) has contravened, or is contravening, this Act or a mandatory provision of the land access code; or*

-
- (ii) *is involved in an activity that is likely to result in a contravention of this Act or a mandatory provision of the land access code;*
 - (b) *the provision the relevant officer believes is being, has been, or is likely to be, contravened;*
 - (c) *the reasons for the belief;*
 - (d) *that the person must take steps reasonably necessary to remedy the contravention, or avoid the likely contravention, within a stated reasonable period.*
- ‘(2) *The direction must include, or be accompanied by, a review and appeal notice about the decisions to give the direction and to fix the period.*
- ‘(3) *The direction may be given orally if—*
- (a) *for any reason it is not practicable to give the direction in writing; and*
 - (b) *the relevant officer giving it warns the person it is an offence not to comply with the direction.*
- ‘(4) *If the direction is given orally, the relevant officer must confirm the direction by also giving it in writing as soon as practicable after giving it orally.*
- ‘(5) *In this section—*
- review and appeal notice***, *for a decision, means a written notice stating the following—*
- (a) *the rights of internal review and appeal under the applied provisions under section 335D;*
 - (b) *the period in which any internal review must be started;*
 - (c) *how rights are to be exercised;*
 - (d) *that a stay of a decision the subject of an appeal under the applied provisions may be applied for.*

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‘335C Failure to comply with compliance direction

‘(1) *A person to whom a compliance direction has been given must comply with the direction unless the person has a reasonable excuse.*

Maximum penalty—500 penalty units.

‘(2) *If the direction states steps the person may take to remedy the contravention, or avoid the likely contravention, the subject of the direction, the person is taken to have complied with the direction if all the steps have been taken.*

‘(3) *Subsection (2) does not prevent the person from complying with the direction in another way.*

‘335D Right of internal review and appeal against compliance direction

‘(1) *This section applies if a person is given a compliance direction.*

‘(2) *The Petroleum and Gas (Production and Safety) Act, chapter 12, other than section 817(2), (the **applied provisions**) applies, with necessary changes, as if—*

(a) *the decision were mentioned in schedule 1, table 1 of that Act; and*

(b) *a reference in that chapter to an information notice were a reference to a review and appeal notice under section 335B.*

‘(3) *An internal review application under the applied provisions may be made only to—*

(a) *if the compliance direction was given by a deputy mining registrar or a field officer—the mining registrar; or*

(b) *if the compliance direction was given by the mining registrar—the chief executive.*

‘335E Other relevant officer’s powers not affected

‘This division does not limit or otherwise affect a relevant officer’s powers under another provision of this Act.

**‘Division 1B Conferences with eligible claimants
or owners and occupiers**

‘Subdivision 1 Preliminary

‘335F Application of div 1B

- ‘(1) This division applies if a relevant officer is given an election notice by a mining tenement holder or an eligible claimant asking for a conference.*
- ‘(2) This division also applies if—*
- (a) an owner or occupier of land who is concerned about any of the following gives a relevant officer notice of the concerns—*
 - (i) that someone claiming to act under a mining tenement, or to have entered land on the tenement holder’s instructions—*
 - (A) is not authorised to be on the land; or*
 - (B) is not complying with a provision of this Act or a condition of the mining tenement;*
 - (ii) activities being, or proposed to be, carried out on the land apparently under a mining tenement (including when the activities are being, or are to be, carried out);*
 - (iii) the conduct on the land of someone apparently acting under a mining tenement; or*
 - (b) a mining tenement holder who is concerned about something relevant to the tenement involving the holder*

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and the owner or occupier of land gives a relevant officer notice of the concerns; or

- (c) *for another reason, a relevant officer considers it desirable to call a conference to discuss concerns about a mining tenement.*

‘Subdivision 2 Calling conference and attendance

‘335G Calling conference

- ‘(1) *If this division applies because of the giving of an election notice, the relevant officer must, by notice, ask the mining tenement holder and the eligible claimant (the **parties**) to attend a conference by the relevant officer about negotiating a conduct and compensation agreement.*
- ‘(2) *If this division applies under section 335F(2), the relevant officer may, by notice, ask the mining tenement holder and the owner or occupier or other person with an interest in the concerns (also the **parties**) to attend a conference by the relevant officer about the concerns.*
- ‘(3) *The notice must state when and where the conference will be held and what is to be discussed at the conference.*

‘335H Who may attend conference

- ‘(1) *Apart from the relevant officer, anyone given notice of the conference may attend and take part in the conference.*
- ‘(2) *Also, with the relevant officer’s approval, someone else may be present to help a person attending the conference.*
- ‘(3) *However, a party can not be represented by a lawyer unless the parties agree and the relevant officer is satisfied there is no disadvantage to a party.*

‘335I What happens if a party does not attend

- ‘(1) *This section applies if a party given notice of the conference does not attend.*
- ‘(2) *The relevant officer may hold the conference even though someone given notice of it does not attend.*

Note—

If the conference was called because of an election notice and only 1 party attends, the Land Court may decide the issue of compensation. See schedule 1, section 22.

- ‘(3) *A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party’s reasonable costs of attending.*
- ‘(4) *The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.*
- ‘(5) *If the Land Court makes the order, it must decide the amount of the costs.*

‘Subdivision 3 Conduct of conference

‘335J Relevant officer’s role

- ‘(1) *In conducting the conference, the relevant officer must endeavour to help those attending to reach an early and inexpensive settlement of the subject of the conference.*
- ‘(2) *Subject to schedule 1, section 21, the relevant officer is to decide how the conference is to be conducted.*

‘335K Statements made at conference

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

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‘335L Agreement made at conference

- ‘(1) *If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be written and signed by or for the parties.*
- ‘(2) *The agreement—*
- (a) *may, if appropriate, be a conduct and compensation agreement or an amendment of an existing conduct and compensation agreement between the parties; and*
 - (b) *has the same effect as any other compromise.’.*

462 Amendment of s 336 (Appointment of mining registrars and other officers)

Section 336—

insert—

- ‘(3) *The chief executive may appoint other persons to perform functions under division 1A or 1B or schedule 1 as a relevant officer.*
- ‘(4) *However, the chief executive may appoint a person under subsection (3) to perform a function only if the chief executive considers the person is appropriately qualified to perform the function.*
- ‘(5) *In this section—*
- appropriately qualified*** *includes having the qualifications, experience or standing appropriate to perform the function.*
- Example of standing for an employee of the department—*
- the employee’s classification level in the department*
- functions*** *includes powers.’.*

463 Amendment of s 405 (Directions to be complied with)

Section 405, after penalty—

insert—

‘(2) This section does not apply if the direction is a compliance direction.

Note—

For compliance directions, see section 335C.’.

464 Insertion of new pt 19, div 13, sdiv 2

Part 19, as inserted under this Act—

insert—

‘Subdivision 2 Provisions for amendments about compensation and the land access code

‘776 Old access code ceases to apply

‘(1) This section applies if a condition of a mining tenement requires the holder to comply with the old access code.

‘(2) On the commencement of this section the condition ceases to be a condition of the mining tenement.

‘(3) In this section—

old access code means the document called ‘Code of Conduct-Procedures for Sound Landowner/Explorer Relations’ approved by the Minister on 20 September 1990.

‘777 Land access code prevails over conditions

‘If a condition of a mining tenement is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

‘778 Existing compensation decisions and proceedings continue

‘(1) If, before the commencement of this section, the Land Court had decided compensation under former section 145 or 191

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for a matter; the decision is taken to be the compensation for the matter decided under schedule 1, section 22.

- ‘(2) *If, immediately before the commencement, a proceeding under former section 145 or 191 had been started—*
- (a) the proceeding may be finished as if schedule 1 had not been enacted; and*
 - (b) compensation decided for the matter in the proceeding is taken to be the compensation decided under schedule 1, section 22 for the matter.*
- ‘(3) *In carrying out a review of the compensation or decided compensation under schedule 1, section 22, the Land Court must apply former section 145 or 191—*
- (a) as if the review were the proceeding mentioned in the section; and*
 - (b) with other necessary changes.*
- ‘(4) *This section applies despite schedule 1, section 22(1).*

‘779 Existing agreements about compensation

- ‘(1) *This section applies if immediately before the commencement of this section an agreement was in force between—*
- (a) an exploration permit holder and an owner about the owner’s entitlement under former section 145; or*
 - (b) a mineral development licence holder and an owner about the owner’s entitlement under former section 191.*
- ‘(2) *On the commencement, the agreement becomes a conduct and compensation agreement under schedule 1.*

‘780 Existing notices of entry

- ‘(1) *This section applies if, before the commencement of this section, an exploration permit or mineral development licence holder had given an owner of land notice of entry under former section 163 or 211.*

-
- ‘(2) *Despite schedule 1, the notice of entry may be renewed under former section 164 or 212, but only to the extent it relates to—*
- (a) a preliminary activity; or*
 - (b) an advanced activity that the holder started before the commencement.*
- ‘(3) *The notice of entry and any renewal of it under subsection (2)—*
- (a) is taken to be an entry notice for schedule 1; and*
 - (b) continues to be valid for the carrying out by the holder after the commencement of an activity mentioned in subsection (2).*
- ‘(4) *To remove any doubt, it is declared that subsection (3) applies even though a copy of any document required, under schedule 1, to accompany an entry notice did not accompany the notice of entry.*

‘781 Additional exemption to conduct and compensation agreement requirement

- ‘(1) *This section applies for an exploration permit or mineral development licence holder if the holder has given a converted entry notice.*
- ‘(2) *During the term of the converted entry notice under former section 164 or 212, the conduct and compensation agreement requirement under schedule 1 does not apply to the holder.*
- ‘(3) *To remove any doubt, it is declared that subsection (2) does not apply for any renewal of the converted entry notice.*
- ‘(4) *In this section—*
- converted entry notice** means a notice of entry that, under section 780(3), is taken to be an entry notice for schedule 1.*

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‘782 References to geothermal tenure

‘Until the Geothermal Energy Act 2010, chapter 10, part 1 commences, a reference in this Act to a geothermal tenure is taken to be a reference to a geothermal exploration permit.’.

465 Insertion of new sch 1

*After part 19—
insert—*

‘Schedule 1 Access and compensation provisions for exploration permits and mineral development licences

sections 163 and 211

‘Part 1 Preliminary

‘Division 1 Key definitions for schedule 1

‘1 Meaning of exploration tenement

*‘An **exploration tenement** is any exploration permit or mineral development licence.*

‘2 What is a preliminary activity

*‘(1) A **preliminary activity**, for a provision about an exploration tenement, means an authorised activity for the tenement that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.*

Examples—

- *walking the area of the permit or licence*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging*

‘(2) However, the following are not preliminary activities—

(a) an authorised activity carried out on land that—

- (i) is less than 100ha; and*
- (ii) is being used for intensive farming or broadacre agriculture;*

Examples—

- *land used for dryland or irrigated cropping, plantation forestry or horticulture*
 - *a dairy, cattle or sheep feedlot, piggery or poultry farm*
- (b) an authorised activity carried out within 600m of a school or an occupied residence;*
- (c) an authorised activity that affects the lawful carrying out of an organic or bioorganic farming system.*

‘3 What is an advanced activity

*‘An **advanced activity**, for a provision about an exploration tenement, means an authorised activity for the tenement other than a preliminary activity for the tenement.*

Examples—

- *levelling of drilling pads and digging sumps*
- *bulk sampling*
- *open trenching or costeaning with an excavator*
- *vegetation clear-felling*

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- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*
- *carrying out a seismic survey using explosives*
- *constructing a track or access road*
- *changing a fence line*

‘Division 2 Other definitions for schedule 1

‘4 Other definitions

‘In this schedule—

***ADR** see section 20(2)(b).*

***compensation liability** see section 13(2).*

***conduct and compensation agreement** see section 14(1).*

***conduct and compensation agreement requirement** see section 10(2).*

***deferral agreement** see section 11(c)(i).*

***election notice** see section 20(2).*

***eligible claimant** see section 13(1).*

***entry notice** see section 5(1).*

***minimum negotiation period** see section 17(2)(a).*

***negotiation notice** see section 16(1).*

***parties** see section 17(1).*

***private land** means freehold land or an interest in land less than fee simple held from the State under another Act, other than—*

- (a) *to the extent of an interest in any of the following relating to the land—*
 - (i) *a mining interest;*

-
- (ii) *a petroleum tenure or a licence under the Petroleum and Gas (Production and Safety) Act;*
 - (iii) *a GHG authority;*
 - (iv) *a geothermal tenure;*
 - (v) *an occupation right under a permit under the Land Act 1994; or*
- (b) *land owned by a public land authority.*

public land means land other than—

- (a) *private land; or*
- (b) *to the extent an interest in any of the following relates to the land—*
 - (i) *a mining interest;*
 - (ii) *a petroleum tenure or a licence under the Petroleum and Gas (Production and Safety) Act;*
 - (iii) *a GHG authority;*
 - (iv) *a geothermal tenure;*
 - (v) *an occupation right under a permit under the Land Act 1994.*

public land authority, for land, means—

- (a) *if the land is a public road—the road authority for the road; or*
- (b) *if a local government or other authority is, under an Act, charged with the control of the land—the local government or other authority; or*
- (c) *otherwise—the chief executive of the department administering the Act under which entry to the land is administered.*

‘(3) *The holder must give the mining registrar a copy of the entry notice immediately after the notice is given and before entry is made under the exploration tenement.*

Maximum penalty—10 penalty units.

‘(4) *A contravention of subsection (3) does not affect the validity of the notice or the entry.*

‘(5) *This section is subject to section 7.*

‘(6) *In this section—*

deferral agreement exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 11(c)(i).

give, for an entry notice, includes publishing it in a way approved under section 9.

Land Court application exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 11(c)(ii).

‘6 **Required contents of entry notice**

‘(1) *An entry notice must state the following—*

- (a) *the land proposed to be entered;*
- (b) *the period during which the land will be entered (the **entry period**);*
- (c) *the activities proposed to be carried out on the land;*
- (d) *when and where the activities are proposed to be carried out;*
- (e) *contact details for—*
 - (i) *the relevant exploration tenement holder; or*
 - (ii) *another person the holder has authorised to discuss the matters stated in the notice.*

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- ‘(2) *Also, the first entry notice from the exploration tenement holder to a particular owner or occupier must be accompanied by or include a copy of—*
- (a) the exploration tenement; and*
 - (b) the land access code; and*
 - (c) any code of practice made under this Act applying to authorised activities for the exploration tenement; and*
 - (d) the relevant environmental authority documentation.*
- ‘(3) *The entry period can not be longer than—*
- (a) generally—6 months; or*
 - (b) if the relevant owner or occupier agrees in writing to a longer period—the longer period.*
- ‘(4) *Subject to subsections (1) to (3), an entry notice may state an entry period that is different to the entry period stated in another entry notice given by the exploration tenement holder to another owner or occupier of the land.*
- ‘(5) *In this section—*
- relevant environmental authority documentation means—***
- (a) if, under the Environmental Protection Act, the relevant environmental authority (exploration) is a code compliant authority—the relevant code; or*
 - (b) if, under the Environmental Protection Act, the relevant environmental authority (exploration) is a non-code compliant authority—*
 - (i) the environmental authority; and*
 - (ii) if the environmental authority imposes conditions by referring to a code—that code.*

‘7 Exemptions from entry notice requirement

- ‘(1) The requirement under section 5(1) to give an entry notice does not apply for an entry to land to carry out an authorised activity if any of the following apply—*
- (a) the exploration tenement holder owns the land;*
 - (b) the holder has the right other than under this Act to enter the land to carry out the activity;*
 - (c) if—*
 - (i) there is a conduct and compensation agreement relating to the land; and*
 - (ii) each eligible claimant for the land is a party to the agreement; and*
 - (iii) the agreement includes a waiver of entry notice;*
 - (d) the entry is to preserve life or property or because of an emergency that exists or may exist;*
 - (e) the relevant owner or occupier has, by signed writing, given a waiver of entry notice.*
- ‘(2) A waiver of entry notice mentioned in subsection (1) must comply with section 8(1).*

‘8 Provisions for waiver of entry notice

- ‘(1) A waiver of entry notice mentioned in section 7 must—*
- (a) if it does not form part of a conduct and compensation agreement, be written and signed; and*
 - (b) state the following—*
 - (i) that the relevant owner or occupier has been told they are not required to agree to the waiver of entry notice;*
 - (ii) the authorised activities proposed to be carried out on the land;*
 - (iii) the period during which the land will be entered;*

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(iv) *when and where the activities are proposed to be carried out.*

(2) *The relevant owner or occupier can not withdraw the waiver of entry notice during the period.*

(3) *The waiver of entry notice ceases to have effect at the end of the period.*

‘9 Giving entry notice by publication

(1) *The mining registrar may approve an exploration tenement holder giving an entry notice for the tenement by publishing it in a stated way.*

(2) *The publication may relate to more than 1 entry notice.*

(3) *The mining registrar may give the approval only if—*

(a) *for a relevant owner or occupier who is an individual, it is impracticable to give the owner or occupier the notice personally; and*

(b) *the publication will happen at least 20 business days before the entry.*

‘Division 2 Conduct and compensation agreement requirement for particular advanced activities

‘10 Conduct and compensation agreement requirement for particular advanced activities

(1) *A person must not enter private land an exploration tenement’s area to carry out an advanced activity for the tenement (the **relevant activity**) unless each eligible claimant for the land is a party to an appropriate conduct and compensation agreement.*

Maximum penalty—500 penalty units.

‘(2) *The requirement under subsection (1) is the **conduct and compensation agreement requirement**.*

‘(3) *In this section—*

***appropriate conduct and compensation agreement**, for an eligible claimant, means a conduct and compensation agreement about the holder’s compensation liability to the eligible claimant of at least to the extent the liability relates to the relevant activity and its effects.*

‘11 **Exemptions from conduct and compensation agreement requirement**

‘The conduct and compensation agreement requirement does not apply for an entry to land to carry out an advanced activity if any of the following apply—

- (a) the exploration tenement holder owns the land;*
- (b) the holder has the right other than under this Act to enter the land to carry out the activity;*
- (c) each eligible claimant for the land is—*
 - (i) a party to an agreement, complying with section 12, that a conduct and compensation agreement can be entered into after the entry (a **deferral agreement**); or*
 - (ii) an applicant or respondent to a Land Court application under section 22 relating to the land;*
- (d) the entry is to preserve life or property or because of an emergency that exists or may exist.*

‘12 **Requirements for deferral agreement**

‘A deferral agreement must—

- (a) be written and signed by or for the holder and each eligible claimant for the land to be entered; and*
- (b) state the following—*

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- (c) *the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.*
- '(2) *However, a conduct and compensation agreement can not be inconsistent with this Act, a condition of the exploration tenement or a mandatory provision of the land access code and is unenforceable to the extent of the inconsistency.*
- '(3) *A conduct and compensation agreement may relate to all or part of the liability or future liability.*

'15 Content of conduct and compensation agreement

- '(1) *A conduct and compensation agreement between an eligible claimant and an exploration tenement holder must—*
 - (a) *provide for the matters mentioned in section 14(1); and*
 - (b) *be written and signed by or for the eligible claimant and the holder; and*
 - (c) *state whether it is for all or part of the liability; and*
 - (d) *if it is for only part of the liability, state—*
 - (i) *details of each activity or effects of the activity to which the agreement relates; and*
 - (ii) *the period for which the agreement has effect; and*
 - (e) *provide for how and when the liability will be met.*
- '(2) *A conduct and compensation agreement may—*
 - (a) *provide for—*
 - (i) *monetary or non-monetary compensation; or*
Example of non-monetary compensation—
A conduct and compensation agreement may provide for the construction of a road for the claimant.
 - (ii) *a process by which it may be amended or enforced; and*

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- (b) *if the holder wishes to negotiate a deferral agreement—that wish and the reasons for it;*
- (c) *the land the exploration tenement tenure holder proposes to enter;*
- (d) *the activities proposed to be carried out on the land;*
- (e) *when and where the activities are proposed to be carried out;*
- (f) *contact details for—*
 - (i) *the relevant exploration tenement holder; or*
 - (ii) *another person the holder has authorised to discuss the matters stated in the notice.*

‘(3) The exploration tenement holder must give the mining registrar a copy of the negotiation notice immediately after it is given.

Maximum penalty for subsection (3)—10 penalty units.

‘17 Negotiations

*‘(1) On the giving of the negotiation notice, the exploration tenement holder and the eligible claimant (the **parties**) must use all reasonable endeavours to negotiate a conduct and compensation agreement or a deferral agreement (a **relevant agreement**).*

‘(2) The period of the negotiations—

- (a) *must be at least for the period provided for under section 18 (the **minimum negotiation period**); but*
- (b) *may continue for as long as the parties wish.*

‘(3) If, during the minimum negotiation period, the parties enter into a relevant agreement, the exploration tenement holder can not enter the relevant land to carry out advanced activities for the exploration tenement until the period ends.

‘(4) Subsection (3) applies despite the terms of the agreement.

‘18 Provision for the minimum negotiation period

- ‘(1) *Generally, the minimum negotiation period is 20 business days from the giving of the negotiation notice (the **usual period**).*
- ‘(2) *Either party may, within the usual period, ask the other to agree to a longer minimum negotiation period because of stated reasonable or unforeseen circumstances.*
- ‘(3) *If the other party so agrees, the longer minimum negotiation period is the minimum negotiation period.*

‘19 Cooling-off during minimum negotiation period

- ‘(1) *This section applies if the parties enter into a conduct and compensation agreement or a deferral agreement during the minimum negotiation period.*
- ‘(2) *Either of the parties may, within the minimum negotiation period, terminate the agreement by giving notice to the other party.*
- ‘(3) *On the giving of a notice under subsection (2), the terminated agreement is taken never to have had any effect.*
- ‘(4) *To remove any doubt, it is declared that subsection (3) does not change the time when the negotiation notice was given.*

‘20 Parties may seek conference or independent ADR

- ‘(1) *This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement or deferral agreement.*
- ‘(2) *Either party may by a notice (an **election notice**)—*
 - (a) *to the other party and a relevant officer—ask for a relevant officer to call a conference to negotiate a conduct and compensation agreement; or*

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- (b) *to the other party—call upon them to agree to an alternative dispute resolution process (an ADR) to negotiate a conduct and compensation agreement.*
- ‘(3) *If the notice calls for an ADR, it must—*
 - (a) *identify the ADR; and*
 - (b) *state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR.*
- ‘(4) *An ADR may be a process of any kind including, for example, arbitration, conciliation, mediation or negotiation.*
- ‘(5) *However, the facilitator must be independent of either party.*

‘21 **Conduct of conference or ADR**

- ‘(1) *This section applies if an election notice is given.*
- ‘(2) *If a conference was requested—*
 - (a) *the relevant officer must take all reasonable steps to ensure the conference is finished within 20 business days after the notice is given (the **usual period**); and*
 - (b) *part 10, division 1B applies for the conference.*
- ‘(3) *If an ADR was called for, the parties must use reasonable endeavours to finish it within 20 business days after the giving of the notice (also the **usual period**).*
- ‘(4) *Either party may, within the usual period, ask the other to agree to a longer period to finish the conference or ADR because of stated reasonable or unforeseen circumstances.*
- ‘(5) *If the parties agree to the longer period, that period applies instead of the usual period.*
- ‘(6) *If an ADR was called for, section 335I applies to the ADR as if a reference in the section to a conference were a reference to an ADR.*

Editor’s note—

section 335I (What happens if a party does not attend)

‘Part 6 **Deciding compensation through Land Court**

‘22 **Land court may decide if negotiation process unsuccessful**

- ‘(1) This section applies if an election notice is given and—*
- (a) a party asked a relevant officer to call a conference and the relevant officer does not finish it within the period required under section 21 (the **required period**); or*
 - (b) a party called for an ADR and the person facilitating the ADR does not finish it within the period required under section 21 (also the **required period**).*
- ‘(2) This section also applies if an election notice is given and—*
- (a) only 1 party attended the conference requested or ADR called for; or*
 - (b) both parties attended the conference or ADR and, at the end of the required period, there is no conduct and compensation agreement between the parties.*
- ‘(3) An eligible party may apply to the Land Court for it to decide the exploration tenement holder’s—*
- (a) compensation liability to the claimant; or*
 - (b) future compensation liability to the claimant for an authorised activity for the exploration tenement holder proposed to be carried out by or for the holder.*
- ‘(4) However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement.*
- ‘(5) In hearing the application, the Land Court must as much as practicable ensure the hearing happens together with, or as closely as possible to, the hearing of any relevant environmental compensation application.*
- ‘(6) In this section—*

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eligible party means a party who attended the conference or ADR.

relevant environmental compensation application means an application to the Land Court for compensation that is or may be payable by the exploration tenement holder to the eligible claimant under the Environmental Protection Act.

‘23 Land Court review of compensation

- ‘(1) This section applies if—
- (a) the compensation liability or future compensation liability of an exploration tenement holder to an eligible claimant has been agreed to under a conduct and compensation agreement or decided by the Land Court (the **original compensation**); and
 - (b) there has been a material change in circumstances (the **change**) since the agreement or decision.
- ‘(2) The eligible claimant or the holder may apply to the Land Court for it to review the original compensation.
- ‘(3) In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.
- ‘(4) If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.
- ‘(5) The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.
- ‘(6) If the decision is to amend the compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.

‘24 Orders Land Court may make

- ‘(1) *The Land Court may make any order it considers appropriate to meet or enforce its decision on an application under this part.*
- ‘(2) *Without limiting subsection (1), the Land Court may order non-monetary compensation as well as monetary compensation.*

**‘Part 7 Additional Land Court
jurisdiction for compensation
and related matters**

‘25 What pt 7 is about

- ‘(1) *This part provides for additional matters for which the Land Court has jurisdiction.*
- ‘(2) *The jurisdiction is subject to parts 2 to 6.*

‘26 Additional jurisdiction

- ‘(1) *This section applies if—*
- (a) an exploration tenement holder and an eligible claimant can not reach agreement about a conduct and compensation agreement; or*
 - (b) there is a conduct and compensation agreement or deferral agreement.*
- ‘(2) *The Land Court may assess all or part of the relevant exploration tenement holder’s compensation liability to another party.*
- ‘(3) *In this section—*
- party means any of the following—*

[s 465]

- (a) *the relevant exploration tenement holder;*
- (b) *an eligible claimant mentioned in subsection (1)(a);*
- (c) *an eligible claimant who is a party to an agreement mentioned in subsection (1)(b).*

‘27 Jurisdiction to impose or vary conditions

‘(1) *In deciding a matter mentioned in section 26(2), the Land Court may—*

- (a) *impose any condition it considers appropriate for the exercise of the parties’ rights; or*
- (b) *vary any existing condition under an agreement between the parties.*

‘(2) *The variation may be made on any ground the Land Court considers appropriate.*

‘(3) *The imposed or varied condition is taken to be—*

- (a) *if there is an agreement between the parties—a condition of the agreement; or*
- (b) *if there is no agreement between the parties—an agreement between the parties.*

‘(4) *In this section—*

agreement *means a conduct and compensation agreement.*

condition *means a condition of or for a conduct and compensation agreement.*

‘Part 8 **Miscellaneous provision**

‘28 **Compensation not affected by change in ownership or occupancy**

‘A conduct and compensation agreement or a Land Court decision under this schedule is for the benefit of and is taken to have been agreed to or decided for and is binding on—

- (a) the relevant eligible claimant; and*
- (b) the exploration tenement holder; and*
- (c) each of their successors and assigns including successors and assigns for the area of the relevant exploration tenement.’*

466 **Amendment and renumbering of schedule (Dictionary)**

- (1) *Schedule, definitions occupier, section 169 conference, section 217 conference and section 254 conference—*

omit.

- (2) *Schedule—*

insert—

‘ADR, for schedule 1, see schedule 1, section 20(2)(b).

advanced activity, for schedule 1, see schedule 1, section 3.

compensation liability, for schedule 1, see schedule 1, section 13(2).

compliance direction see section 335A(2).

conduct and compensation agreement, for schedule 1, see schedule 1, section 14(1).

conduct and compensation agreement requirement, for schedule 1, see schedule 1, section 10(2).

election notice, for schedule 1, see schedule 1, section 20(2).

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eligible claimant, for schedule 1, see schedule 1, section 13(1).

entry notice, for schedule 1, see schedule 1, section 5(1).

exploration tenement, for schedule 1, see schedule 1, section 1.

land access code see the *Petroleum and Gas (Production and Safety) Act*, section 24A.

mandatory provision, of the land access code, means a provision of that code that the code requires compliance with.

minimum negotiation period, for schedule 1, see schedule 1, section 17(2)(a).

mining interest means—

- (a) a mining tenement; or
- (b) a tenure held from the State under another Act about mining under which tenure the holder is authorised to carry out mining or a related mineral or energy resources activity.

negotiation notice, for schedule 1, see schedule 1, section 16(1).

occupier, of a place, means a person—

- (a) who, under an Act, or, for freehold land, a lease registered under the *Land Title Act 1994*, has a right to occupy the place, other than under a mining interest, petroleum tenure, licence under the *Petroleum and Gas (Production and Safety) Act*, GHG authority or geothermal tenure; or
- (b) to whom an occupier under paragraph (a) has given the right to occupy the place.

parties—

- (a) for part 10, division 1B, see section 335G; or
- (b) for schedule 1, see schedule 1, section 17(1).

preliminary activity, for schedule 1, see schedule 1, section 2.

private land, for schedule 1, see schedule 1, section 4.

public land, for schedule 1, see schedule 1, section 4.

public land authority, for schedule 1, see schedule 1, section 4.

relevant officer means a mining registrar, deputy mining registrar or field officer appointed under section 336(1) or (2) or another officer appointed under section 336(3).'

(3) Schedule, definition area, paragraph 1, 'coal or oil shale'—
omit.

(4) Schedule, definition area—
insert—

'4 The area, of a geothermal tenure, is the land to which the tenure is subject, as recorded in the geothermal register under the Geothermal Act.'

(5) Schedule—
renumber as schedule 2.

Division 3 Amendment of Petroleum Act 1923

467 Act amended

The following provisions amend the Petroleum Act 1923—

- *this division*
- *part 1, division 5*
- *part 3, division 7*
- *schedule 2, parts 2 and 4.*

468 Amendment of s 2 (Definitions)

(1) *Section 2, definitions compensation agreement, compensation liability, eligible claimant, entry notice, entry period, occupier, private land, public land and waiver of entry notice—*

omit.

(2) *Section 2—*

insert—

‘ADR see section 79VA(2)(b).

advanced activity, for a provision about a 1923 Act petroleum tenure, means an authorised activity for the tenure other than a preliminary activity for the tenure.

Examples—

- *levelling of drilling pads and digging sumps*
- *earthworks associated with pipeline installation*
- *vegetation clear-felling*
- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*
- *carrying out a seismic survey using explosives*
- *constructing a track or access road*
- *changing a fence line*

compensation application, for part 6K, division 2, means an application made under section 79VH(1).

compensation liability—

(a) *for part 6K, division 1—see section 79Q(2); or*

(b) *for part 6K, division 2—see section 79VF(2).*

conduct and compensation agreement see section 79R(1).

conduct and compensation agreement requirement see section 78Q(2).

deferral agreement see section 78S(b).

election notice see section 79VA(2).

eligible claimant, for compensation, see section 79Q(1).

entry notice—

(a) for part 6H—see section 78M(1); or

(b) for part 6I—see section 79I(2)(b).

land access code see the 2004 Act, section 24A.

mandatory provision, of the land access code, means a provision of that code that the code requires compliance with.

minimum negotiation period see section 79U(2)(a).

negotiation notice see section 79T(1).

occupier, of a place, means a person—

(a) who, under an Act, or, for freehold land, a lease registered under the Land Title Act 1994, has a right to occupy the place, other than under a mining interest, 1923 Act petroleum tenure, 2004 Act petroleum authority, GHG authority or geothermal tenure; or

(b) to whom an occupier under paragraph (a) has given the right to occupy the place.

parties—

(a) for part 6K, division 1, subdivision 4—see section 79U(1); or

(b) for part 6R—see section 103B.

preliminary activity—

1 A preliminary activity, for a provision about a 1923 Act petroleum tenure, means an authorised activity for the tenure that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples—

- *walking the area of the permit or licence*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging*

2 *However, the following are not preliminary activities—*

(a) *an authorised activity carried out on land that—*

- (i) *is less than 100ha; and*
- (ii) *is being used for intensive farming or broadacre agriculture;*

Examples—

- *land used for dryland or irrigated cropping, plantation forestry or horticulture*
 - *a dairy, cattle or sheep feedlot, piggery or poultry farm*
- (b) *an authorised activity carried out within 600m of a school or an occupied residence;*
- (c) *an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.*

private land—

1 *Private land is—*

- (a) *freehold land; or*
- (b) *an interest in land less than fee simple held from the State under another Act.*

2 *However, land is not private land to the extent of an interest in any of the following relating to the land—*

- (a) *a mining interest;*

-
- (b) *a 1923 Act petroleum tenure or 2004 Act petroleum authority;*
 - (c) *a GHG authority;*
 - (d) *a geothermal tenure;*
 - (e) *an occupation right under a permit under the Land Act 1994.*
- 3 *Also, land owned by a public land authority is not private land.*

public land means land other than—

- (a) *private land; or*
- (b) *to the extent an interest in any of the following relates to the land—*
 - (i) *a mining interest;*
 - (ii) *a 1923 Act petroleum tenure or 2004 Act petroleum authority;*
 - (iii) *a GHG authority;*
 - (iv) *a geothermal tenure;*
 - (v) *an occupation right under a permit under the Land Act 1994.*

relevant owner or occupier, for a provision about entry notices, means the owner or occupier to whom the entry notice is to be given, or would be given, other than for an exemption from the requirement to give an entry notice.

waiver of entry notice—

- (a) *for part 6H—means a waiver of entry notice mentioned in section 78O that complies with section 78O(1); or*
- (b) *for part 6I—see section 79I(3).’.*

[s 469]

469 Replacement of s 74V (Obligation to consult with particular owners and occupiers)

Section 74V—

omit, insert—

‘74V Obligation to consult with particular owners and occupiers

‘(1) The holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the tenure are proposed to be carried out or are being carried out.

‘(2) The consultation must be about—

(a) access; and

(b) the carrying out of authorised activities for the tenure (including, for example, crossing access land for the tenure) to the extent they relate to the owners and occupiers; and

(c) the holder’s compensation liability to the owners or occupiers.’.

470 Replacement of ss 74X and 74Y

Sections 74X and 74Y—

omit, insert—

‘74X Compliance with land access code

‘A 1923 Act petroleum tenure holder must—

(a) comply with the mandatory provisions of the land access code to the extent it applies to the holder; and

(b) ensure any other person carrying out an authorised activity for the 1923 Act petroleum tenure complies with the mandatory provisions of the land access code.’.

471 Insertion of new s 75EA

Part 6B—

insert—

‘75EA Limitation of owner’s or occupier’s tortious liability for authorised activities

- ‘(1) *This section applies to an owner or occupier of land in the area of a 1923 Act petroleum tenure if—*
- (a) *someone else carries out an authorised activity for a 1923 Act petroleum tenure on the land; or*
 - (b) *someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a 1923 Act petroleum tenure.*
- ‘(2) *The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.*
- ‘(3) *However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.*
- ‘(4) *This section applies—*
- (a) *despite any other Act or law; and*
 - (b) *even though this Act or the 1923 Act petroleum tenure prevents or restricts the carrying out of the activity as an authorised activity for the tenure.*
- ‘(5) *Subject to subsection (2), in this section, the terms claim, damages and harm have the same meaning that they have under the Civil Liability Act 2003.’.*

472 Replacement of pt 6H, divs 1 to 3

Part 6H, divisions 1 to 3—

omit, insert—

[s 472]

‘Division 1 **Requirements for entry to private
land in 1923 Act petroleum tenure
area**

‘Subdivision 1 **Entry notice requirement for
preliminary activities and particular
advanced activities**

‘78L **Entry notice requirement**

‘(1) *A person must not—*

- (a) *enter private land in a 1923 Act petroleum tenure’s area to carry out a preliminary activity for the tenure; or*
- (b) *enter private land in a 1923 Act petroleum tenure’s area to carry out an advanced activity for the tenure if either of the following applies for the entry—*
 - (i) *the deferral agreement exemption;*
 - (ii) *the Land Court application exemption;*

*unless the 1923 Act petroleum tenure’s holder has given each owner and occupier of the land a written notice of the entry that complies with section 78M (an **entry notice**).*

Maximum penalty—500 penalty units.

‘(2) *The entry notice must be given—*

- (a) *generally—at least 10 business days before the entry; or*
- (b) *if, by a signed endorsement on the notice, the relevant owner or occupier has agreed to a shorter period—the shorter period.*

Maximum penalty—500 penalty units.

‘(3) *The holder must give the chief executive a copy of the entry notice immediately after the notice is given and before entry is made under the 1923 Act petroleum tenure.*

Maximum penalty—10 penalty units.

‘(4) *A contravention of subsection (3) does not affect the validity of the notice or the entry.*

‘(5) *This section is subject to section 78N.*

‘(6) *In this section—*

***deferral agreement exemption**, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 78R(c)(i).*

***give**, for an entry notice, includes publishing it in a way approved under section 78P.*

***Land Court application exemption**, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 78R(c)(ii).*

‘78M Required contents of entry notice

‘(1) *An entry notice must state the following—*

(a) *the land proposed to be entered;*

(b) *the period during which the land will be entered (the **entry period**);*

(c) *the activities proposed to be carried out on the land;*

(d) *when and where the activities are proposed to be carried out;*

(e) *contact details for—*

(i) *the relevant 1923 Act petroleum tenure holder; or*

(ii) *another person the holder has authorised to discuss the matters stated in the notice.*

‘(2) *Also, the first entry notice from the 1923 Act petroleum tenure holder to a particular owner or occupier must be accompanied by or include a copy of—*

(a) *the 1923 Act petroleum tenure; and*

[s 472]

- (b) *the land access code; and*
 - (c) *any code of practice made under this Act applying to authorised activities for the 1923 Act petroleum tenure; and*
 - (d) *the relevant environmental authority documentation.*
- ‘(3) *The entry period can not be longer than—*
- (a) *generally—*
 - (i) *for an authority to prospect—6 months; or*
 - (ii) *for a lease—1 year; or*
 - (b) *if the relevant owner or occupier agrees in writing to a longer period—the longer period.*
- ‘(4) *Subject to subsections (1) to (3), an entry notice may state an entry period that is different to the entry period stated in another entry notice given by the 1923 Act petroleum tenure holder to another owner or occupier of the land.*
- ‘(5) *In this section—*
- relevant environmental authority documentation means—***
- (a) *if, under the Environmental Protection Act, the relevant environmental authority for the 1923 Act petroleum tenure is a code compliant authority—the relevant code; or*
 - (b) *if, under Environmental Protection Act, the relevant environmental authority for the 1923 Act petroleum tenure is a non-code compliant authority—*
 - (i) *the environmental authority; and*
 - (ii) *if the environmental authority imposes conditions by referring to a code—that code.*

‘78N Exemptions from entry notice requirement

- ‘(1) *The requirement under section 78L(1) to give an entry notice does not apply for an entry to land to carry out an authorised activity if any of the following apply—*
- (a) the 1923 Act petroleum tenure holder owns the land;*
 - (b) the holder has the right other than under this Act to enter the land to carry out the activity;*
 - (c) if—*
 - (i) there is a conduct and compensation agreement relating to the land; and*
 - (ii) each eligible claimant for the land is a party to the agreement; and*
 - (iii) the agreement includes a waiver of entry notice;*
 - (d) the entry is to preserve life or property or because of an emergency that exists or may exist;*
 - (e) the relevant owner or occupier has, by signed writing, given a waiver of entry notice.*
- ‘(2) *A waiver of entry notice mentioned in subsection (1) must comply with section 78O(1).*

‘78O Provisions for waiver of entry notice

- ‘(1) *A waiver of entry notice mentioned in section 78N must—*
- (a) if it does not form part of a conduct and compensation agreement, be written and signed; and*
 - (b) state the following—*
 - (i) that the relevant owner or occupier has been told they are not required to agree to the waiver of entry notice;*
 - (ii) the authorised activities proposed to be carried out on the land;*
 - (iii) the period during which the land will be entered;*

[s 472]

(iv) *when and where the activities are proposed to be carried out.*

(2) *The relevant owner or occupier can not withdraw the waiver of entry notice during the period.*

(3) *The waiver of entry notice ceases to have effect at the end of the period.*

‘78P Giving entry notice by publication

(1) *The chief executive may approve a 1923 Act petroleum tenure holder giving an entry notice for the tenure by publishing it in a stated way.*

(2) *The publication may relate to more than 1 entry notice.*

(3) *The chief executive may give the approval only if satisfied—*

(a) *for a relevant owner or occupier who is an individual, it is impracticable to give the owner or occupier the notice personally; and*

(b) *the publication will happen at least 20 business days before the entry.*

‘Subdivision 2 Conduct and compensation agreement requirement for particular advanced activities

‘78Q Conduct and compensation agreement requirement

(1) *A person must not enter private land in a 1923 Act petroleum tenure’s area to carry out an advanced activity for the tenure (the **relevant activity**) unless each eligible claimant for the land is a party to an appropriate conduct and compensation agreement.*

Maximum penalty—500 penalty units.

(2) *The requirement under subsection (1) is the **conduct and compensation agreement requirement**.*

Note—

For conduct and compensation agreements, see part 6K.

(3) *In this section—*

***appropriate conduct and compensation agreement**, for an eligible claimant, means a conduct and compensation agreement about the holder's compensation liability to the eligible claimant of at least to the extent the liability relates to the relevant activity and its effects.*

'78R Exemptions from conduct and compensation agreement requirement

The conduct and compensation agreement requirement does not apply for an entry to land to carry out an advanced activity if any of the following apply—

- (a) *the 1923 Act petroleum tenure holder owns the land;*
- (b) *the holder has the right other than under this Act to enter the land to carry out the activity;*
- (c) *each eligible claimant for the land is—*
 - (i) *a party to an agreement, complying with section 78S, that a conduct and compensation agreement can be entered into after the entry (a **deferral agreement**); or*
 - (ii) *an applicant or respondent to a Land Court application under section 79VB relating to the land;*
- (d) *the entry is to preserve life or property or because of an emergency that exists or may exist.*

'78S Requirements for deferral agreement

A deferral agreement must—

[s 473]

- (a) *be written and signed by or for the holder and each eligible claimant for the land to be entered; and*
- (b) *state the following—*
 - (i) *that the eligible claimant has been told the claimant is under no obligation to enter into a deferral agreement before entering into a conduct and compensation agreement;*
 - (ii) *the authorised activities proposed to be carried out on the land;*
 - (iii) *the period during which the land will be entered;*
 - (iv) *when and where the activities are proposed to be carried out;*
 - (v) *the period for which the deferral agreement has effect;*
 - (vi) *when it is proposed to enter into a conduct and compensation agreement.’.*

473 Amendment of s 78U (Change in ownership or occupancy)

*Section 78U(1)(b), from ‘the requirement’ to ‘before entry,’—
omit, insert—
‘section 78M(1)’.*

474 Replacement of part 6K (General compensation provisions)

*Part 6K—
omit, insert—*

[s 474]

compensatable effect means all or any of the following—

- (a) all or any of the following relating to the eligible claimant's land—
 - (i) deprivation of possession of its surface;
 - (ii) diminution of its value;
 - (iii) diminution of the use made or that may be made of the land or any improvement on it;
 - (iv) severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;
 - (v) any cost, damage or loss arising from the carrying out of activities under the 1923 Act petroleum tenure on the land;
- (b) accounting, legal or valuation costs the claimant necessarily and reasonably incurs to negotiate or prepare a conduct and compensation agreement, other than the costs of a person facilitating an ADR;

Examples of negotiation—

an ADR or conference

- (c) consequential damages the eligible claimant incurs because of a matter mentioned in paragraph (a) or (b).

relevant authorised activities means authorised activities for the 1923 Act petroleum tenure carried out by the holder or a person authorised by the holder.

'Subdivision 3 General provisions for conduct and compensation agreements

'79R Conduct and compensation agreement

- '(1) An eligible claimant and a 1923 Act petroleum tenure holder may enter into an agreement (a **conduct and compensation agreement**) about—

-
- (a) *how and when the 1923 Act petroleum tenure holder may enter the land for which the eligible claimant is an eligible claimant; and*
 - (b) *how authorised activities under the 1923 Act petroleum tenure, to the extent they relate to the eligible claimant, must be carried out; and*
 - (c) *the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.*
- '(2) *However, a conduct and compensation agreement can not be inconsistent with this Act, a condition of the 1923 Act petroleum tenure or a mandatory provision of the land access code and is unenforceable to the extent of the inconsistency.*
- '(3) *A conduct and compensation agreement may relate to all or part of the liability or future liability.*

'79S Content of conduct and compensation agreement

- '(1) *A conduct and compensation agreement must—*
- (a) *provide for the matters mentioned in section 79R(1); and*
 - (b) *be written and signed by or for the 1923 Act petroleum tenure holder and the eligible claimant; and*
 - (c) *state whether it is for all or part of the compensation liability; and*
 - (d) *if it is for only part of the compensation liability, state—*
 - (i) *details of each activity or effect of the activity to which the agreement relates; and*
 - (ii) *the period for which the agreement has effect; and*
 - (e) *provide for how and when the compensation liability will be met.*
- '(2) *A conduct and compensation agreement may—*

[s 474]

(a) *extend the holder's compensation liability to the claimant or any future compensation liability that the holder may have to the claimant to any renewal of the 1923 Act petroleum tenure; and*

(b) *provide for—*

(i) *monetary or non-monetary compensation; or*

Example of non-monetary compensation—

A conduct and compensation agreement may provide for the construction of a road for the claimant.

(ii) *a process by which it may be amended or enforced; and*

Example of a process for amendment—

A conduct and compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the 1923 Act petroleum tenure including a change in the extent of activities required under a later development plan for a lease.

(c) *provide for any compensation that is or may be payable by the holder to the eligible claimant under the Environmental Protection Act.*

'(3) This section does not limit the matters that may be provided for in a conduct and compensation agreement.

'Subdivision 4 Negotiation process

Note—

Generally, a 1923 Act petroleum tenure holder can not enter private land to carry out an advanced activity unless the holder complies with this subdivision. See sections 78Q and 78R.

'79T Notice of intent to negotiate

'(1) A 1923 Act petroleum tenure holder may give an eligible claimant to whom the holder has a compensation liability a

*notice (the **negotiation notice**) that the holder wishes to negotiate a conduct and compensation agreement or a deferral agreement with the eligible claimant.*

‘(2) The negotiation notice must be accompanied by a copy of the land access code and state all of the following—

(a) if the holder wishes to negotiate a conduct and compensation agreement—

(i) whether the holder wishes to negotiate all or part of the holder’s compensation liability to the eligible claimant; and

(ii) if the holder only wishes to negotiate part of the liability—what the part is;

(b) if the holder wishes to negotiate a deferral agreement—that wish and the reasons for it;

(c) the land the holder proposes to enter;

(d) the activities proposed to be carried out on the land;

(e) when and where the activities are proposed to be carried out;

(f) if the holder is a corporation—contact details for the holder and an individual the holder has authorised to negotiate the agreement.

‘(3) The 1923 Act petroleum tenure holder must give the chief executive a copy of the negotiation notice immediately after it is given.

Maximum penalty for subsection (3)—10 penalty units.

‘79U Negotiations

*‘(1) On the giving of the negotiation notice, the 1923 Act petroleum tenure holder and the eligible claimant (the **parties**) must use all reasonable endeavours to negotiate a conduct and compensation agreement or a deferral agreement (a **relevant agreement**).*

[s 474]

- ‘(2) *The period of the negotiations—*
- (a) *must be at least for the period provided for under section 79UA (the **minimum negotiation period**); but*
 - (b) *may continue for as long as the parties wish.*
- ‘(3) *If, during the minimum negotiation period, the parties enter into a relevant agreement, the 1923 Act petroleum tenure holder can not enter the relevant land to carry out advanced activities for the tenure until the period ends.*
- ‘(4) *Subsection (3) applies despite the terms of the agreement.*

‘79UA Provision for the minimum negotiation period

- ‘(1) *Generally, the minimum negotiation period is 20 business days from the giving of the negotiation notice (the **usual period**).*
- ‘(2) *Either party may, within the usual period, ask the other to agree to a longer minimum negotiation period because of stated reasonable or unforeseen circumstances.*
- ‘(3) *If the other party so agrees, the longer minimum negotiation period is the minimum negotiation period.*

‘79V Cooling-off during minimum negotiation period

- ‘(1) *This section applies if the parties enter into a conduct and compensation agreement or a deferral agreement during the minimum negotiation period.*
- ‘(2) *Either of the parties may, within the minimum negotiation period, terminate the agreement by giving notice to the other party.*
- ‘(3) *On the giving of a notice under subsection (2), the terminated agreement is taken never to have had any effect.*
- ‘(4) *To remove any doubt, it is declared that subsection (3) does not change the time when the negotiation notice was given.*

‘79VA Parties may seek conference or independent ADR

- ‘(1) *This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement or deferral agreement.*
- ‘(2) *Either party may by a notice (an **election notice**)—*
 - (a) to the other party and an authorised officer—ask for an authorised officer to call a conference to negotiate a conduct and compensation agreement; or*
 - (b) to the other party—call upon them to agree to an alternative dispute resolution process (an **ADR**) to negotiate a conduct and compensation agreement.*
- ‘(3) *If the notice calls for an ADR, it must—*
 - (a) identify the ADR; and*
 - (b) state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR.*
- ‘(4) *An ADR may be a process of any kind including, for example, arbitration, conciliation, mediation or negotiation.*
- ‘(5) *However, the facilitator must be independent of either party.*

‘79VAB Conduct of conference or ADR

- ‘(1) *This section applies if an election notice is given.*
- ‘(2) *If a conference was requested—*
 - (a) the authorised officer must take all reasonable steps to ensure the conference is finished within 20 business days after the notice is given (the **usual period**); and*
 - (b) part 6R applies for the conference.*
- ‘(3) *If an ADR was called for, the parties must use reasonable endeavours to finish it within 20 business days after the giving of the notice (also the **usual period**).*

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- ‘(4) Either party may, within the usual period, ask the other to agree to a longer period to finish the conference or ADR because of stated reasonable or unforeseen circumstances.*
- ‘(5) If the parties agree to the longer period, that period applies instead of the usual period.*
- ‘(6) If an ADR was called for, section 103D applies to the ADR as if a reference in the section to a conference were a reference to an ADR.*

Editor’s note—

section 103D (What happens if a party does not attend)

‘Subdivision 5 Deciding compensation through Land Court

‘79VB Land court may decide if negotiation process unsuccessful

- ‘(1) This section applies if an election notice is given and—*
 - (a) a party asked an authorised officer to call a conference and the authorised officer does not finish it within the period required under section 79VAB (the **required period**); or*
 - (b) a party called for an ADR and the person facilitating the ADR does not finish it within the period required under section 79VAB (also the **required period**).*
- ‘(2) This section also applies if an election notice is given and—*
 - (a) only 1 party attended the conference requested or ADR called for; or*
 - (b) both parties attended the conference or ADR and, at the end of the required period, there is no conduct and compensation agreement between the parties.*
- ‘(3) An eligible party may apply to the Land Court for it to decide the 1923 Act petroleum tenure holder’s—*

-
- (a) *compensation liability to the claimant; or*
 - (b) *future compensation liability to the claimant for an authorised activity for the 1923 Act petroleum tenure proposed to be carried out by or for the holder.*
- ‘(4) *However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement.*
- ‘(5) *In hearing the application, the Land Court must as much as practicable ensure the hearing happens together with, or as closely as possible to, the hearing of any relevant environmental compensation application.*
- ‘(6) *In this section—*

***eligible party** means a party who attended the conference or ADR.*

***relevant environmental compensation application** means an application to the Land Court for compensation that is or may be payable by the 1923 Act petroleum tenure holder to the eligible claimant under the Environmental Protection Act.*

‘79VC Land Court review of compensation

- ‘(1) *This section applies if—*
- (a) *the compensation liability or future compensation liability of a 1923 Act petroleum tenure holder to an eligible claimant has been agreed to under a conduct and compensation agreement or decided by the Land Court (the **original compensation**); and*
 - (b) *there has been a material change in circumstances (the **change**) since the agreement or decision.*
- ‘(2) *The eligible claimant or the holder may apply to the Land Court for it to review the original compensation.*
- ‘(3) *In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.*

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- ‘(4) If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.*
- ‘(5) The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.*
- ‘(6) If the decision is to amend the compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.*

‘79VD Orders Land Court may make

- ‘(1) The Land Court may make any order it considers appropriate to meet or enforce its decision on an application under this part.*
- ‘(2) Without limiting subsection (1), the Land Court may order non-monetary compensation as well as monetary compensation.*

‘Subdivision 6 Additional Land Court jurisdiction for compensation and related matters

‘79VDA What sdiv 6 is about

- ‘(1) This subdivision provides for additional matters for which the Land Court has jurisdiction.*
- ‘(2) The jurisdiction is subject to subdivisions 1 to 5.*

‘79VDB Additional jurisdiction

- ‘(1) This section applies to a 1923 Act petroleum tenure holder and an eligible claimant (the **parties**) if any of the following apply—*

-
- (a) *the 1923 Act petroleum tenure holder has carried out a preliminary activity;*
 - (b) *the parties can not reach agreement about a conduct and compensation agreement;*
 - (c) *there is a conduct and compensation agreement or deferral agreement between the parties.*
- ‘(2) *The Land Court may do all or any of the following—*
- (a) *assess all or part of the relevant 1923 Act petroleum tenure holder’s compensation liability to another party;*
 - (b) *decide a matter related to the compensation liability;*
 - (c) *declare whether or not a proposed authorised activity for the relevant 1923 Act petroleum tenure would, if carried out, interfere with the carrying out of lawful activities by the eligible claimant;*
 - (d) *make any order it considers necessary or desirable for a matter mentioned in paragraph (a), (b) or (c).*

Example—

The Land Court declares that a particular proposed authorised activity interferes with the carrying out of lawful activities by the eligible claimant. It may also order that a stated modification of, or reduction in, the activity would remove the interference.

‘79VDC Jurisdiction to impose or vary conditions

- ‘(1) *In deciding a matter mentioned in section 79VDB(2), the Land Court may—*
 - (a) *impose any condition it considers appropriate for the exercise of the parties’ rights; or*
 - (b) *vary any existing condition under an agreement between the parties.*
- ‘(2) *The variation may be made on any ground the Land Court considers appropriate.*
- ‘(3) *The imposed or varied condition is taken to be—*

[s 475]

- (a) *if there is an agreement between the parties—a condition of the agreement; or*
- (b) *if there is no agreement between the parties—an agreement between the parties.*

‘(4) *In this section—*

***agreement** means a conduct and compensation agreement.*

***condition** means a condition of or for a conduct and compensation agreement.*

‘Subdivision 7 Miscellaneous provision

‘79VE Compensation not affected by change in ownership or occupancy

‘(1) *A conduct and compensation agreement or a Land Court decision under this part is for the benefit of, and is taken to have been agreed to or decided for and is binding on, the following—*

- (a) *the relevant eligible claimant;*
- (b) *the 1923 Act petroleum tenure holder;*
- (c) *each of their successors and assigns including successors and assigns for the area of the relevant 1923 Act petroleum tenure.*

‘(2) *Subsection (1) is subject to section 79VC.*

‘Division 2 Compensation for notifiable road uses’.

475 Replacement of s 88 (Conduct of operations on land)

Section 88—

omit, insert—

‘88 *Duty to avoid interference in carrying out authorised activities*

‘A person who carries out an authorised activity for a 1923 Act petroleum tenure must carry out the activity in a way that does not unreasonably interfere with anyone else carrying out a lawful activity.

Maximum penalty—500 penalty units.’.

476 *Insertion of new pt 6R*

After part 6Q—

insert—

‘Part 6R *Conferences with eligible claimants or owners and occupiers*

‘Division 1 *Preliminary*

‘103A *Application of pt 6R*

‘(1) This part applies if an authorised officer is given an election notice by a 1923 Act petroleum tenure holder or an eligible claimant asking for a conference.

‘(2) This part also applies if—

(a) an owner or occupier of land who is concerned about any of the following gives an authorised officer notice of the concerns—

(i) that someone claiming to act under a 1923 Act petroleum tenure, or to have entered land on the tenure holder’s instructions—

(A) is not authorised to be on the land; or

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- (B) *is not complying with a provision of this Act or a condition of the 1923 Act petroleum tenure;*
- (ii) *activities being, or proposed to be, carried out on the land apparently under a 1923 Act petroleum tenure (including when the activities are being, or are to be, carried out);*
- (iii) *the conduct on the land of someone apparently acting under a 1923 Act petroleum tenure; or*
- (b) *a 1923 Act petroleum tenure holder who is concerned about something relevant to the tenure involving the holder and the owner or occupier of land gives an authorised officer notice of the concerns; or*
- (c) *for another reason, an authorised officer considers it desirable to call a conference to discuss concerns about a 1923 Act petroleum tenure.*

‘Division 2 Calling conference and attendance

‘103B Calling conference

- ‘(1) *If this part applies because of the giving of an election notice, the authorised officer must, by notice, ask the 1923 Act petroleum tenure holder and the eligible claimant (the **parties**) to attend a conference by the authorised officer about negotiating a conduct and compensation agreement.*
- ‘(2) *If this part applies under section 103A(2), the authorised officer may, by notice, ask the 1923 Act petroleum tenure holder and the owner or occupier or other person with an interest in the concerns (also the **parties**) to attend a conference by the authorised officer about the concerns.*
- ‘(3) *The notice must state when and where the conference will be held and what is to be discussed at the conference.*

‘103C Who may attend conference

- ‘(1) *Apart from the authorised officer, anyone given notice of the conference may attend and take part in the conference.*
- ‘(2) *Also, with the authorised officer’s approval, someone else may be present to help a person attending the conference.*
- ‘(3) *However, a party can not be represented by a lawyer unless the parties agree and the authorised officer is satisfied there is no disadvantage to a party.*

‘103D What happens if a party does not attend

- ‘(1) *This section applies if a party given notice of the conference does not attend.*
- ‘(2) *The authorised officer may hold the conference even though someone given notice of it does not attend.*

Note—

If the conference was called because of an election notice and only 1 party attends, the Land Court may decide the issue of compensation. See section 79VB.

- ‘(3) *A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party’s reasonable costs of attending.*
- ‘(4) *The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.*
- ‘(5) *If the Land Court makes the order, it must decide the amount of the costs.*

[s 477]

‘Division 3 Conduct of conference

‘103E Authorised officer’s role

- ‘(1) *In conducting the conference, the authorised officer must endeavour to help those attending to reach an early and inexpensive settlement of the subject of the conference.*
- ‘(2) *Subject to section 79VAB, the authorised officer is to decide how the conference is to be conducted.*

‘103F Statements made at conference

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

‘103G Agreement made at conference

- ‘(1) *If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be written and signed by or for the parties.*
- ‘(2) *The agreement—*
 - (a) *may, if appropriate, be a conduct and compensation agreement or an amendment of an existing conduct and compensation agreement between the parties; and*
 - (b) *has the same effect as any other compromise.’.*

477 Insertion of new pt 13

After section 185—

insert—

‘Part 13 **Transitional provisions for
amendments under Geothermal
Energy Act 2010**

‘186 **Land access code prevails over conditions**

‘If a condition of a 1923 Act petroleum tenure is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

‘187 **Existing compensation agreements other than for
notifiable road uses**

- ‘(1) This section applies if immediately before the commencement of this section a compensation agreement under part 6K was in force.*
- ‘(2) On the commencement the agreement becomes a conduct and compensation agreement under part 6K, division 1.*

‘188 **Existing entry notices**

- ‘(1) This section applies to an entry notice for the carrying out of an authorised activity for a 1923 Act petroleum tenure if the notice complied with the entry notice requirements before the commencement of this section.*
- ‘(2) The notice continues, according to its terms, to be valid for the carrying out of the activity after the commencement even though the notice does not comply with all of the entry notice requirements from the commencement.*
- ‘(3) In this section—*
entry notice requirements *means the requirements under this Act relating to the giving of an entry notice.*

[s 478]

‘189 References to geothermal tenure

‘Until the Geothermal Energy Act 2010, chapter 9, part 1 commences, a reference in this Act to a geothermal tenure is taken to be a reference to a geothermal exploration permit.’.

**Division 4 Amendment of Petroleum and Gas
(Production and Safety) Act 2004**

478 Act amended

The following provisions amend the Petroleum and Gas (Production and Safety) Act 2004—

- *this division*
- *part 1, division 6*
- *part 3, division 8*
- *schedule 2, parts 1, 2 and 4.*

479 Amendment of s 7 (Act does not affect other rights or remedies)

*Section 7(1), after ‘sections 294’—
insert—
, 563A’.*

480 Insertion of new ch 1, pt 3, div 3

*Chapter 1, part 3—
insert—*

‘Division 3 Land access code

‘24A Making of code

‘(1) A regulation may make a single code for all resource Acts (the land access code) that—

-
- (a) *states best practice guidelines for communication between the holders of authorities and owners and occupiers of private land; and*
- (b) *imposes on the authorities mandatory conditions concerning the conduct of authorised activities on private land.*

‘(2) *In this section—*

resource Acts means the following—

- *this Act*
- *the Geothermal Exploration Act 2004*
- *the Geothermal Energy Act 2010*
- *the GHG storage Act*
- *the Mineral Resources Act*
- *the 1923 Act.*’.

481 Replacement of s 74 (Obligation to consult with particular owners and occupiers)

Section 74—

omit, insert—

‘74 Obligation to consult with particular owners and occupiers

‘(1) *An authority to prospect holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the authority are proposed to be carried out or are being carried out.*

‘(2) *The consultation must be about—*

- (a) *access; and*
- (b) *the carrying out of authorised activities for the authority to prospect (including, for example, crossing access*

[s 482]

land for the authority) to the extent they relate to the owners and occupiers; and

- (c) *the authority to prospect holder's compensation liability to the owners or occupiers.'*

482 Replacement of s 153 (Obligation to consult with particular owners and occupiers)

Section 153—

omit, insert—

'153 Obligation to consult with particular owners and occupiers

'(1) *A petroleum lease holder must consult or use reasonable endeavours to consult with each owner and occupier of private or public land on which authorised activities for the lease are proposed to be carried out or are being carried out.*

'(2) *The consultation must be about—*

- (a) *access; and*
- (b) *the carrying out of authorised activities for the petroleum lease (including, for example, crossing access land for the lease) to the extent they relate to the owners and occupiers; and*
- (c) *the petroleum lease holder's compensation liability to the owners or occupiers.'*

483 Replacement of ch 5, pt 2, divs 1 to 2A

Chapter 5, part 2, divisions 1 to 2A—

omit, insert—

**‘Division 1 Requirements for entry to private
land in petroleum authority area**

**‘Subdivision 1 Entry notice requirement for
preliminary activities and particular
advanced activities**

‘495 Entry notice requirement

‘(1) A person must not—

- (a) enter private land in a petroleum authority’s area to carry out a preliminary activity for the authority; or*
- (b) enter private land in a petroleum authority’s area to carry out an advanced activity for the authority if either of the following applies for the entry—*
 - (i) the deferral agreement exemption;*
 - (ii) the Land Court application exemption;*

*unless the petroleum authority’s holder has given each owner and occupier of the land a written notice of the entry that complies with section 496 (an **entry notice**).*

Maximum penalty—500 penalty units.

‘(2) The entry notice must be given—

- (a) generally—at least 10 business days before the entry; or*
- (b) if, by a signed endorsement on the notice, the relevant owner or occupier has agreed to a shorter period—the shorter period.*

Maximum penalty—500 penalty units.

‘(3) The holder must give the chief executive a copy of the entry notice immediately after the notice is given and before entry is made under the petroleum authority.

Maximum penalty—10 penalty units.

[s 483]

‘(4) *A contravention of subsection (3) does not affect the validity of the notice or the entry.*

‘(5) *This section is subject to section 497.*

‘(6) *In this section—*

deferral agreement exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 500A(e)(i).

give, for an entry notice, includes publishing it in a way approved under section 499.

Land Court application exemption, for an entry, means that the conduct and compensation agreement requirement does not apply for the entry because of section 500A(e)(ii).

‘496 Required contents of entry notice

‘(1) *An entry notice must state the following—*

- (a) *the land proposed to be entered;*
- (b) *the period during which the land will be entered (the **entry period**);*
- (c) *the activities proposed to be carried out on the land;*
- (d) *when and where the activities are proposed to be carried out;*
- (e) *contact details for—*
 - (i) *the relevant petroleum authority holder; or*
 - (ii) *another person the holder has authorised to discuss the matters stated in the notice.*

‘(2) *Also, the first entry notice from the petroleum authority holder to a particular owner or occupier must be accompanied by or include a copy of—*

- (a) *the petroleum authority; and*
- (b) *the land access code; and*

- (c) *any code of practice made under this Act applying to authorised activities for the petroleum authority; and*
 - (d) *the relevant environmental authority documentation.*
- ‘(3) *The entry period can not be longer than—*
- (a) *generally—*
 - (i) *for an authority to prospect—6 months; or*
 - (ii) *for another petroleum authority—1 year; or*
 - (b) *if the relevant owner or occupier agrees in writing to a longer period—the longer period.*
- ‘(4) *Subject to subsections (1) to (3), an entry notice may state an entry period that is different to the entry period stated in another entry notice given by the petroleum authority holder to another owner or occupier of the land.*
- ‘(5) *In this section—*
- relevant environmental authority documentation*** *means—*
- (a) *if, under the Environmental Protection Act, the relevant environmental authority for the petroleum authority is a code compliant authority—the relevant code; or*
 - (b) *if, under the Environmental Protection Act, the relevant environmental authority for the petroleum authority is a non-code compliant authority—*
 - (i) *the environmental authority; and*
 - (ii) *if the environmental authority imposes conditions by referring to a code—that code.*

‘497 Exemptions from entry notice requirement

- ‘(1) *The requirement under section 495(1) to give an entry notice does not apply for an entry to land to carry out an authorised activity if any of the following apply—*
- (a) *the petroleum authority holder owns the land;*

[s 483]

- (b) *the holder has the right other than under this Act to enter the land to carry out the activity;*
 - (c) *if—*
 - (i) *there is a conduct and compensation agreement relating to the land; and*
 - (ii) *each eligible claimant for the land is a party to the agreement; and*
 - (iii) *the agreement includes a waiver of entry notice;*
 - (d) *the authority is a pipeline licence and an owner's permission under section 399 has been given for the land;*
 - (e) *the authority is a petroleum facility licence and an owner's permission under section 439 has been given for the land;*
 - (f) *the entry is to preserve life or property or because of an emergency that exists or may exist;*
 - (g) *the relevant owner or occupier has, by signed writing, given a waiver of entry notice.*
- '(2) *A waiver of entry notice mentioned in subsection (1) must comply with section 498(1).*

'498 Provisions for waiver of entry notice

- '(1) *A waiver of entry notice mentioned in section 497 must—*
- (a) *if it does not form part of a conduct and compensation agreement, be written and signed; and*
 - (b) *state the following—*
 - (i) *that the relevant owner or occupier has been told they are not required to agree to the waiver of entry notice;*
 - (ii) *the authorised activities proposed to be carried out on the land;*

- (iii) *the period during which the land will be entered;*
 - (iv) *when and where the activities are proposed to be carried out.*
- ‘(2) *The relevant owner or occupier can not withdraw the waiver of entry notice during the period.*
- ‘(3) *The waiver of entry notice ceases to have effect at the end of the period.*

‘499 Giving entry notice by publication

- ‘(1) *The chief executive may approve a petroleum authority holder giving an entry notice for the authority by publishing it in a stated way.*
- ‘(2) *The publication may relate to more than 1 entry notice.*
- ‘(3) *The chief executive may give the approval only if satisfied—*
- (a) *for a relevant owner or occupier who is an individual, it is impracticable to give the owner or occupier the notice personally; and*
 - (b) *the publication will happen at least 20 business days before the entry.*

‘Subdivision 2 Conduct and compensation agreement requirement for particular advanced activities

‘500 Conduct and compensation agreement requirement

- ‘(1) *A person must not enter private land in a petroleum authority’s area to carry out an advanced activity for the authority (the **relevant activity**) unless each eligible claimant for the land is a party to an appropriate conduct and compensation agreement.*

Maximum penalty—500 penalty units.

[s 483]

‘(2) *The requirement under subsection (1) is the **conduct and compensation agreement requirement**.*

Note—

For conduct and compensation agreements, see part 5.

‘(3) *In this section—*

***appropriate conduct and compensation agreement**, for an eligible claimant, means a conduct and compensation agreement about the holder’s compensation liability to the eligible claimant of at least to the extent the liability relates to the relevant activity and its effects.*

‘500A Exemptions from conduct and compensation agreement requirement

‘The conduct and compensation agreement requirement does not apply for an entry to land to carry out an advanced activity if any of the following apply—

- (a) the petroleum authority holder owns the land;*
- (b) the holder has a right to enter the land to carry out the activity and the right—*
 - (i) exists other than under this Act; and*
 - (ii) is not under an easement;*
- (c) the authority is a pipeline licence and an owner’s permission under section 399 has been given for the land;*
- (d) the authority is a petroleum facility licence and an owner’s permission under section 439 has been given for the land;*
- (e) each eligible claimant for the land is—*
 - (i) a party to an agreement, complying with section 500B, that a conduct and compensation agreement can be entered into after the entry (a **deferral agreement**); or*

- (ii) *an applicant or respondent to a Land Court application under section 537B relating to the land;*
- (f) *the entry is to preserve life or property or because of an emergency that exists or may exist.*

‘500B Requirements for deferral agreement

‘A deferral agreement must—

- (a) *be written and signed by or for the holder and each eligible claimant for the land to be entered; and*
- (b) *state the following—*
 - (i) *that the eligible claimant has been told the claimant is under no obligation to enter into a deferral agreement before entering into a conduct and compensation agreement;*
 - (ii) *the authorised activities proposed to be carried out on the land;*
 - (iii) *the period during which the land will be entered;*
 - (iv) *when and where the activities are proposed to be carried out;*
 - (v) *the period for which the deferral agreement has effect;*
 - (vi) *when it is proposed to enter into a conduct and compensation agreement.’.*

484 Amendment of s 512 (Change in ownership or occupancy)

Section 512(1)(b), from ‘the requirement’ to ‘before entry,’—
omit, insert—
‘section 495(2)’.

[s 485]

485 Replacement of ch 5, pt 5 (General compensation provisions)

Chapter 5, part 5—

omit, insert—

‘Part 5 Compensation and negotiated access

‘Division 1 Compensation other than for notifiable road uses and make good obligation

‘Subdivision 1 Preliminary

‘531 Application of div 1

‘This division does not apply for—

- (a) a public land authority in relation to a notifiable road use; or*
- (b) an effect that is, or is required to be, addressed in a make good agreement or a decision under chapter 2, part 9, division 6.*

‘Subdivision 2 General provisions

‘532 General liability to compensate

*‘(1) The holder of each petroleum authority is liable to compensate each owner or occupier of private land or public land in the area of, or access land for, the authority (an **eligible claimant**) for any compensatable effect the eligible claimant suffers that is caused by relevant authorised activities.*

(2) *A petroleum authority holder's liability under subsection (1) to an eligible claimant is the holder's **compensation liability** to the claimant.*

(3) *This section is subject to section 537E.*

(4) *In this section—*

***compensatable effect** means all or any of the following—*

(a) *all or any of the following relating to the eligible claimant's land—*

(i) *deprivation of possession of its surface;*

(ii) *diminution of its value;*

(iii) *diminution of the use made or that may be made of the land or any improvement on it;*

(iv) *severance of any part of the land from other parts of the land or from other land that the eligible claimant owns;*

(v) *any cost, damage or loss arising from the carrying out of activities under the petroleum authority on the land;*

(b) *accounting, legal or valuation costs the claimant necessarily and reasonably incurs to negotiate or prepare a conduct and compensation agreement, other than the costs of a person facilitating an ADR;*

Examples of negotiation—

an ADR or conference

(c) *consequential damages the eligible claimant incurs because of a matter mentioned in paragraph (a) or (b).*

***relevant authorised activities** means authorised activities for the petroleum authority carried out by the holder or a person authorised by the holder.*

‘Subdivision 3 General provisions for conduct and compensation agreements

‘533 Conduct and compensation agreement

- ‘(1) *An eligible claimant and a petroleum authority holder may enter into an agreement (a **conduct and compensation agreement**) about—*
- (a) how and when the petroleum authority holder may enter the land for which the eligible claimant is an eligible claimant; and*
 - (b) how authorised activities under the petroleum authority to the extent they relate to the eligible claimant must be carried out; and*
 - (c) the holder’s compensation liability to the claimant or any future compensation liability that the holder may have to the claimant.*
- ‘(2) *However, a conduct and compensation agreement can not be inconsistent with this Act, a condition of the petroleum authority or a mandatory provision of the land access code and is unenforceable to the extent of the inconsistency.*
- ‘(3) *A conduct and compensation agreement may relate to all or part of the liability or future liability.*
- ‘(4) *If the petroleum authority is a pipeline licence or petroleum facility licence, a compensation agreement about the holder’s compensation liability may be included in an easement relating to the licence.*

‘534 Content of conduct and compensation agreement

- ‘(1) *A conduct and compensation agreement must—*
- (a) provide for the matters mentioned in section 533(1); and*
 - (b) be written and signed by or for the petroleum authority holder and the eligible claimant; and*

-
- (c) *state whether it is for all or part of the compensation liability; and*
- (d) *if it is for only part of the compensation liability, state—*
- (i) *details of each activity or effect of the activity to which the agreement relates; and*
 - (ii) *the period for which the agreement has effect; and*
- (e) *provide for how and when the compensation liability will be met.*
- ‘(2) *A conduct and compensation agreement may—*
- (a) *extend the holder’s compensation liability to the claimant or any future compensation liability that the holder may have to the claimant to any renewal of the petroleum authority; and*
 - (b) *provide for—*
 - (i) *monetary or non-monetary compensation; or*
Example of non-monetary compensation—
A conduct and compensation agreement may provide for the construction of a road for the claimant.
 - (ii) *a process by which it may be amended or enforced; and*
Example of a process for amendment—
A conduct and compensation agreement may provide for compensation under it to be reviewed on the happening of a material change in circumstances for the petroleum authority including a change in the extent of activities required under a later development plan for a petroleum lease.
 - (c) *provide for any compensation that is or may be payable by the holder to the eligible claimant under the Environmental Protection Act.*
- ‘(3) *This section does not limit the matters that may be provided for in a conduct and compensation agreement.*

[s 485]

‘Subdivision 4 Negotiation process

Note—

Generally, a petroleum authority holder can not enter private land to carry out an advanced activity unless the holder complies with this subdivision. See sections 500 and 500A.

‘535 Notice of intent to negotiate

- ‘(1) A petroleum authority holder may give an eligible claimant to whom the holder has a compensation liability a notice (the **negotiation notice**) that the holder wishes to negotiate a conduct and compensation agreement or a deferral agreement with the eligible claimant.*
- ‘(2) The negotiation notice must be accompanied by a copy of the land access code and state all of the following—*
- (a) if the holder wishes to negotiate a conduct and compensation agreement—*
 - (i) whether the holder wishes to negotiate all or part of the holder’s compensation liability to the eligible claimant; and*
 - (ii) if the holder only wishes to negotiate part of the liability—what the part is;*
 - (b) if the holder wishes to negotiate a deferral agreement—that wish and the reasons for it;*
 - (c) the land the holder proposes to enter;*
 - (d) the activities proposed to be carried out on the land;*
 - (e) when and where the activities are proposed to be carried out;*
 - (f) if the holder is a corporation—contact details for the holder and an individual the holder has authorised to negotiate the agreement.*

‘(3) *The petroleum authority holder must give the chief executive a copy of the negotiation notice immediately after it is given.*

Maximum penalty for subsection (3)—10 penalty units.

‘536 Negotiations

‘(1) *On the giving of the negotiation notice, the petroleum authority holder and the eligible claimant (the **parties**) must use all reasonable endeavours to negotiate a conduct and compensation agreement or a deferral agreement (a **relevant agreement**).*

‘(2) *The period of the negotiations—*

*(a) must be at least for the period provided for under section 536A (the **minimum negotiation period**); but*

(b) may continue for as long as the parties wish.

‘(3) *If, during the minimum negotiation period, the parties enter into a relevant agreement the petroleum authority holder can not enter the relevant land to carry out advanced activities for the authority until the period ends.*

‘(4) *Subsection (3) applies despite the terms of the agreement.*

‘536A Provision for the minimum negotiation period

‘(1) *Generally, the minimum negotiation period is 20 business days from the giving of the negotiation notice (the **usual period**).*

‘(2) *Either party may, within the usual period, ask the other to agree to a longer minimum negotiation period because of stated reasonable or unforeseen circumstances.*

‘(3) *If the other party so agrees, the longer minimum negotiation period is the minimum negotiation period.*

[s 485]

‘537 Cooling-off during minimum negotiation period

- ‘(1) *This section applies if the parties enter into a conduct and compensation agreement or a deferral agreement during the minimum negotiation period.*
- ‘(2) *Either of the parties may, within the minimum negotiation period, terminate the agreement by giving notice to the other party.*
- ‘(3) *On the giving of a notice under subsection (2), the terminated agreement is taken never to have had any effect.*
- ‘(4) *To remove any doubt, it is declared that subsection (3) does not change the time when the negotiation notice was given.*

‘537A Parties may seek conference or independent ADR

- ‘(1) *This section applies if, at the end of the minimum negotiation period, the parties have not entered into a conduct and compensation agreement or deferral agreement.*
- ‘(2) *Either party may by a notice (an **election notice**)—*
 - (a) *to the other party and an authorised officer—ask for an authorised officer to call a conference to negotiate a conduct and compensation agreement; or*
 - (b) *to the other party—call upon them to agree to an alternative dispute resolution process (an **ADR**) to negotiate a conduct and compensation agreement.*
- ‘(3) *If the notice calls for an ADR, it must—*
 - (a) *identify the ADR; and*
 - (b) *state that the party giving the notice agrees to bear the costs of the person who will facilitate the ADR.*
- ‘(4) *An ADR may be a process of any kind including, for example, arbitration, conciliation, mediation or negotiation.*
- ‘(5) *However, the facilitator must be independent of either party.*

‘537AB Conduct of conference or ADR

- ‘(1) *This section applies if an election notice is given.*
- ‘(2) *If a conference was requested—*
 - (a) *the authorised officer must take all reasonable steps to ensure the conference is finished within 20 business days after the notice is given (the **usual period**); and*
 - (b) *chapter 10, part 1AA applies for the conference.*
- ‘(3) *If an ADR was called for, the parties must use reasonable endeavours to finish it within 20 business days after the giving of the notice (also the **usual period**).*
- ‘(4) *Either party may, within the usual period, ask the other to agree to a longer period to finish the conference or ADR because of stated reasonable or unforeseen circumstances.*
- ‘(5) *If the parties agree to the longer period, that period applies instead of the usual period.*
- ‘(6) *If an ADR was called for, section 734E applies to the ADR as if a reference in the section to a conference were a reference to an ADR.*

Editor’s note—

section 734E (What happens if a party does not attend)

‘Subdivision 5 Deciding compensation through Land Court

‘537B Land court may decide if negotiation process unsuccessful

- ‘(1) *This section applies if an election notice is given and—*
 - (a) *a party asked an authorised officer to call a conference and the authorised officer does not finish it within the period required under section 537AB (the **required period**); or*

[s 485]

(b) *a party called for an ADR and the person facilitating the ADR does not finish it within the period required under section 537AB (also the **required period**).*

‘(2) *This section also applies if an election notice is given and—*

(a) *only 1 party attended the conference requested or ADR called for; or*

(b) *both parties attended the conference or ADR and, at the end of the required period, there is no conduct and compensation agreement between the parties.*

‘(3) *An eligible party may apply to the Land Court for it to decide the petroleum authority holder’s—*

(a) *compensation liability to the claimant; or*

(b) *future compensation liability to the claimant for an authorised activity for the petroleum authority proposed to be carried out by or for the holder.*

‘(4) *However, the Land Court may decide the liability or future liability only to the extent it is not subject to a conduct and compensation agreement.*

‘(5) *In hearing the application, the Land Court must as much as practicable ensure the hearing happens together with, or as closely as possible to, the hearing of any relevant environmental compensation application.*

‘(6) *In this section—*

***eligible party** means a party who attended the conference or ADR.*

***relevant environmental compensation application** means an application to the Land Court for compensation that is or may be payable by the petroleum authority holder to the eligible claimant under the Environmental Protection Act.*

‘537C Land Court review of compensation

‘(1) *This section applies if—*

-
- (a) *the compensation liability or future compensation liability of a petroleum authority holder to an eligible claimant has been agreed to under a conduct and compensation agreement or decided by the Land Court (the **original compensation**); and*
- (b) *there has been a material change in circumstances (the **change**) since the agreement or decision.*
- ‘(2) *The eligible claimant or the holder may apply to the Land Court for it to review the original compensation.*
- ‘(3) *In carrying out the review, the Land Court may review the original compensation only to the extent it is affected by the change.*
- ‘(4) *If the Land Court considers the original compensation is not affected by the change, it must not carry out or continue with the review.*
- ‘(5) *The Land Court may, after carrying out the review, decide to confirm the original compensation or amend it in a way the court considers appropriate.*
- ‘(6) *If the decision is to amend the compensation, the original compensation as amended under the decision is, for this Act, taken to be the original compensation.*

‘537D Orders Land Court may make

- ‘(1) *The Land Court may make any order it considers appropriate to meet or enforce its decision on an application under this part.*
- ‘(2) *Without limiting subsection (1), the Land Court may order non-monetary compensation as well as monetary compensation.*

[s 485]

‘Subdivision 6 Additional Land Court jurisdiction for compensation and related matters

‘537DA What sdiv 6 is about

- ‘(1) This subdivision provides for additional matters for which the Land Court has jurisdiction.*
- ‘(2) The jurisdiction is subject to subdivisions 1 to 5.*

‘537DB Additional jurisdiction

- ‘(1) This section applies to a petroleum authority holder and an eligible claimant (the **parties**) if any of the following apply—*
 - (a) the petroleum authority holder has carried out a preliminary activity;*
 - (b) the parties can not reach agreement about a conduct and compensation agreement;*
 - (c) there is a conduct and compensation agreement or deferral agreement between the parties.*
- ‘(2) The Land Court may do all or any of the following—*
 - (a) assess all or part of the relevant petroleum authority holder’s compensation liability to another party;*
 - (b) decide a matter related to the compensation liability;*
 - (c) declare whether or not a proposed authorised activity for the relevant petroleum authority would, if carried out, interfere with the carrying out of lawful activities by the eligible claimant;*
 - (d) make any order it considers necessary or desirable for a matter mentioned in paragraph (a), (b) or (c).*

Example—

The Land Court declares that a particular proposed authorised activity interferes with the carrying out of lawful activities by the

eligible claimant. It may also order that a stated modification of, or reduction in, the activity would remove the interference.

‘537DC Jurisdiction to impose or vary conditions

‘(1) *In deciding a matter mentioned in section 537DB(2), the Land Court may—*

- (a) impose any condition it considers appropriate for the exercise of the parties’ rights; or*
- (b) vary any existing condition under an agreement between the parties.*

‘(2) *The variation may be made on any ground the Land Court considers appropriate.*

‘(3) *The imposed or varied condition is taken to be—*

- (a) if there is an agreement between the parties—a condition of the agreement; or*
- (b) if there is no agreement between the parties—an agreement between the parties.*

‘(4) *In this section—*

agreement *means a conduct and compensation agreement.*

condition *means a condition of or for a conduct and compensation agreement.*

‘Subdivision 7 Miscellaneous provision

‘537E Compensation not affected by change in ownership or occupancy

‘(1) *A conduct and compensation agreement or a Land Court decision under this part is for the benefit of, and is taken to have been agreed to or decided for and is binding on, the following—*

- (a) the relevant eligible claimant;*

[s 486]

- (b) *the petroleum authority holder;*
- (c) *each of their successors and assigns including successors and assigns for the area of the relevant petroleum authority.*

‘(2) *Subsection (1) is subject to section 537C.*

‘Division 2 Compensation for notifiable road uses’.

486 Replacement of ss 555 and 556

Sections 555 and 556—

omit, insert—

‘555 Compliance with land access code

‘A petroleum authority holder must—

- (a) *comply with the mandatory provisions of the land access code to the extent it applies to the holder; and*
- (b) *ensure any other person carrying out an authorised activity for the petroleum authority complies with the mandatory provisions of the land access code.’.*

487 Insertion of new s 563A

Chapter 5, part 8, division 3—

insert—

‘563A Limitation of owner’s or occupier’s tortious liability for authorised activities

‘(1) *This section applies to an owner or occupier of land in the area of a petroleum authority if—*

- (a) *someone else carries out an authorised activity for a petroleum authority on the land; or*

- (b) *someone else carries out an activity on the land and, in doing so, purports to be carrying out an authorised activity for a petroleum authority.*
- ‘(2) *The owner or occupier is not civilly liable to anyone else for a claim based in tort for damages relating to the carrying out of the activity.*
- ‘(3) *However, subsection (2) does not apply to the extent the owner or occupier, or someone else authorised by the owner or occupier, caused, or contributed to, the harm the subject of the claim.*
- ‘(4) *This section applies—*
- (a) *despite any other Act or law; and*
- (b) *even though this Act or the petroleum authority prevents or restricts the carrying out of the activity as an authorised activity for the authority.*
- ‘(5) *Subject to subsection (2), in this section, the terms claim, damages and harm have the same meaning that they have under the Civil Liability Act 2003.’.*

488 Replacement of ch 10, hdg (Investigations and enforcement)

Chapter 10, heading—

omit, insert—

‘Chapter 10 Conferences, investigations and enforcement

‘Part 1AA Conferences with eligible claimants or owners and occupiers

‘Division 1 Preliminary

‘734B Application of pt 1AA

- ‘(1) This part applies if an authorised officer is given an election notice by a petroleum authority holder or an eligible claimant asking for a conference.*
- ‘(2) This part also applies if—*
- (a) an owner or occupier of land who is concerned about any of the following gives an authorised officer notice of the concerns—*
 - (i) that someone claiming to act under a petroleum authority, or to have entered land on the authority holder’s instructions—*
 - (A) is not authorised to be on the land; or*
 - (B) is not complying with a provision of this Act or a condition of the petroleum authority;*
 - (ii) activities being, or proposed to be, carried out on the land apparently under a petroleum authority (including when the activities are being, or are to be, carried out);*
 - (iii) the conduct on the land of someone apparently acting under a petroleum authority; or*
 - (b) a petroleum authority holder who is concerned about something relevant to the authority involving the holder and the owner or occupier of land gives an authorised officer notice of the concerns; or*
 - (c) for another reason, an authorised officer considers it desirable to call a conference to discuss concerns about a petroleum authority.*

‘Division 2 Calling conference and attendance

‘734C Calling conference

- ‘(1) If this part applies because of the giving of an election notice, the authorised officer must, by notice, ask the petroleum authority holder and the eligible claimant (the **parties**) to attend a conference by the authorised officer about negotiating a conduct and compensation agreement.*
- ‘(2) If this part applies under section 734B(2), the authorised officer may, by notice, ask the petroleum authority holder and the owner or occupier or other person with an interest in the concerns (also the **parties**) to attend a conference by the authorised officer about the concerns.*
- ‘(3) The notice must state when and where the conference will be held and what is to be discussed at the conference.*

‘734D Who may attend conference

- ‘(1) Apart from the authorised officer, anyone given notice of the conference may attend and take part in the conference.*
- ‘(2) Also, with the authorised officer’s approval, someone else may be present to help a person attending the conference.*
- ‘(3) However, a party can not be represented by a lawyer unless the parties agree and the authorised officer is satisfied there is no disadvantage to a party.*

‘734E What happens if a party does not attend

- ‘(1) This section applies if a party given notice of the conference does not attend.*
- ‘(2) The authorised officer may hold the conference even though someone given notice of it does not attend.*

[s 488]

Note—

If the conference was called because of an election notice and only 1 party attends, the Land Court may decide the issue of compensation. See section 537B.

- ‘(3) A party who attended the conference may apply to the Land Court for an order requiring the party who did not attend to pay the attending party’s reasonable costs of attending.*
- ‘(4) The Land Court must not order the party who did not attend to pay costs if it is satisfied the party had a reasonable excuse for not attending.*
- ‘(5) If the Land Court makes the order, it must decide the amount of the costs.*

‘Division 3 Conduct of conference

‘734F Authorised officer’s role

- ‘(1) In conducting the conference, the authorised officer must endeavour to help those attending to reach an early and inexpensive settlement of the subject of the conference.*
- ‘(2) Subject to section 537AB, the authorised officer is to decide how the conference is to be conducted.*

‘734G Statements made at conference

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

‘734H Agreement made at conference

- ‘(1) If, at the conference, the parties negotiate an agreement about the concerns the subject of the conference, the agreement must be written and signed by or for the parties.*
- ‘(2) The agreement—*

- (a) *may, if appropriate, be a conduct and compensation agreement or an amendment of an existing conduct and compensation agreement between the parties; and*
- (b) *has the same effect as any other compromise.’*

489 Amendment of s 780 (Power to give compliance direction)

Section 780(1)(a) and (b)—

omit, insert—

- ‘(a) has contravened, or is contravening, any of the following (an **enforced instrument**)—*
- (i) this Act;*
 - (ii) the GHG storage Act;*
 - (iii) a mandatory provision of the land access code; or*
- (b) is involved in an activity that is likely to result in a contravention of an enforced instrument.’*

490 Amendment of s 781 (Requirements for giving compliance direction)

Section 781—

insert—

- ‘(3) The direction may be given orally if—*
- (a) for any reason it is not practicable to give the direction in writing; and*
 - (b) the inspector or authorised officer giving it warns the person it is an offence not to comply with the direction.*
- ‘(4) If the direction is given orally, the inspector or authorised officer must confirm the direction by also giving it in writing as soon as practicable after giving it orally.’*

[s 491]

491 Insertion of new ch 15, pt 10, div 2

*Chapter 15, part 10, as inserted under this Act—
insert—*

‘Division 2 Provisions about land access and compensation

‘948 Land access code prevails over conditions

‘If a condition of a petroleum authority is inconsistent with a mandatory provision of the land access code, the mandatory provision prevails to the extent of the inconsistency.

‘949 Existing compensation agreements other than for notifiable road uses

- ‘(1) This section applies if immediately before the commencement of this section a compensation agreement under chapter 5, part 5 was in force.*
- ‘(2) On the commencement the agreement becomes a conduct and compensation agreement under chapter 5, part 5, division 1.*

‘950 Existing entry notices

- ‘(1) This section applies to an entry notice for the carrying out of an authorised activity for a petroleum authority if the notice complied with the entry notice requirements before the commencement of this section.*
- ‘(2) The notice continues, according to its terms, to be valid for the carrying out of the activity after the commencement even though the notice does not comply with all of the entry notice requirements from the commencement.*
- ‘(3) In this section—*
entry notice requirements means the requirements under this Act relating to the giving of an entry notice.

‘951 References to geothermal tenure

‘Until the Geothermal Energy Act 2010, chapter 9, part 1 commences, a reference in this Act to a geothermal tenure is taken to be a reference to a geothermal exploration permit.’.

492 Amendment of sch 2 (Dictionary)

(1) *Schedule 2, definitions compensation agreement, compensation application, compensation liability, eligible claimant, entry notice, entry period, negotiation notice, private land, public land and waiver of entry notice—*

omit.

(2) *Schedule 2—*

insert—

‘ADR see section 537A(2)(b).

***advanced activity**, for a provision about a petroleum authority, means an authorised activity for the authority other than a preliminary activity for the authority.*

Examples—

- *levelling of drilling pads and digging sumps*
- *earthworks associated with pipeline installation*
- *vegetation clear-felling*
- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*
- *carrying out a seismic survey using explosives*
- *constructing a track or access road*
- *changing a fence line*

***compensation application**, for chapter 5, part 5, division 2, means an application made under section 537H(1).*

compensation liability—

(a) for chapter 5, part 5, division 1—see section 532(2); or

[s 492]

(b) for chapter 5, part 5, division 2—see section 537F(2).

conduct and compensation agreement see section 533(1).

conduct and compensation agreement requirement see section 500(2).

deferral agreement see section 500A(e)(i).

election notice see section 537A(2).

eligible claimant, for compensation, see section 532(1).

entry notice—

(a) for chapter 5, part 2, division 1, subdivision 1—see section 495(1); or

(b) for chapter 5, part 3—see section 526(2)(b).

land access code see section 24A.

mandatory provision, of the land access code, means a provision of that code that the code requires compliance with.

minimum negotiation period see section 536(2)(a).

negotiation notice—

(a) for chapter 2, part 6, division 3, subdivision 4—see section 221(2)(a); or

(b) for chapter 5, part 5, division 1, subdivision 4—see section 535(1).

parties—

(a) for chapter 5, part 5, division 1, subdivision 4—see section 536(1); or

(b) for chapter 10, part 1AA—see section 734C.

preliminary activity—

1 A preliminary activity, for a provision about a petroleum authority, means an authorised activity for the permit or licence that will have no impact, or only a minor impact, on the business or land use activities of any owner or

occupier of the land on which the activity is to be carried out.

Examples—

- *walking the area of the permit or licence*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging*

2 *However, the following are not preliminary activities—*

(a) *an authorised activity carried out on land that—*

(i) *is less than 100ha; and*

(ii) *is being used for intensive farming or broadacre agriculture;*

Examples—

- *land used for dryland or irrigated cropping, plantation forestry or horticulture*
- *a dairy, cattle or sheep feedlot, piggery or poultry farm*

(b) *an authorised activity carried out within 600m of a school or an occupied residence;*

(c) *an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.*

private land—

1 *Private land is—*

(a) *freehold land; or*

(b) *an interest in land less than fee simple held from the State under another Act.*

2 *However, land is not private land to the extent of an interest in any of the following relating to the land—*

[s 492]

- (a) *a mining interest;*
- (b) *a petroleum authority or 1923 Act petroleum tenure;*
- (c) *a GHG authority;*
- (d) *a geothermal tenure;*
- (e) *an occupation right under a permit under the Land Act 1994.*

3 *Also, land owned by a public land authority is not private land.*

public land means land other than—

- (a) *private land; or*
- (b) *to the extent an interest in any of the following relates to the land—*
 - (i) *a mining interest;*
 - (ii) *a petroleum authority or 1923 Act petroleum tenure;*
 - (iii) *a GHG authority;*
 - (iv) *a geothermal tenure;*
 - (v) *an occupation right under a permit under the Land Act 1994.*

relevant owner or occupier, for a provision about entry notices, means the owner or occupier to whom the entry notice is to be given, or would be given, other than for an exemption from the requirement to give an entry notice.

waiver of entry notice—

- (a) *for chapter 5, part 2—means a waiver of entry notice mentioned in section 497 that complies with section 498(1); or*
 - (b) *for chapter 5, part 3—see section 526(3).’.*
- (3) *Schedule 2, definition occupier, paragraph 1(i)—*

omit, insert—

‘(i) the person, under an Act, or, for freehold land, a lease registered under the Land Title Act 1994, has a right to occupy the place, other than under a mining interest, petroleum authority, 1923 Act petroleum tenure, GHG authority or geothermal tenure; or’.

Part 3 Other amendments

Division 1 Amendment of Aboriginal Land Act 1991

493 Act amended

This division and schedule 2, part 4 amend the Aboriginal Land Act 1991.

494 Replacement of s 42 (Reservations of minerals and petroleum)

Section 42—

omit, insert—

‘42 Resource reservations under resource Acts

‘A deed of grant of transferred land must contain the reservations to the State taken to be contained in the grant under the following—

- the Geothermal Energy Act 2010, section 29*
- the Greenhouse Gas Storage Act 2009, section 28*
- the Mineral Resources Act 1989, section 8*
- the Petroleum Act 1923, section 10*

[s 495]

- *the Petroleum and Gas (Production and Safety) Act 2004, section 27.*

495 Replacement of s 80 (Reservations of minerals and petroleum)

Section 80—

omit, insert—

‘80 Resource reservations under other Acts

‘A deed of grant of granted land and an Aboriginal lease must contain the reservations to the State taken to be contained in the grant under the following—

- *the Geothermal Energy Act 2010, section 29*
- *the Greenhouse Gas Storage Act 2009, section 28*
- *the Mineral Resources Act 1989, section 8*
- *the Petroleum Act 1923, section 10*
- *the Petroleum and Gas (Production and Safety) Act 2004, section 27.*

Division 2 Amendment of Environmental Protection Act 1994

496 Act amended

This division and schedule 2, part 4 amend the Environmental Protection Act 1994.

497 Amendment of s 309A (What this chapter is about)

(1) *Section 309A(1)(b)—*

renumber as section 309A(1)(c).

(2) *Section 309A(1)—*

insert—

‘(b) geothermal activities, unless under the Geothermal Act the activities are—

- (i) geothermal exploration for exempt heat pump production or to evaluate the feasibility of exempt heat pump production; or*
- (ii) exempt heat pump production; or*
- (iii) other geothermal production that, under the Geothermal Act, is not of a large-scale; and*

Notes—

- 1 The Geothermal Act does not regulate activities mentioned in subparagraphs (i) and (ii). For the exclusions, see sections 16, 35, 77 and 321 of that Act.*
- 2 However, other legislation may regulate those activities. See the Sustainable Planning Act 2009 and the Plumbing and Drainage Act 2002.’*

498 Amendment of s 309D (What is a relevant resource authority)

(1) Section 309D(2), definition resource authority, paragraphs (b) to (d)—

renumber as paragraphs (c) to (e).

(2) Section 309D(2), definition resource authority—

insert—

‘(b) a geothermal tenure under the Geothermal Act; or’.

499 Amendment of s 309I (Restriction)

Section 309I—

insert—

‘Note—

A person can not apply for an environmental authority (chapter 5A activities) for the following activities because under section 309A(1)(b)

[s 500]

they are not a chapter 5A activity—

- (a) geothermal exploration for any of the following—
 - (i) exempt heat pump production;*
 - (ii) to evaluate the feasibility of exempt heat pump production;**
- (b) geothermal production that, under the Geothermal Act, section 16 is not of a large-scale.’.*

500 Insertion of new ch 13, pt 16

Chapter 13—

insert—

**‘Part 16 Transitional provisions for
Geothermal Energy Act 2010**

**‘664 Deferral of requirement for environmental authority
for existing authorised geothermal activities**

- ‘(1) This section applies if—
 - (a) immediately before the commencement of this section, a geothermal activity was authorised to be carried out under the repealed Geothermal Exploration Act 2004; and*
 - (b) a person was carrying out the activity before the commencement.**
- ‘(2) Section 426A does not apply to the person—
 - (a) within 12 months after the commencement; and*
 - (b) if, within the 12 months, the person applies for an environmental authority (chapter 5A activities) for the carrying out of the activity—until the application has been decided.**

‘665 Deferral of requirement for environmental authority for Birdsville geothermal lease

- ‘(1) *This section applies for the geothermal lease that, under the Geothermal Act, section 389(1) Ergon Energy is taken to have been granted on the date of assent of that Act.*
- ‘(2) *Section 426A does not apply to Ergon Energy or another person who, under the Geothermal Act, carries out an authorised activity for the lease—*
- (a) within 12 months after the commencement of this section; and*
 - (b) if, within the 12 months, Ergon Energy applies for an environmental authority (chapter 5A activities) for authorised activities for the lease—until the application has been decided.*
- ‘(3) *In this section—*
- Ergon Energy** means Ergon Energy Corporation Limited ACN 087 646 062 or anyone else who holds the lease mentioned in subsection (1).’.*

501 Amendment of sch 4 (Dictionary)

- (1) *Schedule 4—*
- insert—*
- ‘**Geothermal Act** means the Geothermal Energy Act 2010.*
- geothermal activities** means—*
- (a) activities that, under the Geothermal Act, are authorised activities for a geothermal tenure; or*
 - (b) rehabilitating or remediating environmental harm because of activities mentioned in paragraph (a); or*
 - (c) actions taken to prevent environmental harm because of activities mentioned in paragraph (a) or (b); or*

[s 502]

- (d) *activities required under a condition of an environmental authority for activities mentioned in paragraph (a), (b) or (c); or*
- (e) *activities required under a condition of an environmental authority for activities mentioned in paragraph (a), (b) or (c) that has ended or ceased to have effect, if the condition—*
 - (i) *continues to apply after the authority has ended or ceased to have effect; and*
 - (ii) *has not been complied with.*

Note—

For conditions that continue to apply after the authority has ended, see sections 309Z and 310O (Conditions that may and must be imposed).

- (2) *Schedule 4, definition greenhouse gas storage activities, ‘an activity’—*
omit, insert—
‘activities’.
- (3) *Schedule 4, definition greenhouse gas storage activities, paragraph (c), ‘action’—*
omit, insert—
‘actions’.

Division 3 Amendment of Greenhouse Gas Storage Act 2009

502 Act amended

This division, part 1, division 3, part 2, division 1 and schedule 2, parts 1, 2 and 4 amend the Greenhouse Gas Storage Act 2009.

503 Amendment of s 183 (What is an overlapping authority)

(1) Section 183, heading, ‘overlapping authority’—

omit, insert—

‘**overlapping resource authority**’.

(2) Section 183(1)(b) and (c)—

omit, insert—

‘(b) a geothermal lease;

(c) a mining lease;

(d) a petroleum lease.’.

504 Amendment of s 187 (Other provisions about and effect of GHG coordination arrangement)

Section 187(1)(c), after ‘coordination arrangement under the P&G Act’—

insert—

‘or a geothermal coordination arrangement under the Geothermal Act’.

505 Amendment of s 197 (Content requirements for GHG statement)

(1) Section 197(1)(b)—

omit.

(2) Section 197(2), before paragraph (b)—

omit.

506 Replacement of ch 4, pt 4 (Priority to particular mining or petroleum lease applications)

Chapter 4, part 4—

omit, insert—

- (b) *if an application is made for the other proposed lease within the 2 years—that application is decided.*

‘216 Proposed geothermal, mining or petroleum lease declared a significant project

- ‘(1) *This section applies for a GHG lease application if—*
- (a) *before the making of the application, a significant project was declared; and*
 - (b) *the project is or includes a proposed geothermal lease, mining lease or petroleum lease (the **other proposed lease**) for land the subject of the application.*
- ‘(2) *The application must not be decided until—*
- (a) *if no application is made for the other proposed lease within 1 year after the making of the declaration—the end of that year; or*
 - (b) *if an application is made for the other proposed lease within that year—that application is decided.’.*

507 Replacement of s 219 (Overlapping mining or petroleum lease)

Section 219—

omit, insert—

‘219 Overlapping geothermal, mining or petroleum lease

- ‘(1) *This section applies if land is in the area of both of the following—*
- (a) *a GHG permit or GHG data acquisition authority (the **GHG authority**);*
 - (b) *a geothermal lease, mining lease or petroleum lease (a **relevant lease**).*
- ‘(2) *However, this section does not apply if the same person holds the GHG authority and the relevant lease.*

[s 508]

- ‘(3) *An authorised activity for the GHG authority may be carried out on the land only if—*
- (a) the relevant lease holder has not, in the way required under subsection (4), objected to—*
 - (i) the carrying out of the activity; or*
 - (ii) if the P&G Act safety provisions require a safety management plan for the GHG authority holder—the safety management plan; or*
 - (b) if an objection under paragraph (a) has been made—the Minister has, under section 221, decided the authorised activity may be carried out.*

Note—

For notice of authorised activities, see section 223.

- ‘(4) *The objection must be in the approved form and given to the Minister and the GHG authority holder.*

Note—

See also the Mineral Resources Act, section 403 (Offences regarding land subject to mining claim or mining lease).’.

508 Amendment of s 228 (Consistency with overlapping authority’s development plan and with any relevant coordination arrangement)

- (1) *Section 228, heading, ‘overlapping authority’s’—*
omit, insert—
‘overlapping resource authority’s’.
- (2) *Section 228(1), after ‘consistent with any’—*
insert—
‘geothermal coordination arrangement or’.

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

(1) Section 257(1)(b), after ‘notice’—

insert—

‘in the approved form’.

(2) Section 257(3)—

omit, insert—

‘(3) A notice by the chief executive under subsection (1)(b) may state—

(a) *a format required for giving the information; and*

(b) *a degree of precision required for the giving of the information.’.*

510 Amendment of s 263 (Former petroleum wells assumed by GHG tenure holder)

Section 263, ‘under the P&G Act, section 292(3)(c),’—

omit, insert—

‘, under the 1923 Act, section 75U or the P&G Act, section 292.’.

511 Amendment of s 265 (Application of div 2)

Section 265(b), ‘under the P&G Act, section 292(3)(c),’—

omit, insert—

‘, under the 1923 Act, section 75U or the P&G Act, section 292.’.

512 Amendment of s 316 (Application of pt 9)

Section 316(1)(e)—

[s 513]

omit, insert—

‘(e) a geothermal tenure.’.

513 Amendment of s 317 (Access to land in area of mining lease or petroleum lease)

(1) *Section 317, heading—*

omit, insert—

‘317 Access if second authority is a lease’.

(2) *Section 317, ‘is a mining lease or a petroleum lease’—*

omit, insert—

‘is a lease’.

514 Amendment of s 318 (Access to land in area of another type of authority)

(1) *Section 318, heading—*

omit, insert—

‘318 Access if second authority is not a lease’.

(2) *Section 318(1), ‘is not a mining lease or a petroleum lease’—*

omit, insert—

‘is not a lease’.

515 Amendment of s 386 (Restriction on GHG storage activities)

Section 386(2)(a) and (b)—

omit, insert—

‘(a) was for the purpose of enhanced petroleum recovery and was authorised under the 1923 Act or the P&G Act; and

(b) *was for the purpose of production testing or geothermal production under the Geothermal Act and was authorised under that Act.*'

516 Amendment of s 413 (Additional information may be required about application)

Section 413(3)—

omit, insert—

'(3) *For subsection (1)(b), the notice may require the statutory declaration—*

(a) *to be made by an appropriately qualified independent person or by the applicant; or*

(b) *if the applicant is a corporation—to be made for the applicant by an executive officer of the applicant.*'

517 Amendment of sch 2 (Dictionary)

(1) *Schedule 2, definitions Geothermal Act and geothermal exploration permit—*

omit.

(2) *Schedule 2—*

insert—

'1923 Act petroleum tenure see the 1923 Act, section 2.

Geothermal Act means the Geothermal Energy Act 2010.

geothermal lease see the Geothermal Act, section 19(1)(b).

geothermal permit see the Geothermal Act, section 19(1)(a).

geothermal tenure see the Geothermal Act, section 19(2).

resource Act see section 26A.'

(3) *Schedule 2, definition dangerous situation, 'petroleum or fuel gas or a GHG stream'—*

omit, insert—

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‘geothermal activity under the Geothermal Act, a GHG stream or petroleum or fuel gas’.

- (4) *Schedule 2, definition dangerous situation, after ‘inspector’—
insert—
‘under the P&G Act’.*

Division 4 Amendment of Land Title Act 1994

518 Act amended

This division amends the Land Title Act 1994.

519 Amendment of s 185 (Exceptions to s 184)

- (1) *Section 185(1)—*

insert—

‘(j) the interest of a geothermal tenure holder under the Geothermal Energy Act 2010 under an access agreement under that Act that—

- (i) was made before the registered proprietor became the registered proprietor of the lot; and
(ii) under that Act, binds the registered proprietor.’.*

- (2) *Section 185(1), note—*

omit, insert—

‘Note—

For when an access agreement mentioned in paragraph (h), (i) or (j) binds the registered proprietor, see the following—

- for the Petroleum and Gas (Production and Safety) Act 2004—sections 507 and 509 of that Act*
- for the Greenhouse Gas Storage Act 2009—sections 292 and 294 of that Act*

- *for the Geothermal Energy Act 2010—sections 225 and 226 of that Act.*

Division 5 Amendment of Mineral Resources Act 1989

520 Act amended

This division, part 1, division 4, part 2, division 2 and schedule 2, part 2 amend the Mineral Resources Act 1989.

521 Replacement of s 3B (Relationship with Greenhouse Gas Storage Act 2009)

Section 3B—

omit, insert—

‘3B Relationship with Geothermal Energy Act 2010 and Greenhouse Gas Storage Act 2009

*‘The relationship between this Act, the Geothermal Energy Act 2010 (the **Geothermal Act**), the Greenhouse Gas Storage Act 2009 (the **GHG storage Act**) and authorities under them is provided for under—*

- (a) part 7AAC; and*
- (b) the Geothermal Act, chapter 5; and*
- (c) the GHG storage Act, chapter 4.’*

522 Amendment of s 51 (Land for which mining claim not to be granted)

Section 51(1)(f)—

omit.

[s 523]

523 Amendment of s 248 (Applicant must obtain consent or views of existing authority holders)

(1) Section 248(1), from ‘land—’—

omit, insert—

*‘land in the area of an existing exploration permit, mineral development licence or mining lease (the **existing authority**) held by someone else.’.*

(2) Section 248(3), from ‘application if—’—

omit, insert—

‘application if the lease applied for is for different minerals to those covered by the existing authority.’.

524 Amendment of s 249 (Later applicant must obtain consent or views of earlier applicant if same land affected)

Section 249(1)(a), ‘geothermal exploration permit,’—
omit.

525 Replacement of pt 7AAC (Provisions for GHG authorities)

Part 7AAC—

omit, insert—

‘Part 7AAC Provisions for geothermal tenures and GHG authorities

‘Division 1 Preliminary

‘318ELAM Relationship with pts 3 to 7AAB

‘(1) Requirements and restrictions under this part apply as well as any relevant requirements and restrictions under parts 3 to 7AAB.’

-
- ‘(2) If this part imposes a requirement for or a restriction on the granting of a mining lease, the mining lease can not be granted if the restriction applies or if the requirement has not been complied with.*
 - ‘(3) If a provision of this part conflicts with a provision of any of parts 3 to 7AAB the provision of this part prevails to the extent of the inconsistency.*
 - ‘(4) This part does not otherwise limit or affect the requirements of parts 3 to 7AAB.*
 - ‘(5) Subsection (6) applies if this part imposes a requirement for or a restriction on the carrying out of an authorised activity for a mining tenement.*
 - ‘(6) Despite parts 3 and 7, the activity is not an authorised activity for the mining tenement while the restriction applies or if the requirement has not been complied with.*

‘318ELAN What is an overlapping authority (geothermal or GHG)

- ‘(1) An overlapping authority (geothermal or GHG), for a mining tenement, is any geothermal tenure or GHG authority all or part of the area of which is in the mining tenement’s area.*
- ‘(2) An overlapping authority (geothermal or GHG), for a proposed mining tenement, is any geothermal tenure or GHG authority all or part of the area of which will, if the proposed mining tenement is granted, be in the mining tenement’s area.*

‘318ELAO General provision about mining tenements for land subject to geothermal tenure or GHG authority

‘Subject to the other provisions of this part and parts 3 to 7AAB, the Geothermal Act, GHG storage Act, a geothermal tenure or a GHG authority does not limit or otherwise affect—

- (a) the power under this Act to grant a mining tenement over land in the area of an overlapping authority*

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(geothermal or GHG) for the proposed mining tenement; or

- (b) the carrying out of authorised activities for a mining tenement.*

‘Division 2 Obtaining mining lease if overlapping tenure

‘Subdivision 1 Preliminary

‘318ELAP Application of div 2

‘This division applies if—

- (a) a person (the **applicant**) wishes to make a mining lease application; and*
- (b) there is an overlapping authority (geothermal or GHG) for the proposed mining lease; and*
- (c) the overlapping authority (geothermal or GHG) is a geothermal tenure or GHG tenure (the **overlapping tenure**).*

‘Subdivision 2 Requirements for application

‘318ELAQ Requirements for making application

‘(1) The mining lease application must include—

- (a) a statement complying with section 318ELAR (an **information statement**); and*
- (b) other information addressing the matters mentioned in subsection (2) (the **assessment criteria**).*

Note—

Part 7AA, division 9 also imposes development plan requirements for a proposed coal mining lease or oil shale mining lease.

- (2) The assessment criteria are—*
- (a) the potential for the parties to make the following for the proposed mining lease—*
 - (i) for a geothermal tenure—a geothermal coordination arrangement;*
 - (ii) for a GHG tenure—a GHG coordination arrangement; and*
 - (b) the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed mining lease and the overlapping tenure; and*
 - (c) the public interest.*

‘318ELAR Content requirements for information statement

‘The information statement must assess—

- (a) the likely effect of proposed activities under the proposed mining lease on the future carrying out of authorised activities for the overlapping tenure; and*
- (b) the technical and commercial feasibility of coordinating the proposed activities and the future carrying out of the authorised activities.*

‘Subdivision 3 Consultation provisions

‘318ELAS Applicant’s information obligation

- (1) The applicant must within 10 business days after making the mining lease application give the overlapping tenure holder a copy of the application.*

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‘(2) *If the Minister is reasonably satisfied the applicant has not complied with subsection (1), the Minister may refuse the mining lease application.*

‘318ELAT Submissions by overlapping tenure holder

‘(1) *The overlapping tenure holder may lodge submissions about the mining lease application (**holder submissions**) at the relevant departmental office.*

‘(2) *However, holder submissions may be lodged only within 4 months after the holder is given a copy of the application.*

‘(3) *Holder submissions may do all or any of the following—*

(a) *state that the holder does not object to the granting of the proposed mining lease;*

(b) *if the overlapping tenure is a geothermal permit or GHG permit—*

(i) *state that the holder does not wish any priority for the carrying out of authorised activities for any future lease that may arise from the permit (**overlapping authority priority**); or*

(ii) *include a proposal by the overlapping tenure holder for the authorised activities for which overlapping authority priority is sought;*

(c) *include information about authorised activities carried out under the overlapping tenure;*

(d) *include information relevant to the assessment criteria.*

‘(4) *The holder must give the applicant a copy of the holder submissions.*

‘Subdivision 4 Resource management decision if overlapping permit

‘318ELAU Application of sdiv 4

- ‘(1) *This subdivision applies if—*
- (a) *the overlapping tenure is a geothermal permit or GHG permit (the **overlapping permit**); and*
 - (b) *the overlapping permit holder has lodged holder submissions within 4 months after the holder was given a copy of the application; and*
 - (c) *the submissions state that the holder wishes overlapping authority priority.*
- ‘(2) *However, this subdivision does not apply if under the Geothermal Act, chapter 5 or the GHG storage Act, chapter 4, overlapping authority priority has been given for any of the relevant land.*

Note—

If this subdivision does not apply, the mining lease application proceeds immediately to a decision under part 7 as affected by subdivision 7.

‘318ELAV Operation of sdiv 4

*‘This subdivision provides for the Minister to make a decision (the **resource management decision**) about whether to—*

- (a) *recommend, under section 271, the grant of the mining lease; or*
- (b) *give any overlapping authority priority for all or part of the relevant land; or*
- (c) *not to recommend the granting of the mining lease and not to give any overlapping authority priority for all or part of the relevant land.*

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‘318ELAW Criteria for decision

‘The Minister must consider the following in making the resource management decision—

- (a) the information statement;*
- (b) the assessment criteria;*
- (c) the holder submissions;*
- (d) the public interest.*

‘318ELAX Restrictions on giving overlapping authority priority

‘Overlapping authority priority may be given only if the Minister considers—

- (a) either—*
 - (i) it is unlikely the applicant and the overlapping permit holder will enter into—*
 - (A) for a geothermal permit—a geothermal coordination arrangement; or*
 - (B) for a GHG permit—a GHG coordination arrangement; or*
 - (ii) an arrangement mentioned in subparagraph (i) for the proposed mining lease is not commercially or technically feasible; and*
- (b) the public interest would be best served by not granting a mining lease to the applicant first.*

‘Subdivision 5 Process if resource management decision is to give overlapping authority priority

‘318ELAY Application of sdiv 5

‘This subdivision applies only if under subdivision 4, a

resource management decision is required and the decision is to give overlapping authority priority for all or part of the relevant land.

‘318ELAZ Notice to applicant and overlapping permit holder

- ‘(1) *The chief executive must give the applicant and the overlapping permit holder written notice of the resource management decision.*
- ‘(2) *The notice must invite the overlapping permit holder to, within 6 months after the giving of the notice (the **overlapping authority application period**), apply for a lease as follows (an **overlapping lease**) for the land mentioned in subsection (3)—*
 - (a) *if the overlapping permit is a geothermal permit—a geothermal lease;*
 - (b) *if the overlapping permit is a GHG permit—a GHG lease.*
- ‘(3) *For subsection (2), the land is—*
 - (a) *if the overlapping authority priority is for all of the land—for all of the land; or*
 - (b) *if the priority is for part of the land—for that part.*

‘318ELBA Overlapping lease application for all of the land

- ‘(1) *This section applies if—*
 - (a) *the overlapping authority priority is for all of the land; and*
 - (b) *within the overlapping authority application period the overlapping permit holder applies for an overlapping lease for all of the land.*
- ‘(2) *A further step can not be taken to decide the mining lease application until after the overlapping lease application has been decided.*

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Note—

The Geothermal Act, chapter 5, part 5 and the GHG storage Act, chapter 4, part 5 provide for refusal of the overlapping lease application if it is not pursued in a timely manner.

- ‘(3) If the decision on the overlapping lease application is to grant an overlapping lease for all of the land, the mining lease application is taken to have lapsed.*

‘318ELBB Overlapping lease application for part of the land

- ‘(1) This section applies if the overlapping permit holder applies for an overlapping lease for part of the land within the overlapping authority application period.*
- ‘(2) The person who made the mining lease application may amend it so that a mining lease is only sought for all or part of the rest of the land.*
- ‘(3) Unless the amendment is made, a further step can not be taken to decide the mining lease application until after the overlapping lease application has been decided.*
- ‘(4) If—*
- (a) the amendment has not been made; and*
 - (b) the decision on the overlapping lease application is to grant an overlapping lease for part of the land;*

the person who made the mining lease application may amend it so that a mining lease is only sought for all or part of the rest of the land.

Note—

If the mining lease application is not amended, see section 318ELBF (Application may be refused if no reasonable prospects of future geothermal or GHG coordination arrangement).

‘318ELBC No overlapping lease application

‘If the overlapping permit holder does not apply for an overlapping lease for any of the land within the overlapping

authority application period, the mining lease application may be decided.

‘Subdivision 6 Resource management decision not to recommend grant and not to give priority

‘318ELBD Lapsing of application

‘The mining lease application is taken to have lapsed if—

- (a) under subdivision 4, a resource management decision is required; and*
- (b) the decision was not to recommend the granting of the mining lease and not to give any overlapping authority priority for any of the relevant land.*

‘Subdivision 7 Deciding application

‘318ELBE Application of sdiv 7

‘This subdivision applies only if—

- (a) the overlapping tenure holder has not lodged holder submissions within 4 months after the holder was given a copy of the application (the **submission period**) or at all; or*
- (b) the overlapping tenure holder has lodged holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or*
- (c) under subdivision 4, a resource management decision is required and—*

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- (i) *the resource management decision is not to give overlapping authority priority for any of the relevant land; or*
- (ii) *the resource management decision is to give overlapping authority priority for all or part of the relevant land and after subdivision 5 has been complied with the Minister decides to recommend the granting of a mining lease for the land.*

‘318ELBF Application may be refused if no reasonable prospects of future geothermal or GHG coordination arrangement

‘(1) This section applies if—

- (a) *the Minister is satisfied the applicant and the overlapping tenure holder have made reasonable attempts to reach the following (a **relevant arrangement**)—*
 - (i) *if the overlapping tenure is a geothermal permit—a proposed geothermal coordination arrangement;*
 - (ii) *if the overlapping tenure is a GHG permit—a proposed GHG coordination arrangement; and*
- (b) *either—*
 - (i) *the overlapping tenure holder has lodged a written notice at the relevant departmental office stating there are no reasonable prospects of a relevant arrangement being made; or*
 - (ii) *a relevant arrangement has not been lodged for approval by the Minister and the Minister considers the applicant and the overlapping tenure holder have had a reasonable opportunity to make a relevant arrangement.*

‘(2) The Minister may decide to refuse the application without making any recommendation to the Governor in Council about the application.

‘318ELBG Additional criteria for deciding provisions of mining lease

‘(1) *In making a recommendation as follows, regard must be had to the prescribed criteria—*

- (a) recommending conditions of the mining lease, to be determined under section 276(1)(n);*
- (b) recommending, under section 284, the term of the mining lease.*

‘(2) *In this section—*

prescribed criteria means all of the following—

- (a) the information statement;*
- (b) the assessment criteria;*
- (c) any holder submissions;*
- (d) the effect of the mining lease on the safe and efficient carrying out of authorised activities for the overlapping tenure;*
- (e) for an overlapping permit—the effect of the mining lease on the safe and efficient carrying out of authorised activities for any future lease that may arise from the permit.*

‘318ELBH Publication of outcome of application

‘(1) *After the Governor in Council decides whether or not to grant the mining lease, the chief executive must publish a notice about the outcome of the mining lease application in or on at least 1 of the following—*

- (a) the gazette;*
- (b) the department’s website;*
- (c) another publication the chief executive considers appropriate.*

‘(2) *The notice must state—*

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- (a) *the decision; and*
 - (b) *if the decision was to grant the mining lease—all conditions decided by the Governor in Council; and*
 - (c) *if, under subdivision 4, a resource management decision is required and the decision is to give overlapping authority priority for all or part of the land—the decision and the reasons for it.*
- ‘(3) *However, if the chief executive considers information in a condition is commercial-in-confidence, the chief executive may instead of publishing the condition publish a statement about its intent.*

‘Division 3 Priority to particular geothermal or GHG lease applications

‘318ELBI Earlier geothermal or GHG lease application

‘If—

- (a) *a mining lease application is made; and*
- (b) *before the making of that application, an application (the **other application**) was made for a geothermal lease or GHG lease (the **other proposed lease**) but not decided; and*
- (c) *the other application had not been decided before the making of the mining lease application; and*
- (d) *the other proposed lease would, if it were granted, be an overlapping authority (geothermal or GHG) for the proposed mining lease;*

the mining lease application must not be decided until the other application has been decided.

‘318ELBJ Proposed geothermal or GHG lease for which EIS approval given

- ‘(1) *This section applies for a mining lease application if—*
- (a) *before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2 was granted for the voluntary preparation of an EIS; and*
 - (b) *the EIS is for a project that is, or includes, a proposed geothermal lease or GHG lease (the **proposed lease**) for land the subject of the application.*
- ‘(2) *The application must not be decided until—*
- (a) *if no application is made for the proposed lease within 1 year after the granting of the approval—the end of that year; or*
 - (b) *if an application is made for the proposed lease within that year—that application is decided.*

‘318ELBK Proposed GHG lease declared a significant project

- ‘(1) *This section applies for a mining lease application if—*
- (a) *before the making of the mining lease application a significant project was declared; and*
 - (b) *the project is, or includes, a proposed geothermal lease or GHG lease (the **proposed lease**) for land the subject of the application.*
- ‘(2) *The application must not be decided until—*
- (a) *if no application is made for the proposed lease within 1 year after the making of the declaration—the end of that year; or*
 - (b) *if an application is made for the proposed lease within that year—that application is decided.*

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**‘Division 4 Mining lease applications in
 response to invitation under
 Geothermal Act or GHG storage Act**

‘318ELBL Application of div 4

‘This division applies if—

- (a) *a mining lease application is made in response to an invitation given because of a resource management decision under the Geothermal Act or the GHG storage Act; and*
- (b) *the application is made within 6 months after the giving of the invitation.*

‘318ELBM Minister may refuse application

‘The Minister may, without making any recommendation to the Governor in Council about the application, decide to refuse the application if satisfied the applicant has not in a timely manner—

- (a) *taken any step for the application required of the applicant under part 7, part 7AA or this part; or*
- (b) *satisfied the Minister about a matter that, under part 7, part 7AA or this part, is required for the Minister to recommend the granting of the mining lease.*

**‘Division 5 Additional provisions for particular
 mining tenements**

**‘Subdivision 1 Restrictions on authorised activities
 for particular mining tenements**

‘318ELBN Prospecting permit overlapping with geothermal or GHG lease

- ‘(1) *This section applies if—*
- (a) *land in the area of a prospecting permit is in the area of a geothermal lease or GHG lease; and*
 - (b) *the prospecting permit and the geothermal lease or GHG lease are not held by the same person.*
- ‘(2) *An authorised activity for the prospecting permit may be carried out on the land only if—*
- (a) *the geothermal lease or GHG lease holder has not, in the way required under subsection (3), objected to the carrying out of the activity; or*
 - (b) *if an objection under paragraph (a) has been made—the Minister has, under section 318ELBP, decided the authorised activity may be carried out.*

Note—

For notice of authorised activities, see section 318ELBS.

- ‘(3) *The objection must be written and given to the prospecting permit holder and lodged at the relevant departmental office.*

‘318ELBO Other overlapping authorities

- ‘(1) *This section applies if land is in the area of a mining tenement and a geothermal tenure or GHG authority and section 318ELBN does not apply.*
- ‘(2) *An authorised activity for the mining tenement can not be carried out on the land if—*
- (a) *carrying out the activity adversely affects the carrying out of an authorised activity for the geothermal tenure or GHG authority; and*
 - (b) *the authorised activity for the geothermal tenure or GHG authority has already started.*

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'318ELBP Resolving disputes

- '(1) This section applies if, under section 318ELBN, a geothermal lease or GHG lease holder has objected to the carrying out of an authorised activity by a prospecting permit holder.*
- '(2) This section also applies if—*
- (a) section 318ELBO applies to a mining tenement holder and a geothermal tenure or GHG authority holder; and*
 - (b) there is a dispute between the holders about whether an authorised activity for the mining tenement can be carried out under that section.*
- '(3) Either of the parties may, by a notice in the approved form, ask the Minister to decide—*
- (a) for section 318ELBN—whether the authorised activity may be carried out under that section; or*
 - (b) for section 318ELBO—whether the authorised activity may be carried out under that section.*
- '(4) Before making the decision, the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.*
- '(5) The Minister must, after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.*
- '(6) The Minister's decision binds the parties.*
- '(7) If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.*
- '(8) In this section—*
- parties*** means—
- (a) for a request about a matter mentioned in subsection (1)—the authority to prospect holder and the geothermal lease or GHG lease holder; or*

-
- (b) *for a request about a matter mentioned in subsection (2)—the mining tenement holder and the geothermal tenure or GHG authority holder.*

‘Subdivision 2 Provisions about conditions

‘318ELBQ Notice by particular mining tenement holders to particular geothermal tenure or GHG authority holders or applicants

- ‘(1) *This section applies if—*
- (a) *a mining tenement as follows is granted—*
 - (i) *a mining claim;*
 - (ii) *a mineral development licence;*
 - (iii) *an exploration permit; and*
 - (b) *land in the mining tenement’s area is in the area of, or in a proposed area under an application for, a geothermal tenure or GHG authority other than a geothermal lease or GHG lease.*
- ‘(2) *It is a condition of the mining tenement that its holder must within 20 business days after the holder receives notice of the grant of the tenement give the geothermal tenure or GHG authority holder or the applicant a written notice stating—*
- (a) *the mining tenement has been granted; and*
 - (b) *the mining tenement holder’s name; and*
 - (c) *the term of the mining tenement.*

‘318ELBR Restriction on recommendation to vary conditions of particular mining leases

‘If there is an overlapping authority (geothermal or GHG) for a mining lease, a recommendation under section 294 for the variation of a condition of the mining lease must not be made

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unless the interests of the authority holder have been considered.

‘318ELBS Condition to notify particular authority holders of proposed start of designated activities

‘(1) *This section applies to a mining tenement holder if there is either of the following (the **other authority**) for the mining tenement—*

- (a) an overlapping authority (geothermal or GHG);*
- (b) a geothermal tenure or GHG authority sharing a common boundary with the mining tenement.*

‘(2) *Before the mining tenement holder first starts a designated activity in the other authority’s area, the mining tenement holder must give the other authority holder at least 30 business days notice of the activity.*

‘(3) *A notice under subsection (2) must be written and state—*

- (a) when the designated activity is to start; and*
- (b) where the designated activity is to be carried out; and*
- (c) the nature of the activity.*

‘(4) *Before changing the land on which the designated activity is being carried out, the mining tenement tenure holder must give the other authority holder at least 30 business days notice in writing stating where the activity is to be carried out.*

‘(5) *Compliance with this section is a condition of the mining tenement.*

‘(6) *In this section—*

***designated activity** means any authorised activity for the mining tenement, other than—*

- (a) an authorised activity for the mining tenement that is the same as or similar to an incidental activity under the Petroleum and Gas (Production and Safety) Act, section 33 or 112; or*

- (b) *an activity only involving selecting places where other authorised activities for the mining tenement may be carried out.*

‘318ELBT Requirement to continue geothermal or GHG coordination arrangement after renewal of or dealing with mining lease

‘(1) *This section applies if—*

- (a) *a mining lease has an overlapping authority (geothermal or GHG) that is a geothermal lease or GHG lease (the **other lease**); and*
- (b) *a geothermal coordination arrangement or GHG coordination arrangement applies to the mining lease; and*
- (c) *a renewal, assignment, consolidation or subletting takes place for the mining lease.*

‘(2) *It is a condition of the mining lease that its holder must continue to be a party to a GHG coordination arrangement for the mining lease while the other lease continues in force.*’.

526 Amendment of s 403 (Offences regarding land subject to mining claim or mining lease)

Section 403(1)(d), ‘Geothermal Exploration Act 2004’—
omit, insert—
‘Geothermal Act’.

527 Insertion of new pt 19, div 13, sdiv 3

Part 19, division 13, as inserted under this Act—
insert—

‘Subdivision 3 Provisions for enactment of Geothermal Energy Act 2010

‘780 Definitions for sdiv 3

‘In this subdivision—

***converted geothermal permit** means a geothermal exploration permit under the repealed Geothermal Exploration Act 2004 that, under the Geothermal Act, chapter 9, part 2 becomes a geothermal permit.*

***start day** means the day section 318ELAM commences.*

‘781 Existing mining tenement applications

‘(1) This section applies to a mining tenement application if—

(a) it was made before the start day; and

(b) there is an overlapping geothermal tenure for the proposed mining tenement.

‘(2) The repealed coordination provisions cease to apply to the mining tenement application.

‘(3) Part 7AAC applies to the mining tenement application.

‘(4) If the mining tenement application is for a mining lease, subsections (5) to (9) apply for the application of part 7AAC under subsection (3).

‘(5) The mining lease application is taken to have been validly made even though it was made without complying with the requirements under section 318ELAQ.

‘(6) However, the applicant must, as soon as practicable after the start day, lodge with the mining registrar documents for the mining lease application that comply with the requirements.

‘(7) A reference to a mining lease application is taken to be a reference to the mining lease application and the documents.

‘(8) *A reference to the making of a mining lease application is taken to be a reference to the lodgement of the documents.*

‘(9) *In this section—*

***converted geothermal permit application** means a tender under the repealed Geothermal Exploration Act 2004 for a proposed geothermal exploration permit that, under the Geothermal Act, chapter 9, part 2 becomes an application for a geothermal permit.*

***overlapping geothermal tenure** means a geothermal tenure that is an overlapping authority (geothermal or GHG) for the proposed mining tenement, as defined under section 318ELAN.*

***repealed coordination provisions** means the following provisions as in force before the start day—*

- (a) sections 51 and 248 to the extent they applied for a converted geothermal permit;*
- (b) section 249 to the extent it applied for a converted geothermal permit application.*

‘782 Existing mining claims consented to by geothermal permit holder

‘(1) *This section applies to a mining claim granted before the start day for land in the area of a converted geothermal permit.*

‘(2) *Part 7AAC, division 5, subdivision 1 does not apply if the permit holder’s written consent to the grant was given under section 51(1)(f) as in force before the start day.*

Editor’s note—

Part 7AAC, division 5, subdivision 1 (Restrictions on authorised activities for particular mining tenements).’.

528 Amendment of sch 2 (Dictionary)

- (1) Schedule, definitions applicant, second mention, geothermal exploration permit, GHG assessment criteria, GHG public*

[s 528]

interest, GHG statement, holder submissions, overlapping authority priority, overlapping GHG authority and overlapping GHG lease application period—

omit.

(2) *Schedule 2—*

insert—

‘applicant, for part 7AAC, see section 318ELAP(a).

assessment criteria, for part 7AAC, see section 318ELAQ(1)(b).

Geothermal Act see section 3B.

geothermal coordination arrangement see the Geothermal Act, section 138(4).

geothermal lease see the Geothermal Act, section 19(1)(b).

geothermal permit see the Geothermal Act, section 19(1)(a).

geothermal tenure see the Geothermal Act, section 19(2).

holder submissions see section 318ELAT(1).

information statement, for part 7AAC, see section 318ELAQ(1)(a).

overlapping authority application period, for part 7AAC, see section 318ELAZ(2).

overlapping authority (geothermal or GHG) see section 318ELAN.

overlapping authority priority see section 318ELAT(3)(b)(i).

overlapping lease, for part 7AAC, see section 318ELAZ(2).

overlapping permit, for part 7AAC, see section 318ELAU(1)(a).’

(3) *Schedule, definition authorised activity—*

insert—

‘4 An authorised activity, for a geothermal tenure, is an activity that its holder is, under the Geothermal Act or

the tenure, entitled to carry out in relation to the tenure.’.

Division 6 Amendment of Pest Management Act 2001

529 Act amended

This division amends the Pest Management Act 2001.

530 Amendment of s 7 (Non-application of Act)

Section 7(f)—

omit, insert—

‘(f) a pest control activity that—

(i) relates to using a chemical to treat timber for preservation on a commercial basis; and

(ii) is an environmentally relevant activity under the Environmental Protection Act 1994;

Note—

See also section 145 (Non-application of Act to use of timber preservative treatment under authorisation).’.

531 Amendment of pt 7 hdg (Savings and transitional provisions)

Part 7, heading, after ‘provisions’—

insert—

‘for Act No. 103 of 2001’.

532 Insertion of new pt 8

After section 144—

(ii) *dimensional stability*.

repealed Act means the repealed *Timber Utilisation and Marketing Act 1987*.

Note—

The repealed Act was repealed under the Geothermal Energy Act 2010, section 387.

timber means the wood of any tree, shrub, palm, grass or vine, including, for example, hardboard, chipboard, particle board, fibre board, insulation board and similar materials and plywood.

TUMA chief executive means the chief executive of the department in which the repealed Act was administered.’

Division 7 Amendment of Petroleum Act 1923

533 Act amended

This division, part 1, division 5, part 2, division 3 and schedule 2, parts 2 and 4 amend the Petroleum Act 1923.

534 Amendment of s 2 (Definitions)

(1) *Section 2, definition first tenure, overlapping GHG authority, second tenure—*

omit.

(2) *Section 2—*

insert—

‘first authority, for part 6J, see section 79M(1).

Geothermal Act see section 4A.

geothermal activity see the Geothermal Act, section 18.

geothermal coordination arrangement see the Geothermal Act, section 138(4).

[s 535]

geothermal lease see the Geothermal Act, section 19(1)(b).

geothermal permit see the Geothermal Act, section 19(1)(a).

geothermal tenure see the Geothermal Act, section 19(2).

overlapping authority (geothermal or GHG), for part 6FA, see section 78CB.

overlapping tenure, for part 6FA, see section 78CH(b).

second authority, for part 6J, see section 79M(1).’.

(3) Section 2, definition authorised activity—

insert—

‘4 An authorised activity, for a geothermal tenure, is an activity that its holder is, under the Geothermal Act or the tenure, entitled to carry out or exercise in relation to the tenure.’.

535 Replacement of s 4A (Relationship with Greenhouse Gas Storage Act 2009)

Section 4A—

omit, insert—

‘4A Relationship with Geothermal Act and Greenhouse Gas Storage Act 2009

‘The relationship between this Act, the Geothermal Energy Act 2010 (the **Geothermal Act**) and the Greenhouse Gas Storage Act 2009 (the **GHG storage Act**) and authorities under them is provided for under—

(a) section 40(1A) and part 6FA; and

(b) the Geothermal Act, chapter 5; and

(c) the GHG storage Act, chapter 4.’.

536 Omission of s 24A (Prohibition on carrying out activities prohibited under Geothermal Exploration Act 2003)

Section 24A—

omit.

537 Amendment of s 40 (Lease to holder of authority to prospect)

Section 40(1A), ‘or a GHG storage activity’—

omit, insert—

‘, a GHG authority or a geothermal tenure’.

538 Replacement of s 75R (Transfer of well to holder of geothermal exploration permit or mining tenement)

Section 75R—

omit, insert—

‘75R Transfer of well to holder of geothermal tenure or mining tenement

‘A 1923 Act petroleum tenure holder may transfer a well in the 1923 Act petroleum tenure’s area to the holder of a geothermal tenure or mining tenement if—

- (a) the well is in the geothermal tenure’s or mining tenement’s area; and*
- (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged at—*
 - (i) the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or*
 - (ii) if no office is gazetted under subparagraph (i)—the office of the chief executive; and*
- (c) the Minister approves the transfer.’.*

[s 539]

539 Replacement of pt 6FA (Provisions for GHG authorities)

Part 6FA—

omit, insert—

‘Part 6FA Provisions for geothermal tenures and GHG authorities

‘Division 1 Preliminary

‘78CA Relationship with other provisions

- ‘(1) Requirements and restrictions under this part apply as well as any relevant requirements and restrictions under another provision of this Act.*
- ‘(2) This part does not otherwise limit or affect relevant requirements or restrictions under another provision of this Act.*

‘78CB What is an overlapping authority (geothermal or GHG)

‘An overlapping authority (geothermal or GHG), for a 1923 Act petroleum tenure, is any geothermal tenure or GHG authority all or part of the area of which is in the 1923 Act petroleum tenure’s area.

‘78CC General provision about 1923 Act petroleum tenures for land subject to geothermal tenure or GHG authority

‘Subject to the other provisions of this part, the Geothermal Act, GHG storage Act, a geothermal tenure or a GHG authority does not limit or otherwise affect the carrying out of authorised activities for a 1923 Act petroleum tenure.

**‘Division 2 Restrictions on authorised activities
for authorities to prospect**

‘78CD Overlapping geothermal or GHG lease

- ‘(1) *This section applies if—*
- (a) *land in the area of an authority to prospect is in the area of a geothermal lease or GHG lease; and*
 - (b) *the authority to prospect and the GHG lease are not held by the same person.*
- ‘(2) *An authorised activity for the authority to prospect may be carried out on the land only if—*
- (a) *the geothermal lease or GHG lease holder has not in the way required under subsection (3), objected to the carrying out of the activity; or*
 - (b) *if an objection under paragraph (a) has been made—the Minister has, under section 78CF, decided the authorised activity may be carried out.*

Note—

For notice of authorised activities, see section 78CM.

- ‘(3) *The objection must be written, given to the authority to prospect holder and lodged at the relevant departmental office.*

‘78CE Overlaps with geothermal permit or particular GHG authorities

- ‘(1) *This section applies if land is in the area of an authority to prospect and any of the following (the **other authority**)—*
- (a) *a geothermal permit;*
 - (b) *a GHG authority other than a GHG lease.*
- ‘(2) *An authorised activity for the authority to prospect can not be carried out on the land if—*

[s 539]

- (a) *carrying out the activity adversely affects the carrying out of an authorised activity for the other authority; and*
- (b) *the authorised activity for the other authority has already started.*

‘78CF Resolving disputes about the restrictions

- ‘(1) *This section applies if, under section 78CD, a geothermal lease or GHG lease holder has objected to the carrying out of an authorised activity by an authority to prospect holder.*
- ‘(2) *This section also applies if there is a dispute between an authority to prospect holder and a geothermal permit or GHG authority holder about whether an authorised activity for the authority to prospect can be carried out under section 78CE.*
- ‘(3) *Either of the parties may by a notice in the approved form ask the Minister to decide—*
 - (a) *for section 78CD—whether the authorised activity may be carried out under that section; or*
 - (b) *for section 78CE—whether the authorised activity may be carried out under that section.*
- ‘(4) *Before making the decision, the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.*
- ‘(5) *The Minister must after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.*
- ‘(6) *The Minister’s decision binds the parties.*
- ‘(7) *If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.*
- ‘(8) *In this section—*
parties means—

-
- (a) *for a request about a matter mentioned in subsection (1)—the authority to prospect holder and the geothermal lease or GHG lease holder; or*
 - (b) *for a request about a matter mentioned in subsection (2)—the authority to prospect holder and the geothermal permit or GHG authority holder.*

**‘Division 3 Leases with overlapping
geothermal tenure or GHG authority**

**‘Subdivision 1 Continuance of coordination
arrangements after renewal or
dealing**

**‘78CG Requirement to continue geothermal or GHG
coordination arrangement**

- ‘(1) This section applies if—*
- (a) *a lease under this Act has an overlapping authority (geothermal or GHG) that is a geothermal lease or GHG lease (the **other lease**); and*
 - (b) *a geothermal coordination arrangement or GHG coordination arrangement applies to the lease under this Act; and*
 - (c) *any of the following take place for the lease under this Act—*
 - (i) *a renewal;*
 - (ii) *a transfer;*
 - (iii) *a subletting of the lease or a share in the lease.*
- ‘(2) It is a condition of the lease under this Act that its holder must continue to be a party to the following for the lease while the other lease continues in force—*

[s 539]

- (a) *if the other lease is a geothermal lease—a geothermal coordination arrangement;*
- (b) *if the other lease is a GHG lease—a GHG coordination arrangement.*

‘Subdivision 2 Later development plans

‘78CH Operation of sdiv 2

‘This subdivision imposes additional requirements for a proposed later development plan for a lease if—

- (a) *there is an overlapping authority (geothermal or GHG) for the lease; and*
- (b) *the overlapping authority (geothermal or GHG) is a geothermal tenure or a GHG tenure (the **overlapping tenure**).*

‘78CI Statement about interests of overlapping tenure holder

‘The proposed plan must include a statement of how the effects on and the interests of the overlapping tenure holder have or have not been considered having regard to the following—

- (a) *the provisions of the 2004 Act, chapter 9;*
- (b) *the attempts made by the applicant to consult with the overlapping tenure holder about the applicant’s proposed development plan and proposed safety management plan for the lease;*
- (c) *any changes to the proposed plans to give effect to any reasonable proposal by the overlapping tenure holder;*

- (d) *the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed lease and the overlapping tenure;*
- (e) *the public interest.*

‘78CJ Consistency with overlapping tenure’s development plan and with any relevant coordination arrangement

- ‘(1) *To the extent the area of the lease and the overlapping tenure will coincide, the proposed plan must be consistent with any geothermal coordination arrangement or GHG coordination arrangement for that area.*
- ‘(2) *Subsection (3) applies only if the overlapping tenure is a geothermal lease or GHG lease.*
- ‘(3) *The proposed plan must to the extent the area of the lease and the overlapping tenure coincide or will coincide, be consistent with the overlapping tenure’s development plan.*

‘Division 4 Provisions for all 1923 Act petroleum tenures

‘Subdivision 1 Safety management plans

‘78CK Requirements for consultation with particular overlapping tenure holders

- ‘(1) *This section applies if—*
 - (a) *a person (an **operator**) proposes to be an operator of operating plant in the area of a 1923 Act petroleum tenure; and*
 - (b) *activities (**relevant activities**) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient carrying out of authorised activities*

[s 539]

for an overlapping authority (geothermal or GHG) for the 1923 Act petroleum tenure; and

- (c) the overlapping authority (geothermal or GHG) is an overlapping tenure.*
- ‘(2) Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the overlapping tenure holder about relevant activities for the plant.*
- ‘(3) If there is more than 1 operator, the 1923 Act petroleum tenure holder may coordinate the consultation between the operators and the overlapping tenure holder.*
- ‘(4) For subsection (2), an operator is taken to have made reasonable attempts to consult if—*
 - (a) the operator gives the overlapping tenure holder a copy of the parts of the operator’s proposed safety management plan concerning any relevant operating plant the operator proposes to operate for the relevant activities; and*
 - (b) the overlapping tenure holder has not within 30 days after the giving of the copy made any proposal to the operator about provisions for the plan.*
- ‘(5) An operator must, before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the overlapping tenure holder concerning relevant activities for the plant.*
- ‘(6) However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant 1923 Act petroleum tenure holder.*
- ‘(7) If an operator makes a safety management plan for relevant operating plant and the plan includes provisions proposed by the overlapping tenure holder, the operator must—*

- (a) *give the overlapping tenure holder a copy; and*
- (b) *lodge at the relevant departmental office a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.*

‘(8) *In this section—*

remaking, a safety management plan, includes an amendment or remaking of the plan of a type required under the 2004 Act, section 678.

‘78CL Application of 2004 Act provisions for resolving disputes about reasonableness of proposed provision

- ‘(1) *This section applies if a dispute exists between an operator to which section 78CK applies and an overlapping tenure holder about the reasonableness of a provision proposed by the overlapping tenure holder for the operator’s proposed safety management plan.*
- ‘(2) *The 2004 Act, section 387, chapter 12 and schedule 1 apply to the dispute as if it were a dispute to which that section applies.*

Editor’s note—

2004 Act, chapter 12 and schedule 1 (Reviews and appeals)

‘Subdivision 2 Other provisions

‘78CM Condition to notify particular authority holders of proposed start of designated activities

- ‘(1) *This section applies to a 1923 Act petroleum tenure holder if there is either of the following (the **other authority**) for the 1923 Act petroleum tenure—*
 - (a) *an overlapping authority (geothermal or GHG);*
 - (b) *a geothermal tenure or GHG authority sharing a common boundary with the 1923 Act petroleum tenure.*

[s 539]

- ‘(2) *Before the 1923 Act petroleum tenure holder first starts a designated activity in the other authority’s area, the 1923 Act petroleum tenure holder must give the other authority holder at least 30 business days notice of the activity.*
- ‘(3) *A notice under subsection (2) must state—*
- (a) when the designated activity is to start; and*
 - (b) where the designated activity is to be carried out; and*
 - (c) the nature of the activity.*
- ‘(4) *Before changing the land on which the designated activity is being carried out, the 1923 Act petroleum tenure holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.*
- ‘(5) *Compliance with this section is a condition of the 1923 Act petroleum tenure.*
- ‘(6) *In this section—*
- designated activity*** *means any authorised activity for the 1923 Act petroleum tenure, other than—*
- (a) an authorised activity for the 1923 Act petroleum tenure that is the same as or similar to an incidental activity under the 2004 Act, section 33 or 112; or*
 - (b) an activity only involving selecting places where other authorised activities for the 1923 Act petroleum tenure may be carried out.*

‘78CN Restriction on power to amend

‘If, for a 1923 Act petroleum tenure, there is an overlapping authority (geothermal or GHG) that is an overlapping tenure, the 1923 Act petroleum tenure may be amended under section 125 only if the interests of the overlapping tenure holder have been considered.’.

540 Replacement of pt 6J hdg (Access to land in area of another 1923 Act petroleum tenure, a 2004 Act petroleum authority or a mining tenement)

Part 6J, heading—

omit, insert—

‘Part 6J Access to land in area of particular other authorities’.

541 Amendment of s 79M (Application of pt 6J)

(1) *Section 79M(1), ‘(the first tenure)’—*

omit, insert—

‘(the first authority)’.

(2) *Section 79M(1), after ‘2004 Act petroleum authority’—*

insert—

‘, a geothermal tenure’.

(3) *Section 79M(1), ‘(the second tenure)’—*

omit, insert—

‘(the second authority)’.

542 Amendment of s 79N (Access to land in area of lease under this Act, a 2004 Act lease or a mining lease)

(1) *Section 79N, heading—*

omit, insert—

‘79N Access if second authority is a lease’.

(2) *Section 79N, ‘second tenure’—*

omit, insert—

‘second authority’.

(3) *Section 79N, ‘first tenure’—*

[s 543]

omit, insert—

‘first authority’.

- (4) *Section 79N, ‘is a lease under this Act, a 2004 Act lease or a mining lease’—*

omit, insert—

‘is a lease’.

543 Amendment of s 79O (Access to land in area of another type of mining tenement or 1923 Act petroleum tenure)

- (1) *Section 79O, heading—*

omit, insert—

‘79O Access if second authority is not a lease’.

- (2) *Section 79O, ‘second tenure’—*

omit, insert—

‘second authority’.

- (3) *Section 79O, ‘first tenure’—*

omit, insert—

‘first authority’.

- (4) *Section 79O(1), ‘is not a mining lease, a 2004 Act lease or a petroleum lease’—*

omit, insert—

‘is not a lease’.

Division 8 **Amendment of Petroleum and Gas
(Production and Safety) Act 2004**

544 **Act amended**

This division, part 1, division 6, part 2, division 4 and schedule 2, parts 1, 2 and 4 amend the Petroleum and Gas (Production and Safety) Act 2004.

545 **Amendment of s 3A (Secondary purpose—facilitation of Geothermal Exploration Act 2004 and Greenhouse Gas Storage Act 2009)**

(1) Section 3A, heading, ‘Geothermal Exploration Act 2004’—
omit, insert—

‘**Geothermal Energy Act 2010**’.

(2) Section 3A(1), ‘Geothermal Exploration Act 2004’—
omit, insert—

‘Geothermal Energy Act 2010 (the **Geothermal Act**)’.

(3) Section 3A(2)—
omit, insert—

‘(2) The Geothermal Act is facilitated by—

(a) *applying provisions of this Act about safety to particular authorised activities for geothermal tenures under that Act; and*

(b) *applying provisions of this Act about investigations and some of its provisions about enforcement for that Act.’.*

546 **Replacement of s 6B (Relationship with GHG storage Act)**

Section 6B—

omit, insert—

[s 547]

‘6B Relationship with Geothermal Act and GHG storage Act

‘The relationship between this Act, the Geothermal Act and the GHG storage Act and authorities under them is provided for under—

- (a) chapter 3A; and*
- (b) the Geothermal Act, chapter 5; and*
- (c) the GHG storage Act, chapter 4.’*

547 Amendment of s 22 (What is an authorised activity)

Section 22—

insert—

- ‘(4) An **authorised activity**, for a geothermal tenure, is an activity that its holder is, under the Geothermal Act or the tenure, entitled to carry out or exercise in relation to the tenure.’*

548 Replacement of s 289 (Transfer of petroleum well to holder of geothermal exploration permit or mining tenement)

Section 289—

omit, insert—

‘289 Transfer of petroleum well to holder of geothermal tenure or mining tenement

‘A petroleum tenure holder may transfer a petroleum well in the petroleum tenure’s area to the holder of a geothermal tenure or mining tenement if—

- (a) the well is in the geothermal tenure’s or mining tenement’s area; and*
- (b) a notice in the approved form and the transfer fee prescribed under a regulation have been lodged at—*

- (i) *the office of the department for lodging the notice, as stated in a gazette notice by the chief executive; or*
- (ii) *if no office is gazetted under subparagraph (i)—the office of the chief executive.’*

549 Replacement of ch 3A (Provisions for GHG authorities)

Chapter 3A—

omit, insert—

‘Chapter 3A Provisions for geothermal tenures and GHG authorities

‘Part 1 Preliminary

‘392AA Relationship with chs 2 and 3

- ‘(1) Requirements and restrictions under this chapter relating to the granting of a petroleum tenure apply as well as any relevant requirements under chapter 2 or 3.*
- ‘(2) If this chapter imposes a requirement for or a restriction on the granting of a petroleum tenure, it can not be granted if the restriction applies or if the requirement has not been complied with.*
- ‘(3) If a provision of this chapter conflicts with a provision of chapter 2 the provision of this chapter prevails to the extent of the inconsistency.*
- ‘(4) This chapter does not otherwise limit or affect the requirements of chapter 2.*
- ‘(5) Subsection (6) applies if this chapter imposes a requirement for or a restriction on the carrying out of an authorised activity for a petroleum tenure.*

[s 549]

‘(6) Despite chapter 2, the activity is not an authorised activity for the petroleum tenure while the restriction applies or if the requirement has not been complied with.

‘392AB What is an overlapping authority (geothermal or GHG)

*‘(1) An **overlapping authority (geothermal or GHG)**, for a petroleum authority, is any geothermal tenure or GHG authority all or part of the area of which is in the petroleum authority’s area.*

*‘(2) An **overlapping authority (geothermal or GHG)**, for a proposed petroleum authority, is a geothermal tenure or GHG authority (the **existing authority**) all or part of the area of which will, if the proposed petroleum authority is granted, be in the existing authority’s area.*

‘392AC General provision about petroleum authorities for land subject to geothermal tenure or GHG authority

‘Subject to the other provisions of this chapter and chapters 2 and 3, the Geothermal Act, GHG storage Act, a geothermal tenure or a GHG authority does not limit or otherwise affect—

- (a) the power under this Act to grant a petroleum authority;*
or
- (b) the carrying out of authorised activities for a petroleum authority.*

‘Part 2 **Obtaining petroleum lease if overlapping tenure**

‘Division 1 **Preliminary**

‘392AD Application of pt 2

‘This part applies if—

- (a) a person (the **applicant**) wishes to make a petroleum lease application; and*
- (b) there is an overlapping authority (geothermal or GHG) for the proposed petroleum lease; and*
- (c) the overlapping authority (geothermal or GHG) is a geothermal tenure or GHG tenure (the **overlapping tenure**).*

‘Division 2 **Requirements for application**

‘392AE Requirements for making application

‘(1) The petroleum lease application must include—

- (a) a statement complying with section 392AF (an **information statement**); and*
- (b) other information addressing the matters mentioned in subsection (2) (the **assessment criteria**), other than about attempts to consult with the overlapping tenure holder.*

‘(2) The assessment criteria are—

- (a) compliance with the provisions of chapter 9; and*
- (b) the additional requirements under part 6 for proposed initial development plans; and*

[s 549]

- (c) *the potential for the parties to make the following for the proposed petroleum lease—*
 - (i) *for a geothermal tenure—a geothermal coordination arrangement;*
 - (ii) *for a GHG tenure—a GHG coordination arrangement; and*
- (d) *the economic and technical viability of the concurrent or coordinated carrying out of authorised activities for the proposed petroleum lease and the overlapping tenure; and*
- (e) *the public interest.*

‘392AF Content requirements for information statement

‘The information statement must—

- (a) *assess—*
 - (i) *the likely effect of proposed authorised activities for the proposed petroleum lease on the future carrying out of authorised activities for the overlapping tenure; and*
 - (ii) *the technical and commercial feasibility of coordinating the proposed authorised activities and the future carrying out of the authorised activities; and*
- (b) *include proposals for the minimisation of potential adverse effects on possible future carrying out of authorised activities for the overlapping tenure.*

‘Division 3 Consultation provisions

‘392AG Applicant’s information obligation

- ‘(1) The applicant must within 10 business days after making the petroleum lease application give the overlapping tenure*

holder a copy of the application other than any part of the application relating to the capability criteria.

- ‘(2) If the Minister is reasonably satisfied the applicant has not complied with an obligation under this division, the petroleum lease application may be refused.*

‘392AH Submissions by overlapping tenure holder

- ‘(1) The overlapping tenure holder may lodge submissions about the petroleum lease application (**holder submissions**) at the relevant departmental office.*
- ‘(2) However, holder submissions may be lodged only within 4 months after the holder is given a copy of the application.*
- ‘(3) Holder submissions may do all or any of the following—*
- (a) state that the holder does not object to the granting of the proposed petroleum lease;*
 - (b) if the overlapping tenure is a geothermal permit or GHG permit—*
 - (i) state that the holder does not wish any priority for the carrying out of authorised activities for any future lease that may arise from the permit (**overlapping authority priority**); or*
 - (ii) include a proposal by the overlapping tenure holder for the activity for which overlapping authority priority is sought;*
 - (c) include information about authorised activities carried out under the overlapping tenure;*
 - (d) include information relevant to the assessment criteria;*
 - (e) propose reasonable provisions for the safety management plan for the proposed petroleum lease.*
- ‘(4) The holder must give the applicant a copy of the holder submissions.*

[s 549]

‘Division 4 Resource management decision if overlapping permit

‘392AI Application of div 4

- ‘(1) *This division applies if—*
- (a) *the overlapping tenure is a geothermal permit or GHG permit (the **overlapping permit**); and*
 - (b) *the overlapping permit holder has lodged holder submissions within 4 months after the holder was given a copy of the application; and*
 - (c) *the submissions state that the holder wishes overlapping authority priority.*
- ‘(2) *However, this division does not apply if, under the Geothermal Act, chapter 5 or the GHG storage Act, chapter 4, overlapping authority priority has been given for any of the relevant land.*

Note—

If this division does not apply, the petroleum lease application proceeds immediately to decision under chapter 2 as affected by division 7.

‘392AJ Resource management decision

- ‘The Minister must make a decision (the **resource management decision**) about whether to—*
- (a) *grant the petroleum lease application; or*
 - (b) *give any overlapping authority priority for all or part of the relevant land; or*
 - (c) *not to grant the petroleum lease application and not to give any overlapping authority priority for any of the relevant land.*

‘392AK Criteria for decision

‘The Minister must consider the following in making the resource management decision—

- (a) the information statement;*
- (b) the assessment criteria;*
- (c) the holder submissions;*
- (d) the public interest.*

‘392AL Restrictions on giving overlapping authority priority

‘Overlapping authority priority may be recommended or given only if it is considered—

- (a) either—*
 - (i) it is unlikely the applicant and the overlapping permit holder will enter into—*
 - (A) for a geothermal permit—a geothermal coordination arrangement; or*
 - (B) for a GHG permit—a GHG coordination arrangement; or*
 - (ii) an arrangement mentioned in subparagraph (i) for the proposed petroleum lease is not commercially or technically feasible; and*
- (b) the public interest would be best served by not granting a petroleum lease to the applicant first.*

**‘Division 5 Process if resource management
decision is to give overlapping
authority priority**

‘392AM Application of div 5

‘This division applies only if, under division 4, a resource management decision is required and the decision is to give overlapping authority priority for all or part of the relevant land.

‘392AN Notice to applicant and overlapping permit holder

- ‘(1) The chief executive must give the applicant and the overlapping permit holder notice of the resource management decision.*
- ‘(2) The notice must invite the overlapping permit holder to, within 6 months after the giving of the notice (the **overlapping authority application period**), apply for a lease as follows (an **overlapping lease**) for the land mentioned in subsection (3)—*
- (a) if the overlapping permit is a geothermal permit—a geothermal lease;*
 - (b) if the overlapping permit is a GHG permit—a GHG lease.*
- ‘(3) For subsection (2), the land is—*
- (a) if the overlapping authority priority is for all of the land—for all of the land; or*
 - (b) if the priority is for part of the land—for that part.*

‘392AO Overlapping lease application for all of the land

- ‘(1) This section applies if—*
- (a) the overlapping authority priority is for all of the land;*
and

-
- (b) *within the overlapping authority application period the overlapping permit holder applies for an overlapping lease for all of the land.*
- ‘(2) *A further step can not be taken to decide the petroleum lease application until after the overlapping lease application has been decided.*

Note—

The Geothermal Act, chapter 5, part 5 and the GHG storage Act, chapter 4, part 5 provide for refusal of the overlapping lease application if it is not pursued in a timely manner.

- ‘(3) *If the decision on the overlapping lease application is to grant an overlapping lease for all of the land, the petroleum lease application is taken to have lapsed.*

‘392AP Overlapping lease application for part of the land

- ‘(1) *This section applies if the overlapping permit holder applies for an overlapping lease for part of the land within the overlapping authority application period.*
- ‘(2) *The person who made the petroleum lease application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.*
- ‘(3) *Unless the amendment is made, a further step can not be taken to decide the petroleum lease application until after the overlapping lease application has been decided.*
- ‘(4) *If—*
- (a) *the amendment has not been made; and*
 - (b) *the decision on the overlapping lease application is to grant an overlapping lease for part of the land;*
- the person who made the petroleum lease application may amend it so that a petroleum lease is only sought for all or part of the rest of the land.*

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Note—

If the petroleum lease application is not amended, see section 392AT (Application may be refused if no reasonable prospects of future geothermal or GHG coordination arrangement).

‘392AQ No overlapping lease application

‘If the overlapping permit holder does not apply for an overlapping lease for any of the land within the overlapping authority application period, the petroleum lease application may be decided.

‘Division 6 Resource management decision not to grant and not to give priority

‘392AR Lapsing of application

‘The petroleum lease application is taken to have lapsed if—

- (a) under division 4, a resource management decision is required; and*
- (b) the decision was not to grant the petroleum lease application and not to give any overlapping authority priority for any of the relevant land.*

‘Division 7 Deciding application

‘392AS Application of div 7

‘This division applies if—

- (a) the overlapping tenure holder has not lodged holder submissions within 4 months after the holder was given a copy of the application (the **submission period**) or at all; or*

-
- (b) *the overlapping tenure holder has lodged holder submissions within the submission period stating that the holder does not wish any overlapping authority priority; or*
 - (c) *under division 4, a resource management decision is required and—*
 - (i) *the resource management decision is not to give overlapping authority priority for any of the relevant land; or*
 - (ii) *the resource management decision is to give overlapping authority priority for all or part of the relevant land and after division 5 has been complied with the Minister decides to grant a petroleum lease for the land.*

‘392AT Application may be refused if no reasonable prospects of future geothermal or GHG coordination arrangement

‘The Minister may decide to refuse the petroleum lease application if—

- (a) *the Minister is satisfied the applicant and the overlapping tenure holder have made reasonable attempts to reach the following (a **relevant arrangement**)—*
 - (i) *if the overlapping tenure is a geothermal permit—a proposed geothermal coordination arrangement;*
 - (ii) *if the overlapping tenure is a GHG permit—a proposed GHG coordination arrangement; and*
- (b) *either—*
 - (i) *the overlapping tenure holder has lodged a notice at the relevant departmental office stating there are no reasonable prospects of a relevant arrangement being made; or*

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- (ii) *a relevant arrangement has not been lodged for approval by the Minister and the Minister considers the applicant and the overlapping tenure holder have had a reasonable opportunity to make a relevant arrangement.*

‘392AU Additional criteria for deciding provisions of petroleum lease

‘In deciding the provisions of the petroleum lease the Minister must consider all of the following—

- (a) *the information statement;*
- (b) *the assessment criteria;*
- (c) *any holder submissions;*
- (d) *the effect of the petroleum lease on the safe and efficient carrying out of authorised activities for the overlapping tenure;*
- (e) *for an overlapping permit—the effect of the petroleum lease on the safe and efficient carrying out of authorised activities for any future lease that may arise from the permit.*

‘392AV Publication of outcome of application

‘(1) After the Minister decides whether or not to grant the petroleum lease, the chief executive must publish a notice about the outcome of the petroleum lease application in or on at least 1 of the following—

- (a) *the gazette;*
- (b) *the department’s website;*
- (c) *another publication the chief executive considers appropriate.*

‘(2) The notice must state—

- (a) *the decision; and*

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‘392AX Proposed geothermal or GHG lease for which EIS approval given

- ‘(1) *This section applies for a petroleum lease application if—*
- (a) *before the making of the application, an approval under the Environmental Protection Act, chapter 3, part 2 was granted for the voluntary preparation of an EIS; and*
 - (b) *the EIS is for a project that is, or includes, a proposed geothermal lease or GHG lease (the **proposed lease**) for land the subject of the application.*
- ‘(2) *The application must not be decided until—*
- (a) *if no application is made for the proposed lease within 1 year after the granting of the approval—the end of that year; or*
 - (b) *if an application is made for the proposed lease within that year—that application is decided.*

‘392AY Proposed geothermal or GHG lease declared a significant project

- ‘(1) *This section applies for a petroleum lease application if—*
- (a) *before the making of the application, a significant project was declared; and*
 - (b) *the project is, or includes, a proposed geothermal lease or GHG lease (the **proposed lease**) for land the subject of the application.*
- ‘(2) *The application must not be decided until—*
- (a) *if no application is made for the proposed lease within 1 year after the making of the declaration—the end of that year; or*
 - (b) *if an application is made for the proposed lease within that year—that application is decided.*

‘Part 4 **Petroleum lease applications in
response to invitation under
Geothermal Act or GHG
storage Act**

‘392AZ Application of pt 4

‘This part applies if—

- (a) a petroleum lease application is made in response to an invitation given because of a resource management decision under the Geothermal Act or the GHG storage Act; and*
- (b) the application is made within 6 months after the giving of the invitation.*

‘392BA Additional ground for refusing application

- ‘(1) The Minister may decide to refuse the application if satisfied the applicant has not in a timely manner—*
 - (a) taken any step for the application required of the applicant under chapter 2 or 3 or this chapter; or*
 - (b) satisfied the Minister about a matter that under chapter 2 or 3 or this chapter is required for the granting of the application.*
- ‘(2) Subsection (1) does not limit section 843.*

Editor’s note—

section 843 (Additional information may be required about application)

-
- ‘(4) The objection must be written, given to the petroleum authority holder and lodged at the relevant departmental office.*

‘392BC Overlapping geothermal permit or particular GHG authorities

- ‘(1) This section applies if land in the area of any of the following petroleum authorities is in the area of a geothermal permit or a GHG authority other than a GHG lease—*
- (a) an authority to prospect;*
 - (b) a data acquisition authority;*
 - (c) a water monitoring authority.*
- ‘(2) An authorised activity for the petroleum authority can not be carried out on the land if—*
- (a) carrying out the activity adversely affects the carrying out of an authorised activity for the geothermal permit or GHG authority; and*
 - (b) the authorised activity for the geothermal permit or GHG authority has already started.*

‘392BD Resolving disputes

- ‘(1) This section applies if, under section 392BB, a geothermal lease or GHG lease holder has objected to the carrying out of an authorised activity by a petroleum authority holder.*
- ‘(2) This section also applies if there is a dispute between a petroleum authority holder and a geothermal permit or GHG authority holder about whether an authorised activity for the petroleum authority can be carried out under section 392BC.*
- ‘(3) Either of the parties may, by a notice in the approved form, ask the Minister to decide—*
- (a) for section 392BB—whether the authorised activity may be carried out under that section; or*

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- (b) *for section 392BC—whether the authorised activity may be carried out under that section.*
- ‘(4) *Before making the decision, the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.*
- ‘(5) *The Minister must, after complying with subsection (4) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.*
- ‘(6) *The Minister’s decision binds the parties.*
- ‘(7) *If the request is about a matter mentioned in subsection (1), the Minister may impose conditions on any decision that the authorised activity may be carried out.*
- ‘(8) *In this section—*
parties means—
 - (a) *for a request about a matter mentioned in subsection (1)—the petroleum authority holder and the geothermal lease or GHG lease holder; or*
 - (b) *for a request about a matter mentioned in subsection (2)—the petroleum authority holder and the geothermal permit or GHG authority holder.*

‘Division 2 Additional conditions

‘392BE Notice by authority to prospect holder to particular geothermal tenure or GHG authority holders or applicants

- ‘(1) *This section applies if—*
 - (a) *an authority to prospect is granted (the ATP); and*
 - (b) *land in the authority to prospect’s area is in the area of, or in a proposed area under an application for any of the following (the other authority)—*
 - (i) *a geothermal permit;*

- (ii) a GHG permit;
 - (iii) a GHG data acquisition authority under the GHG storage Act.
- ‘(2) It is a condition of the authority to prospect that its holder must, within 20 business days after the holder receives notice of the grant of the ATP, give the holder of, or the applicant for, the other authority a notice stating—
- (a) the ATP has been granted; and
 - (b) the ATP holder’s name; and
 - (c) the term of the ATP.

‘392BF Condition to notify particular geothermal tenure or GHG authority holders of proposed start of particular authorised activities

- ‘(1) This section applies to a petroleum authority holder if there is either of the following (the **other authority**) for the petroleum authority—
- (a) an overlapping authority;
 - (b) a geothermal tenure or GHG authority sharing a common boundary with the petroleum authority.
- ‘(2) Before the petroleum authority holder first starts a designated activity in the other authority’s area, the petroleum authority holder must give the other authority holder at least 30 business days notice of the activity.
- ‘(3) A notice under subsection (2) must state—
- (a) when the designated activity is to start; and
 - (b) where the designated activity is to be carried out; and
 - (c) the nature of the activity.
- ‘(4) Before changing the land on which the designated activity is being carried out, the petroleum authority holder must give the other authority holder at least 30 business days notice stating where the activity is to be carried out.

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- ‘(5) *Compliance with this section is a condition of the petroleum authority.*
- ‘(6) *In this section—*
- designated activity*** *means any authorised activity for the petroleum authority, other than—*
- (a) *an incidental activity under section 33 or 112; or*
 - (b) *an activity only involving selecting places where other authorised activities for the petroleum authority may be carried out.*

‘392BG Requirement to continue geothermal or GHG coordination arrangement after renewal of or dealing with petroleum lease

- ‘(1) *This section applies if—*
- (a) *a petroleum lease has an overlapping authority (geothermal or GHG) that is a geothermal lease or GHG lease (the **other lease**); and*
 - (b) *a geothermal coordination arrangement or GHG coordination arrangement applies to the petroleum lease; and*
 - (c) *any of the following take place for the petroleum lease—*
 - (i) *a renewal;*
 - (ii) *a transfer;*
 - (iii) *a subletting of the lease or a share in the petroleum lease.*
- ‘(2) *It is a condition of the petroleum lease that its holder must continue to be a party to the following for the lease while the other lease continues in force—*
- (a) *if the other lease is a geothermal lease—a geothermal coordination arrangement;*
 - (b) *if the other lease is a GHG lease—a GHG coordination arrangement.*

**‘Division 3 Restriction on Minister’s power to
amend petroleum lease if
overlapping tenure**

**‘392BH Interests of overlapping tenure holder to be
considered**

‘If there is an overlapping tenure for a petroleum tenure, the petroleum tenure may be amended under section 848 only if the Minister has considered the interests of the overlapping tenure holder.

**‘Part 6 Additional provisions for
development plans if
overlapping tenure**

‘392BI Operation of pt 6

‘This part imposes additional requirements for the following for which there is an overlapping authority (geothermal or GHG) that is an overlapping tenure—

- (a) a proposed initial development plan for a proposed initial development plan for a petroleum lease;*
- (b) a proposed later development plan for a petroleum lease.*

**‘392BJ Statement about interests of overlapping tenure
holder**

‘The proposed development plan or amendment must include a statement of how the effects on and the interests of the overlapping tenure holder have or have not been considered having regard to the assessment criteria.

- (b) *is not of itself evidence that a safety management plan or purported safety management plan for an operating plant on the petroleum lease's area complies with chapter 9.*

'392BN Requirements for consultation with particular overlapping tenure holders

- '(1) *This section applies if—*
- (a) *a person (an **operator**) proposes to be an operator of operating plant in the area of a petroleum tenure; and*
 - (b) *activities (**relevant activities**) carried out, or proposed to be carried out, at the plant may adversely affect the safe and efficient carrying out of authorised activities for an overlapping authority (geothermal or GHG) for the petroleum tenure; and*
 - (c) *the overlapping authority (geothermal or GHG) is an overlapping tenure.*
- '(2) *Before any operator may operate relevant operating plant, each operator must have made reasonable attempts to consult with the overlapping tenure holder about relevant activities for the plant.*
- '(3) *If there is more than 1 operator, the petroleum tenure holder may coordinate the consultation between the operators and the overlapping tenure holder.*
- '(4) *For subsection (2), an operator is taken to have made reasonable attempts to consult if—*
- (a) *the operator gives the overlapping tenure holder a copy of the relevant parts of the operator's proposed safety management plan concerning any relevant operating plant the operator proposes to operate for the relevant activities; and*
 - (b) *the overlapping tenure holder has not within 30 days after the giving of the copy made any proposal to the operator about provisions for the plan.*

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- ‘(5) *An operator must, before making or remaking a safety management plan for any relevant operating plant the operator operates or proposes to operate, have regard to any reasonable provisions for the plan proposed by the overlapping tenure holder concerning relevant activities for the plant.*
- ‘(6) *However, the obligation under subsection (5) applies only to the extent the provisions are commercially and technically feasible for the operator or any relevant petroleum tenure holder.*
- ‘(7) *If an operator makes a safety management plan for relevant operating plant and the plan includes provisions proposed by the overlapping tenure holder, the operator must—*
- (a) give the overlapping tenure holder a copy; and*
 - (b) lodge at the relevant departmental office a notice stating any provisions proposed under subsection (5) and whether they were included in the plan.*
- ‘(8) *In this section—*
- remaking, a safety management plan, includes an amendment or remaking of the plan of a type required under section 678.*

‘392BO Application of provisions for resolving disputes about reasonableness of proposed provision

- ‘(1) *This section applies if a dispute exists between an operator to which section 392BN applies and an overlapping tenure holder about the reasonableness of a provision proposed by the tenure holder for the operator’s proposed safety management plan.*
- ‘(2) *Section 387, chapter 12 and schedule 1 apply to the dispute as if it were a dispute to which those provisions apply.*

Editor’s note—

chapter 12 and schedule 1 (Reviews and appeals)’.

550 Amendment of s 400 (Restriction if there is an existing mining lease or GHG lease)

(1) Section 400, heading, ‘mining lease or GHG lease’—
omit, insert—

‘*geothermal, GHG or mining lease*’.

(2) Section 400, ‘mining lease or GHG lease’—
omit, insert—

‘*geothermal lease, GHG lease or mining lease*’.

551 Amendment of s 528 (Application of pt 4)

Section 528(1), after ‘1923 Act petroleum tenure’—
insert—

‘, a *geothermal tenure*’.

552 Amendment of s 529 (Access to land in area of mining lease, a 1923 Act lease or a petroleum lease)

(1) Section 529, heading—
omit, insert—

‘529 Access if second authority is a lease’.

(2) Section 529, ‘is a mining lease, a 1923 Act lease or a petroleum lease’—

omit, insert—

‘is a lease’.

553 Amendment of s 530 (Access to land in area of another type of mining tenement or petroleum authority)

(1) Section 530, heading—
omit, insert—

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‘530 Access if second authority is not a lease’.

- (2) *Section 530(1), ‘is not a mining lease, a 1923 Act lease or a petroleum lease’—*
omit, insert—
‘is not a lease’.

554 Amendment of s 669 (Making safety requirement)

- Section 669—*
insert—
‘(d) about geothermal activities, other than wet geothermal production.’.

555 Amendment of s 670 (What is an operating plant)

- (1) *Section 670(2)(b) to (h)—*
renumber as section 670(2)(c) to (i).
- (2) *Section 670(2)—*
insert—
‘(b) a facility that—
(i) is related to the exploration, production or processing of petroleum; and
(ii) is used to take, interfere with or treat associated water;’.
- (3) *Section 670(2)(h) and (i), as renumbered—*
omit, insert—
‘(h) a facility that is in the area of a geothermal tenure and is used for—
(i) geothermal exploration other than for wet geothermal production; or

(ii) *geothermal production other than wet geothermal production;*

Examples—

the following facilities if they are not used for wet geothermal production—

- *a drilling rig for a geothermal well*
- *equipment used for injecting into, maintaining or repairing a geothermal well*
- *pipes and associated valves used in the geothermal production process*

(i) *a facility that is in the area of a GHG authority and is—*

(i) *used for GHG storage exploration or GHG stream storage; or*

(ii) *involved in GHG storage injection testing;*

(j) *a GHG stream pipeline under the GHG storage Act.’.*

(4) *Section 670(5)(d)—*

omit, insert—

‘(d) an authorised activity under an authority if the activity is a geophysical survey for data acquisition;’.

(5) *Section 670(6)—*

omit.

(6) *Section 670(7)—*

renumber as section 670(9).

(7) *Section 670—*

insert—

*‘(6) An **operating plant** is also—*

(a) *all of the authorised activities for a petroleum authority, geothermal tenure or GHG authority; or*

(b) *all of the authorised activities for a mineral hydrocarbon mining lease that are not a coal mining*

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operation or an on-site activity under the Coal Mining Safety and Health Act.

‘(7) *For subsection (6)(a) and (b)—*

(a) the operating plant is all of the authorised activities jointly; and

(b) the authorised activities are an operating plant severally only if they are an operating plant under subsection (2) or (5).

‘(8) *To remove any doubt, for subsection (2) it is declared that the following are not an operating plant—*

(a) a facility relating to geothermal energy to the extent any part of its processes happen after an isolation valve or distribution point where the pipeline transporting the energy ends at the entry to the facility;

(b) a facility that produces a GHG stream at its source before the stream enters a GHG pipeline that transports the stream, or the stream is otherwise transported, to a GHG storage site under the GHG storage Act.

‘(10) *In this section—*

geothermal exploration see the Geothermal Act, section 13.

geothermal well see the Geothermal Act, schedule 3.

GHG storage exploration see the GHG storage Act, section 15.

GHG storage injection testing see the GHG storage Act, section 16.’

556 Amendment of s 672 (What is a stage of an operating plant)

Section 672—

insert—

‘(2) *A **stage**, of an operating plant, also includes construction work for an operating plant or proposed operating plant if—*

-
- (a) *the work is within or part of an existing operating plant;
or*
 - (b) *the work is adjacent to existing operating plant and the
safety management plan for the plant provides that the
plan applies to the work.’.*

557 Amendment of s 675 (Content requirements for safety management plans)

*Section 675(1)(f), after ‘the same petroleum tenure’—
insert—
‘, geothermal tenure’.*

558 Amendment of s 687 (Who is the executive safety manager of an operating plant)

- (1) *Section 687(2) to (4)—
renumber as section 687(3) to (5).*
- (2) *Section 687—
insert—
(2) For authorised activities for a petroleum authority,
geothermal tenure or GHG authority that, under section
670(6)(a) and (7), are jointly an operating plant, the executive
safety manager is—*
 - (a) *if the holder of the authority or tenure is an
individual—the holder; or*
 - (b) *the senior managing officer of the corporation or
organisation responsible for the management and safe
operation of the authorised activities for the authority or
tenure.’.*

559 Insertion of new s 687A

After section 687—

insert—

‘687A Requirement of joint holders to give information about executive safety manager

‘(1) *This section applies if—*

- (a) *there is more than 1 holder of a petroleum authority, geothermal tenure or GHG tenure; and*
- (b) *1 or more of the holders is a corporation; and*
- (c) *operating plant is being operated or is proposed to be operated in the authority’s or tenure’s area.*

‘(2) *The holders must ensure the chief inspector is given a notice stating which corporation or organisation is responsible for the management and safe operation of operating plant in the area.*

Maximum penalty—500 penalty units.

‘(3) *In a proceeding under or in relation to this Act, the notice is evidence of which corporation or organisation is the responsible for the management and safe operation of operating plant in the area.’*

560 Amendment of s 690 (Content requirements for safety reports)

(1) *Section 690(1)(h)—*

omit.

(2) *Section 690(1)(i)—*

renumber as section 690(1)(h).

561 Replacement of s 691 (Obligation to give information to particular authority holders)

Section 691—

omit, insert—

‘691 Obligation to give information to coal or oil shale exploration tenement holder

‘(1) *This section applies if an executive safety manager for an operating plant gives a safety report containing information mentioned in section 690(1)(g).*

‘(2) *The executive safety manager must, as soon as practicable, give the relevant tenement holder the information in the report mentioned in section 690(1)(g).*

Maximum penalty—500 penalty units.

‘(3) *Chapter 3, part 8, applies to any information given under this section as if the information were given for the purposes of chapter 3.*

Editor’s note—

chapter 3 (Provisions for coal seam gas), part 8 (Confidentiality of information)

‘(4) *In this section—*

relevant tenement holder means the holder of any coal or oil shale exploration tenement if the safe and efficient mining of coal or oil shale under the tenement may have been affected by the operation of the operating plant.’.

562 Amendment of s 699A (Operator’s obligation for particular adjacent or overlapping authorities)

Section 699A(b), after ‘petroleum tenure’—

insert—

‘, geothermal tenure’.

563 Amendment of s 705 (Application of sdiv 1)

(1) *Section 705(a)(i) to (iii)—*

omit, insert—

‘(i) in the area of a coal or oil shale mining lease; or

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(ii) *in an area adjacent to the area of a coal or oil shale mining lease; and*'.

(2) *Section 705(b), 'or GHG storage activities under the GHG lease'—*

omit.

564 Amendment of s 705A (Requirement to have principal hazard management plan)

(1) *Section 705A, 'mining lease or GHG lease holder'—*

omit, insert—

'mining lease holder'.

(2) *Section 705A(3), 'or GHG tenure holder'—*

omit.

565 Amendment of s 705B (Content requirements for principal hazard management plan)

(1) *Section 705B(b)(ii), examples, item 2, 'a mining lease holder'—*

omit, insert—

'the mining lease holder'.

(2) *Section 705B(c), 'or GHG wells under the GHG storage Act'—*

omit.

566 Amendment of s 705C (Resolving disputes about provision proposed by mining lease or GHG lease holder)

Section 705C, 'or GHG lease'—

omit.

567 Amendment of s 708B (Chief inspector may issue safety alerts and instructions)

- (1) Section 708B(3), after ‘petroleum or fuel gas industry’—
insert—
‘, to geothermal activities’.
- (2) Section 708B(4)(a), ‘the petroleum or fuel gas industry’—
omit, insert—
‘a matter mentioned in subsection (3)’.

568 Amendment of s 736 (Functions)

- (1) Section 736, ‘Geothermal Exploration Act 2004’—
omit, insert—
‘Geothermal Act’.
- (2) Section 736(1)(c), ‘geothermal energy activity or GHG streams’—
omit, insert—
‘geothermal activity or GHG storage activity’.

569 Amendment of s 744 (Inspector’s additional entry power for emergency or incident)

- Section 744(1), ‘geothermal energy activity or a GHG stream’—
omit, insert—
‘geothermal activity or a GHG storage activity’.

570 Amendment of s 746 (Authorised officer’s additional entry power for petroleum authority, geothermal exploration permit or GHG authority)

- Section 746, ‘geothermal exploration permit’—

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omit, insert—
‘geothermal tenure’.

571 Amendment of s 769 (Testing seized things)

(1) *Section 769(2)(a), after ‘petroleum or fuel gas’—*
insert—
‘, geothermal energy’.

(2) *Section 769—*
insert—

‘(7) In this section—

geothermal energy means energy in the form of heat
produced from beneath the surface of solid earth.’.

572 Amendment of s 780 (Power to give compliance direction)

(1) *Section 780(1)(a)(ii) and (iii)—*
renumber as section 780(1)(a)(iii) and (iv).

(2) *Section 780(1)(a)—*
insert—

‘(ii) the Geothermal Act;’.

573 Amendment of s 781 (Requirements for giving compliance direction)

Section 781(1)(a), ‘Geothermal Exploration Act 2004’—
omit, insert—
‘Geothermal Act’.

574 Amendment of sch 2 (Dictionary)

- (1) *Schedule 2, definitions applicant, geothermal energy activity, geothermal exploration permit, GHG assessment criteria, GHG public interest, GHG statement, holder submissions, overlapping authority priority, overlapping GHG authority, overlapping GHG lease application period and the public interest—*

omit.

- (2) *Schedule 2—*

insert—

'applicant, for chapter 3A, part 2, see section 392AD(a).

assessment criteria, for chapter 3A, see section 392AE(1)(b).

Geothermal Act see section 3A(1).

geothermal activity see the Geothermal Act, section 18.

geothermal coordination arrangement see the Geothermal Act, section 138(4).

geothermal lease see the Geothermal Act, section 19(1)(b).

geothermal permit see the Geothermal Act, section 19(1)(a).

geothermal production see the Geothermal Act, section 14.

geothermal tenure see the Geothermal Act, section 19(2).

holder submissions, for chapter 3A, see section 392AH(1).

information statement, for chapter 3A, see section 392AE(1)(a).

operate, for operating plant that, under section 670(6) and (7), consists of joint authorised activities, means to carry out all or any of the activities.

overlapping authority application period, for chapter 3A, part 2, division 5, see section 392AN(2).

overlapping authority (geothermal or GHG), for chapter 3A, see section 392AB.

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overlapping authority priority, for chapter 3A, see section 392AH(3)(b)(i).

overlapping lease, for chapter 3A, see section 392AN(2).

overlapping permit, for chapter 3A, see section 392AI(1)(a).

overlapping tenure, for chapter 3A, see section 392AD(c).

wet geothermal production means geothermal production by the extraction of hot water from a subartesian basin.’

- (3) Schedule 2, definition dangerous situation, ‘geothermal energy activity’—

omit, insert—

‘geothermal activity’.

- (4) Schedule 2, definition occupier, paragraph 1(i)—

omit, insert—

(i) *the person has a right to occupy the place, other than under a mining interest, petroleum authority, 1923 Act petroleum tenure, GHG authority or geothermal tenure; or’.*

Division 9 Amendment of Torres Strait Islander Land Act 1991

575 Act amended

This division and schedule 2, part 4 amend the Torres Strait Islander Land Act 1991.

576 Replacement of s 39 (Reservations of minerals and petroleum)

Section 39—

omit, insert—

‘39 Resource reservations under other Acts

‘A deed of grant of transferred land must contain the reservations to the State taken to be contained in the grant under the following—

- *the Geothermal Energy Act 2010, section 29*
- *the Greenhouse Gas Storage Act 2009, section 28*
- *the Mineral Resources Act 1989, section 8*
- *the Petroleum Act 1923, section 10*
- *the Petroleum and Gas (Production and Safety) Act 2004, section 27.’.*

577 Replacement of s 77 (Reservations of minerals and petroleum)

Section 77—

omit, insert—

‘77 Resource reservations under other Acts

‘A deed of grant of granted land and a Torres Strait Islander lease must contain the reservations to the State taken to be contained in the grant under the following—

- *the Geothermal Energy Act 2010, section 29*
- *the Greenhouse Gas Storage Act 2009, section 28*
- *the Mineral Resources Act 1989, section 8*
- *the Petroleum Act 1923, section 10*
- *the Petroleum and Gas (Production and Safety) Act 2004, section 27.’.*

[s 578]

Division 10 **Amendment of Valuation of Land Act 1944**

578 Act amended

This division and schedule 2, part 4 amend the Valuation of Land Act 1944.

579 Replacement of s 16 (Exclusion of timber and minerals)

Section 16—

omit, insert—

‘16 Exclusion of particular resources

‘A valuation of the unimproved value of land is not to include the value of any of the following on or in the land—

- (a) geothermal energy as defined under the Geothermal Energy Act 2010;*
- (b) GHG storage reservoirs as defined under the Greenhouse Gas Storage Act 2009;*
- (c) minerals;*
- (d) petroleum as defined under the Petroleum and Gas (Production and Safety) Act 2004;*
- (e) timber.’*

Division 11 **Amendment of Water Act 2000**

580 Act amended

This division amends the Water Act 2000.

581 Amendment of s 203 (Definitions for pt 6)

Section 203, definition owner, paragraph (e)—

omit, insert—

- ‘(e) the holder of a geothermal tenure under the Geothermal Energy Act 2010 relating to the land;*
- (ea) the holder of a GHG tenure under the Greenhouse Gas Storage Act 2009 relating to the land.’*

582 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definition owner, paragraphs (a)(v) and (vi)—
renumber as paragraphs (a)(ix) and (x).*
- (2) Schedule 4, definition owner, paragraph (a)—
insert—*

- ‘(v) the holder of a geothermal tenure under the Geothermal Energy Act 2010 relating to the land;*
- (vi) the holder of a GHG tenure under the Greenhouse Gas Storage Act 2009 relating to the land;*
- (vii) the holder of a 1923 Act petroleum tenure under the Petroleum Act 1923 relating to the land;*
- (viii) the holder of a petroleum tenure under the Petroleum and Gas (Production and Safety) Act 2004 relating to the land;’.*

Division 12 Amendment of Workplace Health and Safety Act 1995

583 Act amended

This division amends the Workplace Health and Safety Act 1995.

584 Amendment of s 3 (Application of Act)

- (1) Section 3(1)(c) and (d)—*

[s 584]

omit, insert—

‘(c) operating plant under the Petroleum and Gas (Production and Safety) Act 2004 (the P&G Act), other than operating plant under section 670(6)(a) and (7) of that Act, for any of the following—

- (i) a 1923 Act petroleum tenure under the Petroleum Act 1923;*
- (ii) a petroleum authority under the P&G Act;*
- (iii) a GHG authority under the Greenhouse Gas Storage Act 2009;*
- (iv) a geothermal tenure under the Geothermal Energy Act 2010;*
- (v) a mining tenement under the Mineral Resources Act 1989.’*

(2) Section 3(2) and (3)—

renumber as section 3(3) and (4).

(3) Section 3—

insert—

‘(2) Despite subsection (1)(c)—

(a) this Act applies to construction work for operating plant under the P&G Act, unless the work is—

- (i) the commissioning of an operating plant; or*
- (ii) the moving of a drill rig; or*
- (iii) the process called ‘rigging up and down’ of a drill rig; and*

(b) both this Act and the P&G Act apply to construction work for a stage of operating plant or proposed operating plant mentioned in section 672(2) of that Act, unless the work is work mentioned in paragraph (a)(i), (ii) or (iii).’

Division 13 Amendment of other Acts

585 Acts amended in sch 2

- (1) Schedule 2 amends the Acts it mentions.*
- (2) However, subsection (1) does not apply in relation to a particular Act if another provision of this Act states that schedule 2 amends the particular Act.*

Schedule 1 Decisions subject to appeal

section 335(1)

Section reference	Description of decision
Geothermal permits	
57	<i>refusal to approve proposed later work program</i>
62	<i>refusal to approve work program amendment</i>
66	<i>refusal of application for declaration of potential geothermal commercial area</i>
73	<i>decision to take proposed action under section 72 for geothermal permit</i>
120	<i>refusal to approve proposed test plan for production testing</i>
120	<i>imposition of condition on approval of proposed test plan, other than a condition agreed to or requested by the relevant geothermal permit holder</i>
Geothermal leases	
80	<i>decision not to grant a geothermal lease</i>
97	<i>refusal to approve proposed later development plan</i>
102	<i>refusal to approve development plan amendment</i>
Geothermal coordination arrangements	
144	<i>cancellation of geothermal coordination arrangement</i>

Section reference	Description of decision
Decisions under chapter 6	
204	<i>decision to require security for geothermal tenure other than security in the form and amount prescribed under section 204(2)</i>
205	<i>decision to require increase in total security required to more than the prescribed amount under section 204(2) when the requirement is made</i>
233	<i>decision to give direction to ease concerns of owner or occupier</i>
237	<i>decision to give road use direction</i>
242	<i>imposition of condition on entry on public land, other than a condition agreed to or requested by the relevant geothermal tenure holder</i>
287	<i>refusal to approve and register third party transfer or sublease</i>
294	<i>refusal to renew geothermal tenure</i>
303	<i>refusal to approve surrender of geothermal tenure</i>
303	<i>decision to approve partial surrender of geothermal tenure subject to the applicant's written agreement to the Minister amending the conditions applying to the rest of the tenure in a stated way, if the applicant has not agreed in writing to the amendment</i>
352	<i>decision to take action to ensure compliance with a requirement under this Act of a geothermal tenure holder other than action to which the holder has agreed</i>
354	<i>refusal to replace instrument for geothermal tenure</i>

**Section
reference**

Description of decision

Miscellaneous

324

*decision to take noncompliance action for geothermal
tenure*

Schedule 2 Minor and consequential amendments of Acts

sections 408, 420, 425, 427, 437, 450, 467, 478, 493, 496, 502,
520, 533, 544 575, 578 and 585

Part 2 Amendments relating to land access and owners and occupiers

Greenhouse Gas Storage Act 2009

- 1 Section 268(3), 'Parts 7, 8 and 10'—**
omit, insert—
'Parts 7 and 8 and part 10, division 1'.

- 2 Chapter 5, part 7, divisions 4 to 7—**
renumber as chapter 5, part 7, divisions 2 to 5.

- 3 Section 286, heading, 'div 4'—**
omit, insert—
'div 2'.

- 4 Chapter 5, part 8, division 1, subdivision 3, heading—**
omit.

5 Sections 305 to 311—

relocate and renumber in chapter 5, part 10, division 2 as inserted under this Act, as sections 325F to 325L.

6 Section 325F(3)(b), as relocated and renumbered, ‘section 311’—

*omit, insert—
‘section 325L’.*

7 Section 325J(3), as relocated and renumbered, ‘Sections 307 and 308’—

*omit, insert—
‘Sections 325H and 325I’.*

8 Section 325J(5)(c), as relocated and renumbered, ‘section 308(1)’—

*omit, insert—
‘section 325I(1)’.*

9 Section 325L(2), as relocated and renumbered, ‘section 309’—

*omit, insert—
‘section 325J’.*

10 Section 393(5), definition designated provision, first dot point, ‘, 285’—

omit.

11 Chapter 8, after heading—*insert—***‘Part 1 Transitional provisions for Act No. 3 of 2009’.****12 Section 430, heading, ‘ch 8’—***omit, insert—**‘pt 1’.***13 Sections 430, 433(1) and 436, ‘chapter’—***omit, insert—**‘part’.***14 Schedule 2, definition mining lease, ‘schedule’—***omit, insert—**‘schedule 2’.***Mineral Resources Act 1989****1 Sections 5 and 423, ‘the schedule’—***omit, insert—**‘schedule 2’.***2 Section 491(2), ‘Sections 169 to 174 apply’—***omit, insert—**‘Part 10, division 1B applies’.*

- 3 Section 491(2), ‘section 169(1)(a)’—**
omit, insert—
‘section 335F(2)(a)’.
- 4 Section 491(3), ‘section 170(3)’—**
omit, insert—
‘section 335H(3)’.
- 5 Section 491(4), ‘section 174’—**
omit, insert—
‘section 335I’.
- 6 Section 547(2), ‘Sections 217 to 222 apply’—**
omit, insert—
‘Part 10, division 1B applies’.
- 7 Section 547(2), ‘section 217(1)(a)’—**
omit, insert—
‘section 335F(2)(a)’.
- 8 Section 547(3), ‘section 218(3)’—**
omit, insert—
‘section 335H(3)’.
- 9 Section 547(4), ‘section 222’—**
omit, insert—
‘section 335I’.

Petroleum Act 1923

- 1 Section 2, definition mining lease, ‘schedule’—**
omit, insert—
‘schedule 2’.

- 2 Sections 75IZC(2) and 75IZG(4), ‘part 6K’—**
omit, insert—
‘part 6K, division 1’.

- 3 Part 6H, divisions 4 to 6—**
renumber as part 6H, divisions 2 to 4.

- 4 Part 6I, division 1, subdivision 3, heading—**
omit.

- 5 Sections 79B to 79H—**
relocate and renumber in part 6K, division 2 as inserted under this Act, as sections 79VF to 79VL.

- 6 Section 79VF(3)(b), as relocated and renumbered, ‘section 79H’—**
omit, insert—
‘section 79VL’.

- 7 Section 79VJ(3) as relocated and renumbered, ‘Sections 79D and 79E’—**
omit, insert—
‘Sections 79VH and 79VI’.

- 8 Section 79VJ(5)(c) as relocated and renumbered, ‘section 79E(1)’—**
omit, insert—
‘section 79VI(1)’.
- 9 Section 79VL(2) as relocated and renumbered, ‘section 79F’—**
omit, insert—
‘section 79VJ’.

Petroleum and Gas (Production and Safety) Act 2004

- 1 Sections 272(2) and 276(4), ‘chapter 5, part 5’—**
omit, insert—
‘chapter 5, part 5, division 1’.
- 2 Sections 279(3) and 293(3), ‘Chapter 5, parts 2, 3 and 5’—**
omit, insert—
‘Chapter 5, part 5, division 1 and parts 2 and 3’.
- 3 Chapter 5, part 2, divisions 3 to 6—**
renumber as divisions 2 to 5.
- 4 Chapter 5, part 3, division 1, subdivision 3, heading—**
omit.
- 5 Sections 519 to 525—**
relocate and renumber in chapter 5, part 5, division 2 as inserted under this Act, as sections 537F to 537L.

-
- 6 Section 537F(3)(b), as relocated and renumbered, 'section 525'—**
omit, insert—
'section 537L'.
- 7 Section 537J(3), as relocated and renumbered, 'Sections 521 and 522'—**
omit, insert—
'Sections 537H and 537I'.
- 8 Section 537J(5)(c), as relocated and renumbered, 'section 522(1)'—**
omit, insert—
'section 537I(1)'.
- 9 Section 537L(2), as relocated and renumbered, 'section 523'—**
omit, insert—
'section 537J'.
- 10 Schedule 2, definition mining lease, 'schedule'—**
omit, insert—
'schedule 2'.

Wild Rivers Act 2005

- 1 Section 31(3), definition mining claim, 'schedule'—**
omit, insert—
'schedule 2'.

Part 3 **Amendments of this Act**

1 **Long title, from ‘, to amend this Act,’—**
omit.

2 **Section 10, ‘schedule 3’—**
omit, insert—
‘schedule 2’.

3 **Schedule 3—**
renumber as schedule 2.

Part 4 **Other amendments**

Aboriginal Land Act 1991

1 **Section 41(5), definition relevant purpose—**
insert—
‘(d) the Geothermal Energy Act 2010.’.

2 **Section 78(5), definition relevant purpose—**
insert—
‘(d) the Geothermal Energy Act 2010.’.

3 **Section 88(1), ‘or the Petroleum and Gas (Production and Safety) Act 2004’—**
omit, insert—

’, the Petroleum and Gas (Production and Safety) Act 2004 or the Geothermal Energy Act 2010’.

4 Section 131(1)(a) and (4)(a)—

omit, insert—

‘(a) the interest is a—

(i) mining interest; or

(ii) geothermal tenure under the Geothermal Energy Act 2010; or

(iii) GHG authority under the Greenhouse Gas Storage Act 2009; or’.

5 Schedule, definition interest, paragraph (e)—

omit, insert—

‘(e) a geothermal tenure under the Geothermal Energy Act 2010; and

(f) a GHG authority under the Greenhouse Gas Storage Act 2009.’.

Coastal Protection and Management Act 1995

1 Schedule, definition interest—

insert—

‘(d) a geothermal production lease granted under the Geothermal Energy Act 2010.’.

Dangerous Goods Safety Management Act 2001

1 Section 3(1)—

insert—

‘(g) land that, under the Geothermal Energy Act 2010, is used to carry out geothermal production.’.

Environmental Protection Act 1994

1 Chapter 5A, part 5, division 5, heading, ‘petroleum activities’—

omit, insert—

‘other chapter 5A activities’.

2 Section 311Z, ‘petroleum activities’—

omit, insert—

‘geothermal activities or petroleum activities’.

3 Section 579(4)—

insert—

‘(e) the Geothermal Act, section 256.’.

Fire and Rescue Service Act 1990**1 Section 95(1)(c), after entry for Petroleum and Gas (Production and Safety) Act 2004—**

insert—

• Geothermal Energy Act 2010’.

Foreign Ownership of Land Register Act 1988**1 Section 4(1), definition interest in land, paragraph (o), after ‘Coal Mining Safety and Health Act 1999,’—**

insert—

‘the Geothermal Energy Act 2010.’.

Forestry Act 1959**1 Section 37(1), after ‘Mining Acts’—**

insert—

‘, a geothermal tenure under the Geothermal Act’.

2 Section 37(3) and (4), after ‘Mining Acts’—

insert—

‘, the Geothermal Act’.

3 Section 39(1)(a), after ‘Mining Acts’—

insert—

‘, the Geothermal Act’.

- 4 Section 44(2), after ‘Mining Acts’—**
insert—
‘, the Geothermal Act’.
- 5 Section 45(1)(f), after ‘Mining Acts’—**
insert—
‘, the Geothermal Act’.
- 6 Section 47, heading, ‘forests’—**
omit, insert—
‘forest’.
- 7 Section 47(b), after ‘Mining Acts’—**
insert—
‘, the Geothermal Act’.
- 8 Section 53(1), after ‘Mining Acts’—**
insert—
‘, the Geothermal Act’.
- 9 Section 102(1)(f)—**
omit.
- 10 Schedule 3—**
insert—
‘Geothermal Act means the Geothermal Energy Act 2010.’.

Greenhouse Gas Storage Act 2009**1 Chapter 1, part 3—***insert—***‘26A What is a resource Act***A resource Act is any of the following—*

- *this Act;*
- *the Geothermal Act;*
- *the Mineral Resources Act;*
- *the 1923 Act;*
- *the P&G Act.’.*

2 Chapter 4, heading—*omit, insert—***‘Chapter 4 Coordination with particular authorities under other resource Acts’.****3 Section 184(c)—***omit, insert—**‘(c) a geothermal permit.’.***4 Section 185, heading—***omit, insert—***‘185 Relationship with other resource Acts and overlapping resource authorities’.****5 Section 185, from ‘another Act’ to ‘that Act’—***omit, insert—*

‘another resource Act or an authority, tenement or tenure under a resource Act’.

6 Section 199, heading, ‘overlapping authority’—

omit, insert—

‘overlapping resource authority’.

7 Chapter 4, part 3, division 4, heading—

omit, insert—

‘Division 4 Resource management decision’.

8 Section 200(1)(a), ‘other than a geothermal exploration permit’—

omit.

9 Section 200(2), ‘under another Act about the overlapping authority’—

omit, insert—

‘, under another resource Act’.

10 Section 212(d)—

omit, insert—

‘(d) the effect of the GHG lease on safe and efficient use of resources under any overlapping resource authority for the GHG lease if the overlapping resource authority is a lease;’.

11 Chapter 4, part 5, heading, ‘another Act’—

omit, insert—

‘resource Act’.

-
- 12 Sections 217(a) and 339(2), ‘another Act’—**
omit, insert—
‘a resource Act’.
- 13 Section 221(1), ‘, a mining lease or petroleum lease holder’—**
omit, insert—
‘a relevant lease holder’.
- 14 Section 221, ‘GHG permit’—**
omit, insert—
‘GHG authority’.
- 15 Section 221(8), definition parties, paragraph (a), ‘lease’—**
omit, insert—
‘relevant lease’.
- 16 Section 223(1)(a)(ii), ‘geothermal exploration permit’—**
omit, insert—
‘geothermal permit’.
- 17 Section 231, heading, ‘overlapping authority’—**
omit, insert—
‘overlapping resource authority’.
- 18 Section 231(4)(a), editor’s note—**
omit.

- 19 Section 347(a)(i), ‘to’—**
omit, insert—
‘as’.
- 20 Section 380(2)(d)(i)(A), ‘chapter 4, part 5’—**
omit, insert—
‘chapter 5, part 5’.
- 21 Schedule 2, definition area, paragraph 2, from ‘an authority’ to ‘the authority’—**
omit, insert—
‘an authority, tenement or tenure granted under another resource Act is its area as defined under that Act or the area to which the authority, tenement or tenure’.

Land Act 1994

- 1 Section 20, heading, after ‘mining interests’—**
insert—
‘, geothermal tenures’.
- 2 Section 20(1) and (2), after ‘mining interest’—**
insert—
‘, geothermal tenure’.
- 3 Section 20(2)(b), after ‘Petroleum and Gas (Production and Safety) Act 2004’—**
insert—
‘, the Geothermal Energy Act 2010’.

4 Section 20(3)—

insert—

‘geothermal tenure means a geothermal tenure under the Geothermal Energy Act 2010.’.

5 Section 43(8), definition relevant purpose—

insert—

‘(d) the Geothermal Energy Act 2010.’.

Land Court Act 2000**1 Section 32J(1)(b), entry for Geothermal Exploration Act 2004—**

omit.

2 Section 32J(1)(b)—

insert—

- Geothermal Energy Act 2010*
- Greenhouse Gas Storage Act 2009’.*

Land Protection (Pest and Stock Route Management) Act 2002**1 Section 17(1)(b)—**

omit.

2 Section 17(1)(c) and (d)—
renumber as section 17(1)(b) and (c).

3 Chapter 11, part 2, heading, after ‘provisions’—
insert—
‘for Act No. 12 of 2002’.

4 Chapter 11, after section 328—
insert—

‘Part 3 Savings and transitional provisions for repeal of Act No. 30 of 1987

‘Division 1 Saving provision

‘329 Saving of operation of particular provisions

‘Each of the following provisions is declared to be a law to which the Acts Interpretation Act 1954, section 20A applies—

(a) *the Timber Utilisation and Marketing Act 1987, section 43;*

Editor’s note—

section 43 (Damage upon seizure or removal) of that Act

(b) *division 2.*

‘Division 2 Transitional provisions

‘330 Definitions for div 2

‘In this division—

associated brand, for an existing authorisation, means a brand registered under section 22(1)(a)(ii) of the repealed Act

for use by a person to brand timber that is chemically treated under the authorisation.

existing approval means an approval of a preservative treatment for timber under section 15 of the repealed Act, whether the approval was given on the TUMA chief executive's own volition or because of an application under section 16 of that Act.

existing authorisation means an authorisation under section 22(1)(a)(i) of the repealed Act to chemically treat timber using a preservative treatment for which there is an existing approval.

preservative treatment means a preservative treatment under section 6 of the repealed Act.

repealed Act means the repealed Timber Utilisation and Marketing Act 1987.

Note—

The repealed Act was repealed under the Geothermal Energy Act 2010, section 387.

TUMA chief executive means the chief executive of the department in which the repealed Act was administered.

‘331 Application of div 2

‘This division applies if—

- (a) an existing approval for a preservative treatment was in force immediately before the repeal of the repealed Act; and*
- (b) an existing authorisation had been granted to a person to use the preservative treatment; and*
- (c) the existing authorisation and registration of the associated brand were in force immediately before the repeal of the repealed Act; and*
- (d) the person to whom the existing authorisation was granted is not—*

- (i) *a registered operator under the Environmental Protection Act 1994 for carrying out chemical treatment of timber to which the authorisation relates; or*
- (ii) *acting under a registration certificate under that Act for carrying out the treatment.*

‘332 Existing approval continues

- ‘(1) *The existing approval continues in force until 31 July 2011 unless it is sooner cancelled.*
- ‘(2) *For this section, sections 17(1) and 18(a) and (b) of the repealed Act continue to apply as if the repealed Act had not been repealed.*

Editor’s note—

sections 17 (Cancellation of approval) and 18 (Notice of cancellation to be given) of the repealed Act

‘333 Existing authorisation and registration continue

- ‘(1) *The existing authorisation and registration of the associated brand continue in force until 31 July 2011 unless—*
 - (a) *the authorisation and registration are sooner cancelled; or*
 - (b) *the existing approval for the preservative treatment to which the authorisation relates is sooner cancelled.*
- ‘(2) *However, if registration of an associated brand is suspended under section 24 of the repealed Act as applied under subsection (3)(a)(i), the registration is suspended during the period of the suspension under the applied section.*
- ‘(3) *For this section, the following provisions continue to apply as if the repealed Act had not been repealed—*
 - (a) *the following provisions of the repealed Act—*
 - (i) *section 24, other than subsection (1)(b);*
 - (ii) *section 28(a) and (d), to the extent it relates to a brand registered under section 22(1)(a) of that Act;*

- (iii) *section 29, other than subsection (1)(e) and (f);*
 - (iv) *sections 30 and 32;*
 - (v) *section 36(2), (5), (6), (6A), (7), (8), (9) and (12);*
 - (vi) *sections 38, 39, 40, 41, 44(1), 49 and 53(1) and (3);*
 - (vii) *section 6, to the extent it contains definitions relevant to the provisions mentioned in subparagraphs (i) to (vi);*
- (b) *the repealed Timber Utilisation and Marketing Regulation 1998, section 10 and schedule 4.*

Editor's note—

- *section 24 (Cancellation of authorisation and cancellation or suspension of registration) of the repealed Act*
- *sections 28 (Use of registered brands), 29 (Sale of preservative-treated timber), 30 (Certain timber not to be removed from preservative treatment plant) and 32 (Exceptions to the provisions of ss 30 and 31) of the repealed Act*
- *sections 36 (Implied conditions), 38 (Powers of forest officers), 39 (Entry into dwelling house), 40 (Forest officer may require name and address), 41 (Obstruction of forest officer etc.), 44 (Offences), 49 (Sale of untreated timber branded with H level) and 53 (Regulation making power) of the repealed Act*
- *repealed Timber Utilisation and Marketing Regulation 1998, section 10 (Assignable H levels and conditions—Act, s 53(3)) and schedule 4 (H levels and conditions)'.*

5 **Schedule 3, definition owner, paragraph (a)(vi) to (viii)—**
renumber as paragraph (a)(vii) to (ix).

6 **Schedule 3, definition owner, paragraph (a)—**
insert—

'(vii)for land subject to a geothermal production lease under the Geothermal Energy Act 2010—the holder of the lease; or'.

Local Government Act 2009

1 Schedule 4, definition owner, paragraph (a)(viii)—

omit, insert—

‘(viii) a lessee of land under any of the following Acts—

- the Geothermal Energy Act 2010*
- the Greenhouse Gas Storage Act 2009*
- the Petroleum Act 1923*
- the Petroleum and Gas (Production and Safety) Act 2004; or’.*

Nature Conservation Act 1992

1 Section 27, heading, after ‘mining’—

insert—

‘, geothermal activities’.

2 Section 27(1), after ‘mining interest’—

insert—

‘, geothermal tenure’.

3 Section 45(2)(a), after ‘mining interest’—

insert—

‘, geothermal tenure’.

4 Section 45(2)(a), ‘or GHG authority holder’—

omit, insert—

‘or authority holder’.

-
- 5 Section 70QA, heading, after ‘mining’—**
insert—
‘, geothermal activities’.
- 6 Section 70QA, after ‘section 27’—**
insert—
‘, a geothermal tenure’.
- 7 Schedule—**
insert—
‘geothermal tenure see the Geothermal Energy Act 2010, section 19(2).’.
- 8 Schedule, definition interest, after ‘mining interest’—**
insert—
‘, geothermal tenure’.
- 9 Schedule, definition State land, paragraph (d), after ‘mining interest’—**
insert—
‘, geothermal tenure’.

Petroleum Act 1923

- 1 Section 75W(6)(a)(ii), ‘geothermal exploration permit’—**
omit, insert—
‘geothermal tenure’.

2 Section 80U(2)(e)(i)—

omit, insert—

‘(i) is not an authorised activity for the tenure or that, under any of the following, can not be carried out on the land—

(A) the Geothermal Act, chapter 5;

(B) the GHG storage Act, chapter 4;

(C) the Mineral Resources Act, section 3A or part 7AAC; and’.

Petroleum and Gas (Production and Safety) Act 2004

1 Section 24A(2), definition resource Acts, dot points for Geothermal Exploration Act 2004 and Geothermal Energy Act 2010—

omit, insert—

• Geothermal Act’.

2 Section 294(6)(a)(ii), ‘geothermal exploration permit’—

omit, insert—

‘geothermal tenure’.

3 Section 791(2)(d)(i)—

omit, insert—

‘(i) is not an authorised activity for the authority or that, under any of the following, can not be carried out on the land—

(A) the Geothermal Act, chapter 5;

(B) the GHG storage Act, chapter 4;

(C) *the Mineral Resources Act, section 3A or part 7AAC; and*'.

Queensland Heritage Act 1992

1 Schedule, definition owner, paragraph 1, after second occurring paragraph (d)—

insert—

'(da) for land in the area of a geothermal tenure under the Geothermal Energy Act 2010—the person who holds the tenure; or'.

2 Schedule, definition owner, paragraph 1(d), first occurring, to paragraph (g)—

renumber as paragraphs (c) to (h).

3 Schedule, definition owner, paragraph 1(c) as renumbered, '.'—

omit, insert—

'; or'.

State Development and Public Works Organisation Act 1971

1 Section 26(7)—

omit, insert—

'(7) If the project involves a proposed geothermal production lease under the Geothermal Energy Act 2010, the coordinator-general must also give a copy of the gazette

notice to the Minister for the time being administering that Act.’.

2 Section 35(4)(b), ‘or 49E’—

*omit, insert—
‘, 49E or 49G’.*

3 Section 35(2)(a), ‘or 49E’—

*omit, insert—
‘, 49E or 49G’.*

4 Part 4—

insert—

‘Division 6C Relationship with Geothermal Energy Act 2010

‘49F Application of div 6C

‘This division applies if the project involves a proposed geothermal production lease under the Geothermal Energy Act 2010.

‘49G Application of coordinator-general’s report to proposed lease

- ‘(1) The coordinator-general’s report for the EIS for the project may state conditions for the proposed lease.*
- ‘(2) If conditions under subsection (1) are included in the report, the coordinator-general must give the Minister of the department in which the Geothermal Energy Act 2010 is administered a copy of the report.’.*

Survey and Mapping Infrastructure Act 2003**1 Section 21(2)(b)—***insert—*

‘(vi) a geothermal tenure under the Geothermal Energy Act 2010.’.

Sustainable Planning Act 2009**1 Section 632(4), after ‘Petroleum and Gas (Production and Safety) Act 2004’—***insert—*

‘, the Geothermal Energy Act 2010’.

2 Section 642(2), after ‘Petroleum and Gas (Production and Safety) Act 2004’—*insert—*

‘, the Geothermal Energy Act 2010’.

Torres Strait Islander Land Act 1991**1 Section 3, definition interest, paragraph (e)—***omit, insert—*

‘(e) a geothermal tenure under the Geothermal Energy Act 2010; and’.

2 Section 38(5), definition relevant purpose—

insert—

‘(c) the Greenhouse Gas Storage Act 2009; or

(d) the Geothermal Energy Act 2010.’.

3 Section 85(1), ‘or the Petroleum and Gas (Production and Safety) Act 2004’—

omit, insert—

‘, the Petroleum and Gas (Production and Safety) Act 2004 or the Geothermal Energy Act 2010’.

4 Section 128(1)(a)(ii) and (3)(a)(ii)—

omit, insert—

‘(ii) geothermal tenure under the Geothermal Energy Act 2010; or’.

Valuation of Land Act 1944

1 Section 2—

insert—

‘geothermal lease means a geothermal production lease under the Geothermal Energy Act 2010.’.

2 Section 7(2)(d), after ‘occupier of a’—

insert—

‘geothermal lease,’.

3 Section 26, heading—

omit, insert—

‘26 Valuation of geothermal, GHG and petroleum leases’.

4 Section 26(1), ‘comprised in a petroleum lease or GHG lease shall be’—

omit, insert—

‘in the area of a geothermal lease, GHG lease or petroleum lease is’.

5 Section 26(2), definition yearly rent—

omit, insert—

‘yearly rent, for a geothermal lease, GHG lease or petroleum lease is the annual rent under the Act under which the lease is granted on the date at which all lands in the lease’s area are required to be valued.’.

Whistleblowers Protection Act 1994

1 Schedule 2—

insert—

Geothermal Energy Act 2010

- *All provisions for which a contravention is an offence’.*

Schedule 3 Dictionary

section 10

1923 Act *see section 8(c).*

1923 Act petroleum tenure *see the 1923 Act, section 2.*

access agreement *see section 221(2).*

access land, *for a geothermal tenure, see section 220(3).*

access rights *see section 220(2).*

ADR *see section 254(2)(b).*

advanced activity, *for a provision about a geothermal tenure, means an authorised activity for the tenure other than a preliminary activity for the tenure.*

Examples—

- *levelling of drilling pads and digging sumps*
- *earthworks associated with pipeline installation*
- *vegetation clear-felling*
- *constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump*
- *geophysical surveying with physical clearing*
- *carrying out a seismic survey using explosives*
- *constructing a track or access road*
- *changing a fence line*

appeal period, *for a decision, means the period provided for under section 336 for starting an appeal against the decision.*

applicant, *for chapter 5, part 3, see section 146(a).*

application period, *for a released area, see section 34(4).*

appropriately qualified, *for the performance of a function or exercise of a power; includes having the qualifications, experience and competence to perform the function or exercise the power.*

approved form means the form approved under section 384.

area—

- 1 *The area, of a geothermal tenure, is the land to which the tenure is subject as recorded in the geothermal register.*
- 2 *The area of an authority, tenement or tenure granted under another resource Act is its area as defined under that Act or the area to which the authority, tenement or tenure is subject under that Act.*

authorised activity, for a geothermal tenure, see section 22.

authorised person, for chapter 6, part 14, see section 305(2).

authorised officer means an authorised officer under the P&G Act.

authority to prospect means an authority to prospect under the 1923 Act or the P&G Act.

block see section 26(1).

capability criteria—

- (a) *for a geothermal permit or proposed geothermal permit—see section 41(b); or*
- (b) *for a geothermal lease or proposed geothermal lease—see section 81(j).*

compensation agreement, for chapter 6, part 8, division 2, see section 264(1).

compensation application, for chapter 6, part 8, division 2, means an application made under section 265(1).

compensation liability—

- (a) *for chapter 6, part 8, division 1—see section 247(2); or*
- (b) *for chapter 6, part 8, division 2—see section 263(2).*

conditions, of a geothermal tenure, see section 20.

conduct and compensation agreement see section 248(1).

conduct and compensation agreement requirement see section 216(2).

construct, a structure, includes placing the structure.

conviction includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

costs, incurred by the State, includes the cost of services the State provides for itself.

dangerous situation means a situation relating to a geothermal activity, a GHG stream or petroleum or fuel gas in which an inspector reasonably believes an imminent risk of material harm to persons or property is likely if action is not taken to avoid, eliminate or minimise the risk.

dealing, with a geothermal tenure, see section 278.

deferral agreement see section 217(c)(i).

development plan, for a geothermal lease, see section 25(1).

development plan criteria see section 91(2).

drill includes to bore.

election notice see section 254(2).

eligible claimant, for compensation, see section 247(1).

eligible person see section 23.

enter, a place, includes to exercise, in relation to the place, access rights or the rights under section 379.

entry notice—

(a) for chapter 6, part 5—see section 211(1); or

(b) for chapter 6, part 6—see section 239(2)(b).

Environmental Protection Act means the Environmental Protection Act 1994.

excluded land—

(a) for a particular geothermal tenure—means excluded land for the tenure decided under section 186; or

(b) generally—means any excluded land mentioned in paragraph (a).

executive officer, of a corporation, means a person who is concerned with or takes part in its management, whether or not the person is a director or the person's position is given the name of executive officer.

exempt heat pump production see section 15.

exploration authority (non-geothermal) see section 136.

fee includes tax.

first authority, for chapter 6, part 7, see section 243(1).

geothermal activity see section 18.

geothermal assessment criteria see section 147(1)(b).

geothermal coordination arrangement see section 138(4).

geothermal energy see section 11.

geothermal exploration see section 13.

geothermal exploration permit (also called a **geothermal permit**) see section 19(1)(a).

geothermal heat pump means a system for central heating or air conditioning that actively pumps heat to or from below ground of no more than 200m, using a fluid circulation medium.

Example of a fluid circulation medium—

water

Note—

Geothermal heat pumps are known by a variety of other names, including geexchange heat pumps, earth-coupled heat pumps, earth energy heat pumps, ground-source heat pumps and water-source heat pumps.

geothermal lease means a geothermal production lease.

geothermal permit means a geothermal exploration permit.

geothermal producer see section 104(1).

geothermal production see section 14.

geothermal production lease (also called a **geothermal lease**) see section 19(1)(b).

geothermal register means the register the chief executive keeps under section 272.

geothermal resources see section 12.

geothermal royalty means the geothermal royalty mentioned in section 104(1).

geothermal statement see section 147(1)(a).

geothermal tenure see section 19(2).

geothermal viability report see section 385(2)(a)(i).

geothermal well—

- 1 A geothermal well is a hole in the ground made or being made by drilling or any other means to carry out geothermal exploration or geothermal production.
- 2 A geothermal well includes the casing for the well and any of the following attached to the well—
 - the casing head
 - a casing hanger or spool or tubing hanger
 - flow control equipment up to and including the wing valves.
- 3 To remove any doubt, it is declared that a geothermal well does not include a seismic shot hole or shallow hole drilled to work out a geological structure.

GHG means greenhouse gas.

GHG authority see the GHG storage Act, section 18(3).

GHG lease see the GHG storage Act, section 18(1)(b).

GHG permit see the GHG storage Act, section 18(1)(a).

GHG storage see the GHG storage Act, section 3(2).

GHG storage Act see section 8(a).

GHG stream see the GHG storage Act, section 12.

holder, of a geothermal tenure, means each person recorded as its holder in the geothermal register.

holder submissions see section 150(1).

independent viability assessment see section 385(2)(a)(ii).

information notice, for a decision, means a notice stating the following—

- (a) the decision, and the reasons for it;
- (b) the rights of appeal under this Act;
- (c) the period in which any appeal under this Act must be started;
- (d) how rights of appeal under this Act are to be exercised;
- (e) that a stay of a decision the subject of an appeal under this Act may be applied for under this Act.

initial development plan requirements see section 87.

initial work program requirements see section 45.

inspector means an inspector under the P&G Act.

land includes—

- (a) land covered by Queensland waters; and
- (b) subterranean land.

land access code see the P&G Act, section 24A.

large-scale, for geothermal production, means geothermal production that is of a large-scale as that term is affected by section 16.

later development plan requirements see section 93.

later work program requirements see section 51.

made, for an application, means made at the place provided for under section 363.

mandatory condition, of a geothermal tenure, see section 20(2).

mandatory provision, of the land access code, means a provision of that code that the code requires compliance with.

Mineral Resources Act see section 8(b).

minimum negotiation period see section 251(2)(a).

mining interest means—

- (a) *a mining tenement under the Mineral Resources Act; or*
- (b) *a tenure held from the State under another Act about mining under which tenure the holder is authorised to carry out mining under the Mineral Resources Act or a related mineral or energy resources activity.*

mining lease *see the Mineral Resources Act, schedule 2.*

negotiation notice *see section 250(1).*

noncompliance action *means action of a type mentioned in section 320.*

notice *means a written notice.*

notifiable road use, *for a geothermal tenure, see section 235(1).*

occupier, *of a place, means—*

- (a) *a person who, under an Act, or, for freehold land, a lease registered under the Land Title Act 1994, has a right to occupy the place other than under a mining interest, petroleum authority, 1923 Act petroleum tenure, GHG authority or geothermal tenure; or*
- (b) *a person who has been given a right to occupy the place by a person mentioned in paragraph (a).*

on, *land or another place, includes across, attached to, in, under or over the land or place.*

operating plant *see the P&G Act, section 670.*

operator, *of an operating plant, see the P&G Act, section 673.*

overlapping authority application period *see section 156(2).*

overlapping authority priority *see section 150(3)(b).*

overlapping resource authority *see section 135.*

owner—

1 An owner, of land, means each person as follows in relation to the land—

- (a) *for freehold land—a registered owner;*

-
- (b) *for land for which a person is, or will be on performing conditions, entitled to a deed of grant in fee simple—the person;*
 - (c) *if an estate in fee simple of land is being purchased from the State—the purchaser;*
 - (d) *for a public road—the public road authority for the road;*
 - (e) *for land that is busway land, light rail land, rail corridor land or a cane railway or other railway—the public land authority for the land;*
 - (f) *for required land under the Transport Infrastructure Act 1994, section 436—the chief executive of the department in which that Act is administered;*
 - (g) *for a forest entitlement area, State forest or timber reserve under the Forestry Act 1959—the chief executive of the department in which that Act is administered;*
 - (h) *for a conservation park or resources reserve under the Nature Conservation Act 1992 (the NCA) for which there are trustees—*
 - (i) *if, under the NCA, the park or reserve has trustees whose powers are not restricted—the trustees; or*
 - (ii) *otherwise—the chief executive of the department in which the NCA is administered;*
 - (i) *for DOGIT land under the Aboriginal Land Act 1991 or the Torres Strait Islander Land Act 1991—a trustee for the land;*
 - (j) *for land held under a lease under the Local Government (Aboriginal Lands) Act 1978, section 3—a local government in whose area the land is situated;*
 - (k) *for Torres Strait Islander land under the Torres Strait Islander Land Act 1991 that is taken to be a*

reserve because of section 84(2) or 84(4)(b) of that Act—each grantee of the land;

- (l) for land under the Land Act 1994 for which there are trustees—a trustee;*
- (m) for transport land under the Transport Planning and Coordination Act 1994—the chief executive of the department in which that Act is administered;*
- (n) for land vested in the Minister administering the Education (General Provisions) Act 2006—that Minister;*
- (o) for land vested in the Queensland Housing Commission or another Minister or a chief executive responsible for constructing public buildings—the Minister administering the relevant Act;*
- (p) for land held from the State under another Act under an interest that is less than fee simple (other than occupation rights under a permit under the Land Act 1994)—the person who holds the interest;*
- (q) for any of the following land under the NCA—the State—*
 - (i) a national park;*
 - (ii) a national park (Aboriginal land);*
 - (iii) a national park (scientific);*
 - (iv) a national park (Torres Strait Islander land);*
 - (v) a national park (recovery);*
 - (vi) a forest reserve.*

2 Also, a mortgagee of land is the owner of land if—

- (a) the mortgagee is acting as mortgagee in possession of the land and has the exclusive management and control of the land; or*

(b) *the mortgagee or a person appointed by the mortgagee is in possession of the land and has the exclusive management and control of the land.*

3 *If land or another thing has more than 1 owner, a reference in this Act to the owner of the land or thing is a reference to each of its owners.*

P&G Act *see section 4.*

P&G Act safety provisions *see section 4(a).*

parties—

(a) *for chapter 6, part 8, division 1, subdivision 4, see section 251(1); or*

(b) *for chapter 7, part 1, see section 313.*

penalty relinquishment *means a relinquishment that is—*

(a) *made under a requirement under section 320(1)(b); and*

(b) *more than the blocks or sub-blocks required to be relinquished under the relinquishment condition.*

petroleum authority *see the P&G Act, section 18(2).*

petroleum lease *means a petroleum lease under the P&G Act or a lease under the 1923 Act.*

petroleum tenure *means any authority to prospect or any petroleum lease.*

pipeline licence *see the P&G Act, section 18(1)(f).*

place *includes land.*

plan period, *for a development plan, means the period for which the plan applies.*

potential geothermal commercial area, *for a geothermal permit, means an area declared under section 66 to be a potential geothermal commercial area for the permit.*

preliminary activity—

1 *Subject to paragraphs 2 to 4, a preliminary activity, for a provision about a geothermal tenure, means an authorised activity for the tenure that will have no*

impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples—

- *walking the area of the permit or licence*
- *driving along an existing road or track in the area*
- *taking soil or water samples*
- *geophysical surveying not involving site preparation*
- *aerial, electrical or environmental surveying*
- *survey pegging*

2 *An authorised activity for the geothermal tenure mentioned in paragraph 1 ceases to be a preliminary activity if it is carried out by or for the tenure holder for a continuous period of 6 months.*

3 *However, if after the 6 month period mentioned in paragraph 2 the authorised activity ceases and is resumed, on the resumption it becomes a preliminary activity.*

4 *The following are not preliminary activities—*

(a) *an authorised activity carried out on land that—*

(i) *is less than 100ha; and*

(ii) *is being used for intensive farming or broadacre agriculture;*

Examples—

- *land used for dryland or irrigated cropping, plantation forestry or horticulture*
- *a dairy, cattle or sheep feedlot, piggery or poultry farm*

(b) *an authorised activity carried out within 600m of a school or an occupied residence;*

(c) *an authorised activity that affects the lawful carrying out of an organic or bio-organic farming system.*

private land—

- 1 Private land is—
 - (a) freehold land; or
 - (b) an interest in land less than fee simple held from the State under another Act.
- 2 However, land is not private land to the extent of an interest in any of the following relating to the land—
 - (a) a mining interest;
 - (b) a petroleum authority or 1923 Act petroleum tenure;
 - (c) a GHG authority;
 - (d) a geothermal tenure;
 - (e) an occupation right under a permit under the Land Act 1994.
- 3 Also, land owned by a public land authority is not private land.

production commencement day, for a geothermal lease, see section 82(5)(c).

production testing see section 17.

program period, for a work program, means the period for which the program applies.

proposed action see section 72(1)(a).

proposed activities for—

- (a) a proposed initial work program—see section 47(1)(b);
or
- (b) a proposed initial development program—see section 89(1)(a).

provision, of a geothermal tenure, means a provision of the tenure as that term is affected by section 21.

public land means land other than—

- (a) private land; or

- (b) *to the extent an interest in any of the following relates to the land—*
- (i) *a mining interest;*
 - (ii) *a petroleum authority or 1923 Act petroleum tenure;*
 - (iii) *a GHG authority;*
 - (iv) *a geothermal tenure;*
 - (v) *an occupation right under a permit under the Land Act 1994.*

public land authority *means—*

- (a) *for a public road—the public road authority for the road; or*
- (b) *if a local government or other authority is, under an Act, charged with the control of the land—the local government or other authority; or*
- (c) *otherwise—the chief executive of the department administering the Act under which entry to the land is administered.*

public road *means an area of land that—*

- (a) *is open to or used by the public; and*
- (b) *is developed for or has as one of its main uses—*
 - (i) *the driving or riding of motor vehicles; or*
 - (ii) *pedestrian traffic; and*
- (c) *is controlled by a public road authority.*

Examples of an area of land that may be included in a road—

- *a bridge, culvert, ford, tunnel or viaduct*
- *a pedestrian or bicycle path*

public road authority, for a public road, *means—*

- (a) *for a State-controlled road—the chief executive of the department in which the Transport Infrastructure Act 1994 is administered; or*

- (b) *for another public road—the local government having the control of the road.*

publish, a notice, means to publish it in any of the following ways—

- (a) *in a journal published by the department or under the Minister’s authority;*
- (b) *in another publication the Minister considers appropriate;*
- (c) *on the department’s website;*
- (d) *by placing it on a public notice board, established and maintained by the department at—*
- (i) *the department’s head office; and*
 - (ii) *other places the chief executive considers appropriate.*

reasonably believes means to believe on grounds that are reasonable in the circumstances.

reasonably considers means to consider on grounds that are reasonable in the circumstances.

reasonably satisfied means to be satisfied on grounds that are reasonable in the circumstances.

registration, for a dealing, means recorded in the geothermal register.

released area see section 34(3).

relevant authority, for a geothermal coordination arrangement, see section 138(2).

relevant environmental authority, for a geothermal tenure or proposed geothermal tenure, means the environmental authority required under the Environmental Protection Act issued for all of the authorised activities for the tenure or proposed tenure that are environmentally relevant activities under that Act.

relevant environmental condition, for a provision about a geothermal tenure or proposed geothermal tenure, means a

condition of the relevant environmental authority for the tenure or proposed tenure.

relevant land, for a geothermal lease application, means the land the subject of the application.

relevant lease, for a geothermal lease application, see section 156(2).

relevant owner or occupier, for a provision about entry notices, means the owner or occupier to whom the entry notice is to be given, or would be given, other than for an exemption from the requirement to give an entry notice.

relevant Water Act authorisation, for a provision about a geothermal tenure or proposed geothermal tenure, means any authorisation required under the Water Act to take or interfere with water needed for activities carried out or proposed to be carried out under the tenure.

relinquishment condition, for a geothermal permit, is the relinquishment condition under section 109(1).

relinquishment notice see section 109(2)(a).

remedial powers see section 305(2).

report means a written report.

required information, for chapter 6, part 2, division 3, see section 195.

required way, for giving reports to the chief executive, see section 190(5).

resource Act see section 27.

resource management decision see section 152.

restricted area see section 33(1).

road use direction see section 237(1).

safety management plan see the P&G Act, schedule 2.

second authority, for chapter 6, part 7, see section 243(1).

security includes a bond, deposit of an amount as security, guarantee, indemnity or other surety, insurance, mortgage and undertaking.

services of the State has the same meaning that the term has in relation to the State of Queensland under the Copyright Act 1968 (Cwlth), section 183(1).

share, of a geothermal tenure, means any interest held by a person as a holder of the tenure in all of the tenure's area.

significant project means a project declared under the State Development and Public Works Organisation Act 1971, section 26, to be a significant project.

State-controlled road see Transport Infrastructure Act 1994, schedule 6.

structure means anything built or constructed, whether or not attached to land.

sub-block see section 26(2).

sublease, for chapter 6, part 11, means a sublease of a geothermal lease.

submission means a written submission.

surrender, for chapter 6, part 13, see section 301(2).

surrender application see section 301(1)(a).

third party transfer, of a geothermal tenure, see section 280.

waiver of entry notice—

(a) for chapter 6, part 5—means a waiver of entry notice mentioned in section 213 that complies with section 214(1); or

(b) for chapter 6, part 6—see section 239(3).

Water Act means the Water Act 2000.

wet geothermal production means geothermal production by the extraction of hot water from a subartesian basin.

work program, for a geothermal permit, see section 24.

work program criteria see section 49(2).

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Geothermal Energy Act 2010 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
0A	none	1 September 2010	certain provs commenced

5 List of legislation

Geothermal Energy Act 2010 No. 31

date of assent 1 September 2010

ss 1–2, ch 9 pt 2, ch 10 pt 1, sch 2 pt 1 commenced on date of assent (see s 2(2)(a)–(c))

remaining provisions not yet proclaimed into force (see s 2(1))

amending legislation—

Geothermal Energy Act 2010 No. 31 ss 1, 2(1), (3), s 585 sch 2 pt 3

date of assent 1 September 2010

ss 1–2 commenced on date of assent

remaining provisions commence immediately after ch 10 and sch 2 commence (see s 2(1), (3))

6 List of annotations

CHAPTER 10—AMENDMENT OF ACTS

PART 1—AMENDMENTS COMMENCING ON DATE OF ASSENT

pt 1 (ss 404–436) om R0A (see RA ss 7(1)(k) and 40)

SCHEDULE 2—MINOR AND CONSEQUENTIAL AMENDMENTS OF ACTS

amd R0A (see RA s 40)