

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, May 2016*



Queensland

No.

A BILL for

**An Act to amend the Mineral and Energy Resources (Common Provisions)
Act 2014 for particular purposes**



Queensland

Mineral and Other Legislation Amendment Bill 2016

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2016

A Bill

for

An Act to amend the Mineral and Energy Resources (Common Provisions) Act 2014 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Mineral and Other Legislation Amendment Act 2016*.

2 Act amended

This Act amends the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Note—

See also the amendments in schedule 1.

Part 2 Principal provisions

3 Amendment of ch 3, pt 2, div 5, hdg (Periodic notice after entry of land)

Chapter 3, part 2, division 5, heading, ‘notice’—

omit, insert—

report

4 Amendment of s 54 (Notice to owners and occupiers)

(1) Section 54, heading, ‘Notice’—

omit, insert—

Report

(2) Section 54(2), from ‘notice’—

omit, insert—

report about the entry.

(3) Section 54—

insert—

(3) The report must comply with the prescribed requirements for the report.

5 Amendment of s 66 (Application of pt 4)

Section 66, from ‘does’—

omit, insert—

is additional to, and does not limit, parts 2 and 3.

6 Amendment of s 67 (Definitions for pt 4)

(1) Section 67, definition *prescribed activity*, paragraph (b)(i), after ‘days’—

insert—

after the start of the installation

(2) Section 67, definition *prescribed distance*—

omit.

7 Amendment of s 68 (What is *restricted land*)

(1) Section 68(1)—

omit, insert—

(1) ***Restricted land***, for a production resource authority or exploration resource authority, means—

(a) land within 200m laterally of any of the following—

[s 7]

- (i) a permanent building used for any of the following purposes—
 - (A) a residence;
 - (B) a childcare centre, hospital or library;
 - (C) a community, sporting or recreational purpose or as a place of worship;
 - (D) a business;
 - (ii) an area used for any of the following purposes—
 - (A) a school;
 - (B) a prescribed ERA, under the Environmental Protection Act, that is aquaculture, intensive animal feedlotting, pig keeping or poultry farming;
 - (iii) an area, building or structure prescribed by regulation; or
- (b) land within 50m laterally of any of the following—
- (i) an area used for any of the following purposes—
 - (A) an artesian well, bore, dam or water storage facility;
 - (B) a principal stockyard;
 - (C) a cemetery or burial place;
 - (ii) an area, building or structure prescribed by regulation.
- (1A) ***Restricted land***, for a resource authority other than a production resource authority or exploration resource authority, means land within

50m laterally of any area, building or structure mentioned in subsection (1).

(2) Section 68(2), ‘subsection (1)(a)’—

omit, insert—

subsection (1)

(2A) Section 68(3), definition *residence*—

omit.

(3) Section 68(3)—

insert—

exploration resource authority means a resource authority that is—

- (a) an exploration permit or mineral development licence under the Mineral Resources Act; or
- (b) an authority to prospect under the P&G Act; or
- (c) an authority to prospect under the 1923 Act; or
- (d) a geothermal exploration permit under the Geothermal Act; or
- (e) a GHG exploration permit under the Greenhouse Gas Act.

water storage facility—

- (a) means an artificially constructed water storage facility that is connected to a water supply; and
- (b) does not include an interconnecting water pipeline.

(4) Section 68(1A) to (3)—

renumber as section 68(2) to (4).

[s 8]

8 Amendment of s 69 (Who is a *relevant owner or occupier*)

Section 69(c) and (d)—

omit, insert—

- (c) for restricted land mentioned in section 68(1)(a)(iii), (1)(b) or (2)—an owner or occupier of the area, building or structure.

9 Omission of s 71 (Consent not required for entry on particular land to carry out prescribed activities for mining lease)

Section 71—

omit.

10 Insertion of new ch 3, pt 4, div 3, hdg

Chapter 3, part 4, before section 72—

insert—

Division 3 Land court declarations

11 Amendment of s 72 (Application to Land Court for declaration)

- (1) Section 72(1)(a) and (2)(a), after ‘resource authority’—

insert—

or the Mineral Resources Act, schedule 1, section 2

- (2) Section 72(4), definition *prescribed person*—

insert—

- (c) a person carrying out, or intending to carry out, an activity on the land under the Mineral Resources Act, section 386V.

12 Amendment of s 85 (Negotiations)

- (1) Section 85(2)(a), ‘but’—
omit, insert—
and
- (2) Section 85—
insert—
(2A) If the parties agree to a longer period, the agreed longer period is the minimum negotiation period.
- (3) Section 85(2A) and (3)—
renumber as section 85(3) and (4).

13 Amendment of s 103 (Definitions for ch 4)

- (1) Section 103, definitions *agreed mining commencement date*, *mining commencement date* and *proposed mining commencement date*—
omit.
- (2) Section 103—
insert—
mining commencement date, for an IMA or RMA, see section 115.
- (3) Section 103, definition *mining safety legislation*—
insert—
(d) the *Mineral Resources Regulation 2013*, chapter 2, part 4, division 4.
- (4) Section 103, definition *proposed joint development plan*, paragraph (a), ‘section 130(2)’—
omit, insert—
section 130(3)

[s 14]

14 Amendment of s 105 (What is an ML (coal) holder)

Section 105(2)—

omit, insert—

- (2) A reference to an ML (coal) holder includes, if the circumstances permit, an EP (coal) holder or MDL (coal) holder who is an applicant for an ML (coal).

15 Amendment of s 109 (What is an *initial mining area or IMA*)

Section 109(1), from ‘identified’ to ‘requires’—

omit, insert—

identified by an ML (coal) holder, for which the ML (coal) holder requires

16 Amendment of s 110 (What is a *future mining area or FMA*)

Section 110(1), from ‘identified’ to ‘intends’—

omit, insert—

identified by an ML (coal) holder, in which the ML (coal) holder intends

17 Amendment of s 111 (What is a *rolling mining area or RMA*)

Section 111(1), from ‘identified’ to ‘requires’—

omit, insert—

identified by an ML (coal) holder, for which the ML (coal) holder requires

18 Replacement of s 115 (What is the *proposed mining commencement date*)

Section 115—

omit, insert—

115 What is the *mining commencement date*

- (1) The *mining commencement date*, for an IMA or RMA in an overlapping area, is—
 - (a) the date, identified by a coal resource authority holder for the overlapping area, for starting to carry out authorised activities for the coal resource authority in the IMA or RMA; or
 - (b) if the resource authority holders for the overlapping area agree in writing to change the date mentioned in paragraph (a) for an IMA or RMA—the new agreed date; or
 - (c) if the date mentioned in paragraph (a) or (b) for an IMA or RMA is changed under section 127, 128, 142A, 241A or by arbitration—the new changed date.
- (2) For subsection (1)(a), the date identified by an ML (coal) holder for an IMA must be—
 - (a) if the corresponding column 2 resource authority for the ML (coal) is an ATP—at least 18 months after the date on which the advance notice for the ML (coal) is given; or
 - (b) if the corresponding column 2 resource authority for the ML (coal) is a PL—at least 11 years after the date on which the advance notice for the ML (coal) is given.
- (3) For subsection (1)(a), the date identified by an ML (coal) holder for an RMA must be—
 - (a) for the first RMA in an overlapping area—at least 10 years after the mining

[s 19]

commencement date for the IMA to which the RMA is contiguous; and

- (b) for each subsequent RMA in the overlapping area—at least 1 year after the mining commencement date for the immediately preceding RMA.

19 Omission of s 116 (What is the *agreed mining commencement date*)

Section 116—

omit.

20 Amendment of s 117 (Mandatory requirements for participants)

Section 117(1)(b) to (e)—

omit, insert—

- (b) section 127(8)(b);
- (c) part 2, division 3;
- (d) parts 3 and 4;
- (e) part 5, other than section 153;
- (f) part 6, divisions 1 and 2.

21 Amendment of s 120 (Sole occupancy of IMA)

Section 120(1)—

omit, insert—

- (1) An ML (coal) holder has sole occupancy of an IMA for an overlapping area the subject of the ML (coal) from the mining commencement date for the IMA, but only if the ML (coal) holder has given each petroleum resource authority holder the notices mentioned in subsection (2) or (3) as required under this division.

22 Amendment of s 121 (Advance notice)

(1) Section 121(1)(c)—

omit, insert—

(c) if the petroleum resource authority is an ATP—identifies any IMA or RMA in the overlapping area, and the mining commencement date for the IMA or RMA; and

(ca) if the petroleum resource authority is a PL—includes a joint development plan for the overlapping area the subject of the ML (coal); and

(2) Section 121(1)(ca) and (d)—

renumber as section 121(1)(d) and (e).

23 Amendment of s 122 (18 months notice)

Section 122(1)(b) and (2), ‘proposed’—

omit.

24 Amendment of s 123 (Confirmation notice)

(1) Section 123(1)(b), ‘agreed’—

omit.

(2) Section 123(1)(c), ‘agreed mining commencement date’—

omit, insert—

date stated under paragraph (b)

(3) Section 123(2), ‘agreed mining commencement date’—

omit, insert—

date stated under subsection (1)(b)

[s 25]

25 Replacement of s 124 (Sole occupancy of RMA)

Section 124—

omit, insert—

124 Sole occupancy of RMA

An ML (coal) holder has sole occupancy of each RMA for an overlapping area the subject of the ML (coal) from the mining commencement date for the RMA, but only if the ML (coal) holder has given each petroleum resource authority holder an RMA notice for the ML (coal) as required under this division.

26 Amendment of s 125 (RMA notice)

(1) Section 125(1)(b), ‘agreed’—

omit.

(2) Section 125(1)(c), ‘agreed mining commencement date’—

omit, insert—

date stated under paragraph (b)

(3) Section 125(2), ‘agreed mining commencement date’—

omit, insert—

date stated under subsection (1)(b)

27 Amendment of s 126 (Joint occupancy of SOZ)

Section 126, ‘agreed’—

omit.

28 Amendment of s 127 (Exceptional circumstances notice may be given by petroleum resource authority holder)

(1) Section 127(1)(a)(i), from ‘but’ to ‘plan’—

omit.

(2) Section 127(1)(a)(ii), ‘agreed mining’—

omit, insert—

mining

- (3) Section 127(2)(b), ‘proposed or agreed’—

omit.

- (4) Section 127(2)—

insert—

- (c) any other information prescribed by regulation.

- (5) Section 127—

insert—

- (7A) If an ML (coal) holder accepts an ATP holder’s preferred mining commencement date for an IMA or RMA under subsection (5) (the ***new date***), or a new mining commencement date for an IMA or RMA is established by arbitration (also the ***new date***)—

- (a) the new date applies as the mining commencement date for the IMA or RMA, including if a PL is granted in relation to the ATP; and

- (b) within 20 business days after the new date is accepted or established, the ML (coal) holder must give the chief executive a written notice stating—

- (i) that exceptional circumstances justifying a new mining commencement date have been accepted by the ML (coal) holder or established by arbitration; and

- (ii) the new mining commencement date; and

- (iii) any other information prescribed by regulation.

[s 29]

- (6) Section 127(7A) and (8)—
renumber as section 127(8) and (9).

29 Amendment of s 128 (Acceleration notice may be given by ML (coal) holder)

- (1) Section 128(1)—
omit, insert—
- (1) This section applies if an ML (coal) holder considers a mining commencement date for an IMA or RMA should be an earlier date.
- (2) Section 128(2)(a)—
omit, insert—
- (a) states the earlier date; and
- (3) Section 128(3)(b) and (5), ‘proposed or agreed’—
omit.

30 Amendment of s 129 (Abandonment of sole occupancy of IMA or RMA)

Section 129(2)(b), from ‘, as’ to ‘area,’—
omit.

31 Amendment of s 130 (Requirement for agreed joint development plan)

- (1) Section 130(1)—
omit, insert—
- (1) This section applies if an ML (coal) holder gives an advance notice to a PL holder.
- (1A) The ML (coal) holder must ensure—
- (a) within 12 months after giving the advance notice to the PL holder or, if an application for arbitration of a dispute is made under

section 131(2) or (3), within 9 months after the appointment of the arbitrator—there is in place—

(i) a joint development plan that has been agreed with the PL holder; or

(ii) an agreed joint development plan as arbitrated; and

(b) within 20 business days after the agreed joint development plan is in place—written notice is given to the chief executive stating the following—

(i) that the plan is in place;

(ii) the period for which the plan has effect;

(iii) other information prescribed by regulation.

(2) Section 130(2)(a) and (c), ‘petroleum resource authority holder’—

omit, insert—

PL holder

(2A) Section 130(2)(d), ‘proposed’—

omit.

(3) Section 130(2)(e), ‘agreed’—

omit.

(4) Section 130(3)(b), ‘subsection (1)(b)’—

omit, insert—

subsection (2)(b)

(5) Section 130(1A) to (3)—

renumber as section 130(2) to (4).

[s 32]

32 Amendment of s 131 (Negotiation of agreed joint development plan)

(1) Section 131, ‘petroleum resource authority holder’—

omit, insert—

PL holder

(2) Section 131(1), ‘section 130(1)(b)’—

omit, insert—

section 130(2)(b)

33 Amendment of s 132 (Consistency with work programs and development plans)

(1) Section 132, heading, ‘work programs and’—

omit.

(2) Section 132(2)—

omit, insert—

(2) The PL holder must ensure any development plan under the P&G Act for the PL is consistent to the greatest practicable extent with each agreed joint development plan that applies to the PL holder.

(3) Section 132(3), ‘petroleum resource authority’—

omit, insert—

PL

34 Amendment of s 133 (Amendment of agreed joint development plan)

(1) Section 133(3)—

omit, insert—

(3) A resource authority holder who can not obtain a proposed amendment of an agreed joint development plan under this section may apply

for arbitration of the dispute to the extent it relates to a relevant matter.

(3A) Subsection (5) applies if an amendment of an agreed joint development plan, whether by agreement under this section or by arbitration, provides for a cessation, or significant reduction or increase, of—

- (a) mining under the ML (coal); or
- (b) production under the PL.

(2) Section 133(5)—

omit.

(3) Section 133(3A) and (4)—

renumber as section 133(4) and (5).

35 Replacement of s 134 (Authorised activities allowed only if consistent with agreed joint development plan)

Section 134—

omit, insert—

134 Authorised activities allowed only if consistent with agreed joint development plan

- (1) This section applies if an agreed joint development plan applies to an ML (coal) holder and a PL holder.
- (2) The ML (coal) holder may carry out an authorised activity for the ML (coal) in an overlapping area the subject of the ML (coal) only if carrying out the activity is consistent with the agreed joint development plan.
- (3) The PL holder may carry out an authorised activity for the PL in an overlapping area the subject of the PL only if carrying out the activity is consistent with the agreed joint development plan.

[s 36]

- (4) To remove any doubt, it is declared that if an ML (coal) holder has given an advance notice to a PL holder and there is no agreed joint development plan that applies to the ML (coal) holder and the PL holder, the PL holder may carry out an authorised activity for the PL in the overlapping area the subject of the PL and ML (coal) if carrying out the activity is consistent with each development plan under the P&G Act that applies to the PL holder.

36 Amendment of s 135 (Condition of authorities)

Section 135, ‘petroleum resource authority’—

omit, insert—

PL

37 Amendment of s 139 (Definitions for pt 3)

Section 139(2) and (3)—

omit.

38 Amendment of s 141 (Petroleum production notice)

(1) Section 141(1)(c) and (d)—

omit, insert—

(c) if the coal resource authority is an ML (coal)—includes a proposed joint development plan; and

(2) Section 141(1)(e)—

renumber as section 141(1)(d).

39 Amendment of s 142 (Requirement for agreed joint development plan)

(1) Section 142(1) and (2)—

omit, insert—

- (1) This section applies if a PL holder gives a petroleum production notice to an ML (coal) holder.
- (2) The PL holder must ensure—
 - (a) within 12 months after giving the petroleum production notice to the ML (coal) holder or, if an application for arbitration of a dispute is made under section 144(2) or (3), within 9 months after the appointment of the arbitrator—there is in place—
 - (i) a joint development plan that has been agreed with the ML (coal) holder; or
 - (ii) an agreed joint development plan as arbitrated; and
 - (b) within 20 business days after the agreed joint development plan is in place—written notice is given to the chief executive stating the following—
 - (i) that the plan is in place;
 - (ii) the period for which the plan has effect;
 - (iii) other information prescribed by regulation.
- (2) Section 142(3)(a), ‘petroleum resource authority holder’—

omit, insert—

PL holder
- (3) Section 142(3)(b), after ‘by the’—

insert—

ML (coal) holder and
- (4) Section 142(3)(d), ‘agreed’—

omit.

[s 40]

40 Amendment of s 142A (Petroleum production notice given more than 6 months after advance notice)

Section 142A(3)—

omit, insert—

- (3) This section does not limit—
- (a) the changing of the mining commencement date for the IMA in the way mentioned in section 115(1)(b) or (c); or
 - (b) the power of the petroleum resource authority holder to give an exceptional circumstances notice under section 127; or
 - (c) the power of the ML (coal) holder to give an acceleration notice under section 128.

41 Omission of s 143 (Exceptional circumstances notice previously given by ATP holder when PL holder)

Section 143—

omit.

42 Amendment of s 144 (Negotiation of agreed joint development plan)

Section 144(1)—

omit, insert—

- (1) An ML (coal) holder who receives a petroleum production notice that includes a proposed joint development plan must negotiate in good faith with the PL holder to enable the PL holder to give a notice under section 142(2)(b).

43 Amendment of s 146 (Amendment of agreed joint development plan)

- (1) Section 146(3)—

omit, insert—

- (3) A resource authority holder who can not obtain a proposed amendment of an agreed joint development plan under this section may apply for arbitration of the dispute to the extent it relates to a relevant matter.
- (3A) Subsection (5) applies if an amendment of an agreed joint development plan, whether by agreement under this section or by arbitration, provides for a cessation, or significant reduction or increase, of—
 - (a) mining under the ML (coal); or
 - (b) production under the PL.
- (2) Section 146(5)—

omit.
- (3) Section 146(3A) and (4)—

renumber as section 146(4) and (5).

44 Replacement of s 147 (Authorised activities allowed only if consistent with agreed joint development plan)

Section 147—

omit, insert—

147 Authorised activities allowed only if consistent with agreed joint development plan

- (1) This section applies if an agreed joint development plan applies to a PL holder and an ML (coal) holder.
- (2) The PL holder may carry out an authorised activity for the PL in an overlapping area the subject of the PL only if carrying out the activity is consistent with the agreed joint development plan.

[s 45]

- (3) The ML (coal) holder may carry out an authorised activity for the ML (coal) in an overlapping area the subject of the ML (coal) only if carrying out the activity is consistent with the agreed joint development plan.
- (4) To remove any doubt, it is declared that if a PL holder has given a petroleum production notice to an ML (coal) holder and there is no agreed joint development plan that applies to the PL holder and the ML (coal) holder, the ML (coal) holder may carry out an authorised activity for the ML (coal) in the overlapping area the subject of the ML (coal) and PL if carrying out the activity is consistent with each development plan under the Mineral Resources Act that applies to the ML (coal) holder.

45 Amendment of s 149 (Concurrent notice may be given by ATP holder)

- (1) Section 149(2), from ‘in relation’—
omit, insert—
stating the information mentioned in subsection (1)(b).
- (2) Section 149(5)—
omit, insert—
 - (5) Without limiting subsection (4)—
 - (a) the mining commencement date for an IMA in the overlapping area, for the purposes of the advance notice, is taken to be at least 11 years after the date on which the advance notice was given; and
 - (b) the mining commencement date for the IMA may be changed in the way mentioned in section 115(1)(b) or (c); and

-
- (c) the ATP holder may give an exceptional circumstances notice under section 127, including at the same time as the concurrent notice is given.
 - (6) However, despite subsection (4), the ML (coal) holder must ensure the agreed joint development plan mentioned in section 130(2) is in place within 12 months after receiving from the ATP holder a petroleum production notice or, if an application for arbitration of a dispute is made under section 131(2) or (3), within 9 months after the appointment of the arbitrator, instead of within the period mentioned in section 130(2).

46 Amendment of s 150 (Requirements for holder of EP (coal) or MDL (coal) if concurrent PL application)

Section 150(2) and (3)—

omit, insert—

- (2) The holder of the EP (coal) or MDL (coal) must give the ATP holder an advance notice as required under part 2.
- (3) The mining commencement date for an IMA in the overlapping area, for the purposes of the advance notice, must be at least 11 years after the date on which the advance notice is given.
- (4) Without otherwise limiting the application of part 2—
 - (a) the requirement under section 130(2)(a) for an agreed joint development plan to be in place within the period mentioned in section 130(2)(a) applies; and
 - (b) the mining commencement date for the IMA may be changed in the way mentioned in section 115(1)(b) or (c).

[s 47]

47 Amendment of s 153 (Expedited land access for petroleum resource authority holders)

Section 153(2), after ‘the subject of the petroleum resource authority’—

insert—

, other than an IMA or SOZ in the overlapping area,

48 Amendment of s 154 (Resource authority holders must exchange information)

Section 154(3)—

omit, insert—

(3) The information must be given—

- (a) within 20 business days after the overlapping area comes into existence; and
- (b) at least once during each year that the resource authorities for the overlapping area are in force.

49 Amendment of s 158 (Amendment of agreed joint development plan)

(1) Section 158(2)(a), ‘maximise the benefit for all Queenslanders’—

omit, insert—

optimise the development and use of the State’s coal and coal seam gas resources

(2) Section 158(2)(d), ‘work program or’—

omit.

50 Amendment of s 159 (Request for information)

Section 159(a), ‘to maximise the benefit for all Queenslanders’—

omit.

51 Amendment of s 167 (Liability of ML (coal) holder to compensate PL holder)

(1) Section 167(2)(e)—

omit, insert—

- (e) if subsection (1)(a) applies, but the mining commencement date for an IMA or RMA identified in the acceleration notice is changed by the ML (coal) holder to a later date—additional costs incurred by the PL holder because of the delay in the mining commencement date, other than to the extent the liability to compensate is reduced under subsection (4).

(2) Section 167(4)(b), ‘agreed’—

omit.

51A Amendment of s 170 (Minimising compensation liability)

Section 170(2), ‘coal seam gas’—

omit, insert—

natural gas

52 Amendment of s 172 (Reconciliation payments and replacement gas)

(1) Section 172(1)—

omit, insert—

- (1) This section applies if—
 - (a) under this division, a PL holder receives a payment or an amount of natural gas from an ML (coal) holder to meet a compensation liability for lost production; and
 - (b) the PL holder subsequently recovers coal seam gas that was the subject of the compensation liability.

[s 53]

(1A) Section 172(2)(b), ‘coal seam gas (*replacement gas*)’—
omit, insert—

natural gas (*replacement gas*)

(1B) Section 172(2)(c)(ii), ‘coal seam gas (also *replacement gas*)’—

omit, insert—

natural gas (also *replacement gas*)

(2) Section 172(3)(b), ‘compensation payment’—

omit, insert—

amount received to meet the compensation liability

53 Replacement of s 174 (Availability of dispute resolution)

Section 174—

omit, insert—

174 Availability of dispute resolution

(1) This section applies if—

(a) either of the following applies—

(i) a petroleum resource authority holder is entitled to receive a payment of an amount to meet a compensation liability;

(ii) an ML (coal) holder is entitled to receive a reconciliation payment or replacement gas; and

(b) the petroleum resource authority holder and ML (coal) holder can not agree on 1 or more of the following—

(i) the amount of the payment to meet the compensation liability the petroleum resource authority holder is entitled to receive;

- (ii) when the payment of the amount to meet the compensation liability must be made;
 - (iii) the amount of the reconciliation payment the ML (coal) holder is entitled to receive;
 - (iv) when the reconciliation payment must be made;
 - (v) the amount of replacement gas the ML (coal) holder is entitled to receive;
 - (vi) when the replacement gas must be given.
- (2) The petroleum resource authority holder or the ML (coal) holder may apply for arbitration of the dispute.

54 Amendment of s 175 (Application of div 4)

Section 175(c), ‘about compensation’—
omit.

55 Amendment of s 177 (Nomination of arbitrator)

Section 177—
insert—

- (3) A prescribed arbitration institute does not incur any civil monetary liability for an act or omission in the performance, or purported performance, of a function under subsection (2) unless the act or omission is done or made in bad faith or through negligence.

56 Amendment of s 178 (Arbitrator’s functions)

(1) Section 178(2)—

[s 57]

omit, insert—

- (2) The award must be consistent with—
- (a) optimising the development and use of the State’s coal and coal seam gas resources; and
 - (b) safety and health requirements under mining safety legislation.

- (2) Section 178(4), ‘may consider’—

omit, insert—

must consider

57 Amendment of s 182 (Effect of arbitrator’s decision)

Section 182(3)—

insert—

- (c) a power of the Supreme Court to decide a decision of the arbitrator is affected by jurisdictional error.

58 Omission of s 184 (Notice to chief executive after arbitration)

Section 184—

omit.

59 Omission of ch 4, pt 6, div 5 (Miscellaneous provision)

Chapter 4, part 6, division 5—

omit.

60 Replacement of ch 7, pt 3 (Provisions for land access)

Chapter 7, part 3—

omit, insert—

[s 60]

- (2) The authorised activity mentioned in subsection (1)(b) is taken to be an advanced activity for the resource authority for the application of the new land access provisions in relation to the entry to the private land.
- (3) In this section—
conduct and compensation agreement requirement means a requirement under—
 - (a) the Mineral Resources Act, schedule 1, section 10(1); or
 - (b) the P&G Act, section 500(1); or
 - (c) the 1923 Act, section 78Q(1); or
 - (d) the Geothermal Act, section 216(1); or
 - (e) the Greenhouse Gas Act, section 283(1).*new land access provisions* means chapter 3, parts 1, 2 and 7.

220 Existing entry notices

- (1) This section applies to an entry notice given under a pre-amended Resource Act to an owner or occupier of land or a public land authority, and in force immediately before the commencement.
- (2) The notice continues in force after the commencement and is taken to be—
 - (a) if the notice is given in relation to entry to private land—an entry notice given under section 39; or
 - (b) if the notice is given in relation to entry to public land—a periodic entry notice given under section 57.
- (3) The notice is valid even if the notice does not comply with section 39(2) or 57(2).

221 Existing waiver of entry notices

- (1) This section applies to a waiver of entry notice given to a resource authority holder under a pre-amended Resource Act and in force immediately before the commencement.
- (2) The notice continues in force after the commencement and is taken to be—
 - (a) if the notice is given in relation to entry to private land—a waiver of entry notice given under section 42; or
 - (b) if the notice is given in relation to entry to public land—a waiver of entry notice given under section 60.
- (3) The notice is valid even if the notice does not comply with a prescribed requirement under section 42(2)(a) or 60(2)(a).

222 Existing deferral agreements

- (1) This section applies to a deferral agreement entered into under a pre-amended Resource Act and in force immediately before the commencement.
- (2) The agreement continues in force after the commencement and is taken to be a deferral agreement entered into under section 44(1).
- (3) The agreement is valid even if the agreement does not comply with a prescribed requirement under section 44(2).

223 Existing access agreements

- (1) This section applies to an access agreement entered into under a pre-amended Resource Act and in force immediately before the commencement.

[s 60]

- (2) The agreement continues in force after the commencement and is taken to be an access agreement entered into under section 47(1)(a).

224 Existing conditions imposed by public land authority for entry to public land

- (1) This section applies if—
 - (a) a public land authority, in response to a resource authority holder's entry notice under a pre-amended Resource Act about entering public land, imposed under the pre-amended Resource Act a condition relating to the entry or the carrying out of an authorised activity; and
 - (b) the condition is in force immediately before the commencement.
- (2) The condition continues in force after the commencement and is taken to be a condition imposed under section 59(2) by the public land authority.
- (3) However, the public land authority is not required to comply with section 59(8) in relation to imposing the condition.

225 Existing road use directions

- (1) This section applies if—
 - (a) a public land authority, under a pre-amended Resource Act, gave a road use direction to a resource authority holder; and
 - (b) the direction is in force immediately before the commencement.
- (2) The direction continues in force after the commencement and is taken to be a road use

direction given under section 64(1) by the authority.

- (3) The direction is valid even if the direction does not comply with section 64(4)(b).

226 Existing written consent to enter land given by second resource authority holder

- (1) This section applies if—
 - (a) a second resource authority holder under a pre-amended Resource Act has given written consent to a first resource authority holder under a pre-amended Resource Act to enter land; and
 - (b) the consent is in force immediately before the commencement.
- (2) The written consent continues in force and is taken to be written consent to enter land given under section 75 by the second resource authority holder to the first resource authority holder.

- (3) In this section—

written consent means—

- (a) for the pre-amended P&G Act—written consent given under the pre-amended P&G Act, section 529; or
- (b) for the pre-amended 1923 Act—written consent given under the pre-amended 1923 Act, section 79N; or
- (c) for the pre-amended Geothermal Act—written consent given under the pre-amended Geothermal Act, section 244; or
- (d) for the pre-amended Greenhouse Gas Act—written consent given under the

[s 60]

pre-amended Greenhouse Gas Act, section 317.

227 Existing conduct and compensation agreements

- (1) This section applies to a conduct and compensation agreement entered into under a pre-amended Resource Act and in force immediately before the commencement.
- (2) The agreement continues in force after the commencement and is taken to be a conduct and compensation agreement entered into under section 83(1).
- (3) The agreement is valid even if the agreement does not comply with a prescribed requirement under section 83(4).
- (4) However—
 - (a) a resource authority holder that is a party to a conduct and compensation agreement must comply with section 92(1) in relation to the agreement within 6 months after the commencement, instead of within 28 days as mentioned in that section; and
 - (b) a special agreement can not be the subject of an application under section 101 to the Land Court for a review of the original compensation.
- (5) A requirement of a resource authority holder under subsection (4)(a) is a condition of the resource authority.
- (6) In this section—

special agreement means a compensation agreement under the P&G Act, section 923.

228 Existing negotiations for conduct and compensation agreement or deferral agreement

- (1) This section applies if—
 - (a) before the commencement, a resource authority holder gave an eligible claimant a negotiation notice, under the old land access provisions, that the holder wished to negotiate a conduct and compensation agreement or a deferral agreement with the claimant; and
 - (b) the resource authority holder and the eligible claimant had not entered into a conduct and compensation agreement or deferral agreement before the commencement.
- (2) The negotiations for the conduct and compensation agreement or the deferral agreement are to continue under the old land access provisions that, before the commencement, applied in relation to the negotiation notice.
- (3) Subsection (2) applies despite the repeal of the old land access provisions.
- (4) If the negotiations under the old land access provisions result in the making of a conduct and compensation agreement after the commencement, the agreement is taken to be a conduct and compensation agreement entered into under section 83(1).
- (5) If the negotiations under the old land access provisions result in the making of a deferral agreement after the commencement, the agreement is taken to be a deferral agreement entered into under section 44(2).

[s 60]

- (6) If the negotiations under the old land access provisions result in a decision of the Land Court under the old land access provisions, the decision is taken to be a decision of the Land Court under the new land access provisions.
- (7) In this section—
new land access provisions means chapter 3.
old land access provisions means—
 - (a) the Mineral Resources Act, schedule 1; or
 - (b) the P&G Act, chapter 5, parts 2 and 5; or
 - (c) the 1923 Act, parts 6H and 6K; or
 - (d) the Geothermal Act, chapter 5, parts 5 and 8; or
 - (e) the Greenhouse Gas Act, chapter 5, parts 7 and 10.

228A Existing road compensation agreements

- (1) This section applies to a road compensation agreement entered into under a pre-amended Resource Act and in force immediately before the commencement.
- (2) The agreement continues in force after the commencement and is taken to be a road compensation agreement entered into under section 94(1).
- (3) The agreement is valid even if the agreement does not comply with a prescribed requirement under section 94(2).

228B Existing requirements under Mineral Resources Act to obtain written consent of owner to enter restricted land

- (1) This section applies if, before the commencement—
 - (a) a prospecting permit holder under the pre-amended Mineral Resources Act was permitted, under the pre-amended Mineral Resources Act, section 19(4), to enter restricted land only with the written consent of the owner of the land where the relevant permanent building, or relevant feature, was situated; or
 - (b) an exploration permit holder under the pre-amended Mineral Resources Act was permitted, under the pre-amended Mineral Resources Act, section 129(3), to enter the surface of restricted land only with the written consent of the owner of the land where the relevant permanent building, or relevant feature, was situated; or
 - (c) a mineral development licence holder under the pre-amended Mineral Resources Act was permitted, under the pre-amended Mineral Resources Act, section 181(8), to enter the surface of restricted land only with the written consent of the owner of the land where the relevant permanent building, or relevant feature, was situated.
- (2) The pre-amended Mineral Resources Act continues to apply in relation to entry to the restricted land as if—
 - (a) the new restricted land entry provisions had not commenced; and
 - (b) the Mineral Resources Act, sections 19, 20, 129 and 181, and schedule 2, definitions *restricted land*, *restricted land (category A)*

[s 61]

and *restricted land (category B)* had not been repealed.

228C Existing requirements under Geothermal Act to obtain written consent of owner to carry out authorised activities on particular land

- (1) This section applies if, before the commencement—
 - (a) an authorised activity for a geothermal tenure was permitted, under the pre-amended Geothermal Act, section 358(2), to be carried out on land within 300m laterally of a permanent building mentioned in the pre-amended Geothermal Act, section 358(2) only with the written consent of the owner or occupier of the building; or
 - (b) an authorised activity for a geothermal tenure was permitted, under the pre-amended Geothermal Act, section 358(3), to be carried out on land within 50m laterally of a thing mentioned in the pre-amended Geothermal Act, section 358(3) only with the written consent of the owner or occupier of the thing.
- (2) The pre-amended Geothermal Act continues to apply in relation to entry to the land as if—
 - (a) the new restricted land entry provisions had not commenced; and
 - (b) the Geothermal Act, section 358 had not been repealed.

61 Insertion of new s 231A and ch 7, pt 4, div 1A

Chapter 7, part 4—

insert—

231A Existing agreement between resource holders

- (1) This section applies if—
 - (a) a non-mandatory provision applies to resource authority holders for an overlapping area; and
 - (b) the non-mandatory provision is inconsistent with a term of an existing agreement between the resource authority holders.
- (2) The resource authority holders are taken to have agreed, under section 117(2), that the non-mandatory provision does not apply for the overlapping area.
- (3) Subsection (2) does not apply if, after the commencement, the resource authority holders agree that the non-mandatory provision does apply for the overlapping area.
- (4) In this section—

existing agreement means a written legally binding agreement in force immediately before the commencement.

non-mandatory provision means a provision, or a part of a provision, of chapter 4 other than a provision, or a part of a provision, mentioned in section 117(1).

Division 1A Overlapping exploration resource authorities

[s 61]

231B Exploration resource authorities

(1) The following table applies for this section—

Column 1	Column 2
exploration permit (coal)	authority to prospect (csg)
mineral development licence (coal)	authority to prospect (csg)
authority to prospect (csg)	either of the following— (a) exploration permit (coal); (b) mineral development licence (coal)

(2) This section applies to a column 1 exploration resource authority if—

- (a) the exploration resource authority—
- (i) was granted before the commencement; or
 - (ii) was applied for before the commencement and is granted after the commencement; and
- (b) the exploration resource authority overlaps a corresponding column 2 exploration resource authority that—
- (i) was granted before the commencement; or
 - (ii) was applied for before the commencement and is granted after the commencement.

(3) The new overlap provisions apply to the circumstance of the column 1 exploration resource authority overlapping the corresponding column 2 exploration resource authority.

(4) For applying the new overlap provisions to an overlapping area for a column 1 exploration resource authority (whenever granted) and a corresponding column 2 exploration resource

authority granted before the commencement, the overlapping area is taken to come into existence on the commencement.

(5) In this section—

column 1 exploration resource authority means a resource authority listed in column 1 of the table for this section.

corresponding column 2 exploration resource authority, for a column 1 exploration resource authority, means the resource authority listed in column 2 of the table for this section opposite the column 1 exploration resource authority.

62 Amendment of s 232 (Coal resource authority granted over existing PL)

Section 232—

insert—

- (2) Despite subsection (1), the new overlap provisions apply to the circumstance of a coal resource authority overlapping a PL if—
- (a) the coal resource authority holder and the PL holder agree that the new overlap provisions apply; and
 - (b) the coal resource authority holder and PL holder jointly give written notice to the chief executive of the agreement.

63 Amendment of s 233 (Petroleum resource authority granted over existing ML (coal))

Section 233—

insert—

- (2) Despite subsection (1), the new overlap provisions apply to the circumstance of a

[s 64]

petroleum resource authority overlapping an ML (coal) if—

- (a) the petroleum resource authority holder and the ML (coal) holder agree that the new overlap provisions apply; and
- (b) the petroleum resource authority holder and ML (coal) holder jointly give written notice to the chief executive of the agreement.

64 Insertion of new ch 7, pt 4, div 2A

Chapter 7, part 4—

insert—

**Division 2A Existing applications
under Mineral Resources
Act, chapter 6**

**233A Application for ML (coal) over land in area of
existing ATP**

- (1) This section applies if—
 - (a) a person made an application, under the pre-amended Mineral Resources Act, chapter 6, for the grant of an ML (coal); and
 - (b) the application was made but not decided before the commencement; and
 - (c) the ML (coal) overlaps an ATP that was applied for after the date of the application for the ML (coal) but granted before the commencement.
- (2) The new overlap provisions apply to the circumstance of the ML (coal) overlapping the ATP.
- (3) For applying the new overlap provisions—

- (a) the overlapping area for the ML (coal) and ATP is taken to come into existence on the commencement; and
 - (b) despite sections 115(2) and 120, the ML (coal) holder has sole occupancy of the IMA for the overlapping area from the date stated under subsection (4)(b) by the ML (coal) holder, but only if the ML (coal) holder has given the ATP holder a notice as required under subsection (4); and
 - (c) the date stated under subsection (4)(b) by the ML (coal) holder is taken to be the mining commencement date; and
 - (d) despite section 127, the ATP holder may not give an exceptional circumstances notice to the ML (coal) holder; and
 - (e) despite section 138(2)(b), the ML (coal) holder must make the offer mentioned in section 138(2) as early as practicable after the overlapping area is taken to come into existence.
- (4) The notice must—
- (a) state that the ML (coal) holder intends to start carrying out authorised activities for the ML (coal) in the IMA in the overlapping area; and
 - (b) state the date on which the ML (coal) holder will take sole occupancy of the IMA; and
 - (c) include any other information prescribed by regulation; and
 - (d) be given at least 3 months before the date mentioned in paragraph (b), or within the period otherwise agreed between the ML (coal) holder and ATP holder.

[s 65]

65 Amendment of s 234 (Application for ML (coal) over land in area of ATP (without consent))

Section 234(4), ‘proposed’—

omit.

66 Amendment of s 235 (Application for ML (coal) over land in area of ATP (with consent))

Section 235(4), ‘proposed’—

omit.

67 Replacement of s 238 (Application for PL over land in area of coal exploration authority (without consent))

Section 238—

omit, insert—

238 Application for PL over land in area of coal exploration authority

- (1) This section applies if—
 - (a) a person mentioned in the pre-amended P&G Act, section 304 or 331 made an application for the grant of a PL; and
 - (b) the application was made but not decided before the commencement.
- (2) The new overlap provisions apply to the circumstance of the PL overlapping a coal exploration authority.
- (3) For applying the requirement under the new overlap provisions to give a petroleum production notice, the application for grant of the PL is taken to have been made on the commencement.
- (4) In this section—

coal exploration authority means an exploration permit, or a mineral development licence, granted

for coal, to which the pre-amended P&G Act, section 304 or 331 applies.

68 Omission of s 239 (Application for PL over land in area of coal exploration authority (with consent))

Section 239—

omit.

69 Replacement of s 240 (Application for PL over land in area of ML (coal) (without consent))

Section 240—

omit, insert—

240 Application for PL over land in area of ML (coal)

- (1) This section applies if—
 - (a) a person mentioned in the pre-amended P&G Act, section 344 or 351 made an application for the grant of a PL; and
 - (b) the application was made but not decided before the commencement.
- (2) The P&G Act applies to the circumstance of the PL overlapping an ML (coal) as if the Common Provisions Act had not been enacted.
- (3) Despite subsection (2), the new overlap provisions apply to the circumstance of the PL overlapping an ML (coal) if—
 - (a) the PL holder and the ML (coal) holder agree that the new overlap provisions apply; and
 - (b) the PL holder and ML (coal) holder jointly give written notice to the chief executive of the agreement.
- (4) In this section—

[s 70]

ML (coal) means a mining lease granted for coal, to which the pre-amended P&G Act, section 344 or 351 applies.

70 Omission of s 241 (Application for PL over land in area of ML (coal) (with consent))

Section 241—

omit.

71 Amendment of s 241A (Application for ML (coal) and application for PL both undecided before commencement)

(1) Section 241A(3)—

omit, insert—

(3) The following provisions apply to the circumstances of the applications—

(a) if the applicants are parties to a coordination arrangement under the P&G Act in force immediately before the commencement—the pre-amended Mineral Resources Act and pre-amended P&G Act, which apply as if the Common Provisions Act had not been enacted;

(b) otherwise—the new overlap provisions.

(3A) Despite subsection (3)(a), the new overlap provisions apply to the circumstances of the applications if—

(a) the applicants agree that the new overlap provisions apply; and

(b) the applicants jointly give written notice to the chief executive of the agreement.

(2) Section 241A(5), ‘section 115, the proposed’—

omit, insert—

section 115(2)(a), the

- (3) Section 241A(3A) to (7)—
renumber as section 241A(4) to (8).

72 Amendment of s 243 (Requirements for advance notice and acceleration notice)

Section 243, ‘proposed’—
omit.

73 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *agreed mining commencement date*, *minimum negotiation period*, *mining commencement date*, *prescribed distance* and *proposed mining commencement date*—

omit.

- (2) Schedule 2—
insert—

minimum negotiation period see section 85(2)(a) and (3).

mining commencement date, for chapter 4, see section 115(1).

- (3) Schedule 2, definition *prescribed requirements*, from ‘prescribed,’—
omit, insert—

prescribed by regulation for the matter.

-
- 78 Omission of s 278 (Amendment of s 195 (Issuing environmental authority))**
Section 278—
omit.
- 79 Amendment of s 280 (Amendment of s 232 (Relevant application process applies))**
Section 280—
insert—
- (2) Section 232(3)(c), ‘sections 233 to 235’—
omit, insert—
sections 234 and 235
- 80 Amendment of s 282 (Amendment of s 234 (Submission period))**
(1) Section 282(2)—
omit.
(2) Section 282(3) and (4)—
renumber as section 282(2) and (3).
- 81 Omission of ss 283 and 284**
Sections 283 and 284—
omit.

insert—

- (4) In section 386X, and schedule 1 other than schedule 1, section 4, a reference to the owner of land is taken to include a reference to any registered native title body corporate or registered native title claimant under the Commonwealth Native Title Act in relation to any of the land.

84 Amendment of s 412 (Amendment of s 51 (Land for which mining claim not to be granted))

- (1) Section 412, ‘or occupier’—

omit.

- (2) Section 412, ‘or occupier’s’—

omit.

- (3) Section 412, after inserted section 51(4)—

insert—

- (5) In this section—

relevant owner, for restricted land, has the meaning given under the Common Provisions Act, section 69.

85 Insertion of new ss 421A and 421B

After section 421—

insert—

421A Amendment of s 133 (Application for exploration permit)

Section 133(d)—

omit, insert—

- (d) define the boundary of the area of the proposed exploration permit; and

Note—

[s 86]

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

421B Amendment of s 135 (Abandonment of application for exploration permit)

- (1) Section 135(2A), from ‘identify’—

omit, insert—

define the boundary of the area of the proposed exploration permit for which the application is to remain in force.

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

- (2) Section 135(2B)—

omit.

86 Replacement of s 425 (Amendment of s 189 (Abandonment of application for mineral development licence))

Section 425—

omit, insert—

425 Amendment of s 189 (Abandonment of application for mineral development licence)

- (1) Section 189(2A), ‘identify’—

omit, insert—

define

- (2) Section 189(2B), ‘identified’—

omit, insert—

described and defined

87 Replacement of s 431 (Omission of s 238 (Mining lease over surface of restricted land))

Section 431—

omit, insert—

431 Replacement of s 238 (Mining lease over surface of restricted land)

Section 238—

omit, insert—

238 Mining lease over surface of restricted land

- (1) A mining lease may be granted over the surface of land that was restricted land when the application for the lease was lodged only if—
 - (a) each relevant owner for the restricted land consents in writing to the application; and
 - (b) the applicant lodges each relevant owner's consent with the chief executive before the last objection day ends.
- (2) A relevant owner for restricted land can not withdraw a consent under subsection (1) once it has been lodged with the chief executive.
- (3) Subsection (2) applies despite the Common Provisions Act, section 70.
- (4) In this section—

relevant owner, for restricted land, has the meaning given under the Common Provisions Act, section 69.

88 Replacement of s 434 (Replacement of s 245 (Application for grant of mining lease))

Section 434—

omit, insert—

[s 88]

434 Replacement of s 245 (Application for grant of mining lease)

Section 245—

omit, insert—

245 Application for grant of mining lease

- (1) An application for the grant of a mining lease must—
 - (a) be in the approved form; and
 - (b) state the name of each applicant; and
 - (c) state the name and address for service of 1 person upon whom any notice may be served on behalf of the applicant or the applicants; and
 - (d) describe all parcels of land the whole or part of which are in or adjoin the proposed lease area; and
 - (e) state the current use of the land in the proposed lease area and whether it is subject to erosion control works; and
 - (f) state the names and addresses of the owners of—
 - (i) the land in the proposed lease area; and
 - (ii) any land that is to be used to access the land mentioned in subparagraph (i); and
 - (g) define the boundary of the proposed lease area; and

Note—

Section 386R sets out the requirements for defining the boundary of the area of a proposed mining tenement.

- (h) define the boundary of each of the following—
 - (i) any surface area of land to be included in the proposed lease area;
 - (ii) any restricted land for the proposed mining lease;
 - (iii) any land outside the boundary of the proposed lease area intended to be used to access the proposed lease area; and
- (i) for land mentioned in paragraph (h)(i)—state the purpose for which the land is intended to be used; and
- (j) be accompanied by a visual representation of the boundaries and land mentioned in paragraphs (g) and (h); and
- (k) give reasons why the mining lease should be granted in respect of the area and shape of the proposed lease area; and
- (l) identify the mineral or minerals or purpose for which the grant of the proposed mining lease is sought; and
- (m) nominate the term of the proposed mining lease and give reasons for the length of term sought; and
- (n) be accompanied by a statement, acceptable to the chief executive—
 - (i) outlining the mining program proposed, its method of operation, and providing an indication of when operations are expected to start or, if a mining program is not

[s 88]

- proposed, outlining the use proposed for the proposed lease area and providing an indication of when the proposed use is to start; and
- (ii) of proposals for infrastructure requirements necessary to enable the mining program to proceed, or additional activities to be carried on to work out the infrastructure requirements; and
 - (iii) stating the estimated human, technical and financial resources proposed to be committed to authorised activities for the proposed mining lease during the term of the lease, if granted; and
- (o) be accompanied by a statement, acceptable to the chief executive and separate from the statement mentioned in paragraph (n), detailing the applicant's financial and technical resources; and
- (p) be accompanied by—
- (i) proof, to the chief executive's satisfaction, of each applicant's identity; and
 - (ii) the number of additional copies of the application, and other documents lodged with the application, the chief executive requires; and
 - (iii) the application fee prescribed by regulation; and
- (q) be lodged.

- (2) However, subsection (1)(n)(i) does not apply if, under chapter 8, the application includes a proposed development plan that complies with the initial development plan requirements.
- (3) The chief executive must not accept a mining program mentioned in subsection (1)(n)(i) that is inconsistent with the provisions of this Act.

89 Replacement of s 436 (Replacement of ss 252–252D)

Section 436—

omit, insert—

436 Replacement of ss 252–252D

Sections 252 to 252D—

omit, insert—

252 Issue of mining lease notice

- (1) This section applies if the chief executive is satisfied the applicant for the grant of a mining lease—
 - (a) is eligible to apply for the mining lease; and
 - (b) has complied with the requirements of this Act for the application.
- (2) The chief executive must give the applicant a written notice for the application (the *mining lease notice*).
- (3) The mining lease notice must state the following—
 - (a) the number of the proposed mining lease;
 - (b) the date and time the application was lodged;

[s 89]

- (c) any documents or other information, in addition to the documents mentioned in section 252A(1)(a) and (b), the applicant must give to each affected person within the meaning of section 252A;
 - (d) where the application and any additional documents given to the chief executive about the application may be inspected or accessed;
 - (e) the last day (the *last objection day*) for lodging objections to the application.
- (4) The last objection day must be at least 20 business days after the notice is given to the applicant.

252A Giving and publication of mining lease notice and other information

- (1) The applicant for a proposed mining lease must give the following documents and information to each affected person—
 - (a) a copy of the mining lease notice;
 - (b) a copy of the application for the mining lease, other than any part of it—
 - (i) that states the applicant's financial and technical resources; or
 - (ii) the chief executive considers is commercial in confidence;
 - (c) the documents and other information stated under section 252(3)(c) in the mining lease notice.
- (2) The documents and other information mentioned in subsection (1) must be given

within 5 business days after the mining lease notice is given to the applicant.

- (3) The applicant for a proposed mining lease must, in an approved newspaper circulating generally in the area of the subject land, publish—
 - (a) a copy of the mining lease notice; or
 - (b) if a map or sketch plan is to be included in the publication—
 - (i) a notice in the approved form about the mining lease notice; and
 - (ii) the map or sketch plan.
- (4) The publication must take place at least 15 business days before the last objection day.
- (5) The chief executive may decide an additional or substituted way, or a longer or shorter period, for the giving of the documents and other information mentioned in subsection (1) or the publication of the documents mentioned in subsection (3).
- (6) If the chief executive makes a decision under subsection (5)—
 - (a) the chief executive must give the applicant written notice of the decision no later than the giving of the mining lease notice to the applicant; and
 - (b) the applicant must comply with the decision instead of subsections (2) to (4).
- (7) In this section—

adjoining land—

 - (a) means private land that adjoins—
 - (i) subject land; or

[s 89]

- (ii) a lot, within the meaning of the *Land Act 1994* or the *Land Title Act 1994* that contains any part of subject land; and
- (b) includes land that would adjoin land mentioned in paragraph (a)(i) or (ii) if it were not separated by a road, watercourse, railway, stock route, reserve or drainage or other easement; and
- (c) does not include land only because it adjoins land necessary for—
 - (i) access to subject land; or
 - (ii) transporting things to subject land.

affected person means—

- (a) an owner of the subject land; or
- (b) an owner of land necessary for access to the subject land; or
- (c) an owner of adjoining land; or
- (d) the relevant local government; or
- (e) an entity that provides infrastructure wholly or partially on the subject land.

approved newspaper means a newspaper approved by the chief executive.

infrastructure means infrastructure relating to the transportation, movement, transmission or flow of anything, including, for example, goods, material, substances, matter, particles with or without charge, light, energy, information and anything generated or produced.

subject land means land the subject of the proposed mining lease.

252B Declaration of compliance with obligations

- (1) The applicant for a proposed mining lease must give the chief executive a statutory declaration that the applicant has complied with section 252A.
- (2) The declaration must be given within the later of the following periods to end—
 - (a) 5 business days after the last objection day for the application for the mining lease;
 - (b) if the chief executive at any time decides a longer period—the longer period.
- (3) If the chief executive considers the declaration given under subsection (2) may not identify each person to whom a document, information or notice must be given under section 252A, the chief executive may require the applicant to give the chief executive another declaration under subsection (1) within the period decided by the chief executive.
- (4) Until a declaration mentioned in subsection (2) or (3) is given—
 - (a) the Land Court must not make a final recommendation to the Minister about the application for the mining lease, other than a recommendation to reject the application; and
 - (b) the Land Court may refuse to hear any matter about the application.

[s 90]

252C Continuing obligation to notify

- (1) This section applies for an application for a mining lease if, after the day the mining lease notice has been given to the applicant but before the hearing day for the application, the applicant gives the chief executive an additional document about the application.
- (2) The applicant must give a copy of the document to each affected person within the meaning of section 252A.

90 Omission of s 438 (Replacement of s 260 (Objection to application for grant of mining lease))

Section 438—

omit.

91 Replacement of s 439 (Replacement of s 265 (Referral of application and objections to Land Court))

Section 439—

omit, insert—

439 Replacement of s 265 (Referral of application and objections to Land Court)

Section 265—

omit, insert—

265 Referral of application and objections to Land Court

- (1) Subsections (2) and (3) apply if—
 - (a) a properly made objection is made for an application for a mining lease; and
 - (b) the application for the mining lease relates to an application under the Environmental Protection Act, section

125 for an environmental authority for a mining activity relating to a mining lease; and

- (c) either—
 - (i) an objection notice relating to the application for the environmental authority is given under the Environmental Protection Act, section 182(2) to the EPA administering authority; or
 - (ii) the applicant for the environmental authority has requested, under the Environmental Protection Act, section 183(1), that the application for the environmental authority be referred to the Land Court.

- (2) The chief executive must refer the following to the Land Court for hearing—
 - (a) the application for the mining lease;
 - (b) all properly made objections for the application for the mining lease;
 - (c) all objection notices, relating to the application for the environmental authority, given under the Environmental Protection Act, section 182(2);
 - (d) if the applicant for the environmental authority has requested the EPA administering authority to refer the application to the Land Court under the Environmental Protection Act, section 183—a copy of the request.

[s 91]

- (3) The chief executive must make the referral within 10 business days after the latest of the following—
 - (a) the last objection day for the application for the mining lease;
 - (b) if an owner of land may lodge an objection under section 260(2)—the last day of the period for lodging an objection under that subsection;
 - (c) the last day on which the application for the environmental authority may be referred to the Land Court under the Environmental Protection Act, section 185(2).
- (4) Subsections (5) and (6) apply if—
 - (a) a properly made objection is made for an application for a mining lease; and
 - (b) the application for the mining lease does not relate to an application under the Environmental Protection Act, section 125 for an environmental authority for a mining activity relating to a mining lease.
- (5) The chief executive must refer the application for the mining lease, and all properly made objections for the application, to the Land Court for hearing.
- (6) The chief executive must make the referral within 10 business days after the later of the following—
 - (a) the last objection day for the application for the mining lease;
 - (b) if an owner of land may lodge an objection under section 260(2)—the

last day of the period for lodging an objection under that subsection.

- (7) If the Land Court receives a referral under subsection (2) or (5), the Land Court must fix a date for the hearing and immediately give written notice of the date to each of the following—
 - (a) the chief executive;
 - (b) the applicant for the mining lease;
 - (c) a person who has lodged a properly made objection for the application for the mining lease;
 - (d) a person who has given to the EPA administering authority, under the Environmental Protection Act, section 182(2), an objection notice relating to the application for the environmental authority.
- (8) The hearing date must be at least 20 business days after the last objection day for the application for the mining lease.
- (9) The Land Court may make an order or direction that a hearing under section 268 for an application for the grant of a mining lease and any objections to the grant happen at the same time as an objections decision hearing under the Environmental Protection Act, section 188 relating to the application for the mining lease.
- (10) If the Land Court fixes a date for the hearing and all properly made objections are struck out under section 267A or withdrawn before the hearing starts, the Land Court may remit the matter to the chief executive.
- (11) In this section—

[s 92]

properly made objection means an objection lodged under section 260 that has not been withdrawn.

92 Amendment of s 442 (Amendment of s 269 (Land Court's recommendation on hearing))

Section 442(4) and (5)—

omit.

93 Omission of s 443 (Amendment of s 271 (Criteria for deciding mining lease application))

Section 443—

omit.

94 Omission of s 448 (Amendment of s 279 (Compensation to be settled before grant or renewal of mining lease))

Section 448—

omit.

95 Insertion of new s 449A

After section 449—

insert—

449A Amendment of s 307 (Abandonment of application for the grant of a mining lease)

Section 307(3)(b), from 'certificate'—

omit, insert—

mining lease notice for the application.

96 Omission of ss 453 and 454

Sections 453 and 454—

omit.

97 Amendment of s 457 (Amendment of s 318AT (Applicant's obligations))

Section 457, 'section 245(1)(q)(i)'—

omit, insert—

section 245(1)(o)

98 Insertion of new ss 457A–457D

After section 457—

insert—

457A Amendment of s 318AY (Earlier petroleum lease application)

Section 318AY(1), 'certificate of public notice'—

omit, insert—

mining lease notice

457B Amendment of s 318AZ (Proposed petroleum lease for which EIS approval given)

Section 318AZ(2), 'certificate of public notice'—

omit, insert—

mining lease notice

457C Amendment of s 318B (Proposed petroleum lease declared a coordinated project)

Section 318B(2), 'certificate of public notice'—

omit, insert—

mining lease notice

[s 99]

457D Amendment of s 318C (Notice to petroleum lease holder)

Section 318C, ‘section 245(1)(o)(iv)’—

omit, insert—

section 245(1)(o)

99 Amendment of s 458 (Amendment of s 318CB (Restriction on issuing certificate of public notice and additional requirements for grant))

Section 458, ‘Section 318CB(2A) and (3)’—

omit, insert—

Section 318CB

100 Insertion of new ss 458A and 458B

After section 458—

insert—

458A Amendment of s 318ELBP (Resolving disputes)

Section 318ELBP(8), definition *parties*, paragraph (a), ‘authority to prospect’—

omit, insert—

prospecting permit

458B Amendment of s 363 (Substantive jurisdiction)

(1) Section 363(1), after ‘or mining’—

insert—

, to any activity under section 386V,

(2) Section 363(2)(d), ‘this Act or’—

omit, insert—

this Act, or to land entered under section 386V, or to

- (3) Section 363(2)—

insert—

(eb) any dispute or other matter arising between a person carrying out an activity under section 386V on land and the owner or occupier of the land; and

- (4) Section 363(2)(h), after ‘this Act’—

insert—

, including under section 386V,

- (5) Section 363(3)(a), ‘mining;’—

omit, insert—

mining; or

- (6) Section 363(3)—

insert—

(c) the carrying out of an activity under section 386V.

101 Amendment of s 460 (Insertion of new ss 386R–386V)

- (1) Section 460, heading, ‘386V’—

omit, insert—

386Y

- (2) Section 460, inserted section 386V—

omit, insert—

386V Carrying out activity on land for boundary definition purposes

- (1) This section applies if it is necessary for a person to enter land (*the land*) for the purpose of complying with—

[s 101]

- (a) section 386R or 386U; or
- (b) a notice under section 386J, 386S or 386T.

Example—

It becomes necessary for a person to enter land to define a boundary by installing physical monuments or taking GPS coordinates.

- (2) The person may, for that purpose, carry out the following activities—
 - (a) enter and leave the land using a reasonable type of transport;
 - (b) cross other land to the extent necessary to gain reasonable access to the land;
 - (c) another activity on the land that is necessary for the purpose.
- (3) However, the carrying out of the activity is subject to—
 - (a) any conditions imposed by the Minister under section 386W(5); and
 - (b) the conditions stated in schedule 1; and
 - (c) the conditions prescribed by regulation.
- (4) The chief executive may, in a notice under section 386J, 386S or 386T, impose other conditions on the carrying out of the activity, including, for example, that the activity must be carried out within a stated period.
- (5) A person may appeal against the chief executive's decision to impose a condition under subsection (4) to the Land Court.
- (6) Sections 39 to 42 apply to the appeal and, for that purpose, the person is an aggrieved person.

- (7) This section does not authorise the entry of land in a fossicking area.

386W Dispute about carrying out activity under s 386V in area of prospecting permit or non-mining resource authority

- (1) This section applies if there is a dispute about whether an activity may be carried out under section 386V on land in the area of a prospecting permit or non-mining resource authority, between the following persons (the *parties*)—
- (a) the person carrying out, or intending to carry out, the activity;
 - (b) the holder of the prospecting permit or non-mining resource authority.

Note—

See schedule 1, section 5 for conditions on a person carrying out an activity under section 386V on land in the area of a prospecting permit or non-mining resource authority held by someone else.

- (2) Either of the parties may, by a notice in the approved form, ask the Minister to decide whether the activity may be carried out under section 386V.
- (3) Before making the decision, the Minister must give the parties a reasonable opportunity to make submissions about the request within a reasonable period.
- (4) The Minister must, after complying with subsection (3) and considering any submission made under that subsection, decide the matter and give the parties notice of the decision.

[s 101]

- (5) The Minister may impose conditions on any decision that the activity may be carried out.
- (6) The Minister's decision binds the parties.
- (7) In this section—
non-mining resource authority means a resource authority under the Common Provisions Act that is not a mining tenement.

386X Report about activity under s 386V to chief executive by owner or occupier of land

- (1) This section applies if—
 - (a) a person claims to be carrying out an activity under section 386V on land; and
 - (b) the owner or occupier of the land considers that the person—
 - (i) is not authorised to carry out the activity on the land; or
 - (ii) is contravening a condition of carrying out the activity or a provision of this Act.
- (2) The owner or occupier may report the matter to the chief executive.
- (3) The chief executive must ensure the matter is investigated and advise the owner or occupier who made the report of any action taken in relation to the report.

**386Y Person carrying out activity under s 386V
contravening condition or this Act**

- (1) This section applies if, because of an investigation under section 386X or otherwise, the chief executive considers on reasonable grounds a person carrying out an activity under section 386V on land is contravening—
 - (a) a condition of carrying out the activity; or
 - (b) a provision of this Act.
- (2) The chief executive may give the person a written notice—
 - (a) stating the chief executive considers the person is contravening the condition or the provision; and
 - (b) inviting the person to show cause, within the period stated in the notice, why the person's authority to carry out the activity under section 386V should not end, or a penalty should not be imposed, under subsection (4).
- (3) If, after having regard to any submissions made under subsection (2)(b), the chief executive still considers on reasonable grounds the person is contravening a condition of carrying out the activity under section 386V or a provision of this Act, the chief executive may give the person a written notice stating—
 - (a) the chief executive considers the person is contravening the condition or the provision; and
 - (b) under subsection (4)(a), the person is no longer authorised to carry out the activity on the land; and

[s 102]

- (c) if the chief executive considers it reasonable in the circumstances, the person is liable to pay the State a stated amount, of not more than 5 penalty units, decided by the chief executive as a penalty for the contravention.
- (4) A person given a notice under subsection (3)—
 - (a) is no longer authorised to carry out the activity on the land; and
 - (b) if stated on the notice, is liable to pay the State the amount decided by the chief executive, and stated on the notice, as a penalty for the contravention.
- (5) A person given a notice under subsection (3) may appeal to the Land Court against—
 - (a) the chief executive’s decision to give the notice; and
 - (b) if the notice states that the person is liable to pay the State a stated amount decided by the chief executive as a penalty for the contravention—the amount decided by the chief executive.
- (6) Sections 39 to 42 apply to the appeal and, for that purpose, the person is an aggrieved person.

102 Insertion of new ss 460A–460E

After section 460—

insert—

460A Amendment of s 393 (Applicant or holder excused for neglect or default of authorised officer)

- (1) Section 393, heading—
omit, insert—

393 Prescribed person excused for neglect or default of other entities or circumstances beyond person's control

- (2) Section 393(1), From 'Where' to 'tenement'—
omit, insert—

If a prescribed person

- (3) Section 393(1) and (2), 'the holder or applicant'—
omit, insert—

the prescribed person

- (4) Section 393—
insert—

- (3) In this section—

prescribed person means—

- (a) a holder of, or applicant for the grant of, a mining tenement; or
(b) a person who is carrying out, or intends to carry out, an activity under section 386V.

460B Amendment of s 397 (Limitation of owner's or occupier's tortious liability for authorised activities)

- (1) Section 397—
insert—

[s 102]

- (1A) This section also applies to an owner or occupier of land if someone else carries out an activity under section 386V on the land.
- (2) Section 397(3) and (5), ‘subsection (2)’—
omit, insert—
subsection (3)
- (3) Section 397(4)(b), before ‘even’—
insert—
for land in the area of a mining tenement,
- (4) Section 397(1A) to (5)—
renumber as section 397(2) to (6).

460C Amendment of s 397A (Duty to avoid interference in carrying out authorised activities)

Section 397A, after ‘tenement’—

insert—

, or an activity under section 386V,

460D Amendment of s 397B (Obstruction of mining tenement holder)

- (1) Section 397B, heading, ‘mining tenement holder’—
omit, insert—
person carrying out authorised activity
- (2) Section 397B—
insert—
 - (1A) A person must not, without reasonable excuse, obstruct a person carrying out an activity under section 386V.

Maximum penalty—500 penalty units.

- (3) Section 397B(2), from ‘a mining’ to ‘subsection (1)’—

omit, insert—

another person (the **authority holder**) from carrying out an activity mentioned in subsection (1) or (2)

- (4) Section 397B(2), before ‘holder’—

insert—

authority

- (5) Section 397B(1A) to (3)—

renumber as section 397B(2) to (4).

460E Amendment of s 399 (Mode of service of documents)

- (1) Section 399(1), from ‘a holder’ to ‘tenement’—

omit, insert—

a prescribed person

- (2) Section 399(1)(b), ‘holder or applicant’—

omit, insert—

prescribed person

- (3) Section 399(5)—

insert—

prescribed person means—

- (a) a holder of, or applicant for the grant of, a mining tenement; or
- (b) a person who is carrying out, or intends to carry out, an activity under section 386V.

[s 103]

103 Insertion of new s 461A

After section 461—

insert—

461A Amendment of s 404C (Information requirements for holders of mining tenements)

(1) Section 404C(1)—

omit, insert—

(1) The chief executive or an authorised officer may, by notice—

(a) require the holder of a mining tenement to provide information about the tenement, activities carried out under the tenement or production or sales information relating to the tenement; or

(b) require a person who carries out an activity under section 386V to provide information about the activities carried out by the person under that section.

(2) Section 404C(3), ‘the holder’—

omit, insert—

a person given a notice under subsection (1)

104 Amendment of s 463 (Insertion of new ss 827 to 832)

(1) Section 463, heading ‘832’—

omit, insert—

830

(2) Section 463, inserted sections 831 to 832A—

omit.

105 Amendment of s 464 (Amendment of sch 2 (Dictionary))

Section 464(2), inserted definition *last objection day*, paragraph (b), ‘section 252(3)(d)’—

omit, insert—

section 252(3)(e)

106 Replacement of s 473 (Amendment of s 271 (Criteria for deciding mining lease application))

Section 473—

omit, insert—

473 Amendment of s 271 (Criteria for deciding mining lease application)

Section 271(c)—

omit.

107 Insertion of new s 477A (Insertion of new sch 1)

After section 477—

insert—

[s 107]

477A Insertion of new sch 1

Before schedule 2—

insert—

Schedule 1 Conditions of carrying out activity for boundary definition purposes

section 386V(3)(b)

1 Notice of entry to owner or occupier

- (1) Before a person first enters land under section 386V, the person must give the owner of the land written notice (an *entry notice*) of the proposed entry.
- (2) If the owner of the land can not be easily contacted, the person may give the entry notice to the occupier of the land.

Examples of the owner not being easily contacted—

- 1 The owner does not live in Australia and there is no known current address for the owner.
 - 2 The owner is travelling within Australia and there is no known current address for the owner.
- (3) The entry notice must be given at least 5 business days before the intended entry, or a shorter time acceptable to the owner or the occupier and endorsed on the notice.
 - (4) If the person satisfies the chief executive it is impracticable to give an entry notice to the owner or occupier of the land, the chief executive may, by written notice, dispense with the need to give the notice.

- (5) However, before dispensing with the need to give an entry notice, the chief executive may, by written notice, require the person to take the action the chief executive considers appropriate to publicise the proposed entry, including, for example, publishing an advertisement in a newspaper.
- (6) If the chief executive requires the person to take action under subsection (5), the person must take the required action.

2 Consent for restricted land

- (1) A person may enter restricted land under section 386V only—
 - (a) with the written consent of each relevant owner or occupier of the land; and
 - (b) if any consent is given on conditions—in compliance with the conditions.
- (2) Any consent given under this section can not be withdrawn during the period stated in the consent as the period during which the person given the consent may enter the restricted land.
- (3) In this section—

relevant owner or occupier, for restricted land, means the relevant owner or occupier for the land under the Common Provisions Act, section 69.

restricted land means land within 50m of any area, building or structure mentioned in the Common Provisions Act, section 68(1).

[s 107]

3 Consent for entry of occupied land at night

- (1) A person may enter occupied land under section 386V at night only—
 - (a) with the written consent of the owner of the land or the chief executive; and
 - (b) if the consent is given on conditions—in compliance with the conditions.
- (2) In the absence of evidence to the contrary, the consent of an owner who is a joint tenant or tenant in common is taken to be the consent of all the owners.
- (3) If the owner of the land can not be easily contacted, a consent may be given for the land by the land's occupier.

Examples of the owner not being easily contacted—

- 1 The owner does not live in Australia and there is no known current address for the owner.
 - 2 The owner is travelling within Australia and there is no known current address for the owner.
- (4) Consent under this section may be given on conditions which must be stated on the consent.

4 Consent of owner of reserve

A person may enter the surface of a reserve under section 386V only with the written consent of the owner of the reserve.

5 Consent of holder of, or applicant for, particular mining tenement

- (1) A person may enter land under section 386V within 50m laterally of a place where

activities are being carried out under an exploration permit only with the written consent of the exploration permit holder.

- (2) A person may enter land under section 386V that is in the area of a mining claim, mineral development licence or mining lease held by someone else only with the written consent of the holder of the claim, licence or lease.
- (3) A person may enter land under section 386V that is covered by an application for a mining claim, mineral development licence or mining lease made by someone else only with the written consent of the applicant for the claim, licence or lease.

6 Carrying out activity in area of particular resource authorities

- (1) A person may carry out an activity under section 386V on land in the area of a prospecting permit or non-mining resource authority held by someone else only if carrying out the activity does not adversely affect the carrying out of an authorised activity for the prospecting permit or non-mining resource authority.
- (2) Subsection (1) applies whether or not the authorised activity for the prospecting permit or non-mining resource authority has already started.
- (3) In this section—
non-mining resource authority means a resource authority under the Common Provisions Act that is not a mining tenement.

[s 108]

7 Compensation

- (1) A person who carries out an activity under section 386V on land is liable to pay the owner or occupier of the land compensation for any damage caused by the activity or any injury suffered or loss incurred by the owner or occupier in relation to the activity.
- (2) Subsection (1) applies to damage caused by, or injury suffered or loss incurred in relation to, the carrying out of the activity by—
 - (a) the person; or
 - (b) another person authorised by the person to carry out the activity.

108 Amendment of s 479 (Amendment of sch 2 (Dictionary))

Section 479—

insert—

- (3) Schedule 2, definition *other mining legislation*, paragraphs (a) to (f)—
renumber as paragraphs (b) to (g).
- (4) Schedule 2, definition *other mining legislation—*
insert—
 - (a) Common Provisions Act;

Part 5

Provisions amending other Acts

Division 1 Geothermal Energy Act 2010

Editor's note—

Legislation ultimately amended in this division—

- *Geothermal Energy Act 2010*

109 **Amendment of s 305 (Amendment of sch 2 (Dictionary))**

Section 305(1)—

omit, insert—

- (1) Schedule 2, definitions *ADR, compensation agreement, compensation application, compensation liability, conduct and compensation agreement, conduct and compensation agreement requirement, deferral agreement, election notice, eligible claimant, entry notice, first authority, land access code, minimum negotiation period, negotiation notice, notifiable road use, parties, private land, public land, public land authority, relevant owner or occupier and road use direction—*

omit.

- (1A) Schedule 2—

insert—

land access code see the Common Provisions Act, section 36.

parties, for chapter 7, part 1, see section 313.

private land see the Common Provisions Act, section 13.

public land see the Common Provisions Act, section 14.

public land authority see the Common Provisions Act, schedule 2.

[s 109A]

Division 2 Petroleum and Gas (Production and Safety) Act 2004

Editor's note—

Legislation ultimately amended in this division—

- *Petroleum and Gas (Production and Safety) Act 2004*

109A Omission of s 560

Section 560—

omit.

109B Omission of s 564

Section 564—

omit.

110 Amendment of s 567 (Amendment of s 734E (What happens if a party does not attend))

Section 567(2), 'section 573B'—

omit, insert—

section 537B

111 Amendment of s 613 (Insertion of new ch 2, pt 2, div 5, sdiv 2 and sdiv 3, hdg)

Section 613, inserted section 150B(1)(b), after 'section 120'—

insert—

or 340

112 Insertion of new s 615A

Chapter 9, part 10, division 10—

insert—

615A Omission of s 152 (Permitted period for production or storage testing)

Section 152—

omit.

113 Insertion of new s 627A

Chapter 9, part 10, division 10—

insert—

627A Amendment of s 404 (Licence types—area or point to point)

Section 404(2)—

omit.

Part 6 Minor amendments

114 Minor amendments of the Mineral and Energy Resources (Common Provisions) Act 2014

Schedule 1 amends the *Mineral and Energy Resources (Common Provisions) Act 2014*.

Schedule 1 Minor amendments

section 114

- 1 Sections 39(4), definition *maximum period for entry*, 40(1)(e), 43(2)(e), 62, 65(1), 197(1)(k) and 198(1)(b) and (c), ‘under a regulation’—**

omit, insert—

by regulation

- 2 Schedule 1, section 7(2)(c), after ‘Cape York’—**

omit, insert—

Peninsula

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